

03/18/2011 11:36 AM
 Instrument# 2011-045247 # 1
 Book : 6574
 Page : 1841

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**CERTIFICATE OF AMENDMENT TO
 DECLARATION OF CONDOMINIUM OF
 BELLA VISTA CONDOMINIUM, INC.**

KNOW ALL MEN BY THESE PRESENTS:

BELLA VISTA CONDOMINIUM, INC., a Florida Not for Profit Corporation (hereinafter "Association"), pursuant to Florida Statutes hereby certifies that the Amended and Restated Declaration of Condominium of Bella Vista Condominium attached hereto as Exhibit A is a true and correct copy of the Amended and Restated Declaration of Condominium for Bella Vista Condominium, Inc. ("Declaration") and further certifies that

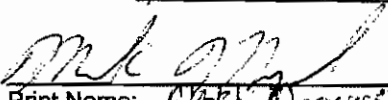
The Amendment to the Declaration was approved in accordance with the requirements contained in Section 15-B of the Declaration and Article 4.12 of the Bylaws on **March 20, 2010**, and further certifies that

The original Declaration was recorded on **December 15, 2004** in the Official Records Book **5455**, Page **4502**, Public Records of Volusia County, Florida.


EXECUTED at Volusia County, Florida on the 11th day of February, 2011.

Witness:


 Print Name: Dennis Baker


 Print Name: Michelle MacKuske

BELLA VISTA CONDOMINIUM, INC.


 Terry Griffiths, President

ATTEST:



 DOROTHY M. RETZKE, Secretary

STATE OF FLORIDA
 COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by Terry Griffiths, in his capacity as President of Bella Vista Condominium, Inc. and attested to by Dorothy C. Retzke in her capacity as secretary on behalf of the corporation.

Witness my hand and official seal this 11th day of February, 2011

Notary Seal
ZSOLT KOVACS
 Notary Public, State of Florida
 My Comm. Expires Oct. 21, 2013
 No. DD834945


 Notary Public
 State of Florida
 My Commission Expires: October 21, 2013

Instrument# 2011-045247 # 2

Book : 6574

Page : 1842

AMENDED AND RESTATED

DECLARATION

OF

CONDOMINIUM

THE

BELLA VISTA,

A CONDOMINIUM

Instrument# 2011-045247 # 3

Book : 6574

Page : 1843

The date of this Amended and Restated Declaration of Condominium is March 20, 2010.

This Amended and Restated Declaration of Condominium amends and replaces the Declaration of Condominium of Bella Vista Condominium, Inc. dated December 15, 2004, and recorded in the Official Records Book 5455 Page 4502, Public Records of Volusia County, Florida ("Original Declaration"), as it may have been amended and supplemented, and restates, in a single document, the covenants, conditions, easements, charges, assessments, affirmative obligations and liens applicable to the Property (as defined herein).

This Amended and Restated Declaration was proposed, voted upon, and passed so as to correct several typographical errors in the original Declaration. There have been no changes in this Amended and Restated Declaration from the original Declaration that effect the renting of units or alteration of the duration of a rental term or limit the number of times a unit owner is entitled to rent their unit.

TABLE OF CONTENTS

1.	SUBMISSION TO CONDOMINIUM.....	1
2.	NAME- PLAN OF DEVELOPMENT	1
3.	NAME-ASSOCIATION.....	1
4.	DEFINITIONS	1
5.	CONDOMINIUM UNITS, BOUNDARIES AND APPURTENANCES	4
	A. Boundaries	4
	B. Exclusive Use	4
	C. Ownership	5
	D. Easements	5
6.	MAINTENANCE; LIMITATIONS ON ALTERATIONS AND IMPROVEMENTS	6
	A. Association Maintenance	6
	B. Unit Owner Maintenance	6
	C. Other Unit Owners Responsibilities	7
	D. Appliance Maintenance Contracts	9
	E. Pest Control	10
	F. Tinted Exterior Glass, Lights, Sea Turtle Protection	10
	G. Owner Alteration of Common Elements Restricted	10
7.	COMMON ELEMENTS	11
	A. Share of Common Elements	11
	B. Use of Common Elements	11
	C. Material Alterations and Additions	11
8.	FISCAL MANAGEMENT:	11
9.	ADMINISTRATION	12
10.	INSURANCE	12
	A. Duty and Authority to Obtain	12
	B. Basic Insurance	12
	C. Description of Coverage	13
	D. Waiver of Subrogation	13
	E. Shares of Insurance Proceeds	14
	F. Common Elements	14
	G. Distribution of Insurance Proceeds	14
	H. Association as Agent	15
11.	RECONSTRUCTION OR REPAIR AFTER CASUALTY	15
	A. Damage to Units	15
	B. Damage to Common Elements- Less Than "Very Substantial"	15
	C. Application of Insurance Proceeds	16
	D. Equitable Relief	17
	E. Plans and Specifications	17
12.	USE RESTRICTIONS	17
	A. Lawful Use	17
	B. Rules and Regulations	17
	C. Use and Occupancy of the Units	18
	D. Access to Units	18
	E. Parking	18
	F. Parking Spaces, and Storage Lockers- Exclusive Use and Transfer of Use Rights	18

	G. Pets, Tenants and Guests	19
	H. Exclusive Use; Common Facilities	19
	I. Nuisance Prohibited	19
13.	LEASE, CONVEYANCE, DISPOSITION	19
	A. Association Approval Required	19
	B. Approval Procedure	20
	C. Judicial Sales	21
	D. Unapproved Transactions	21
14.	COMPLIANCE AND DEFAULT	22
	A. Remedies	22
	B. Costs and Fees	22
	C. Owner Inquiries and Disputes	22
	D. No Waiver of Rights	22
15.	AMENDMENTS	22
	A. Requirements	22
	B. Correctory Amendment	23
	C. Regular Amendments	23
	D. Merger Amendment	23
	E. Developer Amendments	23
	F. Mortgagee Approval	23
	G. Developer's Rights	24
	H. Written Agreements	24
16.	TERMINATION	24
	A. By Agreement	24
	B. Without Agreement, on Account of Very Substantial Damage	24
	C. Process of Termination	25
	D. Winding up of Association Affairs	25
	E. Trustee's Power's and Duties	25
	F. Partition; Sale	26
	G. New Condominium	26
	H. Provisions Survive Termination	26
17.	PROVISIONS PERTAINING TO THE DEVELOPER	27
18.	RIGHTS OF MORTGAGEES	27
	A. Partial Excusal from Prior Assessments	27
	B. Rights to Information	27
19.	ENFORCEMENT OF ASSESSMENT LIENS	28
	A. Creation and Enforcement of Charges	29
20.	ASSOCIATION AGREEMENTS	29
21.	COMMON EXPENSES AND COMMON SURPLUS	29
22.	CONDEMNATION	29
	A. Deposit of Funds With Association	29
	B. Determination Whether to Continue Condominium	29
	C. Disbursement of Funds	30
	D. Association as Agent	30
	E. Units Reduced But Tenantable	30
	F. Unit Made Untenantable	30
	G. Taking of Common Elements	31
	H. Amendment of Declaration	31

Instrument# 2011-045247 # 6

Book : 6574

Page : 1846

23.	VOTING	32
24.	DEVELOPMENT EASEMENTS AND RESTRICTIONS	32
25.	SEVERABILITY AND NON-WAIVER	32

DECLARATION OF CONDOMINIUM
OF
THE BELLA VISTA A CONDOMINIUM

2515 Atlantic Avenue, LLC, a Florida limited liability company, herein called "Developer", on behalf of itself and its successors, grantees, and assigns, hereby makes this Declaration of Condominium:

1. SUBMISSION TO CONDOMINIUM: The Legal description of the Condominium Property, located in Volusia County, Florida, is described as in the attached Exhibit "5".

2. NAME- PLAN OF DEVELOPMENT: Developer has or will construct a total of 100 single family residential units and associated improvements designated "The Bella Vista, a Condominium".

3. NAME- ASSOCIATION: The name of the Condominium Association is "Bella Vista Condominium, Inc." This Association is incorporated as a not for profit Florida corporation.

4. DEFINITIONS: The terms used herein will have the meanings stated in Florida Statutes Chapter 718 (Condominium Act) and as follows, unless the context otherwise requires:

A. Assessment: The share of the funds required for the payment of common expenses that is assessed against a unit owner from time to time.

B. Association: The corporation responsible for the operation of the Condominium.

C. Association Property: All real or personal property owned or leased by the Association.

D. Board of Directors or Directors or Board: The board of directors responsible for the administration of the Association.

E. Charge or Special Charge: The obligation of a unit owner to pay or reimburse money to the Association that cannot be secured as an assessment pursuant to F.S. 718.116, but which will, if the charge is not paid, give rise to a cause of action against the unit owner pursuant to this declaration.

F. Common Elements: The portions of the property submitted to condominium ownership and not included in the units, including:

- (1) Land
- (2) All parts of improvements that are not included within the units
- (3) Easements
- (4) Installations for the furnishings of services to more than one unit or to the common elements, such as chilled water air conditioning, electricity, water and sewer

G. Common Expenses: All expenses properly incurred by the Association for the Condominium and such expenses as may be declared to be common expenses by this Declaration. The cost of providing basic cable television under a bulk service contract, the cost of providing electronic security, and the cost of water and sewer service to the units shall be a common expense.

H. Common Surplus: The excess of all receipts of the Association above the common expenses.

I. Condominium Documents: This Declaration and the attached exhibits setting forth the nature of the property rights in the Condominium and the covenants running with the land that govern these rights. All the other Condominium documents will be subject to the provisions of the Declaration. The order of priority of the documents will be as follows: (1) Declaration; (2) Association Articles of Incorporation; (3) By-Laws; and (4) Rules and Regulations.

J. Condominium Parcel: A unit together with the undivided share in the common elements that is appurtenant to the unit.

K. Condominium Property: The real and personal property, both tangible and intangible, subject to condominium ownership, whether or not contiguous; all improvements thereon; and all easements and rights appurtenant thereto.

L. Developer: 2515 Atlantic Avenue, LLC, the company that has established this Condominium, and the successors and assigns of the company's development rights.

M. Exhibits:

- (1) Association Articles of Incorporation
- (2) Condominium Plot Plan

(3) Association By-Laws

(4) Rules and Regulations

(5) Legal description of the Condominium Property

N. Family: One natural person or group of two or more natural persons, each of whom is related to each of the others by blood, marriage, or adoption (exclusive of household servants); or not more than two adult persons not so related, who reside together as a single not-for-profit housekeeping unit.

O. Guest: Any person who is physically present in or occupies a unit on a temporary basis at the invitation of the unit owner without the payment of consideration,

P. Institutional First Mortgage: The mortgagee or its assignee of a first mortgage on a condominium parcel. The mortgagee may be a bank, a savings and loan association, a mortgage banker, a life insurance company, a real estate or mortgage investment trust, a pension or profit sharing trust, the Federal Housing Administration, the Department of Veteran Affairs, any agency of the United States of America, or the Developer. The term also refers to any holder of a first mortgage against a condominium parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument, by the Federal Housing Administration, the Department of Veteran Affairs, any agency of the United States of America, or any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

Q. Lease: The grant by a unit owner of a temporary right of use of the owner's unit for a valuable consideration.

R. Limited Common Elements: Those portions of the common elements that are reserved for the use of a certain unit or units to the exclusion of the other units.

S. Occupy: The act of being physically present in a unit on two or more consecutive days, including staying overnight. An occupant is one who occupies a unit.

T. Operation: The administration and management of the Condominium Property.

U. Person: An individual, corporation, trust, or other legal entity capable of holding title to real property.

V. Singular, Plural, Gender: Whenever the context permits, use of the plural

includes the singular, use of the singular includes plural, and use of any gender includes all genders.

W. Unit: A part of the Condominium Property that is subject to exclusive ownership as described in this declaration.

X. Unit Number: The letter, number of combination thereof that is designated on the Condominium Plot Plan and used as the identification of a unit.

Y. Unit Owner: The owner of record legal title to a condominium parcel.

Z. Voting Interest: The voting rights distributed to the Association members pursuant to F.S. 718.104(4)(J).

5. CONDOMINIUM UNITS, BOUNDARIES AND APPURTENANCES: Each unit and its appurtenances constitute a separate parcel of real property that may be owned in fee simple. The unit may be conveyed, transferred, and encumbered like any other parcel of real property, independently of all other parts of the Condominium Property, subject only to the provisions of the condominium documents and applicable laws.

A. Boundaries: Each unit will have boundaries as defined below. The boundaries may exist now or may be created by construction, settlement, or movement of the buildings; or by permissible repairs, reconstruction, or alterations.

(1) Horizontal Boundaries: The upper and lower boundaries of the units will be:

(a) Upper Boundary: The planes of the underside of the finished and undecorated ceilings of the unit, extended to meet the perimeter boundaries.

(b) Lower Boundary: The planes of the upper side of the finished and undecorated surface of the floors of the unit, extended to meet the perimeter boundaries.

(2) Perimeter Boundaries: The perimeter boundaries will be both the finished and undecorated interior surfaces of the perimeter walls of the unit as shown on the Condominium Plot Plan, and the planes of the interior surfaces of the unit's windows, doors, and other openings that abut the exterior of the building or common elements, including limited common elements.

B. Exclusive Use: Each unit owner will have the exclusive use of such owner's unit.

C. Ownership: The ownership of each unit will carry with it, as appropriate, and whether or not separately described, all of the rights, title, and interest of a unit owner in the Condominium Property which will include, but not be limited to:

(1) **Common Elements and Common Surplus:** An undivided share of ownership of the common elements and common surplus.

(2) **Limited Common Elements:** Either the exclusive use or use in common with one or more other designated units of the limited common elements that may exist. Such elements include garage parking space(s), storage locker(s), open terrace(s), deck(s), and all items set forth in Paragraph 6. That are exterior to a unit and are expressly required to be maintained by the unit owner.

(3) **Association Membership:** Membership in the Association and voting rights.

D. Easements: The following nonexclusive easements are created by and granted from the developer to each unit owner; to the Association; to utility companies; to unit owners' families in residence, guests, and invitees; and to governmental and emergency services, as applicable.

(1) **Easement for Air Space:** An exclusive easement for use of the air space occupied by the unit as it exists at any particular time and as the unit may be lawfully altered or reconstructed from time to time. The easement will be terminated automatically in any air space that is vacated from time to time.

(2) **Ingress and Egress:** Easements over the common elements for ingress and egress to units and public ways.

(3) **Maintenance, Repair, and Replacement:** Easements through the units and common elements for maintenance, repair, and replacement.

(4) **Utilities:** Easements through the common elements and units for conduits, ducts, plumbing, and wiring, and other facilities for the furnishing of services and utilities to other units, the common elements, and other utility customers, both existing and future

(5) **Public Services:** Access to both the Condominium Property and the units for lawfully performed emergency, regulatory, law enforcement, and other public services.

6. MAINTENANCE; LIMITATIONS ON ALTERATIONS AND IMPROVEMENTS:

The responsibility for protection, maintenance, repair, and replacement of the Condominium Property, and restrictions on its alteration and improvement, shall be as follows:

A. Association Maintenance: The Association is responsible for the protection, maintenance, repair, and replacement of all condominium property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

- (1) Electrical wiring up to the circuit breaker panel in each unit.
- (2) Water pipes, up to the individual unit cut-off valve within the unit.
- (3) Cable television lines up to the wall outlets in the units.
- (4) Air conditioning condensation drain lines up to the point where they enter each unit.
- (5) Sewer lines, up to the point where they enter the unit.
- (6) All installations, fixtures, and equipment located within one unit but serving another unit, or located outside the unit, for the furnishing of utilities to more than one unit of the common elements.
- (7) The exterior surface of the main entrance doors to the units.
- (8) All exterior building walls, including painting, waterproofing, and caulking.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing, or mechanical installation located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be repaired promptly by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage to any alteration or addition to the common elements made by a unit owner or his or her predecessor in title or for damage to paint, wallpaper, paneling, flooring, or carpet which, of necessity, must be cut or removed to gain access to work areas located behind it.

B. Unit Owner Maintenance: Each unit owner is responsible, at the owner's expense, for all maintenance, repairs, and replacements of the owner's unit and certain limited common elements. The owner's responsibilities include, without limitation:

- (1) Maintenance, repair, and replacement of screens, windows, and window glass.
- (2) The main entrance door to the unit and its interior surfaces.
- (3) All other doors within or affording access to the unit.
- (4) The electrical, mechanical, and plumbing lines, pipes, fixtures, switches, valves, drains, and outlets (including connections) located partially or entirely within the unit or serving only the unit.
- (5) The circuit breaker panel and all electrical wiring going into the unit from the panel.
- (6) Appliances, water heaters, smoke alarms, and vent fans.
- (7) All air conditioning and heating equipment, thermostats, ducts, and installations serving the unit exclusively, except as otherwise provided in Paragraph 6.D. below.
- (8) Carpeting and other floor coverings.
- (9) Door and window hardware and locks.
- (10) Shower pans.
- (11) The main water supply shut-off valve for the unit.
- (12) Other facilities or fixtures that are located or contained entirely within the unit and serve only that unit.
- (13) All interior partition walls that do not form part of the boundary of the unit.

C. Other Unit Owners Responsibilities:

- (1) **Balconies, Patios and Porches:** Where a limited common element consists of a balcony, patio or porch area, the unit owner who has the right of exclusive use of the area shall be responsible for the day-to day cleaning and care of the walls, floor, and ceiling bounding said area, if any; and all fixed glass and sliding glass doors on portions of the entranceway to said area, if any; and the wiring, electrical outlet(s), and fixture(s) thereon, if any, and the replacement of light bulbs. The Association is

responsible for the maintenance, repair, and replacement of all exterior walls of the building and the concrete slabs. The unit owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance of the exterior surfaces and structures of the building shall be the responsibility of the Association and shall be a common expense. The maintenance, repair, replacement, and insurance of such approved carpeting, covering, or enclosure shall be the responsibility of the unit owner.

(2) **Interior Decorating:** Each unit owner is responsible for all decorating within the owner's unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

(3) **Flooring:** All units above the ground floor shall always have the floors covered with wall-to wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms, or laundry rooms. An owner who desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet) also shall install a sound absorbent underlayment of such kind and quality equivalent or superior to one fourth inch cork and perimeter sound isolation material installed in accordance with the Rules and Regulations as amended from time to time to substantially reduce the transmission of noise to adjoining units, and must obtain written approval of the Board of Directors prior to any such installation. If the installation is made without prior approval, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the unit owner to cover all such hard surface flooring at the expense of the offending unit owner. The structural integrity of balconies and terraces constructed of steel reinforced concrete is affected adversely by water intrusion and rusting aggravate by the water retention qualities of indoor-outdoor carpet, river rock, and unglazed ceramic tile and its grout. For this reason, no indoor-outdoor carpet or

river rock may be used on balconies and terraces, and all tile and its bedding and grout must be of such materials and so applied as to be waterproof. Any flooring installed in the balconies or terraces of a unit shall be installed so as to ensure proper drainage.

- (4) **Window Coverings:** The covering and appearance of the windows and doors, whether by draperies, shades, reflective film, or other items, whether installed within or outside of the unit, visible from the exterior of the unit, shall be subject to the Rules and Regulations of the Association.
- (5) **Modifications and Alterations or Neglect:** If a unit owner makes any modifications, installations, or additions to the unit or the common elements or neglects to maintain, repair, and replace as required by this Section 6, the unit owner, and the unit owner's successors in title shall be financially responsible for:
- (a) Insurance, maintenance, repair, and replacement of the modifications, installations, or additions;
 - (b) The costs of repairing any damage to the common elements or other units resulting from the existence of such modifications, installations, or additions; and
 - (c) The costs of removing and replacing or reinstalling such modifications if then- removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the Condominium Property for which the Association is responsible.
- (6) **Use of Licensed and Insured Contractors:** Whenever a unit owner contract for maintenance, repair, replacement, alteration, addition, or improvement of any portion of the unit or common elements, whether with or without Association approval, such owner shall be deemed to have warranted to the Association and its members that owner's contractors) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

D. *Appliance Maintenance Contracts:* If there shall become available to the Association a program of contract maintenance for water heaters serving individual units, and/or air conditioning compressors and/or air handlers and related equipment and fixtures serving individual units, which the Association determines is to the benefit of the owners to consider, then on agreement by a majority of the voting interests of the Condominium, in person or by proxy and voting at a meeting called for the purpose, or on agreement by a majority of the total voting interests of the Condominium in writing, the Association may enter into such contractual undertakings. The expenses of such contractual undertakings to the Association shall be common expenses. All maintenance, repairs, and replacements not covered by the contracts shall be the responsibility of the unit owner.

E. *Pest Control:* The Association may supply pest control services for the inside of each unit, with the cost thereof being part of the common expenses. An owner has the option to decline such services unless the Association determines that service is necessary for the protection of the balance of the Condominium, in which event the owner thereof must permit the Association's pest control company to enter the unit or must employ a licensed pest control company to enter the owner's unit on a regular basis to perform pest control services, and must furnish written evidence thereof to the Association. The cost of pest control provided by the Association is a common expense, so the election of an owner not to use the service will not reduce the owner's assessment.

F. *Tinted Exterior Glass, Lights, Sea Turtle Protection:* The Florida Department of Environmental Protection (DEP) has established requirements for limiting transmission of light form within buildings for the protection of sea turtles on beaches. For this reason, special shaded or tinted glass has been used in constructing this Condominium. Any replacement glass installed by the Association or by unit owners must be of the same shaded or tinted type that meets the requirements of the Department of Environmental Protection. Light bulbs in fixtures on balconies and terraces facing or visible from the beach must be yellow "bug light" bulbs not to exceed 60 watts.

G. *Owner Alteration of Common Elements Restricted:* No unit owner may make any alterations, add to, or remove any part of the portions of the improvements that are to be maintained by the Association without the prior written approval of the Board of Directors. The Board has the authority to approve, disapprove, or require modifications to proposed work. The Board's decision will be determinative

of the matter. The owner must obtain all necessary approvals and permits from applicable government entities. The Association may require approval from engineers or other professionals as a prerequisite. The entire expense must be borne by the owner, including any subsequent maintenance and restoration. No owner will do any work that would jeopardize the safety or soundness of the building or impair any easements. If approved by the Board, two units owned by the same owner that are adjacent, either horizontally or vertically, may be connected by doorways or stairways through common element walls or floors.

H. No unit owner may replace or remove any fixture which was included as original equipment in a unit if the likely result of doing so would be an increase in water consumption by the unit

7. COMMON ELEMENTS:

A. *Share Of:* The common elements will be owned by the unit owners in one hundred (100) equal undivided shares.

B. *Use:* Each unit owner and the Association will be entitled to use the common elements in accordance with the purposes for which the elements are intended; however, no such use may hinder or encroach upon lawful rights of other unit owners,

C. *Material Alterations and Additions:* Except for changes made by an owner with Association approval as provided in Paragraph 6.G. above, or by the Board of Directors alone for the integrity of the Condominium property, material alteration of or substantial additions to the common elements or to Association property, including the purchase, acquisition, sale, conveyance, or mortgaging of such property, may be effectuated only by vote of 67% of the voting interests of the Association at a meeting called for that purpose. The Board of Directors may lease or grant easements or licenses for the use of common elements or Association property if the use will benefit the members of the Association.

8. FISCAL MANAGEMENT: The fiscal management of the Condominium, including budget, fiscal year, charges, assessments, and collection of assessments, shall be as set forth herein and in the By-Laws (Exhibit "3").

Notwithstanding any other provisions contained in this Article and in the By-Laws, in the event there are unsold Units owned by the Developer, the Developer shall be excused from payment of the monthly assessments for common expenses for those unsold Units, for a period of one (1) year from the date of recording of the Declaration of Condominium, or until all units owned by the Developer have sold and

closed, whichever occurs sooner. During the period that the Developer is excused from the payment of said assessments, the Developer shall guarantee that the monthly assessment for common expenses of the condominium imposed upon Unit Owners other than the Developer shall not increase over \$380.48 per month per unit. In the event the amount of common expenses incurred during the Developer's guarantee period exceeds the assessments collected at the guaranteed level from the other Unit Owners, the Developer shall contribute to the Association such additional sums necessary to pay for the common expenses. However, in no event shall the Developer be obligated to contribute funds to the Association for capital improvements it has not approved, or other expenses which are not common expenses. Upon the expiration of the Developer's guarantee period, which may be by the Developer extended for two (2) additional one (1) year periods, and upon expiration of all such periods, the Developer shall contribute to the common expenses, as to the Units owned by it, in the same manner as all other Unit Owners.

9. **ADMINISTRATION:** The administration of the Condominium shall be by the Board of Directors and its powers and duties shall be as set forth herein and in the Articles of Incorporation and the By-Laws.

10. **INSURANCE:** In order to adequately protect the unit owners, the Association, and all parts of the Condominium property and Association property that are required to be insured by the Association, insurance shall be carried and kept in force at all times in accordance with the following provisions:

A. ***Duty and Authority to Obtain:*** The Board of Directors shall use its best efforts to obtain and maintain adequate insurance. In all insurance purchased by the Association, the name of the insured shall be the Association and the unit owners and their mortgagees (without naming them), as their interests shall appear, and the policy shall provide for the issuance of certificates of insurance and mortgagee endorsements to any or all of the holders of institutional first mortgages. In the event that the Bella Vista Condominium, Inc., requests the Association to name it as an additional insured as its interest may appear, the Association shall do so.

B. ***Basic Insurance:*** The Board of Directors will procure insurance covering the building and improvements as well as all insurable Association property, in an amount determined annually by the Board. Pursuant to F.S. 718.111(1)(b), the word "building" does not include floor coverings,

wall coverings, or ceiling coverings, nor electrical fixtures, appliances, air coverings, nor electrical fixtures, appliances, air conditioning or heating equipment, water heaters, or built-in cabinets located within a unit.

Such insurance shall afford the following protection:

- (1) **Property:** The policy must include extended coverage (including windstorm), and replacement cost coverage for loss or damage by fire, vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.
- (2) **Flood:** The policy must include up to the minimum required by federal and state statutes for the building and insurable improvements, as available.
- (3) **Liability:** The policy must include premises and operations liability endorsements for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross-liability endorsements to cover liabilities of the unit owners as a group to a unit owner.
- (4) **Automobile:** The policy must include automobile liability for bodily injury and property damage for all owners and non-owned motor vehicles used in Association business in such limits of protection and with such coverage as may be required by the Board of Directors of the Association.
- (5) **Workers' Compensation:** The Association shall maintain workers' compensation insurance to meet the requirements of law.
- (6) **Fidelity Bonding:** The Association shall obtain and maintain blanket fidelity bonding for each person who is authorized to sign checks and the President, Secretary, and Treasurer of the Association in an amount equal to the maximum funds that will be in the custody of the Association or its management agent at any one time. The Association shall bear the cost of bonding.

- (7) **Directors and Officers Liability Insurance:** The Association shall obtain and maintain adequate Directors and officers liability insurance using the broad form of policy coverage for all Directors and officers and, if available, for committee members of the Association.
- (8) **Optional Coverage:** The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interests of the Association and unit owners.
- C. **Description of Coverage:** A detailed summary of the coverage included in the master policies shall be available for inspection by unit owners on request.
- D. **Waiver of Subrogation:** The Board of Directors shall endeavor to obtain, if available and where applicable, insurance policies which provide that the insurer waives its rights to subrogation as to any claim against unit owners, the Association, or their respective servants, agents, or guests.
- E. **Shares of Insurance Proceeds:** All proceeds of insurance policies purchased by the Association shall be payable to the Association. The duty of the Association shall be to receive such proceeds and hold and disburse them for the purposes stated herein in the following shares:
- F. Common Elements Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as owner's share in the common elements.
- (1) **Units:** Proceeds on account of damage to units shall be held in as many undivided shares as there are damaged units, the share of each owner being in proportion to the cost of restoring the damage suffered by each such unit.
- (2) **Mortgagees:** If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests may appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages that it

may hold against units except to the extent that insurance proceeds exceed the actual costs of repair or restoration of the damaged improvements, and no mortgagee shall any right to participate in determining whether improvements will be restored after casualty. The Association shall pay all policy deductible amounts on Association policies.

G. Distribution of Insurance Proceeds: Proceeds of insurance policies received by the Association shall be distributed for the benefit of the unit owners in the following manner:

- (1) Cost of Reconstruction or Repair:** If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceed shall first be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be retained by the Association.
- (2) Failure to Reconstruct or Repair:** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds after expenses shall be distributed to owners and their mortgagees shall be payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

H. Association as Agent: The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association.

11. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the Condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

A. Damage to Units: Where loss or damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of the unit owner, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to such contractors, suppliers, and personnel for work done, materials supplied, or services required for reconstruction or repair. Payments shall be in such amounts and at such times as the unit owners may direct the owners of damaged units shall be responsible for reconstruction and repair and shall bear the cost thereof, if any, in excess of the insurance proceeds.

B. *Damage to Common Elements-Less Than "Very substantial":* Where loss or damage occurs to the common elements, but the loss is less than "very substantial," as hereinafter defined, it shall be mandatory for the Association to repair, restore, or rebuild the damage caused by the loss, and the following procedures shall apply:

(1) ***Estimates:*** The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of reconstruction and repair, and shall negotiate and contract for the work.

(2) ***Insurance Insufficient:*** If the net proceeds of insurance plus available reserves are insufficient to pay for the costs of reconstruction and repair of the common elements, the Association shall promptly, on determination of the deficiency, levy a special assessment against all unit owners. Such special assessments need not be approved by the unit owners. The special assessments shall be added to the proceeds available for reconstruction and repair of the property.

(3) ***"Very Substantial" Damage:*** As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby three fourths or more of the total units are rendered uninhabitable. Should such "very substantial" damage occur, then:

(a) ***Owners' Meeting:*** A meeting of the Association shall be called by the Board of Directors to be held within a reasonable time after the casualty. A determination by the Board of Directors as to what is reasonable time shall be conclusive. The purpose of the meeting shall be to determine the wishes of the membership with reference to reconstruction or termination of the Condominium, subject to the following:

(1) ***Insurance Sufficient:*** If the insurance proceeds and reserves available for reconstruction and repair are sufficient to cover the cost thereof, so that no special assessment is required, the Condominium property shall be reconstructed or repaired unless the then applicable

zoning or other regulatory laws will not allow reconstruction of the same number and general type of units, in which case the Condominium shall be terminated pursuant to Paragraph 16.B.

(2) **Insurance Insufficient:** If the insurance proceeds and reserves available for reconstruction and repair are not sufficient to cover the cost thereof so that a special will be required, then unless at least 67% of the voting interests of the Association vote in favor of such special assessment and against termination of the Condominium, it shall be terminated pursuant to Paragraph 16.B. If 67% of the voting interests of the Association approve the special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such reconstruction and repairs. The special assessment shall be added to the proceeds of insurance and reserves available for reconstruction and repair of the property.

(3) **Disputes:** If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding on all unit owners.

C. **Application of Insurance Proceeds:** It shall be presumed that the first monies disbursed for reconstruction and repair shall be from the insurance proceeds and they shall first be applied to reconstruction of the common elements and Association property and then to the units; if there is a balance in the funds held by the Association. However, if special assessments were made pursuant to Paragraph 11 ,B.(3)(a)(2) hereof, then all or a part of the remaining money shall be returned to the unit owners paying said assessments pro rata, according to the amount each paid, up to the full amount each paid, and then to the Association.

D. **Equitable Relief:** In the event of substantial damage to the Condominium property, and if the property is not reconstructed or repaired within a reasonable period of time, any unit owner may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that reconstruction or repair

has occurred within a reasonable period of time if substantial work is commenced within such time following the damage or destruction as is determined by the Board of Directors to be reasonable and the work proceeds without intentional and unwarranted delay to completion.

E. Plans and Specifications: Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to the plans and specifications approved by the Board of Directors and by the owners of 67% of the voting interests of the Association and the Design Review Committee of the Bella Vista Condominium, Inc.

12. USE RESTRICTIONS: The use of the property of the Condominium shall be in accordance with the rules and regulations attached hereto and incorporated herein as Exhibit "4" and the following provisions:

A. Lawful Use: All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies that require maintenance, modification, or repair on Condominium property shall be the same as the responsibility for the repair and maintenance of the property as expressed earlier in this Declaration.

B. Rules and Regulations: The rules and regulations attached hereto as Exhibit "4" and made a part hereof by reference concerning the use of the Condominium properly including the units may be amended from time to time by the Board of Directors. Copies of the regulations and amendments shall be furnished by the Association to all unit owners. No new or amended regulation may be enforced prior to distribution to the owners.

C. Use and Occupancy of the Units: Use is restricted to one family and their guests per unit only. These use restrictions shall not be construed in such a manner as to prohibit a unit owner from maintaining a personal professional library, keeping personal business or professional records or accounts, or handling personal, business, or professional telephone calls or correspondence in and from owner's unit. Such uses are expressly declared customarily incident to the principal residential use.

D. Access to Units: The Association has an irrevocable right of access to the units during reasonable hours when necessary for the purpose of maintenance, repair, and replacement of the common elements or of any portion of a unit to be maintained by the Association pursuant to this Declaration or for

making emergency repairs that are necessary to prevent damage to the common elements or to another unit or units. The right of access to a unit shall be exercised after reasonable notice to the unit owners, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, with reasonable precautions to protect the personal property within the unit. The Association requires and shall retain a passkey to all units. No unit owner shall install or alter any lock that prevents access while the unit is unoccupied without providing the Association with a key.

E. *Parking:* Each unit shall always have the exclusive use of one allocated parking space in the garage. Allocations will be made initially by the Developer by a recorded written instrument.

F. *Parking Spaces, and Storage Lockers-Exclusive Use and Transfer of Use Rights:*

The exclusive right to use a limited common element is an appurtenance to the unit or units to which it is designated or assigned. If, after all of the units have been sold, the exclusive use of any assignable limited common element was not, for any reason, assigned to the use of a specific unit or units by the Developer, the Association may do so. The right of exclusive use of each limited common element passes with the unit to which it is assigned, whether or not separately described, and cannot be separated from it; except that the use rights to particular parking spaces, and storage lockers may be exchanges between units, or transferred to another unit, as follows:

(1) The unit owners desiring to exchange such use rights shall execute a Certificate of Transfer in recordable form, which shall include the recording data identifying this Declaration, and be executed by the owners with the formalities required for the execution of a deed.

(2) The transfer of use rights shall be complete and effective when the Certificate is recorded in the Public Records of Volusia County, Florida. The cost of preparing and recording the Certificate shall be borne by the unit owners desiring the exchange or transfer. A copy of the recorded Certificate shall be provided to the Association for its records.

G. *Pets, Tenants and Guests:* Pets shall be as allowed and regulated in the rules

and regulations (Exhibit "4"). However, tenants and guests shall not be permitted to have pets.

H. Exclusive Use; Common Facilities: The Association may lease to unit owners for appropriate temporary periods of time those portions of the common elements rationally appropriate and desirable for exclusive use (for example, social rooms, and card rooms).

I. Nuisance Prohibited: No person shall engage in any practice, exhibit any behavior, nor permit any condition to exist that will constitute a nuisance or become a reasonable source of annoyance or disturbance to any occupant of the Condominium.

13. LEASE, CONVEYANCE, DISPOSITION: The purpose and object of this paragraph is to maintain a quiet, tranquil, non-transient, and single-family oriented atmosphere with residents living in compatible coexistence with other financially responsible persons who are of like mind and acceptable both in character and comportment. This objective is considered to be both important and justified because of the necessity of sharing facilities and because of the large personal financial investment of each owner. Therefore, the lease, conveyance, disposal, and financing of the units by owners (subject to the exceptions provided in Paragraph 18.A) shall be subject to the following provisions:

A. Association Approval Required: Except for Developer sales no owner may sell, lease, give, or otherwise transfer ownership of a unit or any interest therein in any manner without the prior written notification of the Association. The notification shall be a written instrument in recordable form (except for leases) which shall include, without limitation, the nature of the transfer (sale, lease, etc.), the parties to the transaction (sellers, purchasers, etc.) the unit number, the name of the Condominium, and the Official Record Book (O.R. Book) and Page numbers in which this Declaration was originally recorded. For all unit transfers of title other than from the Developer, the approval must be recorded simultaneously in the Volusia County, Florida Public Records with the deed or other instrument transferring title to the unit.

(1) Leases: Approvals of leases need not be recorded. Only entire units may be leased. All leases must provide, if they do not, shall be deemed to provide, the agreement of the lessee(s) to abide by all of the Covenants of the Condominium Associations' documents and that a violation of the documents is a material breach of the lease and is grounds for damages, termination, and eviction, and that the lessee and the owner agree that the Association may proceed directly against such lessee(s) and that the lessee(s) shall be

Instrument# 2011-045247 # 27
Book : 6574
Page : 1867

responsible for the Associations' costs and expenses, including attorneys' fees, at all trial and appellate levels. If such costs and fees are not immediately paid by the lessee(s), the unit owner shall pay them and such funds shall be secured as a charge. Each unit owner irrevocably appoints the Association as owner's agent authorized to bring actions in owner's name and at owner's expense including injunction, damages, termination and eviction. The rules and regulations must be provided to lessee(s) by or on the behalf of the unit owner at or before the commencement of the lease term. The minimum leasing period is 30 days, unless made more restrictive by the Board.

(2) **Multiple Owners:** Consistent with Paragraph 13 above, de facto time sharing of units is not permitted and approval will not be given for the sale of a unit or an interest in a unit to multiple persons (e.g., siblings or business associates), who may intend that they and their families would split occupancy of the unit into different time periods during the year.

B. Approval Procedure: The approval of the Association shall be obtained as follows:

(1) **Written Notice:** Not later than 15 days before the first day of occupancy under a lease, legal written notice shall be given to the Association by the owner of intention to sell or transfer interest in any fashion. The notice shall include the name and address of the proposed acquirer and a correct and complete copy of the proposed documents to be executed to effectuate the transaction which shall include a notice to the prospective transferee stating as follows:

A unit owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he or she is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner. The Association may require such other and further

information as it deems reasonably necessary and may impose a transfer fee not to exceed \$25.00 or as permitted by law from time to time.

(2) **Association's Options:** The Association must, within 15 days after receipt of all the information required above, either approve the transfer, disapprove it for cause, or, except in the case of disapproval for cause, on the written demand of the owner, furnish an alternative purchaser, and the owner must sell to such alternative or to the Association on the same terms set forth in the proposed sale. In exercising its power of disapproval, the Association must act in a manner that is neither arbitrary nor unlawfully discriminatory and withhold approval only for a reason or reasons rationally related to the protection, preservation, and proper operation of the Condominium and the purposes as set forth at the beginning of this Paragraph 13. If the Association fails or refuses within the allotted time to notify the owner of either approval or disapproval in writing, or if it fails to provide an alternate purchaser or make an election to purchase the unit itself when required to do so, then the Association shall conclusively be presumed to have approved the transaction, and the Association shall, on demand, provide a recordable certificate of approval.

(3) **Closing Date:** The sale shall be closed within 60 days after an alternate purchaser has been furnished or the Association has elected to purchase.

(4) **Notice of Disapproval:** If the Association disapproves the proposed transaction (subject to the qualifications contained in Paragraph 13.B.2), notice of disapproval shall promptly be sent in writing to the owner or interest holder, and the transaction shall not be made.

C. **Judicial Sales:** Judicial sales are exempt from this section.

D. **Unapproved Transactions:** Any transaction that is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

14. **COMPLIANCE AND DEFAULT:** Each unit owner, tenant, and other invitee shall be governed by, and shall comply with, the provisions of the Condominium Act as amended from time to time, this Declaration, including its exhibits, the Association Articles of Incorporation, and the Association By-laws.

A. Remedies: Failure to comply shall be grounds for relief, which relief may include, but shall not be limited to, an action to recover damages, or injunctive relief, or both. Actions may be maintained by the Association or by any unit owner.

B. Costs and Fees: In any such proceeding, including appeals, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

C. Owner Inquiries and Disputes: In the event of an inquiry by an owner against the Association, the board of Directors, or a member thereof, such owner, prior to the institution of any proceedings, shall give written notice in detail of the inquiry by certified mail to the Board of Directors. The Board shall respond in writing to the unit owner within 30 days of the receipt of the inquiry. The Board shall either give a substantive response, notify the inquirer that a legal opinion has been requested from the Division of Land Sales, Condominiums, and Mobile Homes. If the Board requests advice from the Division of Land Sales, Condominiums, and Mobile Homes, the Board shall, within 10 days of receipt of the advice, provide a substantive response to the inquirer in writing. If a legal opinion is requested, the Board shall, within 60 days of the receipt of the inquiry, provide a substantive response to the inquirer in writing. The failure to act as set forth above precludes the Association from recovering attorneys' fees and costs in any subsequent litigation, administrative proceedings, or arbitration arising out of the inquiry. If unresolved, a dispute, as defined in F.S. 718.1255(1), must be arbitrated in mandatory non-binding arbitration proceedings prior to commencement of litigation.

D. No Waiver of Rights: The failure of the Association or any owner to enforce any covenant, restriction, or other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to subsequent or other instances.

15. AMENDMENTS: Amendments to any of the condominium documents shall be in accordance with the following:

A. Requirements: An amendment may be proposed either by the Board of Directors or by 25% of the voting interests of the Association, and may be considered at meeting of the owners, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed in recordable for signed executed in recordable for signed by the President or Vice-President of the Association that it has been

Instrument# 2011-045247 # 30
 Book : 6574
 Page : 1870

enacted by the affirmative vote of the required percentage of the voting interests (which vote may include later written approval of voters not present) and the separate written joinder of mortgagees where required and shall include the recording date (identifying the location of the Declaration as originally recorded) and which shall become effective when recorded in the public records. No proxy, limited or general, shall be used in the election of board members.

B. *Correctory Amendment:* Whenever it shall appear that there is a defect, error, or omission in any of the Condominium documents or in order to comply with applicable laws or requirements of government entities, the amendment may be adopted by the Board of Directors alone.

C. *Regular Amendments:* Amendments may be enacted by a favorable vote of the owners of 67% of the voting interests in the Association.

D. *Developer Amendments:* Until relinquishment of Developer control of the Association (turnover) and except as otherwise provided by law in F.S. 718.110(2), the Developer specifically reserves the rights, without joinder of any person, to make such amendments to the Declaration and its exhibits, or to the plan of development, as may be required by any lender or governmental authority, or as may be, in Developer's judgment, necessary or desirable. This paragraph shall take precedence over any other provision of the Declaration or its exhibits.

E. *Mortgagee Approval:* Amendments materially affecting the lights or interests of mortgagees must have the approval of the holders of institutional first mortgages who have requested the Association to notify them on any proposed action specified in this paragraph, such consent shall not be unreasonably withheld. Implied approval shall be assumed when such holder fails to respond to any written request for approval within 30 days after the mortgage holder receives proper notice of the proposal, provided the notice was delivered certified or registered mail with a "Return Receipt" requested. In the event that mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the Association and recorded in the Public Records of Volusia County, Florida. A change to any of the following shall be considered as material:

- (1) Any change in the proportion or percentage by which the owner of the unit shares the common expenses and owns the common surplus.
- (2) Reallocation of interests or use rights in the common elements.

- (3) Redefinition of any unit boundaries.
- (4) Convertibility of units into common elements or vice versa.
- (5) Expansion or contraction of the Condominium.

F. *Developer's Rights:* No amendment to this Declaration or any of the Condominium documents shall change the rights and privileges of the Developer without the Developer's written approval as long as the Developer holds any units for sale in the ordinary course of business.

G. *Written Agreements:* Any approval of unit owners on any matter called for by this Declaration, its exhibits, or any statute to be taken at a meeting of unit owners is hereby expressly allowed to be taken instead by written agreement, without a meeting (which agreement may be in counterparts), subject to F.S. 718.112(2)(d)4 and F.S. 617.0701.

16. *TERMINATION:* Except for termination in connection with a merger of this Condominium with another, above, the termination of the Condominium shall be carried out in accordance with the following:

A. *By Agreement:* The Condominium may be caused to be terminated at any time after notification to the Division of Land Sales, Mobile Homes and Condominiums by written agreement of the owners of at least three-fourths of the units, and of the holders of institutional first mortgages as provided for in Paragraph 15.G. above.

B. *Without Agreement, on Account of Very Substantial Damage:* If the Condominium suffers "very substantial damage" to the extent defined above in Paragraph 11.B.3., and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

C. *Process of Termination:* Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this paragraph is recorded in the Public Records of Volusia County, Florida.

(1) The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice President with the formalities of a deed, and certifying as to the facts effecting the termination. The Certificate also shall include the name and address of a Florida financial

institution with trust powers or a licensed Florida attorney who is designated by the Association to act as Termination Trustee, and shall be signed by the Trustee indicating willingness to serve in that capacity.

(2) The recording of that Certificate of Termination automatically divests the Association of title to all Association property, and divests all unit owners of legal title to their respective condominium parcels, and vests legal title in the Termination Trustee named in the Certificate of Termination, to all real and personal property that was formerly the Condominium property or Association property, without need for further conveyance. Beneficial title to the former Condominium and Association property shall be transferred to the former unit owners as tenants in common, in the same undivided shares as each owner previously owned in the common elements, without further conveyance. Each lien encumbering a Condominium parcel shall be automatically transferred to the equitable interest in the former Condominium property and Association property attributable to the unit encumbered by the lien, with the same priority.

D. *Winding up of Association Affairs:* The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and By-Laws, to the extent necessary to, and for the sole purpose of, winding up the affairs of the Association in accordance with this paragraph.

E. *Trustee's Powers and Duties:* The Termination Trustee shall hold legal title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees, and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this paragraph, the Termination Trustee shall have the power and authority to convey title to the purchaser, and to distribute the proceeds in accordance with the provisions of this paragraph. The Termination Trustee may charge a reasonable fee for acting in such capacity, and such fee as well as all costs and expenses incurred by the Termination Trustee in the performance of its duties, shall be paid by the Association or taken from the proceeds of the sale of the former Condominium and Association

property, and shall constitute a lien on the property superior to any other lien. The Trustee shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as Termination Trustee unless such liabilities are the result of gross negligence or malfeasance. The Termination Trustee may rely on the written instructions and information provided to it by the officers, directors, and agents of the Association, and shall not be required to inquire beyond such information and instructions.

F. Partition; Sale: Following termination, the former Condominium property and Association property may be partitioned and sold on the application of any unit owner. If following a termination at least 75% of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the Termination Trustee, and the Trustee shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and on the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former Condominium and Association property within one year after the recoding of the Certificate of Termination, the Trustee may proceed to sell the property without agreement by the Association or the former unit owners. The net proceeds of the sale of any of the property or assets of the Association shall be distributed by the Termination Trustee to the beneficial owners thereof, as their interests shall appear.

G. New Condominium: The termination of the Condominium does not bar creation of another Condominium including all or any portion of the property.

H. Provisions Survive Termination: The provisions of this Paragraph 16 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the By-Laws and Articles of Incorporation, and shall have the power to levy assessments to pay the costs and expenses of the Trustee and of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Trustee, as well as post-termination costs of maintaining the former Condominium property, are common expenses, the payment of which shall be secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

17. PROVISIONS PERTAINING TO THE DEVELOPER: As long as the Developer holds any unit for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

- A. Assessment of the Developer as a unit owner for capital improvements.
- B. Any action by the Association that would be detrimental to the sale of units or the completion of the project by the Developer, including such use of unsold units and common elements and Association property as may facilitate completion, sale, maintenance of a sales office, showing of the property, and display of signs.

18. RIGHTS OF MORTGAGEES:

A. *Partial Excusal from Prior Assessments:* A first mortgagee who acquires title to a unit by purchase at a foreclosure sale or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed, but in no event shall the mortgagee be liable for more than six months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or 1% of the original mortgage debt, whichever amount is less. This provision shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action. Such mortgagee may obtain title, own, occupy, lease, sell, or otherwise dispose of such unit without the approval of the Association. This paragraph shall be deemed amended so as to remain in conformity with the provisions of F.S. 718.116 as it is amended from time to time.

B. *Rights to Information:* On receipt by the Association from any institutional mortgagee, guarantor, or insurer of a copy of the mortgage held by such mortgagee, guarantor, or insurer on a unit, together with a written request from such mortgagee or an insurer or guarantor of such mortgage specifying the address to which the following items are to be sent, the Association shall timely send to such mortgagee, insurer, or guarantor the following, for which the Association may charge a reasonable fee:

- (1) *Financial Statements:* A copy of a financial statement of the Association for the immediately preceding fiscal year; and
- (2) *Insurance Cancellation:* Written notice of the cancellation or termination by the Association of any policies of insurance covering the Condominium or Association

property or any improvements thereon, or any fidelity bonds of the Association except when the reason for the termination or cancellation of the insurance policy or bond is to change insurance companies or because the policy or bond is not needed or is not available; and

(3) **Damage to Condominium:** Written notice of any damage or destruction to the improvements located on the common elements or Association property that affects a material portion of the common elements or Association property or the unit securing its mortgage; and

(4) **Eminent Domain:** Written notice of a condemnation or eminent domain proceeding affecting a material portion of the Condominium property or the unit securing its mortgage; and

(5) **Delinquent Assessments:** Written notice of failure by the owner of a unit encumbered by a first mortgage held by such institutional mortgagee, guarantor, or insurer to pay any assessments when such failure or delinquency has continued for a period of 60 days or longer.

(6) **Failure to Notify:** The failure of the Association to send any such notice to any such mortgagee, guarantor, or insurer shall have no effect on any meeting, action, or thing that was to have been the subject of such notice nor affect the validity thereof and shall not be the basis for liability on the part of the Association.

19. **ENFORCEMENT OF ASSESSMENT LIENS:** Liens for assessments may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property and the Association may also bring an action to recover a money judgment. After a judgment if foreclosure has been entered, the unit owner during occupancy, if so ordered by the Court, shall be required to pay reasonable rental. If the unit is rented or leased during the pendency of a foreclosure action, the Association shall be entitled to the appointment of a receiver to collect the rent. The Association shall have all the powers provided in F.S. 718.116 and shall be entitled to collect interest at the highest lawful rate (currently 18% per annum) on unpaid assessments and reasonable attorneys' fees, including appeals, and costs incident to the collection of such assessment or enforcement of such lien, with or without suit.

A. Creation and Enforcement of Charges: The Association shall have a cause of action against unit owners to secure payment to the Association by unit owners of all charges, costs, and expenses to the Association that cannot be secured as assessments, regular or special, under F.S. 718.116. The charge shall bear interest at the highest lawful rate, and shall carry with it costs and attorneys' fees, including appeals, incurred in collection.

20. ASSOCIATION AGREEMENTS: The Association is authorized to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other facilities. Such interests need not be contiguous to the lands of the Condominium if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. The Association is also authorized to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other facilities. Such interests need not be contiguous to the lands of the Condominium if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners.

21. COMMON EXPENSES AND COMMON SURPLUS: Each unit's share shall be one hundredth of the whole.

22. CONDEMNATION:

A. Deposit of Awards With Association: The taking of all or any part of the Condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that owner.

B. Determination Whether to Continue Condominium: Whether the Condominium will be continued after condemnation will be determined in the manner provided in Paragraph 11 above for determining whether damaged property will be reconstructed and repaired after casualty.

C. Disbursement of Funds: If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be deemed to be Condominium

property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the owners of condemned units, if any, will be made whole, and any property damage by the taking will be made usable in the manner provided below. Proceeds of awards and special charges shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after casualty.

D. Association as Agent: The Association is hereby irrevocably appointed as each unit owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

E. Units Reduced But Tenantable: If the taking reduces the size of a unit and the remaining portion of the unit can be made tenantable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) **Restoration of Unit:** The unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit;

(2) **Distribution of Surplus:** The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagees.

F. Unit Made Untenantable: If the taking is of any entire unit or so reduces the size of a unit that it cannot be made tenantable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) **Payment of Award:** The fair market value of the unit immediately prior to the taking, as determined by agreement between the unit owner and the Association or by arbitration in accordance with Paragraph 22.F.4., shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagee(s);

(2) *Addition to Common Elements:* If possible and practical, the remaining portion of the unit shall become a part of the common elements and shall be placed in condition for use by all unit owners in the manner approved by the Board of Directors;

(3) *Adjustment of Shares in Common Elements:* The shares in the common elements appurtenant to the units that continue as part of the Condominium shall be adjusted to equally distribute the ownership of the common elements among the reduced number of unit owners;

(4) *Arbitration:* If the fair market value of a unit prior to the taking cannot be determined by agreement between the unit owner and the Association within 30 days after notice by either party, the value shall be determined by appraisal in accordance with the following. The unit owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the unit. A judgment of specific performance on the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisals shall be paid by the party selecting the appraiser.

G. *Taking of Common Elements:* Awards for the taking of common elements shall be used to make the remaining portion of the common elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the unit owners on the shares in which they own the common elements after adjustment of these shares on account of the condemnation. If a unit is mortgaged, the remittance shall be paid jointly to the owner and the mortgagee(s) of the unit.

H. *Amendment of Declaration:* Changes in the units, in the common elements, and in the ownership of the common elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium as ordered by a court or approved by a majority of unit owners (voting interests) of this Condominium, without the consent of any mortgagee being required for any such amendment.

23. **VOTING:** Each unit shall have one full indivisible vote in all matters.

Instrument# 2011-045247 # 39
Book : 6574
Page : 1879

24. **DEVELOPMENT EASEMENTS AND RESTRICTIONS:** Developer, for itself and its successors and assigns, reserves easements over the Condominium property as necessary to complete future development, if any, including construction access and utilities.

25. **SEVERABILITY AND NONWAIVER:** If any provisions of this Declaration or its exhibits as now constituted or as later amended or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby. The failure of the Association in any instance to enforce any covenant or provision of this Declaration or any of the Condominium documents shall not constitute a waiver of its rights to do so thereafter in other instances.

THIS DECLARATION OF CONDOMINIUM hereto made and entered this **11th** day of **February, 2011**.

Bella Vista Condominium, Inc.
a Florida not for profit corporation

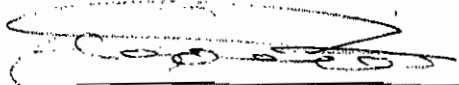
By: 
Terry Griffiths, President

WITNESSES:

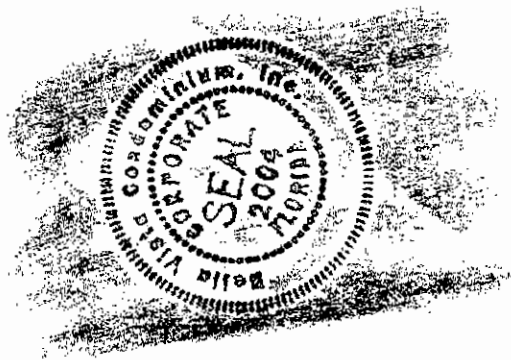
(CORPORATE SEAL)


Witness 1

MARK MAGNUSZEWSKI
Printed Name


Witness 2

GAD BENCHETRIT
Printed Name



Instrument# 2011-045247 # 40
Book: 6574
Page: 1880
Diane M. Matousek
Volusia County, Clerk of Court

ACKNOWLEDGMENT

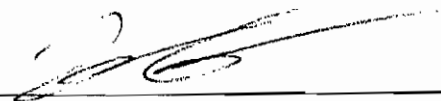
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this **11th** day of **February, 2011** by Terry Griffiths, as President of Bella Vista Condominium, Inc, a Florida not for profit corporation. He is personally known to me and did not take an oath.

Sworn to before me on this **11th** day of **February, 2011**.

ZSOLT KOVACS
Notary Public, State of Florida
My Comm. Expires Oct. 21, 2013
No. DD934945

(Sign)



(Print)

Zsolt Kovacs

Commission #: **DD934945**
My Commission Expires: **October 21, 2013**

DECLARATION

OF

CONDOMINIUM

THE

BELLA VISTA,

A CONDOMINIUM

TABLE OF CONTENTS

1.	SUBMISSION TO CONDOMINIUM.....	1
2.	NAME- PLAN OF DEVELOPMENT.....	1
3.	NAME- ASSOCIATION.....	1
4.	DEFINITIONS.....	1
5.	CONDOMINIUM UNITS, BOUNDARIES AND APPURTENANCES.....	4
	A. Boundaries.....	4
	B. Exclusive Use.....	4
	C. Ownership.....	5
	D. Easements.....	5
6.	MAINTENANCE; LIMITATIONS ON ALTERATIONS AND IMPROVEMENTS.....	6
	A. Association Maintenance.....	6
	B. Unit Owner Maintenance.....	6
	C. Other Unit Owners Responsibilities.....	7
	D. Appliance Maintenance Contracts.....	9
	E. Pest Control.....	10
	F. Tinted Exterior Glass, Lights, Sea Turtle Protection.....	10
	G. Owner Alteration of Common Elements Restricted.....	10
7.	COMMON ELEMENTS.....	11
	A. Share of Common Elements.....	11
	B. Use of Common Elements.....	11
	C. Material Alterations and Additions.....	11
8	FISCAL MANAGEMENT:.....	11
9.	ADMINISTRATION.....	12
10.	INSURANCE.....	12
	A. Duty and Authority to Obtain.....	12
	B. Basic Insurance.....	12
	C. Description of Coverage.....	13
	D. Waiver of Subrogation.....	13
	E. Shares of Insurance Proceeds.....	14
	F. Common Elements.....	14
	G. Distribution of Insurance Proceeds.....	14
	H. Association as Agent.....	15
11.	RECONSTRUCTION OR REPAIR AFTER CASUALTY.....	15
	A. Damage to Units.....	15
	B. Damage to Common Elements- Less Than "Very Substantial".....	15
	C. Application of Insurance Proceeds.....	16
	D. Equitable Relief.....	17
	E. Plans and Specifications.....	17
12.	USE RESTRICTIONS.....	17
	A. Lawful Use.....	17
	B. Rules and Regulations.....	17
	C. Use and Occupancy of the Units.....	18
	D. Access to Units.....	18
	E. Parking.....	18
	F. Parking Spaces, and Storage Lockers- Exclusive Use and Transfer of Use Rights.....	18

G.	Pets, Tenants and Guests.....	19
H.	Exclusive Use; Common Facilities.....	19
I.	Nuisance Prohibited.....	19
13.	LEASE, CONVEYANCE, DISPOSITION.....	19
A.	Association Approval Required.....	19
B.	Approval Procedure.....	20
C.	Judicial Sales.....	21
D.	Unapproved Transactions.....	21
14.	COMPLIANCE AND DEFAULT.....	22
A.	Remedies.....	22
B.	Costs and Fees.....	22
C.	Owner Inquiries and Disputes.....	22
D.	No Waiver of Rights.....	22
15.	AMENDMENTS.....	22
A.	Requirements.....	22
B.	Correctory Amendment.....	23
C.	Regular Amendments.....	23
D.	Merger Amendment.....	23
E.	Developer Amendments.....	23
F.	Mortgagee Approval.....	23
G.	Developer's Rights.....	24
H.	Written Agreements.....	24
16.	TERMINATION.....	24
A.	By Agreement.....	24
B.	Without Agreement, on Account of Very Substantial Damage.....	24
C.	Process of Termination.....	25
D.	Winding up of Association Affairs.....	25
E.	Trustee's Power's and Duties.....	25
F.	Partition; Sale.....	26
G.	New Condominium.....	26
H.	Provisions Survive Termination.....	26
17.	PROVISIONS PERTAINING TO THE DEVELOPER.....	27
18.	RIGHTS OF MORTGAGEES.....	27
A.	Partial Excusal from Prior Assessments.....	27
B.	Rights to Information.....	27
19.	ENFORCEMENT OF ASSESSMENT LIENS.....	28
A.	Creation and Enforcement of Charges.....	29
20.	ASSOCIATION AGREEMENTS.....	29
21.	COMMON EXPENSES AND COMMON SURPLUS.....	29
22.	CONDEMNATION.....	29
A.	Deposit of Funds With Association.....	29
B.	Determination Whether to Continue Condominium.....	29
C.	Disbursement of Funds.....	30
D.	Association as Agent.....	30
E.	Units Reduced But Tenantable.....	30
F.	Unit Made Untenantable.....	30
G.	Taking of Common Elements.....	31
H.	Amendment of Declaration.....	31

23. VOTING.....32

24. DEVELOPMENT EASEMENTS AND RESTRICTIONS.....32

25. SEVERABILITY AND NON-WAIVER.....32

**DECLARATION OF CONDOMINIUM
EXHIBIT LIST**

Exhibit 1	Association Articles of Incorporation
Exhibit 2	Condominium Plot Plan and Floor Plans
Exhibit 3	Association By-Laws
Exhibit 4	Rules and Regulations
Exhibit 5	Legal Description of the Condominium Property

DECLARATION OF CONDOMINIUM
OF
THE BELLA VISTA A CONDOMINIUM

2515 Atlantic Avenue, LLC, a Florida limited liability company, , herein called "Developer", on behalf of itself and its successors, grantees, and assigns, hereby makes this Declaration of Condominium:

1. **SUBMISSION TO CONDOMINIUM:** The Legal description of the Condominium Property, located in Volusia County, Florida, is described as in the attached Exhibit "5".

2. **NAME- PLAN OF DEVELOPMENT:** Developer has or will construct a total of 100 single family residential units and associated improvements designated "The Bella Vista, a Condominium".

3. **NAME- ASSOCIATION:** The name of the Condominium Association is "Bella Vista Condominium, Inc." This Association is incorporated as a not for profit Florida corporation.

4. **DEFINITIONS:** The terms used herein will have the meanings stated in Florida Statutes Chapter 718 (Condominium Act) and as follows, unless the context otherwise requires:

A. **Assessment:** The share of the funds required for the payment of common expenses that is assessed against a unit owner from time to time.

B. **Association:** The corporation responsible for the operation of the Condominium.

C. **Association Property:** All real or personal property owned or leased by the Association.

D. **Board of Directors or Directors or Board:** The board of directors responsible for the administration of the Association.

E. **Charge or Special Charge:** The obligation of a unit owner to pay or reimburse money to the Association that cannot be secured as an assessment pursuant to F.S. 718.116, but which will, if the charge is not paid, give rise to a cause of action against the unit owner pursuant to this declaration.

F. **Common Elements:** The portions of the property submitted to condominium ownership and not included in the units, including:

- (1) Land
- (2) All parts of improvements that are not included within the units
- (3) Easements
- (4) Installations for the furnishings of services to more than one unit or to the common elements, such as chilled water air conditioning, electricity, water and sewer

G. **Common Expenses:** All expenses properly incurred by the Association for the Condominium and such expenses as may be declared to be common expenses by this Declaration. The cost of providing basic cable television under a bulk service contract, the cost of providing electronic security, and the cost of water and sewer service to the units shall be a common expense.

H. **Common Surplus:** The excess of all receipts of the Association above the common expenses.

I. **Condominium Documents:** This Declaration and the attached exhibits setting forth the nature of the property rights in the Condominium and the covenants running with the land that govern these rights. All the other Condominium documents will be subject to the provisions of the Declaration. The order of priority of the documents will be as follows: (1) Declaration; (2) Association Articles of Incorporation; (3) By-Laws; and (4) Rules and Regulations.

J. **Condominium Parcel:** A unit together with the undivided share in the common elements that is appurtenant to the unit.

K. **Condominium Property:** The real and personal property, both tangible and intangible, subject to condominium ownership, whether or not contiguous; all improvements thereon; and all easements and rights appurtenant thereto.

L. **Developer:** 2515 Atlantic Avenue, LLC, the company that has established this Condominium, and the successors and assigns of the company's development rights.

M. **Exhibits:**

- (1) Association Articles of Incorporation
- (2) Condominium Plot Plan

- (3) Association By-Laws
- (4) Rules and Regulations
- (5) Legal description of the Condominium Property

N. **Family:** One natural person or group of two or more natural persons, each of whom is related to each of the others by blood, marriage, or adoption (exclusive of household servants); or not more than two adult persons not so related, who reside together as a single not-for-profit housekeeping unit.

O. **Guest:** Any person who is physically present in or occupies a unit on a temporary basis at the invitation of the unit owner without the payment of consideration,

P. **Institutional First Mortgage:** The mortgagee or its assignee of a first mortgage on a condominium parcel. The mortgagee may be a bank, a savings and loan association, a mortgage banker, a life insurance company, a real estate or mortgage investment trust, a pension or profit sharing trust, the Federal Housing Administration, the Department of Veteran Affairs, any agency of the United States of America, or the Developer. The term also refers to any holder of a first mortgage against a condominium parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument, by the Federal Housing Administration, the Department of Veteran Affairs, any agency of the United States of America, or any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

Q. **Lease:** The grant by a unit owner of a temporary right of use of the owner's unit for a valuable consideration.

R. **Limited Common Elements:** Those portions of the common elements that are reserved for the use of a certain unit or units to the exclusion of the other units.

S. **Occupy:** The act of being physically present in a unit on two or more consecutive days, including staying overnight. An occupant is one who occupies a unit.

T. **Operation:** The administration and management of the Condominium Property.

U. **Person:** An individual, corporation, trust, or other legal entity capable of holding title to real property.

V. **Singular, Plural, Gender:** Whenever the context permits, use of the plural

includes the singular, use of the singular includes plural, and use of any gender includes all genders.

W. **Unit:** A part of the Condominium Property that is subject to exclusive ownership as described in this declaration.

X. **Unit Number:** The letter, number or combination thereof that is designated on the Condominium Plot Plan and used as the identification of a unit.

Y. **Unit Owner:** The owner of record legal title to a condominium parcel.

Z. **Voting Interest:** The voting rights distributed to the Association members pursuant to F.S. 718.104(4)(J).

5. **CONDOMINIUM UNITS, BOUNDARIES AND APPURTENANCES:** Each unit and its appurtenances constitute a separate parcel of real property that may be owned in fee simple. The unit may be conveyed, transferred, and encumbered like any other parcel of real property, independently of all other parts of the Condominium Property, subject only to the provisions of the condominium documents and applicable laws.

A. **Boundaries:** Each unit will have boundaries as defined below. The boundaries may exist now or may be created by construction, settlement, or movement of the buildings; or by permissible repairs, reconstruction, or alterations.

(1) **Horizontal Boundaries:** The upper and lower boundaries of the units will be:

(a) **Upper Boundary:** The planes of the underside of the finished and undecorated ceilings of the unit, extended to meet the perimeter boundaries.

(b) **Lower Boundary:** The planes of the upperside of the finished and undecorated surface of the floors of the unit, extended to meet the perimeter boundaries.

(2) **Perimeter Boundaries:** The perimeter boundaries will be both the finished and undecorated interior surfaces of the perimeter walls of the unit as shown on the Condominium Plot Plan, and the planes of the interior surfaces of the unit's windows, doors, and other openings that abut the exterior of the building or common elements, including limited common elements.

B. **Exclusive Use:** Each unit owner will have the exclusive use of such

owner's unit.

C. **Ownership:** The ownership of each unit will carry with it, as appropriate, and whether or not separately described, all of the rights, title, and interest of a unit owner in the Condominium Property which will include, but not be limited to:

(1) **Common Elements and Common Surplus:** An undivided share of ownership of the common elements and common surplus.

(2) **Limited Common Elements:** Either the exclusive use or use in common with one or more other designated units of the limited common elements that may exist. Such elements include garage parking space(s), storage locker(s), open terrace(s), deck(s), and all items set forth in Paragraph 6. That are exterior to a unit and are expressly required to be maintained by the unit owner.

(3) **Association Membership:** Membership in the Association and voting rights.

D. **Easements:** The following nonexclusive easements are created by and granted from the developer to each unit owner; to the Association; to utility companies; to unit owners' families in residence, guests, and invitees; and to governmental and emergency services, as applicable.

(1) **Easement for Air Space:** An exclusive easement for use of the air space occupied by the unit as it exists at any particular time and as the unit may be lawfully altered or reconstructed from time to time. The easement will be terminated automatically in any air space that is vacated from time to time.

(2) **Ingress and Egress:** Easements over the common elements for ingress and egress to units and public ways.

(3) **Maintenance, Repair, and Replacement:** Easements through the units and common elements for maintenance, repair, and replacement.

(4) **Utilities:** Easements through the common elements and units for conduits, ducts, plumbing, and wiring, and other facilities for the furnishing of services and utilities to other units, the common elements, and other utility customers, both existing and future.

(5) **Public Services:** Access to both the Condominium Property and the

units for lawfully performed emergency, regulatory, law enforcement, and other public services.

6. MAINTENANCE; LIMITATIONS ON ALTERATIONS AND IMPROVEMENTS: The responsibility for protection, maintenance, repair, and replacement of the Condominium Property, and restrictions on its alteration and improvement, shall be as follows:

A. ***Association Maintenance:*** The Association is responsible for the protection, maintenance, repair, and replacement of all condominium property (other than the limited common elements that are required elsewhere herein to be maintained by the unit owner). The cost is a common expense. The Association's responsibilities include, without limitation:

- (1) Electrical wiring up to the circuit breaker panel in each unit.
- (2) Water pipes, up to the individual unit cut-off valve within the unit.
- (3) Cable television lines up to the wall outlets in the units.
- (4) Air conditioning condensation drain lines up to the point where they enter each unit.
- (5) Sewer lines, up to the point where they enter the unit.
- (6) All installations, fixtures, and equipment located within one unit but serving another unit, or located outside the unit, for the furnishing of utilities to more than one unit of the common elements.
- (7) The exterior surface of the main entrance doors to the units.
- (8) All exterior building walls, including painting, waterproofing, and caulking.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing, or mechanical installation located within a unit and serving only that unit. All incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association shall be repaired promptly by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage to any alteration or addition to the common elements made by a unit owner or his or her predecessor in title or for damage to paint, wallpaper, paneling, flooring, or carpet which, of necessity, must be cut or removed to gain access to work areas located behind it.

B. ***Unit Owner Maintenance:*** Each unit owner is responsible, at the owner's

expense, for all maintenance, repairs, and replacements of the owner's unit and certain limited common elements. The owner's responsibilities include, without limitation:

- (1) Maintenance, repair, and replacement of screens, windows, and window glass.
- (2) The main entrance door to the unit and its interior surfaces.
- (3) All other doors within or affording access to the unit.
- (4) The electrical, mechanical, and plumbing lines, pipes, fixtures, switches, valves, drains, and outlets (including connections) located partially or entirely within the unit or serving only the unit.
- (5) The circuit breaker panel and all electrical wiring going into the unit from the panel.
- (6) Appliances, water heaters, smoke alarms, and vent fans.
- (7) All air conditioning and heating equipment, thermostats, ducts, and installations serving the unit exclusively, except as otherwise provided in Paragraph 6.D. below.
- (8) Carpeting and other floor coverings.
- (9) Door and window hardware and locks.
- (10) Shower pans.
- (11) The main water supply shut-off valve for the unit.
- (12) Other facilities or fixtures that are located or contained entirely within the unit and serve only that unit.
- (13) All interior partition walls that do not form part of the boundary of the unit.

C. Other Unit Owners Responsibilities:

- (1) **Balconies, Patios and Porches:** Where a limited common element consists of a balcony, patio or porch area, the unit owner who has the right of exclusive use of the area shall be responsible for the day-to-day cleaning and care of the walls, floor, and ceiling bounding said area, if any; and all fixed glass and sliding glass doors on portions of the entranceway to said area, if any; and the wiring, electrical

outlet(s), and fixture(s) thereon, if any, and the replacement of light bulbs. The Association is responsible for the maintenance, repair, and replacement of all exterior walls of the building and the concrete slabs. The unit owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance of the exterior surfaces and structures of the building shall be the responsibility of the Association and shall be a common expense. The maintenance, repair, replacement, and insurance of such approved carpeting, covering, or enclosure shall be the responsibility of the unit owner.

- (2) ***Interior Decorating:*** Each unit owner is responsible for all decorating within the owner's unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.
- (3) ***Flooring:*** All units above the ground floor shall always have the floors covered with wall-to wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms, or laundry rooms. An owner who desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet) also shall install a sound absorbent underlayment of such kind and quality equivalent or superior to one fourth inch cork and perimeter sound isolation material installed in accordance with the Rules and Regulations as amended from time to time to substantially reduce the transmission of noise to adjoining units, and must obtain written approval of the Board of Directors prior to any such installation. If the installation is made without prior approval, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the unit owner to cover all such hard-surface flooring at the expense of the offending unit owner. The structural integrity of balconies and terraces constructed of steel reinforced concrete is affected adversely by water intrusion and

rusting aggravate by the water retention qualities of indoor-outdoor carpet, river rock, and unglazed ceramic tile and its grout. For this reason, no indoor-outdoor carpet or river rock may be used on balconies and terraces, and all tile and its bedding and grout must be of such materials and so applied as to be waterproof. Any flooring installed in the balconies or terraces of a unit shall be installed so as to ensure proper drainage.

- (4) **Window Coverings:** The covering and appearance of the windows and doors, whether by draperies, shades, reflective film, or other items, whether installed within or outside of the unit, visible from the exterior of the unit, shall be subject to the Rules and Regulations of the Association.
- (5) **Modifications and Alterations or Neglect:** If a unit owner makes any modifications, installations, or additions to the unit or the common elements or neglects to maintain, repair, and replace as required by this Section 6, the unit owner, and the unit owner's successors in title shall be financially responsible for:
 - (a) Insurance, maintenance, repair, and replacement of the modifications, installations, or additions;
 - (b) The costs of repairing any damage to the common elements or other units resulting from the existence of such modifications, installations, or additions; and
 - (c) The costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the Condominium Property for which the Association is responsible.
- (6) **Use of Licensed and Insured Contractors:** Whenever a unit owner contract for maintenance, repair, replacement, alteration, addition, or improvement of any portion of the unit or common elements, whether with or without

Association approval, such owner shall be deemed to have warranted to the Association and its members that owner's contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

D. ***Appliance Maintenance Contracts:*** If there shall become available to the Association a program of contract maintenance for water heaters serving individual units, and/or air conditioning compressors and/or air handlers and related equipment and fixtures serving individual units, which the Association determines is to the benefit of the owners to consider, then on agreement by a majority of the voting interests of the Condominium, in person or by proxy and voting at a meeting called for the purpose, or on agreement by a majority of the total voting interests of the Condominium in writing, the Association may enter into such contractual undertakings. The expenses of such contractual undertakings to the Association shall be common expenses. All maintenance, repairs, and replacements not covered by the contracts shall be the responsibility of the unit owner.

E. ***Pest Control:*** The Association may supply pest control services for the inside of each unit, with the cost thereof being part of the common expenses. An owner has the option to decline such services unless the Association determines that service is necessary for the protection of the balance of the Condominium, in which event the owner thereof must permit the Association's pest control company to enter the unit or must employ a licensed pest control company to enter the owner's unit on a regular basis to perform pest control services, and must furnish written evidence thereof to the Association. The cost of pest control provided by the Association is a common expense, so the election of an owner not to use the service will not reduce the owner's assessment.

F. ***Tinted Exterior Glass, Lights, Sea Turtle Protection:*** The Florida Department of Environmental Protection (DEP) has established requirements for limiting transmission of light from within buildings for the protection of sea turtles on beaches. For this reason, special shaded or tinted glass has been used in constructing this Condominium. Any replacement glass installed by the Association or by unit owners must be of the same shaded or tinted type that meets the requirements of the Department of Environmental Protection. Light bulbs in fixtures on balconies and terraces facing or visible from the beach must be yellow "bug light" bulbs

not to exceed 60 watts.

G. ***Owner Alteration of Common Elements Restricted:*** No unit owner may make any alterations, add to, or remove any part of the portions of the improvements that are to be maintained by the Association without the prior written approval of the Board of Directors. The Board has the authority to approve, disapprove, or require modifications to the proposed work. The Board's decision will be determinative of the matter. The owner must obtain all necessary approvals and permits from applicable government entities. The Association may require approval from engineers or other professionals as a prerequisite. The entire expense must be borne by the owner, including any subsequent maintenance and restoration. No owner will do any work that would jeopardize the safety or soundness of the building or impair any easements. If approved by the Board, two units owned by the same owner that are adjacent, either horizontally or vertically, may be connected by doorways or stairways through common element walls or floors.

H. No unit owner may replace or remove any fixture which was included as original equipment in a unit if the likely result of doing so would be an increase in water consumption by the unit.

7. **COMMON ELEMENTS:**

A. ***Share Of:*** The common elements will be owned by the unit owners in one hundred (100) equal undivided shares.

B. ***Use:*** Each unit owner and the Association will be entitled to use the common elements in accordance with the purposes for which the elements are intended; however, no such use may hinder or encroach upon lawful rights of other unit owners,

C. ***Material Alterations and Additions:*** Except for changes made by an owner with Association approval as provided in Paragraph 6.G. above, or by the Board of Directors alone for the integrity of the Condominium property, material alteration of or substantial additions to the common elements or to Association property, including the purchase, acquisition, sale, conveyance, or mortgaging of such property, may be effectuated only by vote of 67% of the voting interests of the Association at a meeting called for that purpose. The Board of Directors may lease or grant easements or licenses for the use of common elements or Association property if the use will benefit the members of the Association.

8. **FISCAL MANAGEMENT:** The fiscal management of the Condominium,

including budget, fiscal year, charges, assessments, and collection of assessments, shall be as set forth herein and in the By-Laws (Exhibit "3").

Notwithstanding any other provisions contained in this Article and in the By-Laws, in the event there are unsold Units owned by the Developer, the Developer shall be excused from payment of the monthly assessments for common expenses for those unsold Units, for a period of one (1) year from the date of recording of the Declaration of Condominium, or until all units owned by the Developer have sold and closed, whichever occurs sooner. During the period that the Developer is excused from the payment of said assessments, the Developer shall guarantee that the monthly assessment for common expenses of the condominium imposed upon Unit Owners other than the Developer shall not increase over \$380.48 per month per unit. In the event the amount of common expenses incurred during the Developer's guarantee period exceeds the assessments collected at the guaranteed level from the other Unit Owners, the Developer shall contribute to the Association such additional sums necessary to pay for the common expenses. However, in no event shall the Developer be obligated to contribute funds to the Association for capital improvements it has not approved, or other expenses which are not common expenses. Upon the expiration of the Developer's guarantee period, which may be by the Developer extended for two (2) additional one (1) year periods, and upon expiration of all such periods, the Developer shall contribute to the common expenses, as to the Units owned by it, in the same manner as all other Unit Owners.

9. **ADMINISTRATION:** The administration of the Condominium shall be by the Board of Directors and its powers and duties shall be as set forth herein and in the Articles of Incorporation and the By-Laws.

10. **INSURANCE:** In order to adequately protect the unit owners, the Association, and all parts of the Condominium property and Association property that are required to be insured by the Association, insurance shall be carried and kept in force at all times in accordance with the following provisions:

A. ***Duty and Authority to Obtain:*** The Board of Directors shall use its best efforts to obtain and maintain adequate insurance. In all insurance purchased by the Association, the name of the insured shall be the Association and the unit owners and their mortgagees (without naming them), as their interests shall appear, and the policy shall provide for the issuance of certificates of insurance and mortgagee endorsements to any or all of the holders of institutional first

mortgages. In the event that the Bella Vista Condominium, Inc., requests the Association to name it as an additional insured as its interest may appear, the Association shall do so.

B. **Basic Insurance:** The Board of Directors will procure insurance covering the building and improvements as well as all insurable Association property, in an amount determined annually by the Board. Pursuant to F.S. 718.111(11)(b), the word "building" does not include floor coverings, wall coverings, or ceiling coverings, nor electrical fixtures, appliances, air conditioning or heating equipment, water heaters, or built-in cabinets located within a unit. Such insurance shall afford the following protection:

- (1) **Property:** The policy must include extended coverage (including windstorm), and replacement cost coverage for loss or damage by fire, vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.
- (2) **Flood:** The policy must include up to the minimum required by federal and state statutes for the building and insurable improvements, as available.
- (3) **Liability:** The policy must include premises and operations liability endorsements for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross-liability endorsements to cover liabilities of the unit owners as a group to a unit owner.
- (4) **Automobile:** The policy must include automobile liability for bodily injury and property damage for all owners and non-owned motor vehicles used in Association business in such limits of protection and with such coverage as may be required by the Board of Directors of the Association.
- (5) **Workers' Compensation:** The Association shall maintain workers' compensation insurance to meet the requirements of law.
- (6) **Fidelity Bonding:** The Association shall obtain and maintain blanket fidelity bonding for each person who is authorized to sign checks and the President, Secretary, and Treasurer of the Association

in an amount equal to the maximum funds that will be in the custody of the Association or its management agent at any one time. The Association shall bear the cost of bonding.

- (7) ***Directors and Officers Liability Insurance:*** The Association shall obtain and maintain adequate Directors and officers liability insurance using the broad form of policy coverage for all Directors and officers and, if available, for committee members of the Association.
- (8) ***Optional Coverage:*** The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interests of the Association and unit owners.
- C. ***Description of Coverage:*** A detailed summary of the coverage included in the master policies shall be available for inspection by unit owners on request.
- D. ***Waiver of Subrogation:*** The Board of Directors shall endeavor to obtain, if available and where applicable, insurance policies which provide that the insurer waives its rights to subrogation as to any claim against unit owners, the Association, or their respective servants, agents, or guests.
- E. ***Shares of Insurance Proceeds:*** All proceeds of insurance policies purchased by the Association shall be payable to the Association. The duty of the Association shall be to receive such proceeds and hold and disburse them for the purposes stated herein in the following shares:
- F. ***Common Elements*** Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units, the shares of each unit owner being the same as owner's share in the common elements.
- (1) ***Units:*** Proceeds on account of damage to units shall be held in as many undivided shares as there are damaged units, the share of each owner being in proportion to the cost of restoring the damage suffered by each such unit.

- (2) **Mortgagees:** If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests may appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages that it may hold against units except to the extent that insurance proceeds exceed the actual costs of repair or restoration of the damaged improvements, and no mortgagee shall any right to participate in determining whether improvements will be restored after casualty. The Association shall pay all policy deductible amounts on Association policies.

G. **Distribution of Insurance Proceeds:** Proceeds of insurance policies received by the Association shall be distributed for the benefit of the unit owners in the following manner:

- (1) **Cost of Reconstruction or Repair:** If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceed shall first be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be retained by the Association.
- (2) **Failure to Reconstruct or Repair:** If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds after expenses shall be distributed to owners and their mortgagees shall be payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

H. **Association as Agent:** The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association.

11. **RECONSTRUCTION OR REPAIR AFTER CASUALTY:** If any part of the Condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

A. **Damage to Units:** Where loss or damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of the unit owner, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to such contractors, suppliers, and personnel for work done, materials supplied, or services required for reconstruction or repair. Payments shall be in such amounts and at such times as the unit owners may direct. The owners of damaged units shall be responsible for reconstruction and repair and shall bear the cost thereof, if any, in excess of the insurance proceeds.

B. **Damage to Common Elements— Less Than “Very substantial”:** Where loss or damage occurs to the common elements, but the loss is less than “very substantial,” as hereinafter defined, it shall be mandatory for the Association to repair, restore, or rebuild the damage caused by the loss, and the following procedures shall apply:

- (1) **Estimates:** The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of reconstruction and repair, and shall negotiate and contract for the work.
- (2) **Insurance Insufficient:** If the net proceeds of insurance plus available reserves are insufficient to pay for the costs of reconstruction and repair of the common elements, the Association shall promptly, on determination of the deficiency, levy a special assessment against all unit owners. Such special assessments need not be approved by the unit owners. The special assessments shall be added to the proceeds available for reconstruction and repair of the property.
- (3) **“Very Substantial” Damage:** As used in this Declaration, the term “very substantial” damage shall mean loss or damage whereby three-fourths or more of the total units are rendered uninhabitable. Should such “very substantial” damage occur, then:
 - (a) **Owners’ Meeting:** A meeting of the Association shall be called by the Board of Directors to be held within a reasonable time after the casualty. A determination by the Board of Directors as to what is reasonable time shall be conclusive. The purpose of the meeting shall be to determine

the wishes of the membership with reference to reconstruction or termination of the Condominium, subject to the following:

(1) **Insurance Sufficient:** If the insurance proceeds and reserves available for reconstruction and repair are sufficient to cover the cost thereof, so that no special assessment is required, the Condominium property shall be reconstructed or repaired unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of units, in which case the Condominium shall be terminated pursuant to Paragraph 16.B.

(2) **Insurance Insufficient:** If the insurance proceeds and reserves available for reconstruction and repair are not sufficient to cover the cost thereof so that a special will be required, then unless at least 67% of the voting interests of the Association vote in favor of such special assessment and against termination of the Condominium, it shall be terminated pursuant to Paragraph 16.B. If 67% of the voting interests of the Association approve the special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such reconstruction and repairs. The special assessment shall be added to the proceeds of insurance and reserves available for reconstruction and repair of the property.

(3) **Disputes:** If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding on all unit owners.

C. **Application of Insurance Proceeds:** It shall be presumed that the first monies disbursed for reconstruction and repair shall be from the insurance proceeds and they shall first be applied to reconstruction of the common elements and Association property and then to the units; if there is a balance in the funds held by the Association. However, if special assessments were made pursuant to Paragraph 11.B.(3)(a)(2) hereof, then all or a part of the remaining money shall be returned to the unit owners paying said assessments pro rata, according to the amount each paid, up

to the full amount each paid, and then to the Association.

D. ***Equitable Relief:*** In the event of substantial damage to the Condominium property, and if the property is not reconstructed or repaired within a reasonable period of time, any unit owner may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that reconstruction or repair has occurred within a reasonable period of time if substantial work is commenced within such time following the damage or destruction as is determined by the Board of Directors to be reasonable and the work proceeds without intentional and unwarranted delay to completion.

E. ***Plans and Specifications:*** Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to the plans and specifications approved by the Board of Directors and by the owners of 67% of the voting interests of the Association and the Design Review Committee of the Bella Vista Condominium, Inc.

12. **USE RESTRICTIONS:** The use of the property of the Condominium shall be in accordance with the rules and regulations attached hereto and incorporated herein as Exhibit "4" and the following provisions:

A. ***Lawful Use:*** All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies that require maintenance, modification, or repair on Condominium property shall be the same as the responsibility for the repair and maintenance of the property as expressed earlier in this Declaration.

B. ***Rules and Regulations:*** The rules and regulations attached hereto as Exhibit "4" and made a part hereof by reference concerning the use of the Condominium property including the units may be amended from time to time by the Board of Directors. Copies of the regulations and amendments shall be furnished by the Association to all unit owners. No new or amended regulation may be enforced prior to distribution to the owners.

C. ***Use and Occupancy of the Units:*** Use is restricted to one family and their guests per unit only. These use restrictions shall not be construed in such a manner as to prohibit a unit owner from maintaining a personal professional library, keeping personal business or

professional records or accounts, or handling personal, business, or professional telephone calls or correspondence in and from owner's unit. Such uses are expressly declared customarily incident to the principal residential use.

D. ***Access to Units:*** The Association has an irrevocable right of access to the units during reasonable hours when necessary for the purpose of maintenance, repair, and replacement of the common elements or of any portion of a unit to be maintained by the Association pursuant to this Declaration or for making emergency repairs that are necessary to prevent damage to the common elements or to another unit or units. The right of access to a unit shall be exercised after reasonable notice to the unit owners, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, with reasonable precautions to protect the personal property within the unit. The Association requires and shall retain a passkey to all units. No unit owner shall install or alter any lock that prevents access while the unit is unoccupied without providing the Association with a key.

E. ***Parking:*** Each unit shall always have the exclusive use of one allocated parking space in the garage. Allocations will be made initially by the Developer by a recorded written instrument.

F. ***Parking Spaces, and Storage Lockers— Exclusive Use and Transfer of Use Rights:*** The exclusive right to use a limited common element is an appurtenance to the unit or units to which it is designated or assigned. If, after all of the units have been sold, the exclusive use of any assignable limited common element was not, for any reason, assigned to the use of a specific unit or units by the Developer, the Association may do so. The right of exclusive use of each limited common element passes with the unit to which it is assigned, whether or not separately described, and cannot be separated from it; except that the use rights to particular parking spaces, and storage lockers may be exchanged between units, or transferred to another unit, as follows:

(1) The unit owners desiring to exchange such use rights shall execute a Certificate of Transfer in recordable form, which shall include the recording data identifying this Declaration, and be executed by the owners with the formalities required for the execution of a deed.

(2) The transfer of use rights shall be complete and effective when the

Certificate is recorded in the Public Records of Volusia County, Florida. The costs of preparing and recording the Certificate shall be borne by the unit owners desiring the exchange or transfer. A copy of the recorded Certificate shall be provided to the Association for its records.

G. ***Pets, Tenants and Guests:*** Pets shall be as allowed and regulated in the rules and regulations (Exhibit "4"). However, tenants and guests shall not be permitted to have pets.

H. ***Exclusive Use; Common Facilities:*** The Association may lease to unit owners for appropriate temporary periods of time those portions of the common elements rationally appropriate and desirable for exclusive use (for example, social rooms, and card rooms).

I. ***Nuisance Prohibited:*** No person shall engage in any practice, exhibit any behavior, nor permit any condition to exist that will constitute a nuisance or become a reasonable source of annoyance or disturbance to any occupant of the Condominium.

13. **LEASE, CONVEYANCE, DISPOSITION:** The purpose and object of this paragraph is to maintain a quiet, tranquil, non-transient, and single-family oriented atmosphere with residents living in compatible coexistence with other financially responsible persons who are of like mind and acceptable both in character and comportment. This objective is considered to be both important and justified because of the necessity of sharing facilities and because of the large personal financial investment of each owner. Therefore, the lease, conveyance, disposal, and financing of the units by owners (subject to the exceptions provided in Paragraph 18.A) shall be subject to the following provisions:

A. ***Association Approval Required:*** Except for Developer sales no owner may sell, lease, give, or otherwise transfer ownership of a unit or any interest therein in any manner without the prior written notification of the Association. The notification shall be a written instrument in recordable form (except for leases) which shall include, without limitation, the nature of the transfer (sale, lease, etc.), the parties to the transaction (sellers, purchasers, etc.) the unit number, the name of the Condominium, and the Official Record Book (O.R. Book) and Page numbers in which this Declaration was originally recorded. For all unit transfers of title other than from the Developer, the approval must be recorded simultaneously in the Volusia County, Florida Public Records with the deed or other instrument transferring title to the unit.

(1) ***Leases:*** Approvals of leases need not be recorded. Only entire units

may be leased. All leases must provide, if they do not, shall be deemed to provide, the agreement of the lessee(s) to abide by all of the Covenants of the Condominium Associations' documents and that a violation of the documents is a material breach of the lease and is grounds for damages, termination, and eviction, and that the lessee and the owner agree that the Association may proceed directly against such lessee(s) and that the lessee(s) shall be responsible for the Associations' costs and expenses, including attorneys' fees, at all trial and appellate levels. If such costs and fees are not immediately paid by the lessee(s), the unit owner shall pay them and such funds shall be secured as a charge. Each unit owner irrevocably appoints the Association as owner's agent authorized to bring actions in owner's name and at owner's expense including injunction, damages, termination and eviction. The rules and regulations must be provided to lessee(s) by or on the behalf of the unit owner at or before the commencement of the lease term. The minimum leasing period is 30 days, unless made more restrictive by the Board.

(2) **Multiple Owners:** Consistent with Paragraph 13 above, de facto time sharing of units is not permitted and approval will not be given for the sale of a unit or an interest in a unit to multiple persons (e.g., siblings or business associates), who may intend that they and their families would split occupancy of the unit into different time periods during the year.

B. **Approval Procedure:** The approval of the Association shall be obtained as follows:

(1) **Written Notice:** Not later than 15 days before the first day of occupancy under a lease, legal written notice shall be given to the Association by the owner of intention to sell or transfer interest in any fashion. The notice shall include the name and address of the proposed acquirer and a correct and complete copy of the proposed documents to be executed to effectuate the transaction which shall include a notice to the prospective transferee stating as follows:

A unit owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he or

she is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner.

The Association may require such other and further information as it deems reasonably necessary and may impose a transfer fee not to exceed \$25.00 or as permitted by law from time to time.

(2) **Association's Options:** The Association must, within 15 days after receipt of all the information required above, either approve the transfer, disapprove it for cause, or, except in the case of disapproval for cause, on the written demand of the owner, furnish an alternative purchaser, and the owner must sell to such alternative or to the Association on the same terms set forth in the proposed sale. In exercising its power of disapproval, the Association must act in a manner that is neither arbitrary nor unlawfully discriminatory and withhold approval only for a reason or reasons rationally related to the protection, preservation, and proper operation of the Condominium and the purposes as set forth at the beginning of this Paragraph 13. If the Association fails or refuses within the allotted time to notify the owner of either approval or disapproval in writing, or if it fails to provide an alternate purchaser or make an election to purchase the unit itself when required to do so, then the Association shall conclusively be presumed to have approved the transaction, and the Association shall, on demand, provide a recordable certificate of approval.

(3) **Closing Date:** The sale shall be closed within 60 days after an alternate purchaser has been furnished or the Association has elected to purchase.

(4) **Notice of Disapproval:** If the Association disapproves the proposed transaction (subject to the qualifications contained in Paragraph 13.B.2), notice of disapproval shall promptly be sent in writing to the owner or interest holder, and the transaction shall not be made.

C. **Judicial Sales:** Judicial sales are exempt from this section.

D. **Unapproved Transactions:** Any transaction that is not approved pursuant

to the terms of this Declaration shall be void unless subsequently approved by the Association.

14. **COMPLIANCE AND DEFAULT:** Each unit owner, tenant, and other invitee shall be governed by, and shall comply with, the provisions of the Condominium Act as amended from time to time, this Declaration, including its exhibits, the Association Articles of Incorporation, and the Association By-Laws.

A. **Remedies:** Failure to comply shall be grounds for relief, which relief may include, but shall not be limited to, an action to recover damages, or injunctive relief, or both. Actions may be maintained by the Association or by any unit owner.

B. **Costs and Fees:** In any such proceeding, including appeals, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

C. **Owner Inquiries and Disputes:** In the event of an inquiry by an owner against the Association, the board of Directors, or a member thereof, such owner, prior to the institution of any proceedings, shall give written notice in detail of the inquiry by certified mail to the Board of Directors. The Board shall respond in writing to the unit owner within 30 days of the receipt of the inquiry. The Board shall either give a substantive response, notify the inquirer that a legal opinion has been requested from the Division of Land Sales, Condominiums, and Mobile Homes. If the Board requests advice from the Division of Land Sales, Condominiums, and Mobile Homes, the Board shall, within 10 days of receipt of the advice, provide a substantive response to the inquirer in writing. If a legal opinion is requested, the Board shall, within 60 days of the receipt of the inquiry, provide a substantive response to the inquirer in writing. The failure to act as set forth above precludes the Association from recovering attorneys' fees and costs in any subsequent litigation, administrative proceedings, or arbitration arising out of the inquiry. If unresolved, a dispute, as defined in F.S. 718.1255(1), must be arbitrated in mandatory non-binding arbitration proceedings prior to commencement of litigation.

D. **No Waiver of Rights:** The failure of the Association or any owner to enforce any covenant, restriction, or other provision of the condominium documents shall not constitute a waiver of the right to do so thereafter as to subsequent or other instances.

15. **AMENDMENTS:** Amendments to any of the condominium documents shall be in accordance with the following:

A. **Requirements:** An amendment may be proposed either by the Board of Directors or by 25% of the voting interests of the Association, and may be considered at meeting of the owners, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed in recordable for signed by the President or Vice-President of the Association that it has been enacted by the affirmative vote of the required percentage of the voting interests (which vote may include later written approval of voters not present) and the separate written joinder of mortgagees where required and shall include the recording date (identifying the location of the Declaration as originally recorded) and which shall become effective when recorded in the public records. No proxy, limited or general, shall be used in the election of board members.

B. **Correctory Amendment:** Whenever it shall appear that there is a defect, error, or omission in any of the Condominium documents or in order to comply with applicable laws or requirements of government entities, the amendment may be adopted by the Board of Directors alone.

C. **Regular Amendments:** Amendments may be enacted by a favorable vote of the owners of 67% of the voting interests in the Association.

D. **Developer Amendments:** Until relinquishment of Developer control of the Association (turnover) and except as otherwise provided by law in F.S. 718.110(2), the Developer specifically reserves the rights, without joinder of any person, to make such amendments to the Declaration and its exhibits, or to the plan of development, as may be required by any lender or governmental authority, or as may be, in Developer's judgment, necessary or desirable. This paragraph shall take precedence over any other provision of the Declaration or its exhibits.

E. **Mortgagee Approval:** Amendments materially affecting the rights or interests of mortgagees must have the approval of the holders of institutional first mortgages who have requested the Association to notify them on any proposed action specified in this paragraph, such consent shall not be unreasonably withheld. Implied approval shall be assumed when such holder fails to respond to any written request for approval within 30 days after the mortgage holder receives proper notice of the proposal, provided the notice was delivered certified or registered mail with a "Return Receipt" requested. In the event that mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the Association and

recorded in the Public Records of Volusia County, Florida. A change to any of the following shall be considered as material:

- (1) Any change in the proportion or percentage by which the owner of the unit shares the common expenses and owns the common surplus.
- (2) Reallocation of interests or use rights in the common elements.
- (3) Redefinition of any unit boundaries.
- (4) Convertibility of units into common elements or vice versa.
- (5) Expansion or contraction of the Condominium.

F. ***Developer's Rights:*** No amendment to this Declaration or any of the Condominium documents shall change the rights and privileges of the Developer without the Developer's written approval as long as the Developer holds any units for sale in the ordinary course of business.

G. ***Written Agreements:*** Any approval of unit owners on any matter called for by this Declaration, its exhibits, or any statute to be taken at a meeting of unit owners is hereby expressly allowed to be taken instead by written agreement, without a meeting (which agreement may be in counterparts), subject to F.S. 718.112(2)(d)4 and F.S. 617.0701.

16. **TERMINATION:** Except for termination in connection with a merger of this Condominium with another, above, the termination of the Condominium shall be carried out in accordance with the following:

A. ***By Agreement:*** The Condominium may be caused to be terminated at any time after notification to the Division of Land Sales, Mobile Homes and Condominiums by written agreement of the owners of at least three-fourths of the units, and of the holders of institutional first mortgages as provided for in Paragraph 15.G. above.

B. ***Without Agreement, on Account of Very Substantial Damage:*** If the Condominium suffers "very substantial damage" to the extend defined above in Paragraph 11.B.3., and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

C. ***Process of Termination:*** Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this paragraph is recorded in the Public Records of Volusia County, Florida.

(1) The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice President with the formalities of a deed, and certifying as to the facts effecting the termination. The Certificate also shall include the name and address of a Florida financial institution with trust powers or a licensed Florida attorney who is designated by the Association to act as Termination Trustee, and shall be signed by the Trustee indicating willingness to serve in that capacity.

(2) The recording of that Certificate of Termination automatically divests the Association of title to all Association property, and divests all unit owners of legal title to their respective condominium parcels, and vests legal title in the Termination Trustee named in the Certificate of Termination, to all real and personal property that was formerly the Condominium property or Association property, without need for further conveyance. Beneficial title to the former Condominium and Association property shall be transferred to the former unit owners as tenants in common, in the same undivided shares as each owner previously owned in the common elements, without further conveyance. Each lien encumbering a Condominium parcel shall be automatically transferred to the equitable interest in the former Condominium property and Association property attributable to the unit encumbered by the lien, with the same priority.

D. ***Winding up of Association Affairs:*** The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and By-Laws, to the extent necessary to, and for the sole purpose of, winding up the affairs of the Association in accordance with this paragraph.

E. ***Trustee's Powers and Duties:*** The Termination Trustee shall hold legal title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees, and other lienholders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this paragraph, the Termination Trustee shall have the power and authority to convey title to the purchaser, and to distribute the proceeds in accordance

with the provisions of this paragraph. The Termination Trustee may charge a reasonable fee for acting in such capacity, and such fee as well as all costs and expenses incurred by the Termination Trustee in the performance of its duties, shall be paid by the Association or taken from the proceeds of the sale of the former Condominium and Association property, and shall constitute a lien on the property superior to any other lien. The Trustee shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as Termination Trustee unless such liabilities are the result of gross negligence or malfeasance. The Termination Trustee may rely on the written instructions and information provided to it by the officers, directors, and agents of the Association, and shall not be required to inquire beyond such information and instructions.

F. **Partition; Sale:** Following termination, the former Condominium property and Association property may be partitioned and sold on the application of any unit owner. If following a termination at least 75% of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the Termination Trustee, and the Trustee shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and on the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former Condominium and Association property within one year after the recoding of the Certificate of Termination, the Trustee may proceed to sell the property without agreement by the Association or the former unit owners. The net proceeds of the sale of any of the property or assets of the Association shall be distributed by the Termination Trustee to the beneficial owners thereof, as their interests shall appear.

G. **New Condominium:** The termination of the Condominium does not bar creation of another Condominium including all or any portion of the property.

H. **Provisions Survive Termination:** The provisions of this Paragraph 16 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the By-Laws and Articles of Incorporation, and shall have the power to levy assessments to pay the costs and expenses of the Trustee and of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Trustee, as well as post-termination costs of maintaining the former Condominium property, are common expenses, the

payment of which shall be secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

17. **PROVISIONS PERTAINING TO THE DEVELOPER:** As long as the Developer holds any unit for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

- A. Assessment of the Developer as a unit owner for capital improvements.
- B. Any action by the Association that would be detrimental to the sale of units or the completion of the project by the Developer, including such use of unsold units and common elements and Association property as may facilitate completion, sale, maintenance of a sales office, showing of the property, and display of signs.

18. **RIGHTS OF MORTGAGEES:**

a. ***Partial Excusal from Prior Assessments:*** A first mortgagee who acquires title to a unit by purchase at a foreclosure sale or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed, but in no event shall the mortgagee be liable for more than six months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or 1% of the original mortgage debt, whichever amount is less. This provision shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action. Such mortgagee may obtain title, own, occupy, lease, sell, or otherwise dispose of such unit without the approval of the Association. This paragraph shall be deemed amended so as to remain in conformity with the provisions of F.S. 718.116 as it is amended from time to time.

B. ***Rights to Information:*** On receipt by the Association from any institutional mortgagee, guarantor, or insurer of a copy of the mortgage held by such mortgagee, guarantor, or insurer on a unit, together with a written request from such mortgagee or an insurer or guarantor of such mortgage specifying the address to which the following items are to be sent, the Association shall timely send to such mortgagee, insurer, or guarantor the following, for which the Association may charge a reasonable fee:

- (1) ***Financial Statements:*** A copy of a financial statement of the Association for the immediately preceding fiscal year; and

(2) **Insurance Cancellation:** Written notice of the cancellation or termination by the Association of any policies of insurance covering the Condominium or Association property or any improvements thereon, or any fidelity bonds of the Association except when the reason for the termination or cancellation of the insurance policy or bond is to change insurance companies or because the policy or bond is not needed or is not available; and

(3) **Damage to Condominium:** Written notice of any damage or destruction to the improvements located on the common elements or Association property that affects a material portion of the common elements or Association property or the unit securing its mortgage; and

(4) **Eminent Domain:** Written notice of a condemnation or eminent domain proceeding affecting a material portion of the Condominium property or the unit securing its mortgage; and

(5) **Delinquent Assessments:** Written notice of failure by the owner of a unit encumbered by a first mortgage held by such institutional mortgagee, guarantor, or insurer to pay any assessments when such failure or delinquency has continued for a period of 60 days or longer.

(6) **Failure to Notify:** The failure of the Association to send any such notice to any such mortgagee, guarantor, or insurer shall have no effect on any meeting, action, or thing that was to have been the subject of such notice nor affect the validity thereof and shall not be the basis for liability on the part of the Association.

19. **ENFORCEMENT OF ASSESSMENT LIENS:** Liens for assessments may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property and the Association may also bring an action to recover a money judgment. After a judgment if foreclosure has been entered, the unit owner during occupancy, if so ordered by the Court, shall be required to pay reasonable rental. If the unit is rented or leased during the pendency of a foreclosure action, the Association shall be entitled to the appointment of a receiver to collect the rent. The Association shall have all the powers provided in F.S. 718.116 and shall be entitled to collect interest at the highest lawful rate (currently 18% per annum) on unpaid

assessments and reasonable attorneys' fees, including appeals, and costs incident to the collection of such assessment or enforcement of such lien, with or without suit.

A. ***Creation and Enforcement of Charges:*** The Association shall have a cause of action against unit owners to secure payment to the Association by unit owners of all charges, costs, and expenses to the Association that cannot be secured as assessments, regular or special, under F.S. 718.116. The charge shall bear interest at the highest lawful rate, and shall carry with it costs and attorneys' fees, including appeals, incurred in collection.

20. **ASSOCIATION AGREEMENTS:** The Association is authorized to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other facilities. Such interests need not be contiguous to the lands of the Condominium if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. The Association is also authorized to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other facilities. Such interests need not be contiguous to the lands of the Condominium if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners.

21. **COMMON EXPENSES AND COMMON SURPLUS:** Each unit's share shall be one hundred twenty ninth of the whole.

22. **CONDEMNATION:**

A. ***Deposit of Awards With Association:*** The taking of all or any part of the Condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that owner.

B. ***Determination Whether to Continue Condominium:*** Whether the Condominium will be continued after condemnation will be determined in the manner provided in Paragraph 11 above for determining whether damaged property will be reconstructed and repaired after casualty.

C. **Disbursement of Funds:** If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be deemed to be Condominium property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the owners of condemned units, if any, will be made whole, and any property damage by the taking will be made usable in the manner provided below. Proceeds of awards and special charges shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after casualty.

D. **Association as Agent:** The Association is hereby irrevocably appointed as each unit owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

E. **Units Reduced But Tenantable:** If the taking reduces the size of a unit and the remaining portion of the unit can be made tenantable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) **Restoration of Unit:** The unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit;

(2) **Distribution of Surplus:** The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagees.

F. **Unit Made Untenantable:** If the taking is of any entire unit or so reduces the size of a unit that it cannot be made tenantable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) **Payment of Award:** The fair market value of the unit immediately prior to the taking, as determined by agreement between the unit owner and the Association or by arbitration in accordance with Paragraph 22.F.4., shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly

to the owner and the mortgagee(s);

(2) **Addition to Common Elements:** If possible and practical, the remaining portion of the unit shall become a part of the common elements and shall be placed in condition for use by all unit owners in the manner approved by the Board of Directors;

(3) **Adjustment of Shares in Common Elements:** The shares in the common elements appurtenant to the units that continue as part of the Condominium shall be adjusted to equally distribute the ownership of the common elements among the reduced number of unit owners;

(4) **Arbitration:** If the fair market value of a unit prior to the taking cannot be determined by agreement between the unit owner and the Association within 30 days after notice by either party, the value shall be determined by appraisal in accordance with the following. The unit owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the unit. A judgment of specific performance on the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisals shall be paid by the party selecting the appraiser.

G. **Taking of Common Elements:** Awards for the taking of common elements shall be used to make the remaining portion of the common elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the unit owners on the shares in which they own the common elements after adjustment of these shares on account of the condemnation. If a unit is mortgaged, the remittance shall be paid jointly to the owner and the mortgagee(s) of the unit.

H. **Amendment of Declaration:** Changes in the units, in the common elements, and in the ownership of the common elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium as ordered by a court or approved by a majority of unit owners (voting interests) of this Condominium, without the consent of any mortgagee being required for any such amendment.


23. **VOTING:** Each unit shall have one full indivisible vote in all matters.

24. **DEVELOPMENT EASEMENTS AND RESTRICTIONS:** Developer, for itself and its successors and assigns, reserves easements over the Condominium property as necessary to complete future development, if any, including construction access and utilities.

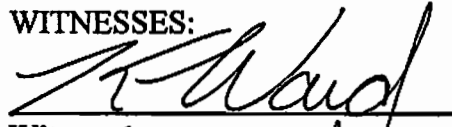
25. **SEVERABILITY AND NONWAIVER:** If any provisions of this Declaration or its exhibits as now constituted or as later amended or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby. The failure of the Association in any instance to enforce any covenant or provision of this Declaration or any of the Condominium documents shall not constitute a waiver of its rights to do so thereafter in other instances.

THIS DECLARATION OF CONDOMINIUM and exhibits hereto made and entered this 22nd day of November, 2004.

2515 ATLANTIC AVENUE, LLC, a Florida limited liability company

By: 
Douglas M. Cook, Managing Member

WITNESSES:



Witness 1

Bim Ward

Printed Name



Witness 2

CORUELINE R STORCI

Printed Name

(CORPORATE SEAL)

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 22nd day of November, 2004, by Douglas M. Cook, as Managing Member of 2515 Atlantic Avenue, LLC., a Florida limited liability company. He is personally known to me and did not take an oath.

Sworn to before me on this 22nd day of November, 2004.

(Sign)

(Print)

B W Ward

Kim Ward

STATE OF FLORIDA AT LARGE (SEAL)

Commission#

My Commission Expires:

ARTICLES OF INCORPORATION
OF
BELLA VISTA CONDOMINIUM, INC.
A FLORIDA CORPORATION NOT FOR PROFIT

ARTICLE I

The name of this corporation is, "BELLA VISTA CONDOMINIUM, INC.", whose principal office and mailing address is located at Post Office Box 7407, Daytona Beach Shores, Florida 32116-7407. The registered office address is 3343 S. Atlantic Avenue, Daytona Beach Shores, Florida 32118.

ARTICLE II

The duration of the Corporation is perpetual.

ARTICLE III

This corporation is not authorized to issue stock.

ARTICLE IV

The purpose for which this corporation is organized is to provide an entity for the management and operation of Marbella, a Condominium to be created in accordance with the provisions of the Condominium Act and to be located at 2515 S. Atlantic Avenue, Daytona Beach Shores, Florida 32118, Florida (hereinafter the "Condominium").

ARTICLE V

In accordance with Section 617.0203, Florida Statutes, the date when corporation existence shall commence is the date filing of these Articles of Incorporation.

ARTICLE VI

All owners of record of title in fee simple to a Unit in the Condominium shall, by virtue of such ownership, be members of this corporation. Membership shall terminate upon the alienation of such ownership interests.

ARTICLE VII

The Corporation shall have all of the powers enumerated in: (a) Chapter 718, Florida Statutes (the Condominium Act); and (b) Chapter 617, Florida Statutes, to the extent that such powers are consistent with the provisions of Chapter 718.

ARTICLE VIII

The incorporator is 3343 Atlantic Avenue, LLC, a Florida limited liability company, whose address is Post Office Box 7407, Daytona Beach Shores, Florida 32116-7407.

ARTICLE IX

The initial Board of Directors shall consist of three (3) people. The names and addresses of the initial director is as follows:

<u>Name</u>		<u>Address</u>
Douglas M. Cook	President	P.O. Box 7407 Daytona Beach Shores, FL 32116
Sandra Cook	Vice-President	P.O. Box 7407 Daytona Beach Shores, FL 32116
Larry Motsinger	Secretary	P.O. Box 7407 Daytona Beach Shores, FL 32116

Subsequent Boards of Directors shall be constituted and elected as set forth in the By-Laws of the Corporation. All directors, other than the initial director, shall be members of the Corporation.

ARTICLE X

The officers of the corporation shall be elected by the Board of Directors in accordance with provisions of the By-Laws of the Corporation.

ARTICLE XI

The Corporation shall indemnify each officer and Director, including former Officers and Directors, to the full extent permitted by law.

ARTICLE XII

The By-Laws of the Corporation shall be adopted by the initial Board of directors and may

thereafter be amended in accordance with the provisions thereof.

ARTICLE XIII

On all matters upon which the members of the Corporation shall be entitled to vote under the By-Laws, there shall be one vote for each Unit in the Condominium, which vote shall be cast as provided for in the By-Laws.

ARTICLE XIV

The Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation or any amendment to them, and any right conferred upon the members is subject to this reservation.

ARTICLE XV

The initial registered office of the Corporation shall be located at ²⁵¹⁵ S. Atlantic Avenue, Daytona Beach Shores, Florida 32118; and the initial registered agent shall be Douglas M. Cook, at that address.

IN WITNESS WHEREOF, the undersigned subscriber has executed these Articles of Incorporation this _____ day of _____, 2004.



Douglas M. Cook, Incorporator

CERTIFICATE OF DESIGNATION**REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of Section 607.0501, Florida Statutes, the mentioned corporation organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent, in the State of Florida.


1. The name of the corporation is

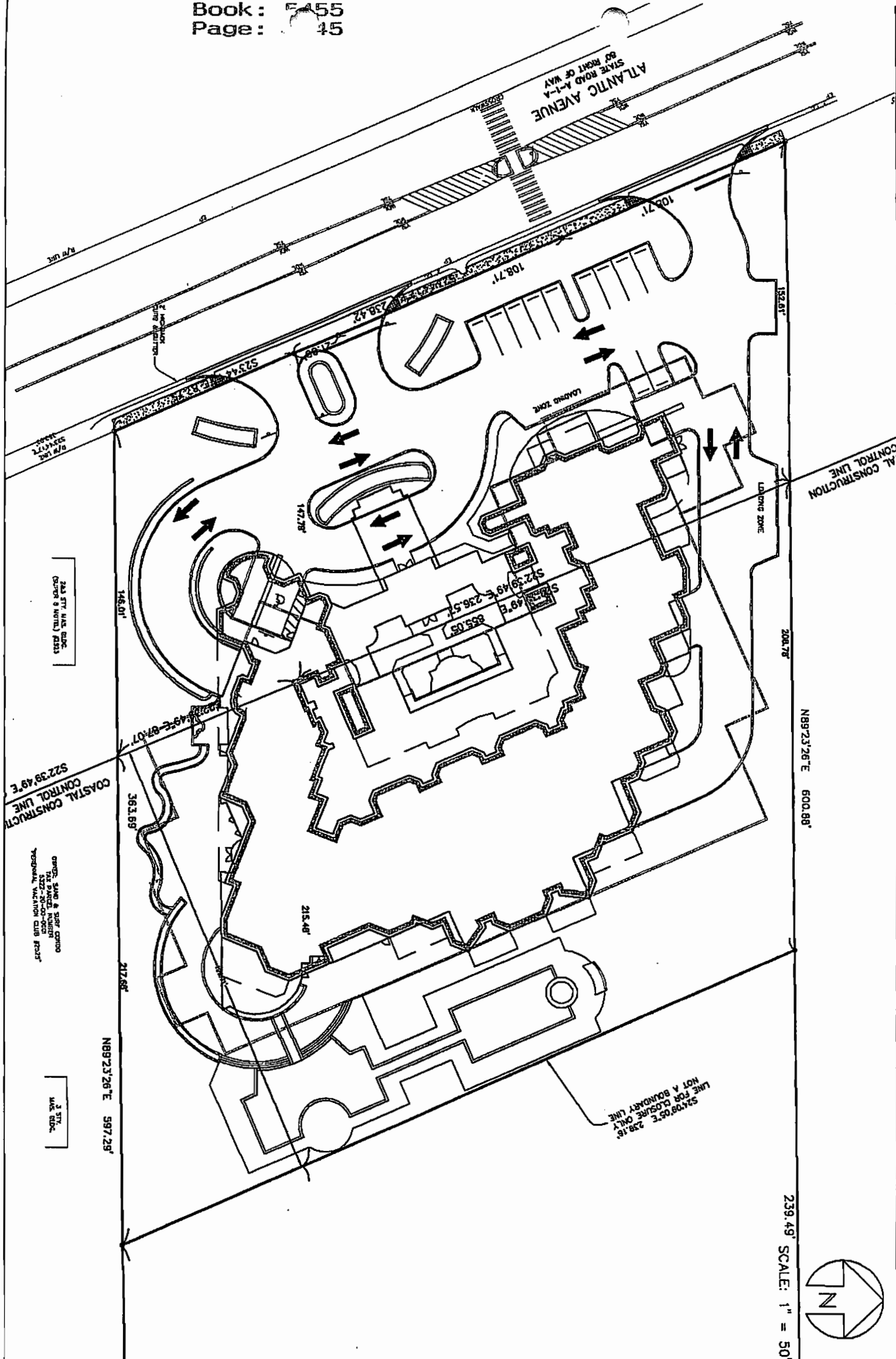
BELLA VISTA CONDOMINIUM, INC.

2. The name and address of the registered agent and registered office is:

Douglas M. Cook
2515 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

HAVING BEEN NAMED AS REGISTERED AGENT AND TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE-STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATING TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.


DOUGLAS M. COOK



OVERALL DEVELOPMENT PLAN

BELLA VISTA CONDOMINIUM

FILE: 593-DIM

SCALE: 1" = 50'

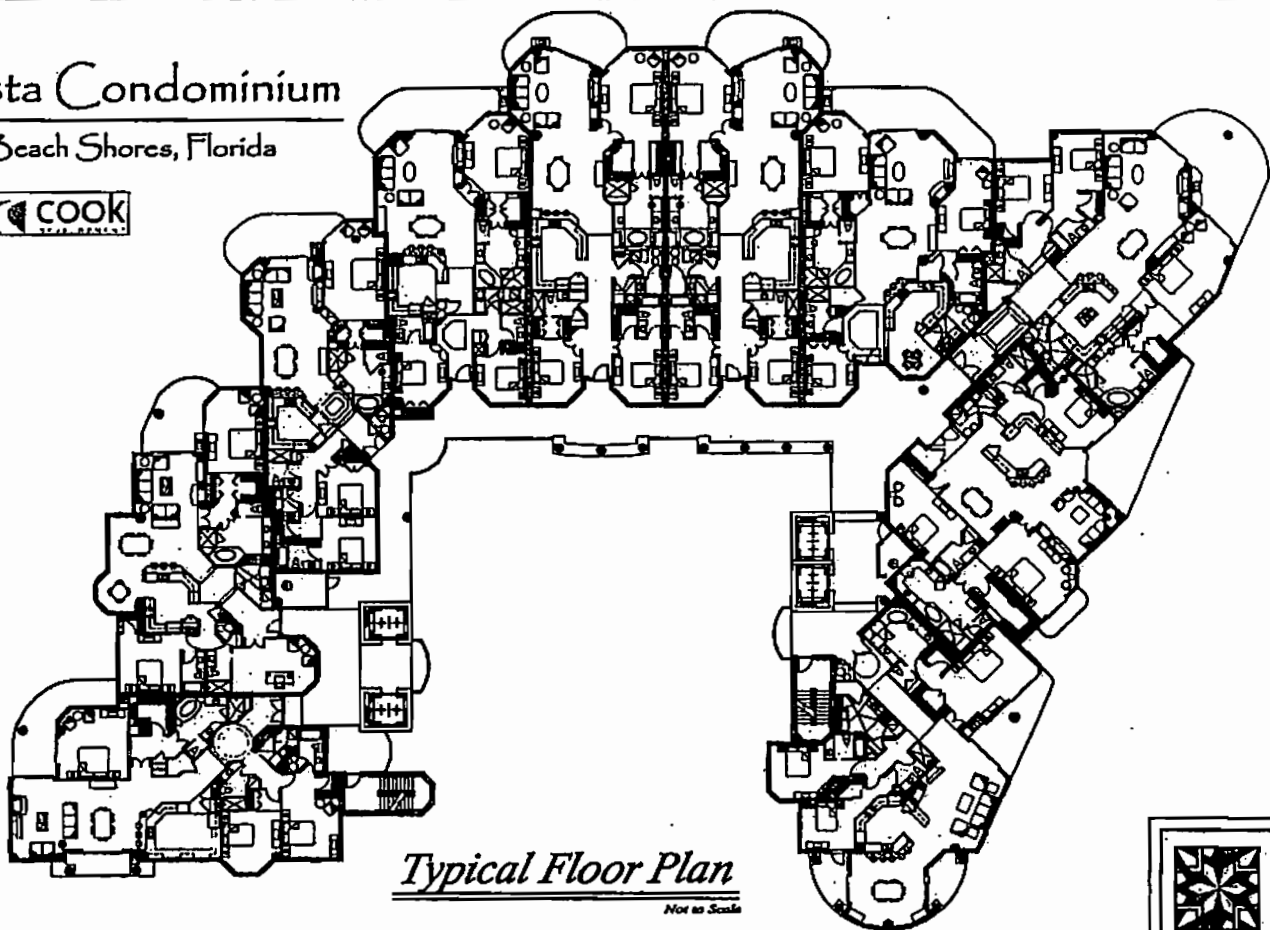
DATE: 4-5-04

THE PERFORMANCE GROUP

641 S. BEACH ST., DAYTONA BCH, FL 32114

Bella Vista Condominium

Daytona Beach Shores, Florida

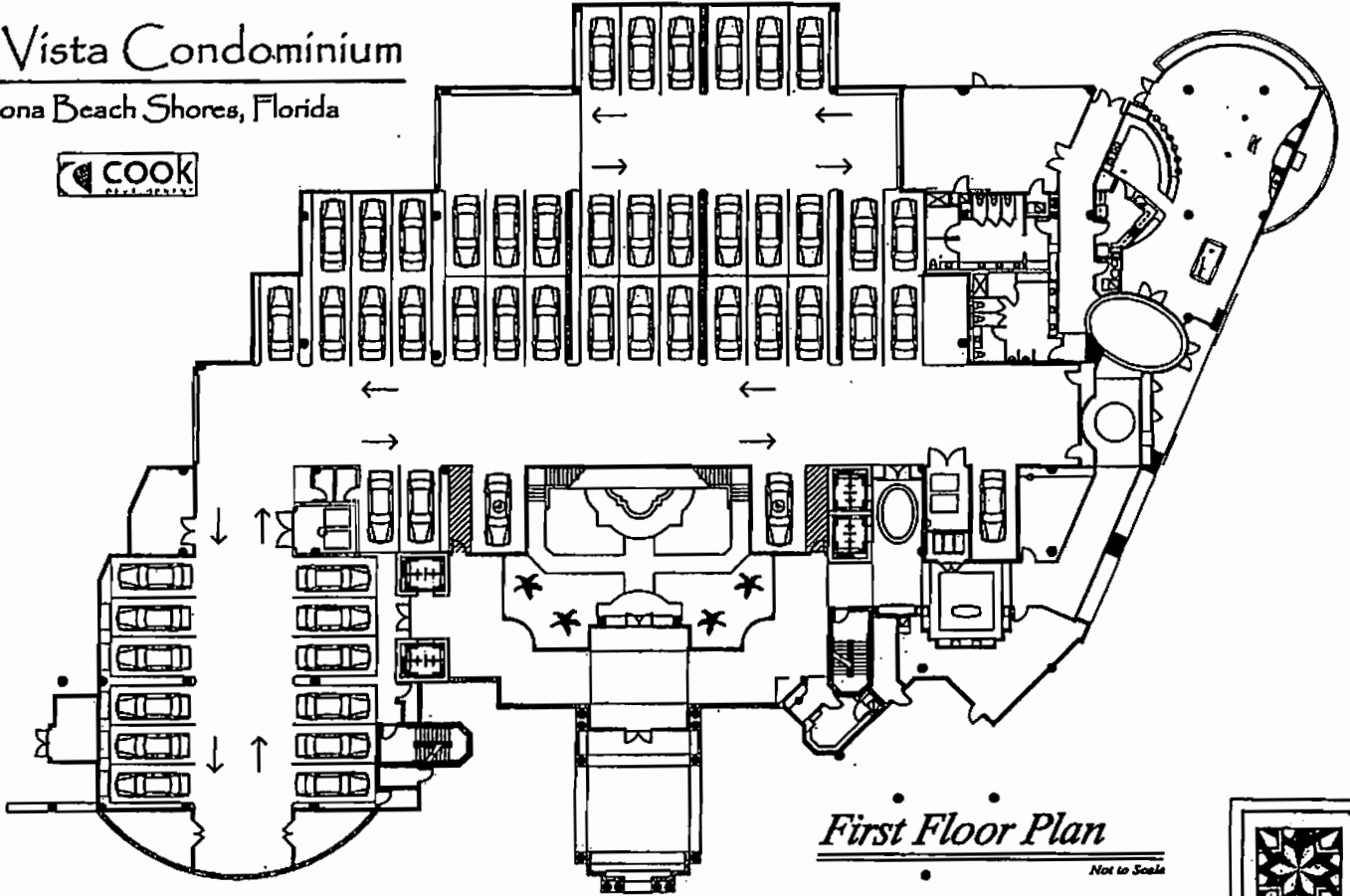


Typical Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida

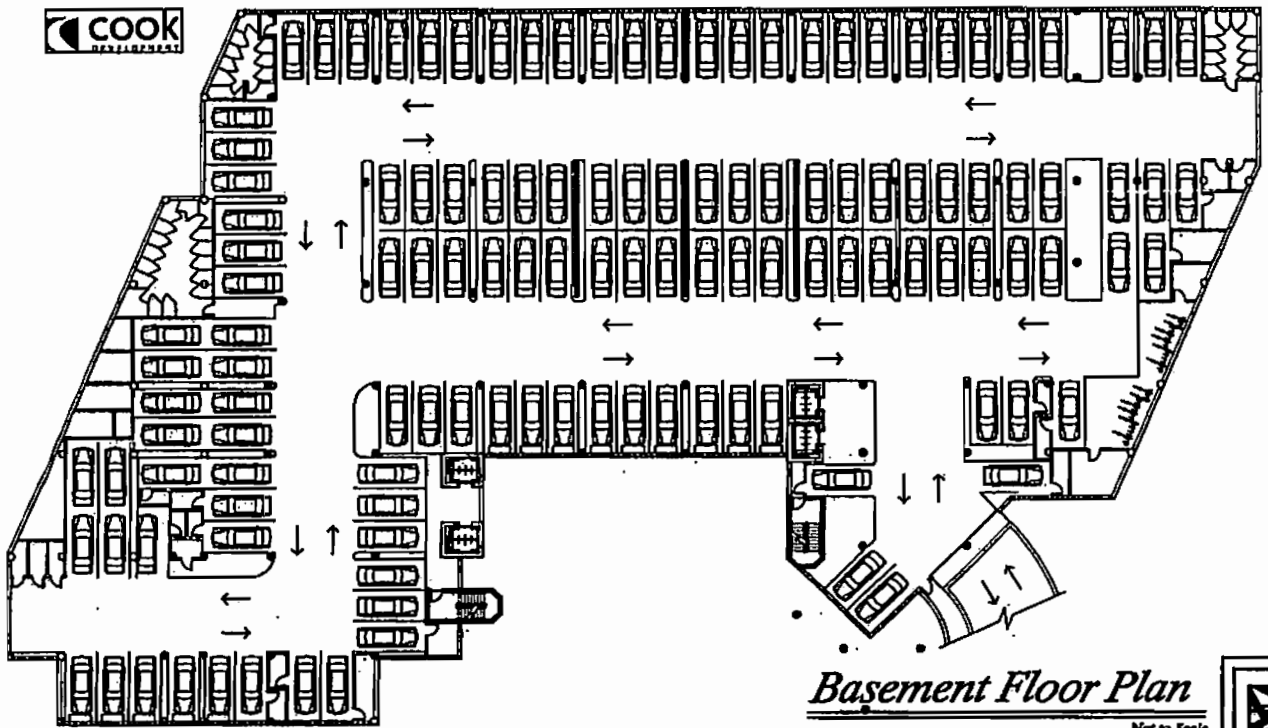


First Floor Plan

Not to Scale

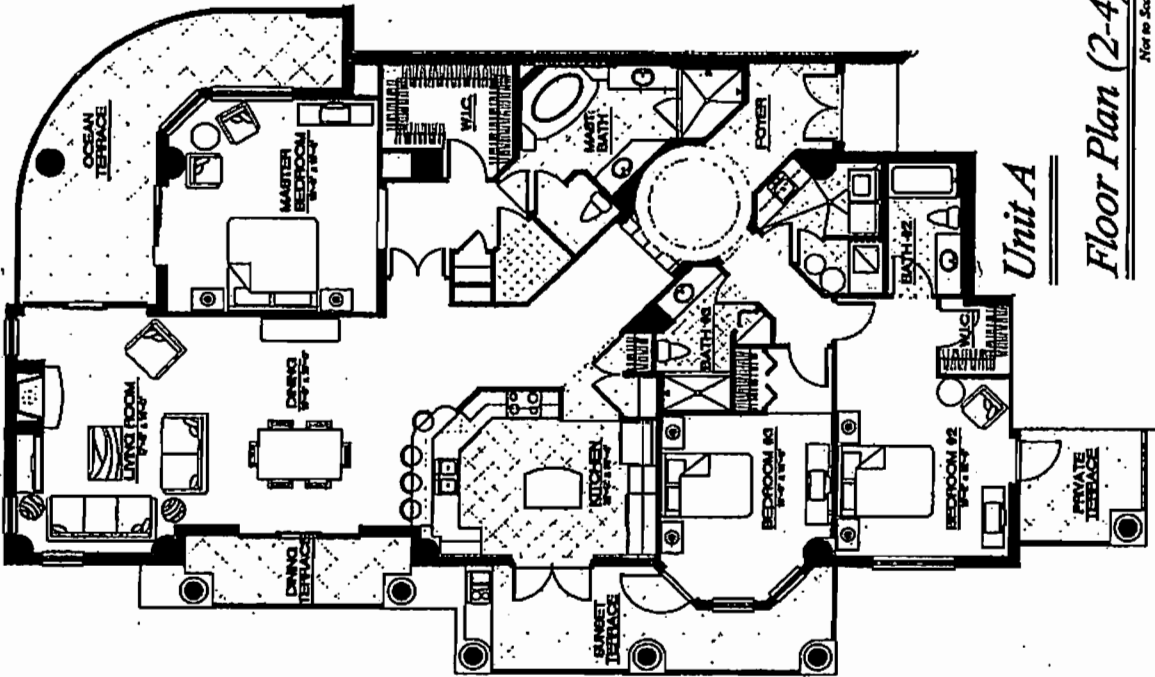
Bella Vista Condominium

Daytona Beach Shores, Florida



Basement Floor Plan

Not to Scale



Unit A

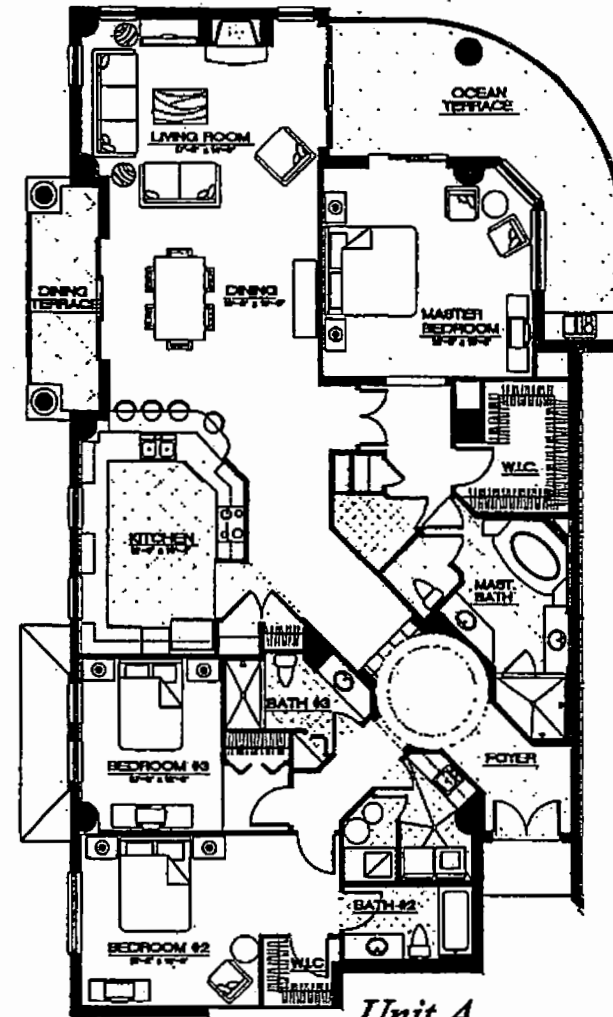
Floor Plan (2-4)

Not to Scale

UNIT 'A'	
AREA CALCULATIONS	
A.C. UNITS FLOORS 3-4	3,494 SQ.FT.
BALCONY	644 SQ.FT.
TOTAL (CAR 1)	4,138 SQ.FT.

Bella Vista Condominium

Daytona Beach Shores, Florida



Unit A

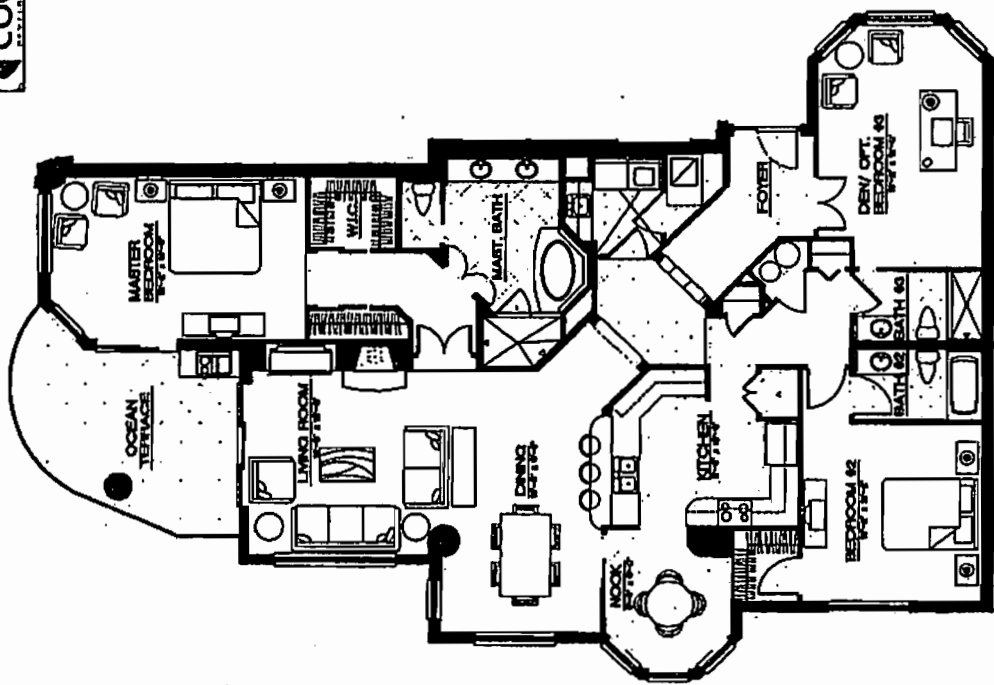
Floor Plan (5-11)

Not to Scale

UNIT "A"	
AREA CALCULATIONS	
A.C. UNIT (FLOOR 5-11)	2,425 SQ./F.
BALCONY	300 SQ./F.
TOTAL (BOTH A/C)	2,725 SQ./F.

Bella Vista Condominium

Daytona Beach Shores, Florida

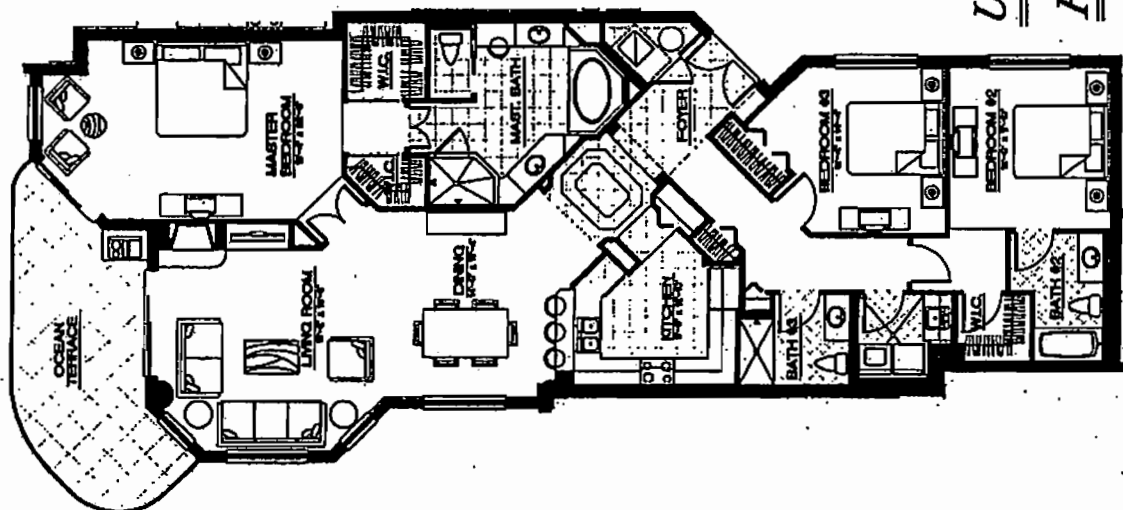


Unit B
Floor Plan
Not to Scale

UNIT 'B' AREA CALCULATIONS			
A.C. LIVING	334.00 S.F.		
A.C. BATH	200.00 S.F.		
TOTAL (Net A3)	534.00 S.F.		

Bella Vista Condominium
Daytona Beach Shores, Florida



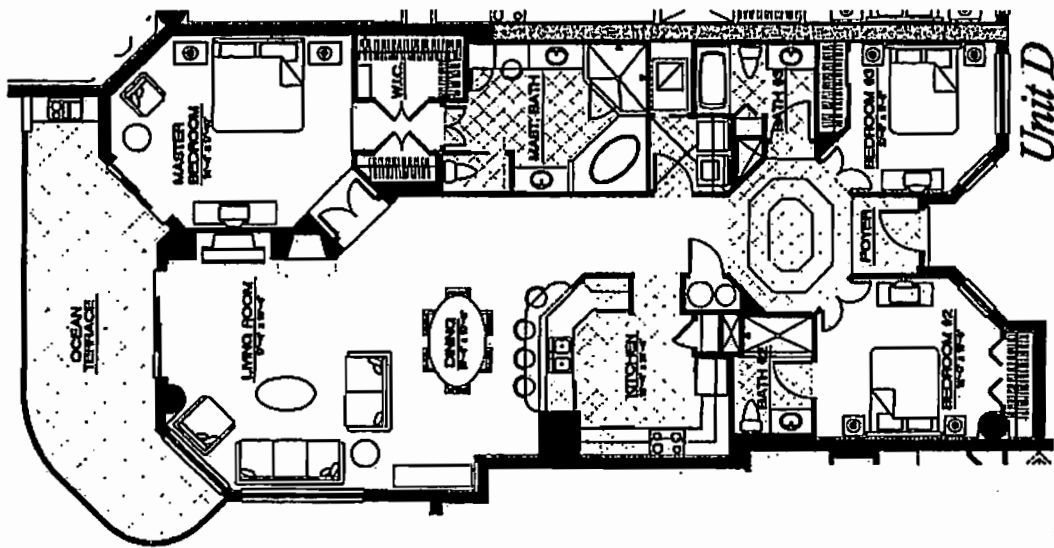


Unit C
Floor Plan
Not to Scale

UNIT 'C' AREA CALCULATIONS			
AS UNITS	3,499 SQT.		
COMMON	200 SQT.		
TOTAL (Unit A)	3,699 SQT.		

Bella Vista Condominium
Daytona Beach Shores, Florida





Unit D

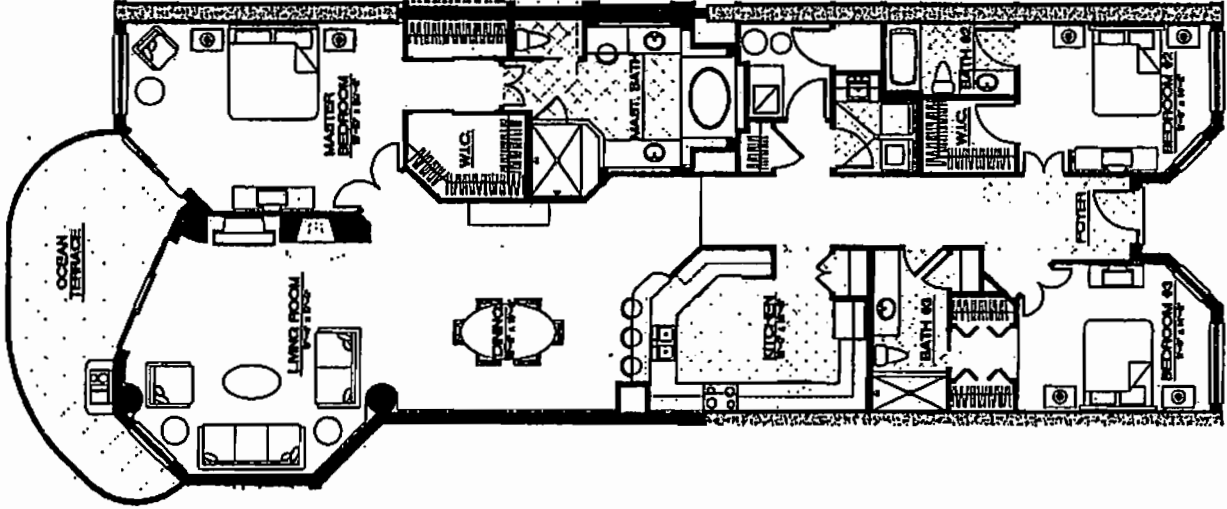
Floor Plan

Not to Scale

UNIT D AREA CALCULATIONS			
AS SHOWN	AREA	DATE	
REVISION	DATE		
TOTAL	1,044.00	03/01/01	

Bella Vista Condominium

Daytona Beach Shores, Florida

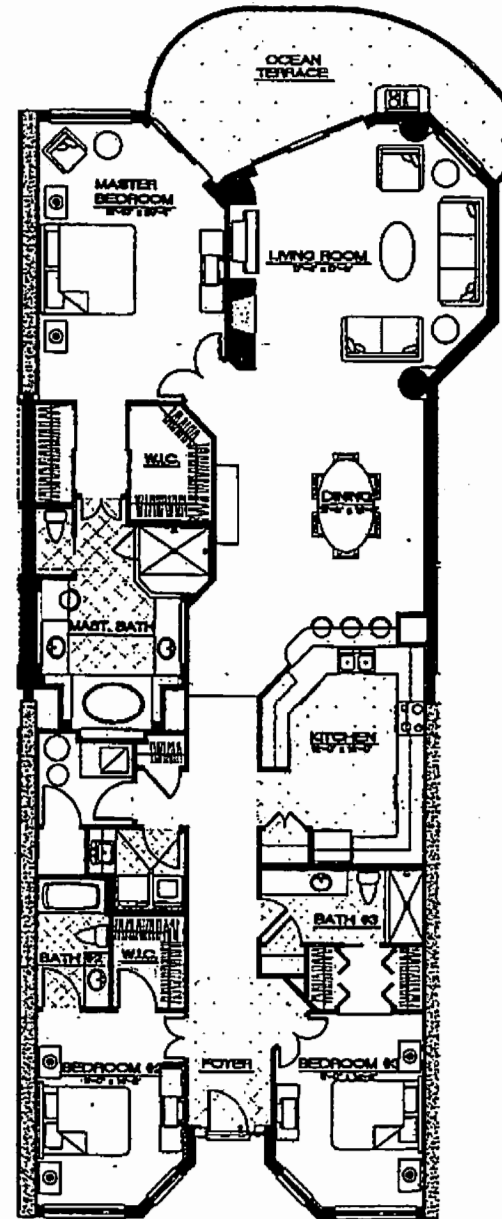


Unit E
Floor Plan
Not to Scale

UNIT 'E' AREA CALCULATIONS			
LA. AREA	2,441 SQ. FT.		
BALCONY	344 SQ. FT.		
TOTAL AREA	2,785 SQ. FT.		

Bella Vista Condominium
Daytona Beach Shores, Florida

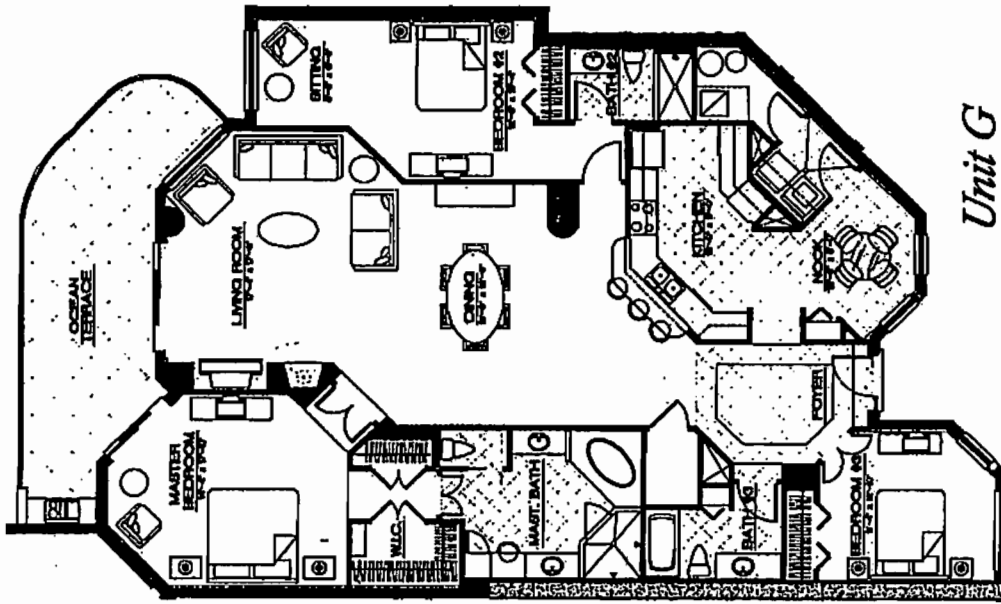




Unit F
Floor Plan
Not to Scale

UNIT "F" AREA CALCULATIONS	
S.L. UNIT	2,491 SQ.FT.
BALCONY	243 SQ.FT.
TOTAL (Unit F)	2,734 SQ.FT.

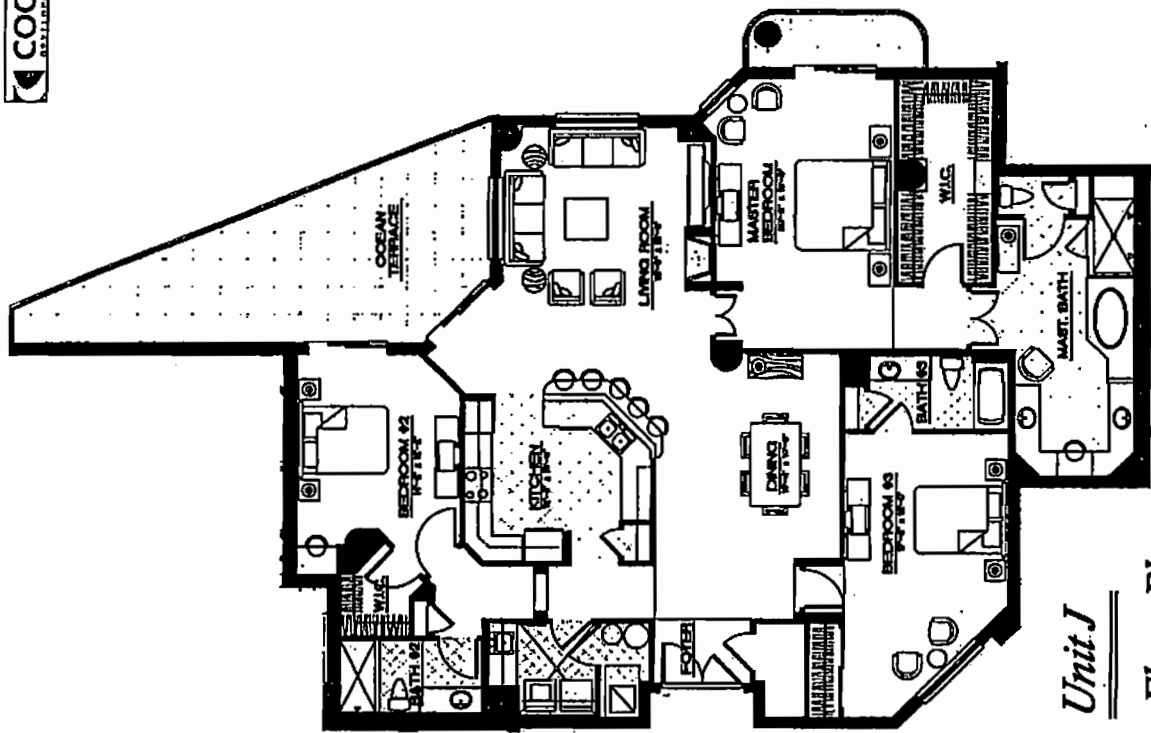
Bella Vista Condominium
Daytona Beach Shores, Florida



Unit G
Floor Plan
North Arrow

UNIT 'G' AREA CALCULATIONS			
AC UNIT	318 SQ. FT.		
BALCONY	302 SQ. FT.		
TOTAL (GAL. 11)	318 SQ. FT.		

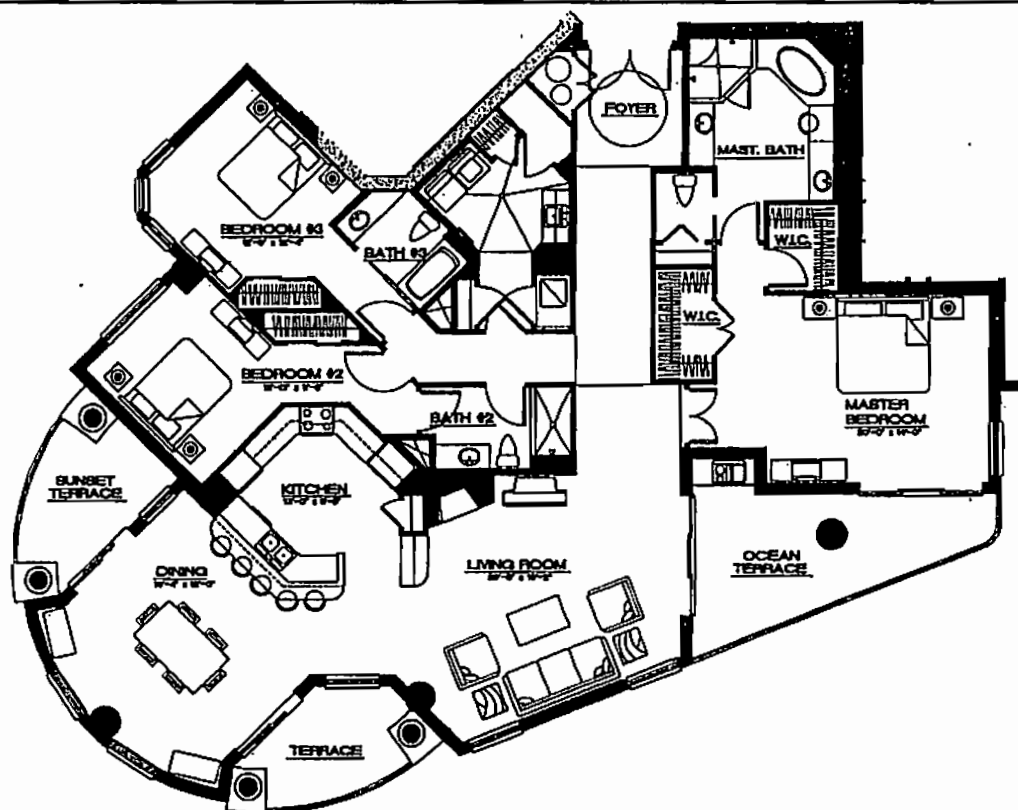
Bella Vista Condominium
Daytona Beach Shores, Florida



Unit J
Floor Plan
Not to Scale

UNIT J			
AREA CALCULATIONS			
1. UNIT	2. UNIT	3. UNIT	4. UNIT
5. UNIT	6. UNIT	7. UNIT	8. UNIT
TOTAL (Sqm)			

Bella Vista Condominium
Daytona Beach Shores, Florida



COOK



Unit K

Floor Plan

Not to Scale

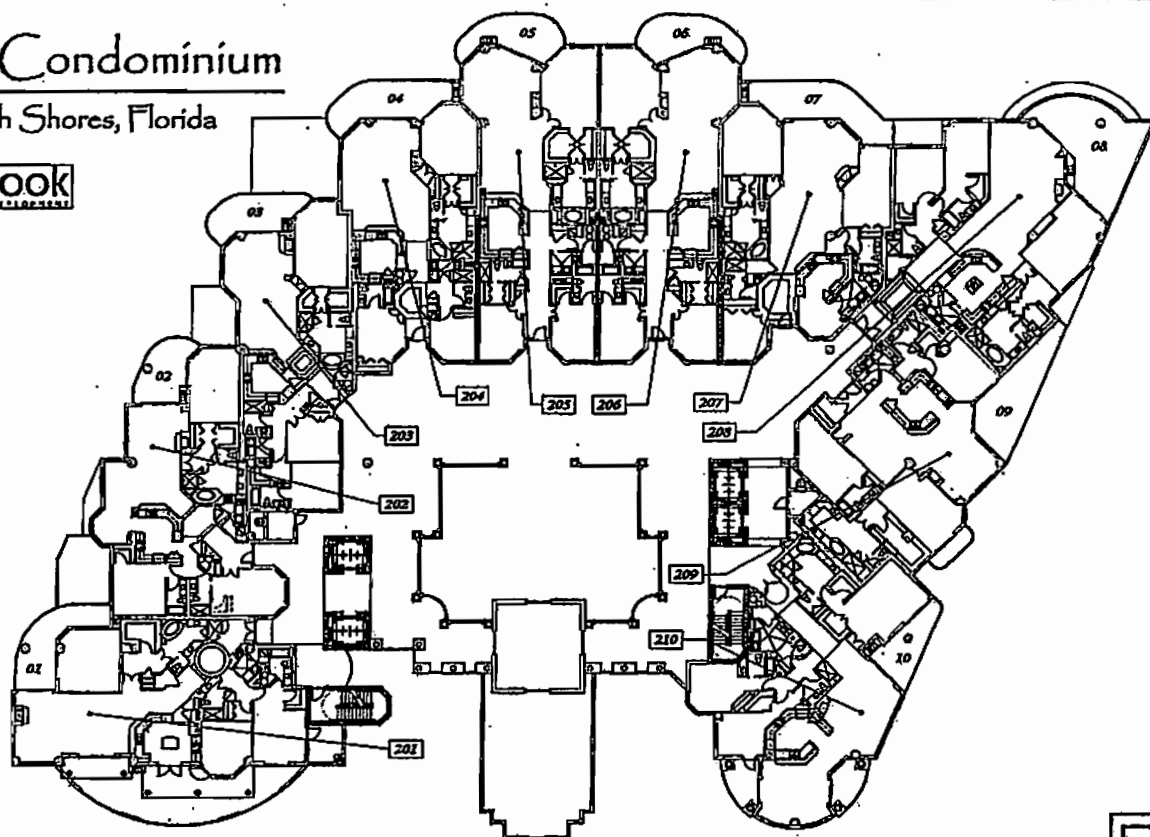
Bella Vista Condominium

Daytona Beach Shores, Florida

UNIT "K" AREA CALCULATIONS	
A.C. LIVING	1,136 SQ. FT.
BALCONY	361 SQ. FT.
TOTAL (A.C. + B)	1,497 SQ. FT.

Bella Vista Condominium

Daytona Beach Shores, Florida

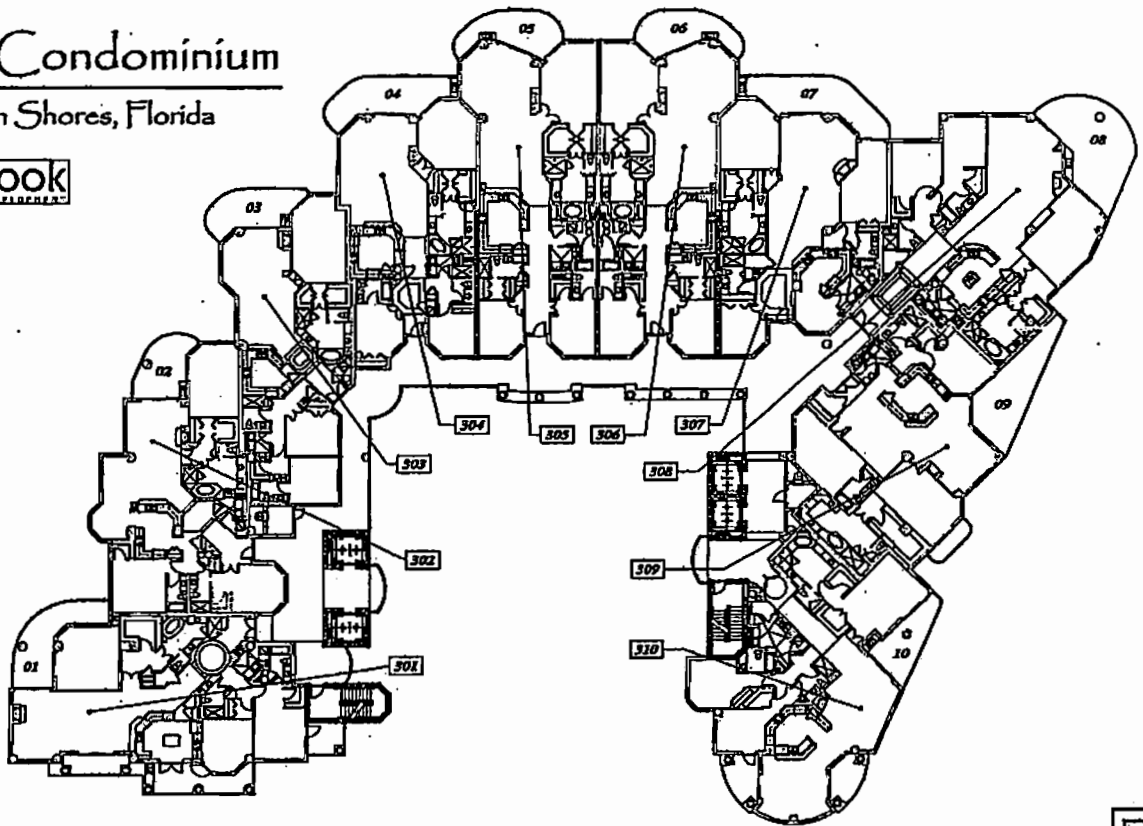


Second Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida



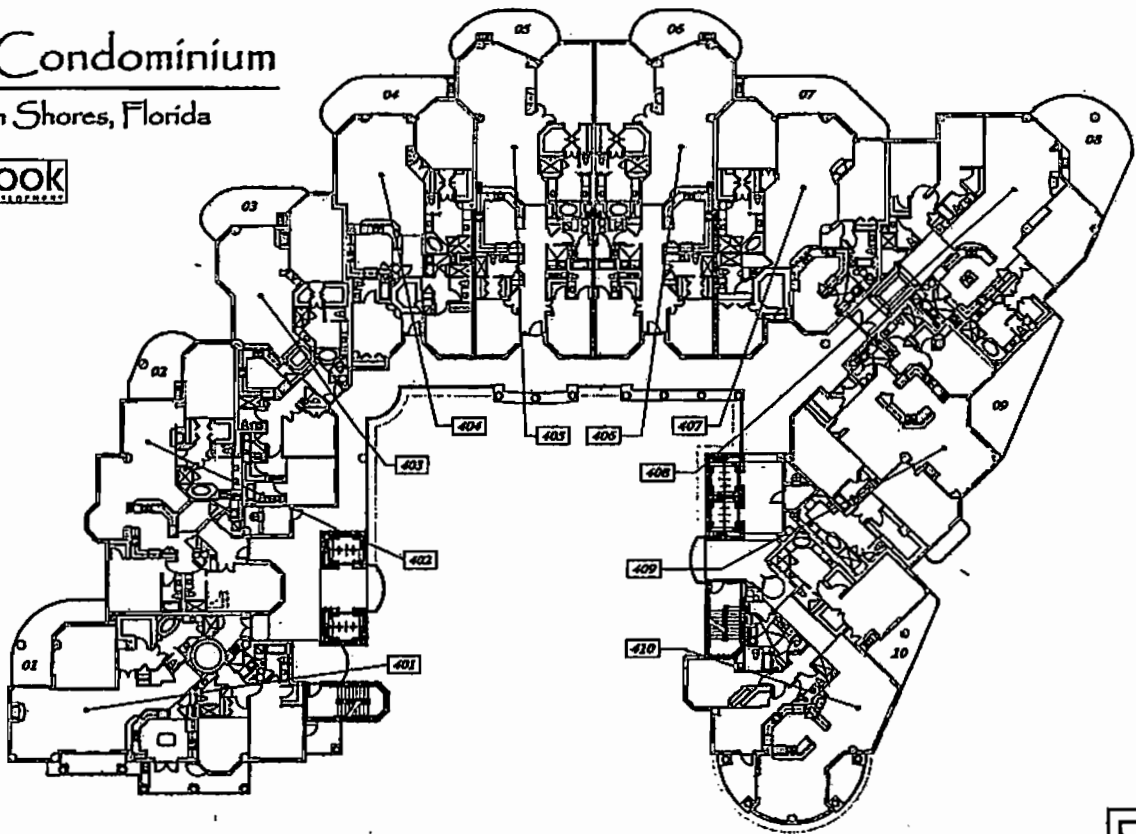
Third Floor Plan

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Bella Vista Condominium

Daytona Beach Shores, Florida

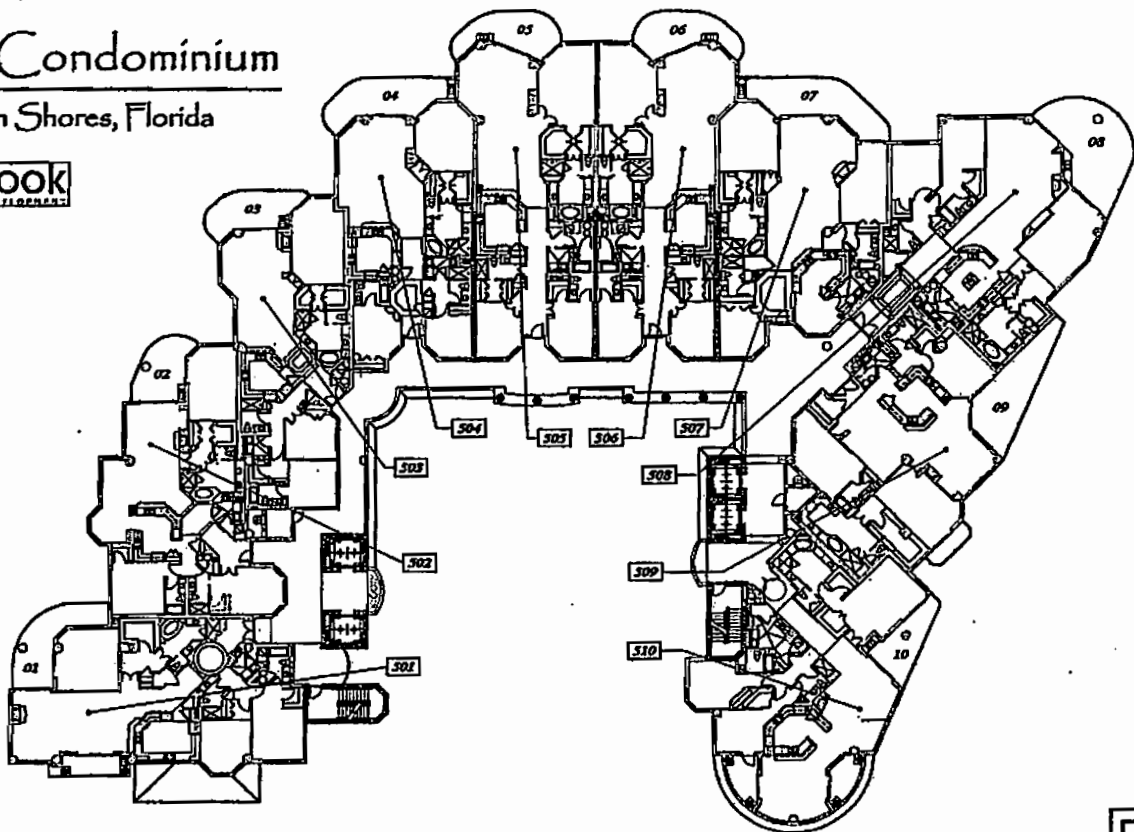


Fourth Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida

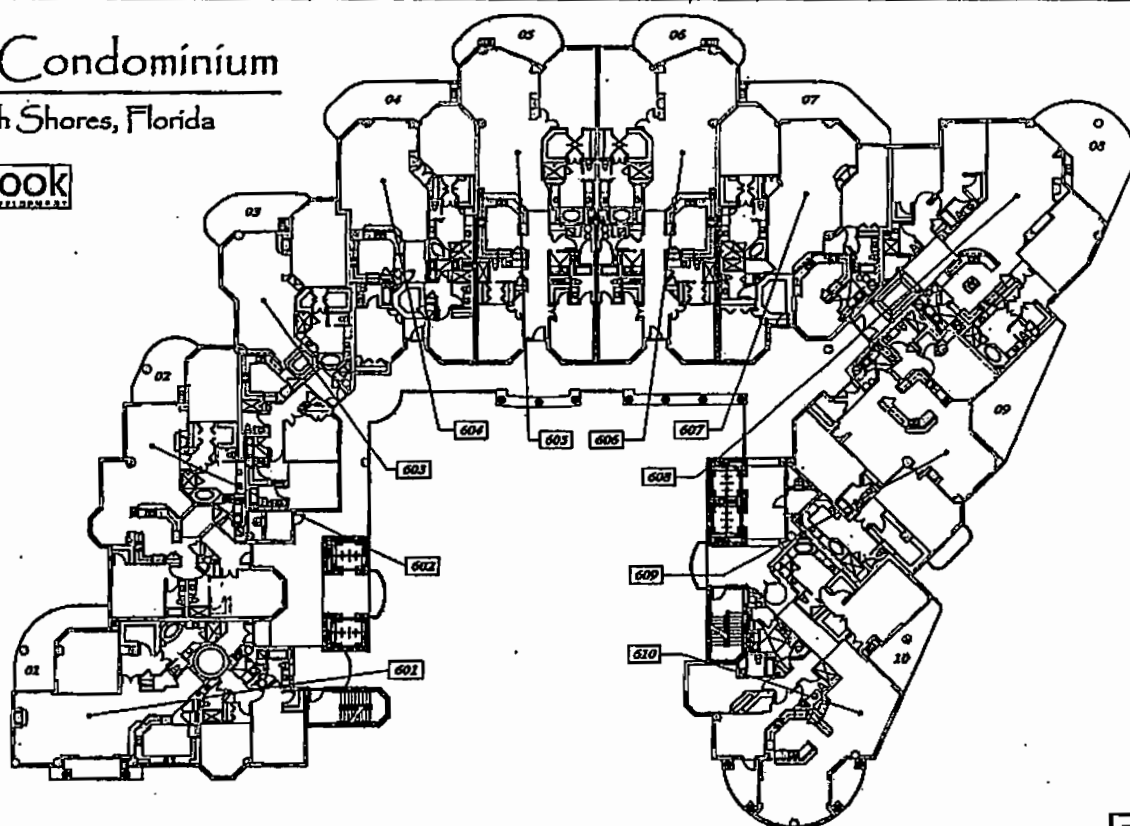


Fifth Floor Plan

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Bella Vista Condominium

Daytona Beach Shores, Florida

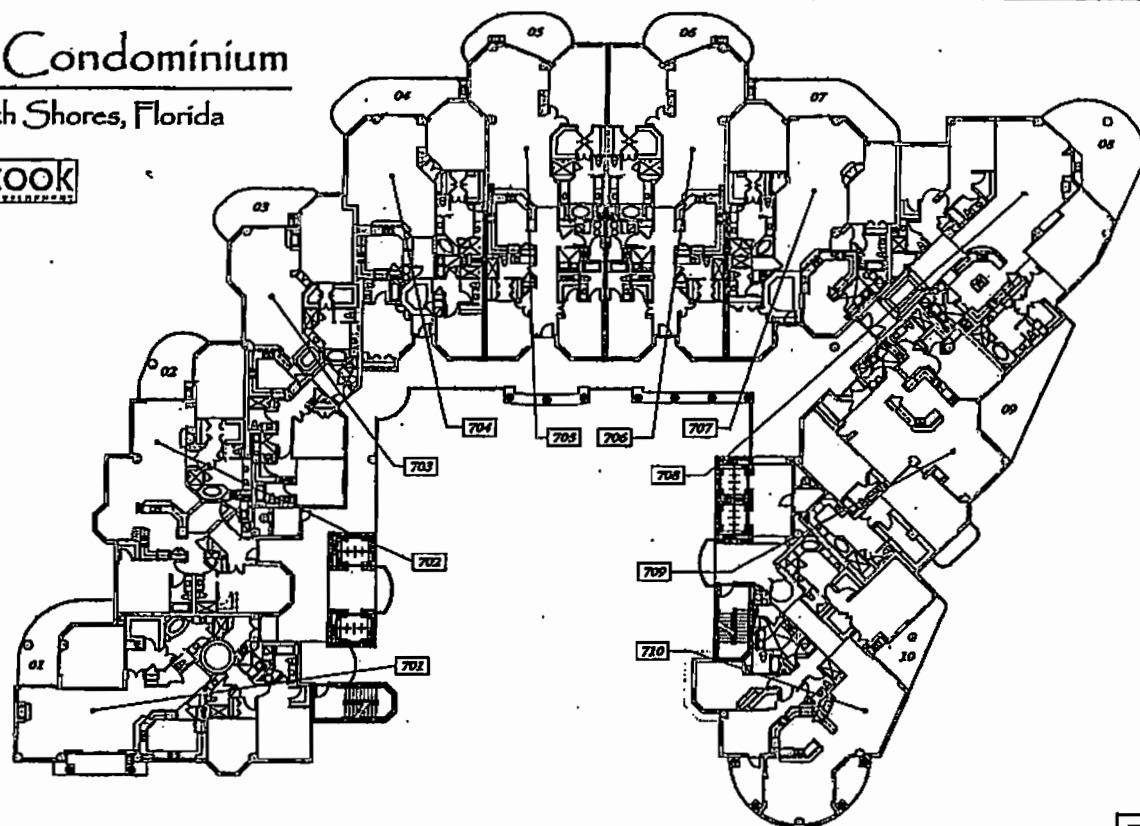


Sixth Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida

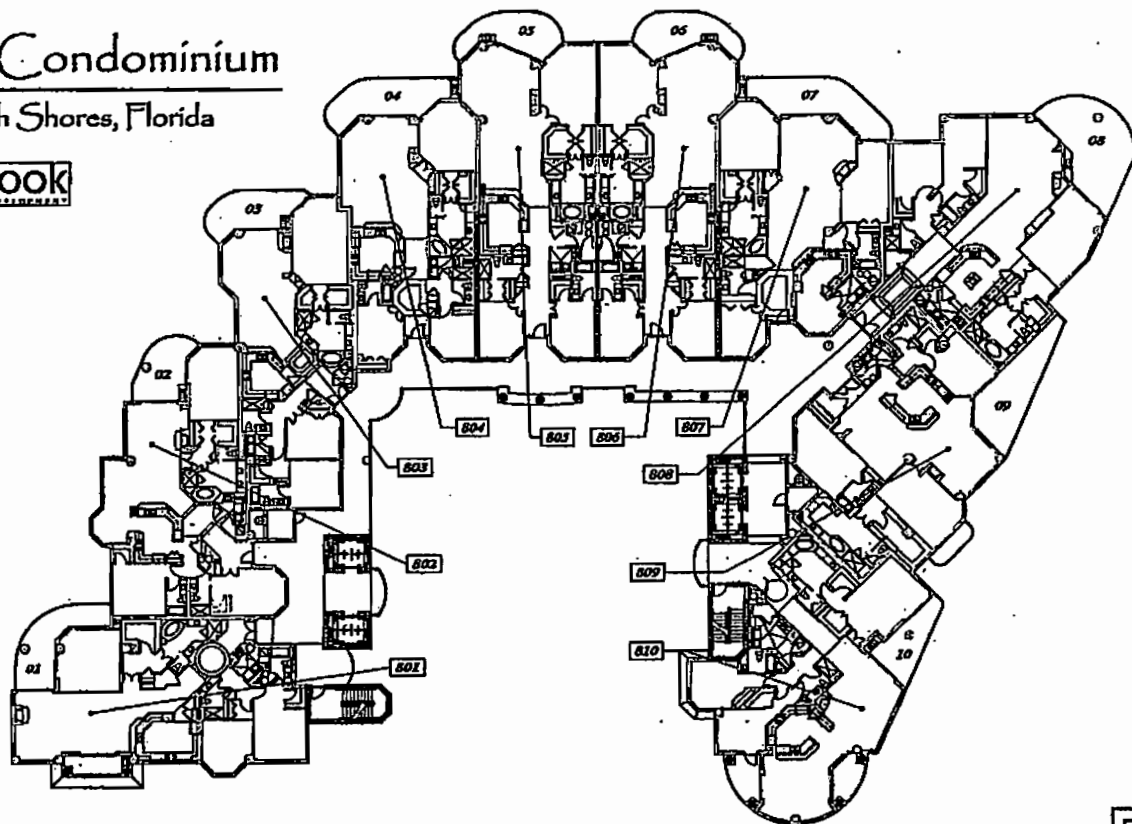


Seventh Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida

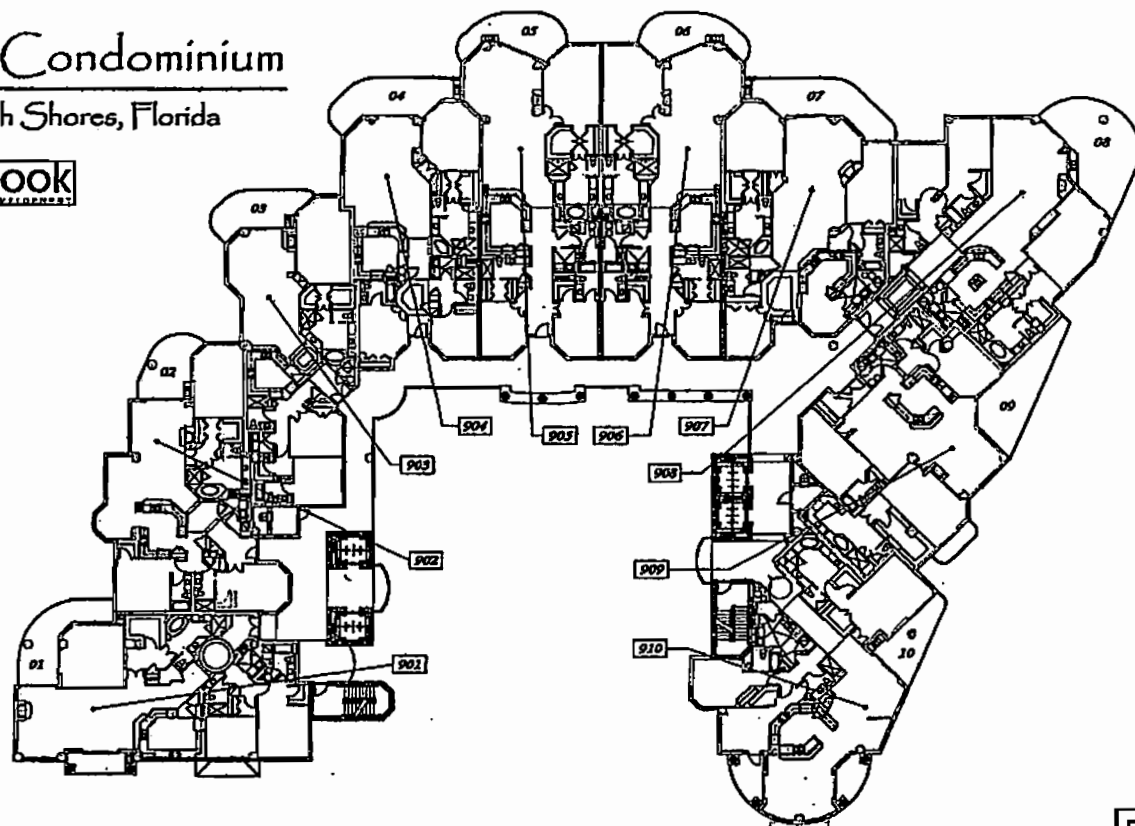


Eighth Floor Plan

Not to Scale

Bella Vista Condominium

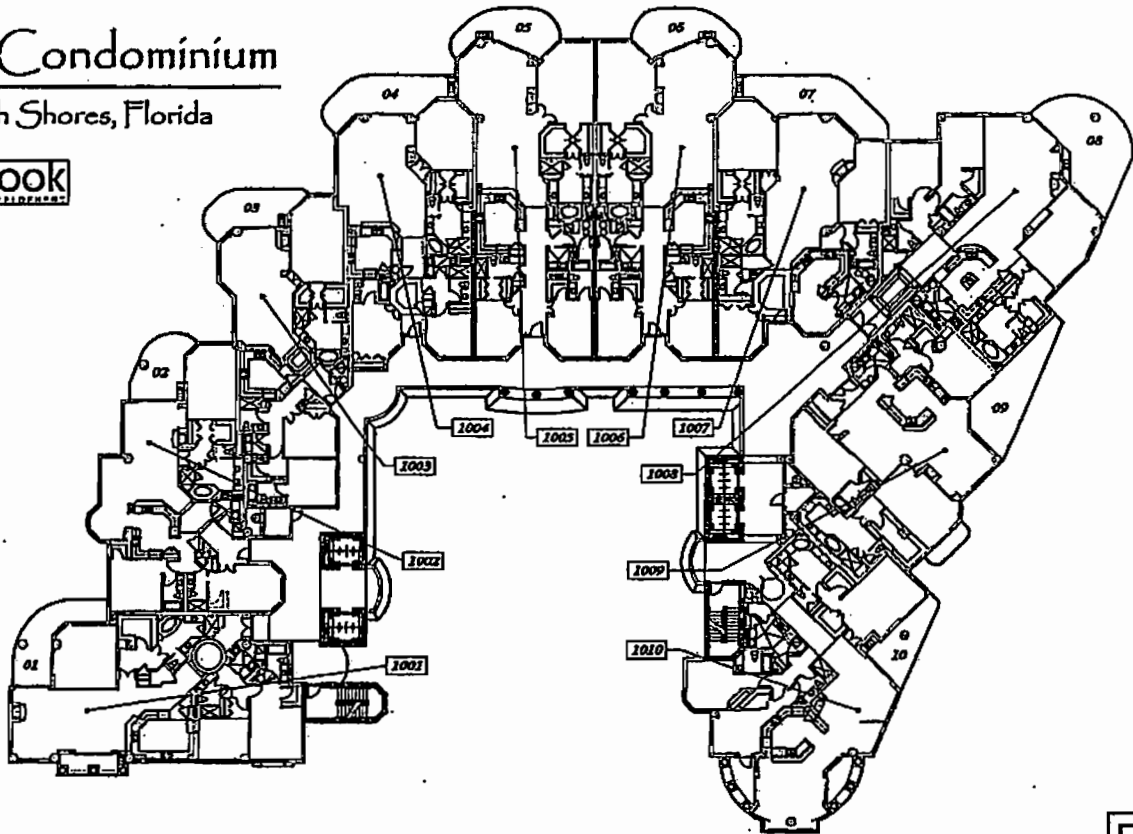
Daytona Beach Shores, Florida



Ninth Floor Plan

Not to Scale

Bella Vista Condominium
Daytona Beach Shores, Florida

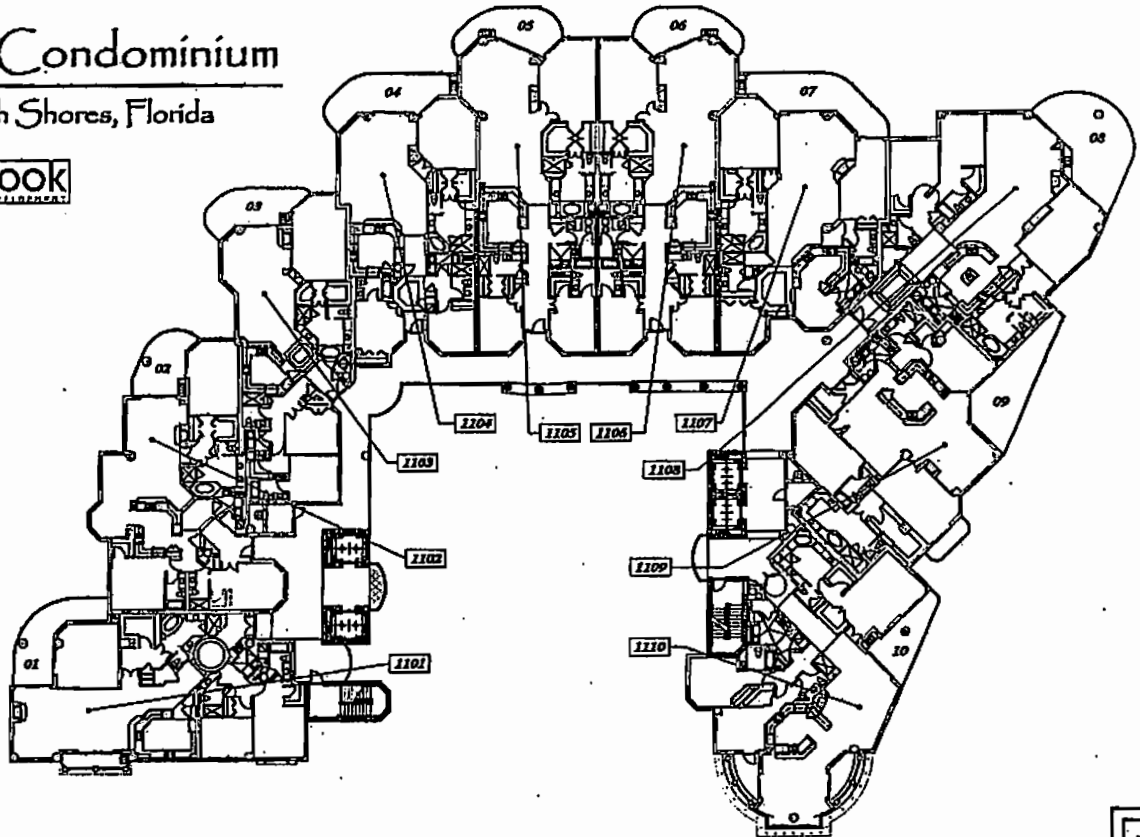


Tenth Floor Plan

Not to Scale

Bella Vista Condominium

Daytona Beach Shores, Florida



Eleventh Floor Plan

Not to Scale

BYLAWS
OF
BELLA VISTA CONDOMINIUM, INC.

I. IDENTITY.

These are the Bylaws of Bella Vista Condominium, Inc., a corporation not for profit under the laws of the state of Florida ("the Association"), organized for the purpose of operating that certain condominium located in Volusia County, Florida, and known as The Bella Vista, a condominium ("the Condominium").

1.1 Principal Office. The principal office of the Association shall be at 2515 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, or at such other place as may be designated by the Board of Directors.

1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.3 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit," and the year of incorporation.

1.4 Definitions. For convenience, these Bylaws shall be referred to as "the Bylaws"; the Articles of Incorporation of the Association as "the Articles"; and the Declaration of Condominium for the Condominium as "the Declaration". The other terms used in these Bylaws shall have the same definitions and meanings as those in F.S. Chapter 718, the Condominium Act ("the Act"), as well as those in the Declaration and the Articles, unless otherwise provided in these Bylaws or unless the context otherwise requires.

II. MEETINGS OF MEMBERS AND VOTING.

2.1 Annual Meeting. The annual meeting of the members shall be held on the date and at the place and time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and no later than 13 months after the last annual meeting. The purpose of the meeting shall be to elect Directors and to transact any other business authorized to be transacted by the members.

2.2 Special Meetings. Special meetings of the members shall be held at such places as provided for annual meetings and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary on receipt of a written request from at least 10% of the voting interests of the Association. Requests for a meeting by the members shall state the purpose for the meeting. Business conducted at any special meeting shall be limited to the matters stated in the notice for the meeting. The provisions of this section, as applicable, shall be modified by the provisions of F.S. 718.112 (2) (k), concerning recall; F.S. 718.112 (2) (j), concerning budget reserves; and F.S. 718.301 (1)-(2), concerning election of Directors by Unit Owner other than the Developer.

2.3 Notice of Annual Meeting. Written notice of the annual meeting shall be mailed or hand delivered to each Unit Owner at least 14 days and not more than 60 days before the annual meeting. A copy of the notice shall be posted in a conspicuous place on the Condominium property at least 14 continuous days before the annual meeting. An Officer of the Association shall provide an Affidavit or United States Post Office Certificate of Mailing, to be included in the official records of the Association meeting were mailed or hand delivered to each Unit Owner at the address last furnished to the Association. Unit Owners may waive notice of the annual meeting.

2.4 Notice of Special Meetings, Generally. Except as modified by the specific requirements for special kinds of members' meetings as set out in these Bylaws, notice of special meeting generally shall be in writing, state the place, day, and hour of the meeting, and state the purpose or purposes for which the meeting is called. The notice shall be delivered to each Unit

Owner not less than 10 nor more than 60 days before the date of the meeting, either personally or by first class mail, by or at the direction of the President, the Secretary, or the Officer or persons calling the meeting. If mailed, the notice shall be considered delivered when deposited in the United States mail addressed to the Unit Owner at the address that appears in the records of the Association, with postage prepaid. Payment of postage for notice of any special meeting, by whomever called, shall be an obligation of the Association.

2.5 Notice of Budget Meeting. The Board of Directors shall mail or hand deliver to each Unit Owner at the address last furnished to the Association a notice and a copy of the proposed annual budget, not less than 14 days before the meeting at which the Board will consider the budget.

2.6 Notice of Meeting to Consider Excessive Budget. If a budget adopted by the Board of Directors requires assessment against the Unit Owners for any calendar year exceeding 115% of the assessment for the preceding year (less any lawfully excluded items), the Board, shall be called if within 21 days after adoption of the annual budget a written request for a special meeting from at least 10 percent of all voting interests has been received by the board. The special meeting shall be conducted within 60 days after adoption of the budget and notice of the special meeting shall be hand delivered or mailed to each unit owner at least 14 days prior to such special meeting.

2.7 Notice of Meeting to Consider Recall of Board Members. A special meeting of the Unit Owners to recall a member or members of the Board of Directors may be called by 10% of the voting interests giving notice of the meeting as required for a meeting of Unit Owners, stating the purpose of the meeting. The notice must be accompanied by a dated copy of a signature list of at least 10% of the Unit Owners. The meeting shall be held not less than 10 days nor more than 60 days from the date the notice of the meeting is given.

2.8 Notice of Meeting to Elect Non-developer Directors. Within 75 days after the Unit Owners other than the developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call an election for the members of the Board of Directors, and shall give at least 60 days notice thereof.

2.9 Quorum. A quorum at meetings of members shall consist of persons entitled to exercise, either in person or by proxy, a majority of the voting interests of the entire membership.

2.10 Voting.

a. Number of Votes. In any meeting of members, each Unit shall have one voting interest. The vote of a Unit is not divisible.

b. Majority Vote. The acts approved by a majority of the voting interests present in person or by proxy at a meeting at which a quorum is present shall be binding on all Unit Owners for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger percentage, in which case that larger percentage shall control.

2.11 Membership-Designation of Voting Member. Persons or entities shall become members of the Association on the acquisition of fee title to a Unit in the Condominium after approval of the acquisition in the manner provided in the Declaration. Membership shall be terminated when a person or entity no longer owns a Unit in the Condominium. If a Unit is owned by more than one natural person (other than a husband and wife), or a corporation, partnership, or other artificial entity, the voting interest of that Unit shall be exercised only by the natural person named in a voting certificate signed by all the natural persons who are owners or by the chief executive officer of the artificial entity and filed with the Secretary of the Association in its official records.

2.12 Proxies; Powers of Attorney. Voting interests may be exercised in person or by proxy. Each proxy shall set forth specifically the name of the person voting by proxy, the name of the person authorized to vote the proxy for him or her, and the date the proxy was given. Each

proxy shall contain the date, time, and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for more than 90 days after the date of the first meeting for which it was given, and may be revoked at any time at the pleasure of the Unit Owner executing it. The proxy shall be signed by the Unit Owner or by the designated person mentioned in section 2.11, or the duly authorized attorney-in-fact of that person or entity (provided the power of attorney is filed with the Secretary of the Association). The proxy shall be filed with the Secretary before or at the meeting for which the proxy is given. One holding a power of attorney from the Unit Owner, properly executed and granting the authority, may exercise the voting interests of that Unit. If the proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in his or her place. If this provision is not made, substitution is not authorized. Proxies and/or Powers of Attorney shall in no event be used in electing the board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise.

2.13 Adjourned Meetings. If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present; except that when meetings have been called to consider the enactment of a budget to replace a proposed budget that exceeds 115% of the assessments for the preceding year, the meetings may not be adjourned for lack of a quorum and if a quorum is not present the excessive budget shall go into effect as scheduled. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice shall be posted in a conspicuous place on the Condominium property as soon thereafter as may be practical stating the time and place to which the meeting is adjourned.

2.14 Waiver of Notice. Unit Owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the Secretary of the Association either before, at, or after the meeting for which the waiver is given.

2.15 Action by Members Without a Meeting. Unit Owners may take action by written agreement without a meeting, provided written notice is given to the Unit Owners in the manner prescribed elsewhere in these Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the Unit owners, or a larger percentage vote as otherwise may be required by the Act, the Declaration, the Articles, or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership. The notice shall set forth a time period within which responses received after that shall not be considered.

2.16 Minutes of Meetings. The minutes of all meetings of Unit Owners shall be kept in a book open to inspection at all reasonable times by any Association member, any authorized representative of the member, and Board members. The minutes shall be retained by the Association for a period of not less than seven years. Association members and their authorized representatives shall have the right to make or obtain copies at the reasonable expense, if any, of the Association member.

2.17 Order of Business. The order of business at annual meetings of members and, as far as practical, at other members' meetings, shall be:

- a. Call to order.
- b. Collection of ballots not yet cast.
- c. Election of a chairman of the meeting, unless the President or Vice President is present, in which case he or she shall preside.
- d. Calling of the roll, certifying of proxies, determination of quorum.
- e. Proof of notice of meeting or waive of notice.

- f. Reading and disposal of any unapproved minutes
- g. Reports of Officers.
- h. Reports of committees.
- i. Appointment of inspectors of election.
- j. Determination of number of Directors.
- k. Election of Directors.
- l. Unfinished business.
- m. New business.
- n. Adjournment.

2.18 Actions Specifically Requiring Unit Owner Approval. The following actions require approval by the Unit Owners and may not be taken by the Board of Directors acting alone:

- a. Amendments to the Declaration, except those made by the Developer recording a Certificate of Surveyor, or as otherwise provided specifically in the Declaration.
- b. Purchase of land or recreation lease.
- c. Cancellation of grants or reservations made by the declaration, a lease, or other document and any contract made by the Association before the transfer of control of the Association from the Developer to Unit Owners other than the Developer, that provides for operation, maintenance of the Condominium Association or property serving the Unit Owners.
- d. Exercise of option to purchase recreational or other commonly used facilities lease.
- e. Providing no reserves, or less than adequate reserves.
- f. Recall of members of Board of Directors.
- g. Other matters contained in the Declaration, the Articles, or these Bylaws that specifically require a vote of the members.

III. DIRECTORS.

3.1 Numbers and Qualifications. The affairs of the Association shall be managed initially by a Board of three Directors selected by the Developer. When Unit Owners other than the Developer are entitled to elect a majority of the Directors, the Board shall be composed of any odd number of Directors that the Board may decide. The numbers of Directors, however, shall never be less than three. Other than those selected by the Developer, Directors must be either Unit Owners, tenants residing in the Condominium, officers of a corporate Unit Owner, or partners of a partnership Unit Owner. No Director (except those selected by the Developer) shall continue to serve on the Board after ceasing to meet those requirements.

3.2 Election of Directors. Directors shall be elected at the annual meeting in the following manner:

- a. The Board of Directors shall be elected by written ballot or voting machine.
- b. Votes may be cast in person or by proxy. All proxies shall be in writing and shall comply with any requirements of Florida Statutes. Proxies shall be effective only for the specific meeting for which originally given and any continuation thereof after a lawful adjournment. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Even proxy is revocable at any time at the pleasure of the Member executing it.
- c. The Association shall mail or deliver, whether separately or included in other mailings, a first notice of the date of the election to each Unit Owner no less than 60 days before the scheduled election. The Association shall mail or deliver to the Unit Owners at the addresses listed in the official records of the Association a second notice of the election, ballot, and any information sheets timely submitted by the candidates no less than 30 days prior to the scheduled election. The second notice and accompanying documents shall not contain any communication from the Board that endorses, disapproves, or otherwise comments on any candidate.

3.3 Term. Each Director's term of service shall extend until the next annual meeting of the members and thereafter until his or her successor is duly elected and qualified or until he or she is removed in the manner provided in section 3.5. However, at any annual meeting after the developer has relinquished control of the Association and in order to provide a continuity of experience, the members may vote to create classes of Directorships having a term of one, two, or three years so that a system of staggered terms will be initiated.

3.4 Vacancies. Except for vacancies resulting from removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by majority vote of the remaining Directors. Any Directors elected to fill a vacancy shall hold office only until the next election of Directors by the members, irrespective of the length of the remaining term of the vacating Director.

3.5 Removal. Any Director may be recalled and removed from office with or without cause by the affirmative vote or agreement in writing of a majority of all voting interests. A special meeting of the Unit Owners may be called for this purpose by 10% of the voting interests on giving notice of the meeting as required in these Bylaws. The notice shall state the purpose of the special meeting. Any vacancy on the Board of Directors thus created shall be filled by the members of the Association at the same meeting. No Director shall continue to serve on the Board if, during the Board member's term of office, the Board member's membership in the Association is terminated for any reason.

3.6 Resignation. Any Director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt of the notice by the Association, unless it states some fixed date in the resignation, and then from the date so fixed. Acceptance of a resignation shall not be required to make it effective.

3.7 Organizational Meeting. The organizational meeting of a newly elected Board of Directors shall be held within 10 days of the election at a place and time that shall be fixed by the Directors at the meeting at which they were elected and without further notice except notice to Unit Owners required by F.S. 718.112 (2) (c). The Board of Director may meet immediately following the meeting at which they are elected for the purpose of electing officers and changing banking resolutions without further notice, except for an announcement at the Unit Owners' meeting.

3.8 Regular Meetings. The Board of Directors may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each Director personally or by mail, telephone, or telegraph at least three days before the day named for the meeting with the notice of

each meeting posted conspicuously on the Condominium property at least 48 continuous hours before the meeting, except in an emergency.

3.9 Special Meetings. Special meetings of the Board of Directors may be called by the President and, in his or her absence, by the Vice President, and must be called by the Secretary at the written request of one third of the Directors. Notice of the meeting shall be given personally or by mail, telephone, or telegraph. The notice shall state the time, place, and purpose of the meeting and shall be transmitted not less than three days before the meeting. A copy of the notice of any special meeting shall be posted conspicuously on the Condominium property at least 48 continuous hours before the meeting, except in an emergency.

3.10 Waiver of Notice. Any Director may waive notice of a meeting before, at, or after the meeting and that waiver shall be considered equivalent to the giving of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of the meeting, except when the Director's attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum. A quorum at the meetings of the Directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors except when approval by a greater number of Directors is required by the Declaration, the Articles, or these Bylaws.

3.12 Adjourned Meetings. If there is less than a quorum present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting originally called may be transacted without further notice.

3.13 No Proxy. There shall be no voting by proxy at any meeting of the Board of Directors.

3.14 Presumed Assent. A director present at any Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she votes against the action or abstains from voting because of an asserted conflict of interest.

3.15 Joinder in Meeting by Approval of Minutes. A Director may join in the action of meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

3.16 Attendance by Conference Telephone. When telephone conference is used, a telephone speaker shall be attached so that the discussion may be heard by the Board members and by an Unit Owners present in an open meeting. Board members utilizing telephone conference calls may be counted toward obtaining a quorum and may vote over the telephone.

3.17 Meetings Open to Members. Meetings of the Board of Directors shall be open to all Unit Owners to attend, observe, and speak with reference to all designated agenda items. Notice of any meeting in which assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and set out the nature of the assessments.

3.18 Presiding Officer. The presiding Officer at Board meeting shall be the President or, in his or her absence, the Vice President, and in his or her absence, the Directors present shall designate any one of their number to preside.

3.19 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book open to inspection by any Association member or the authorized representative of the member and Board members at all reasonable times. The Association shall retain these minutes for a period of not less than seven years. Association members and their authorized representatives shall have the right to make or obtain copies, at the reasonable expense,

if any, of the Association member.

3.20 Executive Committee. The Board of Directors, by resolution, may appoint an executive committee to consist of three or more members of the Board. The executive committee shall have and may exercise all of the power of the Board in the management of the business and affairs of the Condominium during the intervals between the meetings of the Board insofar as may be permitted by law. The executive committee, however, shall not have power to: (1) determine the common expenses required for the operation of the Condominium; (2) determine the assessments payable by the Unit Owners to meet the common expenses of the Condominium; (3) adopt or amend rules and regulations covering the details of the operation and use of the Common Elements; (4) purchase, lease, or otherwise acquire Units in the Condominium in the name of the Association; (5) approve any actions or proposals required by the Act, the Declaration, the Articles, or these Bylaws to be approved by Unit Owners; or (6) fill vacancies on the Board of Directors. Meetings of the executive committee shall be open to Unit Owners and shall be noticed in the same manner as a regular Board meeting.

3.21 Compensation. Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.22 Order of Business. The order of business at meetings of Directors shall be:

- a. Calling of roll.
- b. Proof of notice of meeting or waiver of notice.
- c. Reading and disposal of any unapproved minutes.
- d. Reports of Officers and committees.
- e. Unfinished business.
- f. New business.
- g. Adjournment.

3.23 Election of Directors by Unit Owners Other than Developer. Unit Owners other than the developer are entitled to elect a member or members of the Board of Directors of the Association, under the following schedule:

- a. When Unit Owners other than the Developer own 15% or more of the Units in the Condominium that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect one third of the members of the Board of Directors of the Association.
- b. Unit Owners other than the Developer are entitled to elect a majority of the members of the Board of Directors of the Association on the earliest of the following events:
 1. Three years after 50% of the Units that will be operated ultimately by the Association have been conveyed to purchasers.
 2. Three months after 90% of the Units that will be operated ultimately by the Association have been conveyed to purchasers.
 3. When all the Units that will be operated ultimately by the Association have been completed, some of them have been completed, some of them have been conveyed to purchasers, and none of the other are being offered for sale by the Developer in the ordinary course of business.

4. When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business.

5. Seven years after recordation of the Declaration of Condominium, or, in the case of an Association that may ultimately operate more than one Condominium, seven years after recordation of the Declaration for the first Condominium it operates, or, in the case of an Association operating a phase Condominium created under F.S. 718.403, seven years after recordation of the Declaration creating the initial phase, whichever occurs first. The Developer is entitled to elect at least one member of the Board of directors of the Association as long as the Developer holds for sale in the ordinary course of business at least 5% in Condominium with fewer than 500 Units, or 2% in Condominiums with more than 500 Units, of the Units in a Condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the developer may exercise the right to vote any Developer-owned Units in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of directors.

3.24 Relinquishment of Control. At the time the Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association and the Unit Owners shall accept control. Simultaneously, but no more than 90 days thereafter, the Developer shall deliver to the Association at the Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including but not limited to those items specified in the Act. Nothing contained in these Bylaws shall be deemed to prevent the Developer from transferring control of the Association to Unit Owners other than the Developer before the occurrence of the events described in this subsection.

3.25 Failure to Elect Director Quorum. If the Association or the Board of Directors fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any Unit Owner may apply to the circuit court within whose jurisdiction the Condominium is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Act. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorney's fees. The receiver shall have all the powers and duties of duly-constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

All of the powers and duties of the Association existing under the Act, the Declaration, the Articles, and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees, subject only to the approval by Unit Owners when that approval specifically is required. The powers and duties of the Board shall include, but shall not be limited to, the following:

4.1 Maintenance, Management, and Operation of Condominium Property.

4.2 Contract, Sue, or be Sued. The Association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all Unit Owners concerning matters of common interest, including but not limited to the common elements and commonly-used facilities.

4.3 Right of Access to Units. The Association has the irrevocable right of access to each Unit during reasonable hours as necessary for the maintenance, repair, or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another Unit or Units.

4.4 Make and Collect Assessments.

4.5 Lease, Maintain, Repair, and Replace the Common Elements.

4.6 Lien and Foreclosure for Unpaid Assessments. The Association has a lien on each Condominium parcel for any unpaid assessments with interest and for reasonable attorneys' fees, costs, and expenses incurred in the collection of the assessments or enforcement of the lien. It also has the power to purchase the Condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

4.7 Purchase Unit. In addition to its right to purchase Units at a lien foreclosure sale, the Association generally has the power to purchase Units in the condominium and to acquire, hold, lease, mortgage, and convey them.

4.8 Grant or Modify Easements. The Association, without the joinder of any Unit Owner, may grant, modify, or move any easements if the easements constitutes part of or crosses common elements.

4.9 Purchase Land or Recreation Lease. Any land or recreation lease may be purchased by the Association on the approval of two thirds of the voting interests of the Association.

4.10 Acquire Use Interest in Recreational Facilities. The Association may enter into agreements, acquire leaseholds, memberships, and other possessory or use interest in lands or facilities, such as country clubs, golf courses, marinas, and other recreational facilities, whether contiguous to the Condominium property or not if (1) they are intended to provide enjoyment, recreation, or other use or benefit to the Unit Owners and (2) if they exist or are created at the time the Declaration was recorded and are fully stated and described in the Declaration.

4.11 Acquire Title to Property. The Association has the power to acquire title to property or otherwise hold property for the use and benefit of its members.

4.12 Authorize Certain Amendments. If it appears that through a drafter's error in the Declaration that the common elements, common expenses, or common surplus has been stated or distributed improperly, an amendment to the Declaration correcting that error may be approved by the Board of Directors or a majority of the voting interests.

4.13 Adopt Rules and Regulations. The Association may adopt reasonable rules and regulations for the operation and use of the common elements, common areas, and recreational facilities serving the Condominium.

4.14 Maintain Official Records. The Association shall maintain all of the records, when applicable, set forth in Article IX of these Bylaws, which shall constitute the official records of the Association.

4.15 Obtain Insurance. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association property, and the Condominium property.

4.16 Furnish Annual Financial Reports to Members.

4.17 Give Notice of Liability Exposure. If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all Unit Owners, who shall have the right to intervene and defend.

4.18 Provide Certificate of Unpaid Assessment. Any Unit Owner or Unit mortgage has the right to request from the Association a certificate stating all assessments and other monies owed to the Association with respect to the Condominium parcel.

4.19 Pay Annual Fee to the Division of Florida Land Sales, Condominium, and Mobile Homes for Each Residential Unit Operated by the Association.

4.20 Approve or Disapprove Unit Transfer and Impose Fee. The association may charge a preset fee of up to \$100 in connection with the approval or disapproval of any proposed

mortgage, lease, sublease, sale, or other transfer of a Unit in the Condominium as provided in the Declaration.

4.21 Contract for Operation, Maintenance, and Management of the Condominium.

4.22 Pay Taxes or Assessments Against the Condominium parcels.

4.23 Pay Costs of Utilities Service Rendered to the Condominium and Association Property and Not Billed Directly to Individual Unit Owners.

4.24 Employ Personnel. The Association may employ and dismiss personnel as necessary for the maintenance and operation of the Condominium property and may retain those professional services that are required for those purposes.

4.25 Impose Fines. The Board of Directors may impose fines on Unit owners in reasonable sums as the Board may deem appropriate, not to exceed the maximum permitted by statute for violations of the Declaration, these Bylaws, or lawfully adopted rules and regulations, by Owners, their guests, invitees, or tenants. See 7.9.

4.26 Suspend Approval for Delinquent Unit Owner. The Board of Directors may disapprove the prospective tenant of any Unit Owner as long as the Unit Owner is delinquent in the payment of assessments for Common Expenses.

4.27 Authorize Private Use of the Common Elements. The Board of Directors may authorize Unit Owners or others to use portions of the Common Elements, such as social rooms and meetings rooms, for private parties and gatherings. Reasonable charges may be imposed provided a lease is entered into between the Association and the Unit Owner.

4.28 Repair or Reconstruct Improvements After Casualties.

V. OFFICERS.

5.1 Executive Officers. The executive Officers of the Association shall be a President, who shall be a Director, a Vice President, who shall be a Director, a Treasurer, a Secretary, and an Assistant Secretary. The Officers shall be elected annually by the Board of Directors and may be removed without cause at any meeting by a vote of a majority of all the Directors. A person may hold more than one office except that the President may not also be the Secretary or Assistant Secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect other Officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 President. The President shall be the chief executive Officer of the Association. He or she shall have all of the powers and duties that usually are vested in the office of the President of an Association, including but not limited to the power to appoint committee from among the members to assist in the conduct of the affairs of the Association as he or she may determine appropriate. The President shall preside at all meetings of the Board.

5.3 Vice President. The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He or she also shall assist the President and exercise those other powers and perform those other duties as shall be prescribed by the Directors.

5.4 Secretary and Assistant Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He or she shall attend to the serving of all notices to the members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He or she shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the Secretary of an Association and as may be required by

the Directors or the President. The Assistant Secretary shall support the Secretary and shall perform the Secretary's duties in the Secretary's absence.

5.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He or she shall keep books of account for the Association in accordance with good accounting practices, that, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

5.6 Compensation. The compensation, if any, of all Officers and other employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board from employing a Director as an employee of the Association or preclude contracting with a Director for the management of the Condominium.

VI. FISCAL MANAGEMENT.

6.1 Board Adoption of Budget. The Board of Directors shall adopt a budget for the common expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least 45 days before the end of each fiscal year.

6.2 Budget Requirements. The proposed annual budget of common expenses shall be detailed and shall show the amount budgeted by accounts and expenses classifications, including, when applicable, but not limited to:

- a. Administration of the Association.
- b. Management fees
- c. Maintenance.
- d. Rent for recreational and other commonly used facilities.
- e. Taxes on Association property.
- f. Taxes on leased areas.
- g. Insurance.
- h. Security provisions
- i. Other expenses.
- j. Operating capital.
- k. Fees payable to the Division of Florida Land Sales, Condominiums, and Mobile Homes.
- l. Reserve accounts for capital expenditures and deferred maintenance, including, but not limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula based on estimated remaining useful life and estimated replacement cost of each reserve item. Reserves must be included in the proposed annual budget but may be removed from the final budget if by vote of the majority of the members present at a duly called meeting of the Association they shall determine for a fiscal year to provide no reserves or reserves less adequate than required by F.S. 718.112 (2) (f). If a meeting of

the Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and the result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

6.3 Notice of Budget Meeting. The Board of Directors shall mail a meeting notice and copies of the proposed annual budget to the unit Owners not less than 14 days before the meeting at which the budget will be considered. The meeting shall be open to all the Unit Owners.

6.4 Member Rejection of Excessive Budget. If a budget adopted by the Board of Directors requires assessments against the Unit Owners in any fiscal year exceeding 115% of the assessments for the previous year, the Board, shall be called if within 21 days after adoption of the annual budget a written request for a special meeting from at least 10 percent of all voting interests has been received by the board. The special meeting shall be conducted within 60 days after adoption of the budget and notice of the special meeting shall be hand delivered or mailed to each unit owner at least 14 days prior to such special meeting. At the special meeting, Unit Owners shall consider and adopt a budget, which adoption requires an affirmative vote of not less than a majority of all voting interests. If at the special meeting, a quorum is not attained or a substitute budget is not adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled. Provisions for reasonable reserves for repair or replacement of the Condominium property, nonrecurring expenses, and assessments for betterment to the Condominium property shall be excluded from the computation in determining whether assessments exceed 115% of similar assessments in the previous year.

6.5 Alternative Budget Adoption by Members. At its option, for any fiscal year, the Board of Directors may propose a budget to the Unit Owners at a meeting of members or in writing. If the proposed budget is approved by the Unit Owners at the meeting or by a majority of all voting interests in writing, the budget shall be adopted.

6.6 Budget Restraints on Developer. As long as the Developer is in control of the Board of Directors, the Board shall not impose an assessment for any year greater than 115% of the previous year's assessments without approval of majority of all voting interests other than those held by the Developer.

6.7 Accounting Records and Reports. The Association shall maintain accounting records in the county in which the Condominium is located, according to good accounting practices. The records shall be open to inspection by any Association member or the authorized representative of the member at all reasonable times. The records shall include, but are not limited to:

- a. Accurate, itemized, and detailed records of all receipts and expenditures.
- b. A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.
- c. All audits, reviews, accounting statements, and financial reports of the Association or Condominium.
- d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one year. Within 60 days after the end of each fiscal year, the Board of Directors shall mail or furnish by personal delivery to each Unit Owner a complete financial report of actual receipts and expenditures for the previous 12 months.

6.8 Depository. The depository of the Association shall be those banks or savings and loan Associations, state or federal, located in Florida, as shall be designated from time to time by the Board of Directors and in which the money for the Association shall be deposited.

Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons authorized by the Board of Directors.

6.9 Fidelity Bonding. The Association shall obtain and maintain blanket fidelity bonding for each person who is authorized to sign checks and the President, Secretary, and Treasurer of the Association in an amount equal to the maximum funds that will be in the custody of the Association or its management agent at any one time. The Association shall bear the cost of bonding.

VII. ASSESSMENTS AND COLLECTION.

7.1 Assessments, Generally. Assessments shall be made against the units not less frequently than quarterly in the discretion of the Board of Directors. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against Units in the proportions or percentages provided in the Declaration.

7.2 Special Assessments. The specific purpose or purposes of any special assessment, including emergency assessments, that cannot be paid from the annual assessment for common expenses, as determined by the Board of Directors, shall be set forth in a written notice of the assessments sent or delivered to each Unit Owner. The notice shall be sent or delivered within the time before the payment or initial payment thereunder shall be due, as may be reasonable or practicable in the circumstances. Special assessments shall be paid at the time and in the manner that the Board may require in the notice of the assessment. The funds collected under a special assessment shall be used only for the specific purpose or purposes set forth in the notice, or returned to the Unit Owners. Excess funds may be used to reduce the next year's annual assessments. On completion of the specific purpose or purposes, however, any excess funds shall be considered common surplus.

7.3 Charges for Other than Common Expenses. Charges by the Association against individual members for other than common expenses shall be payable in advance and the billing and collection thereof may be administered by the Association. Charges for other than common expenses may be made only after approval of a member or when expressly provided for in the Declaration or other Condominium documents. These charges may include, without limitation, charges for the use of the Condominium property or recreation area, maintenance services furnished at the expense of a member, and other services furnished for the benefit of a member.

7.4 Liability for Assessments. Each Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments that come due while he or she is the Unit Owner. The Unit Owner and grantee are jointly and severally liable for all unpaid assessments that came due up to the time of transfer of title. A first mortgagee or its successor or assignee who acquires title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title is limited to the lesser of:

- a. The unit's unpaid common expenses and regular periodic assessments that accrued or came due during the six months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or
- b. One percent of the original mortgage debt.

The provisions of this paragraph shall not apply unless the first mortgage joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the mortgagee.

A Unit Owner's liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

7.5 Assessments; Amended Budget. If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

7.6 Collection: Interest, Application of Payment. Assessments and installments on them, if not paid within 10 days after the date they become due, shall bear interest at the rate of 18% per year until paid. All assessment payments shall be applied first to interest and then to the assessment payment due

7.7 Lien for Assessment. The Association has a lien on each Condominium parcel to secure the payment of assessments. The lien is effective for one year after the claim of lien is recorded in the public records of Volusia County unless, within that time, an action to enforce the lien is commenced. The claim of lien shall secure all unpaid assessments that are due and that may accrue after the recording of the claim of lien and before the entry of a certificate of title, as well as interest and all reasonable costs and attorney's fees incurred by the Association incident to the collection process. The lien is subordinate to any mortgage on the Condominium parcel recorded before it.

7.8 Collection: Suit, Notice. The association may bring an action to foreclose any lien for assessments in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgement for the unpaid assessment without waiving any claim of lien. The Association shall give notice to the Unit Owner of its intention to foreclose its lien at least 30 days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address.

7.9 Fines. Before levying a fine under section 4.25, the Board of Directors shall afford an opportunity for hearing to the party against whom the fine is sought to be levied, after reasonable notice of not less than 14 days. The notice shall include:

- a. A statement of the date, time and place of the hearing;
- b. A statement of the provisions of the Declaration, these Bylaws, and lawfully adopted rules and regulations that have allegedly been violated; and
- c. A short and plain statement of the matters asserted by the Association.

The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved before a committee of other unit owners and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. Each day of violation shall be a separate violation. The affected Unit Owner, whether the offending party or not, shall always be given notice of the hearing. No fine shall become a lien against a Unit. No fines may be levied against unoccupied Units.

VIII. ASSOCIATION CONTRACTS, GENERALLY.

8.1 Fair and Reasonable; Cancellation. Any contracts made by the Association before the Unit Owners assume control from the Developer must be fair and reasonable. All contracts for the operation, maintenance, or management of the Association or property serving the Unit Owners, made by the Association, whether before or after assumption of control of the Association by the Unit Owners, must not be in conflict with the powers and duties of the

Association or the rights of the Unit Owners. Contracts made by the Association before the Unit Owners assume control may be canceled by the Unit Owners after assumption of control in the manner and under the circumstances as provided in the Act.

8.2 Laundry-Related Vending Equipment. The Developer may obligate the Association under lease or other contractual arrangements for laundry-related vending equipment. The leases or agreements for the vending equipment may not be subject to cancellation by Unit Owners other than the Developer if those leases or agreements contain certain provisions as prescribed by the Act.

8.3 Escalation Clauses in Management Contracts Prohibited. No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the state of Florida.

8.4 Requirements for Maintenance and Management Contracts. Written contracts for operation, maintenance, and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- a. Specification of the services, obligations, and responsibilities of the service provider.
- b. Specification of costs for services performed.
- c. An indication of frequency of performance of services.
- d. Specification of minimum number of personnel to provide the contracted services.
- e. The disclosure of any financial or ownership interest that the Developer has in the service provider, if the Developer is in control of the Association.

IX. ASSOCIATION OFFICIAL RECORDS.

The Association, from its inception, shall maintain each of the following items when applicable, which shall constitute the official records of the Association:

- a. A copy of the plans, permits, warranties, and other items provided by the Developer under F.S. 718.301 (4).
- b. A photocopy of the recorded Declaration of each Condominium operated by the Association and all amendments thereto.
- c. A photocopy of the recorded Bylaws of the Association and all amendments thereto.
- d. A certified copy of the Articles of Incorporation of the Association and all amendments thereto.
- e. A copy of the current rules of the Association.
- f. A book or books containing the minutes of all meetings of the Association, the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than seven years.
- g. A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and, if known, telephone numbers. Additionally, the Association may require a copy of the deed or other instrument showing each Unit's ownership, together with a copy of any mortgage on the Unit and any satisfaction of that mortgage.

- h. All current insurance policies of the Association and Condominiums operated by the Association.
- i. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.
- j. Bills of sale or transfer for all property owned by the Association.
- k. The accounting records required in 6.7.
- l. Ballots, sign-in sheets, and voting proxies, which shall be maintained for a period of one year from the date of the election, vote, or meeting to which the proxy relates.
- m. All rental records when the Association is acting as agent for the rental of Condominium Units.
- n. A copy of the current Frequently Asked Questions and Answer Sheet in a form adopted by the Division of Florida Land Sales, Condominiums, and Mobile Homes.
- o. All other records of the Association not specifically included in the foregoing that are related to the operation of the Association.

The official records of the Association are open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an Association to provide the records within 10 working days after receipt of a written request shall create a rebuttable presumption that the Association willfully failed to comply with this paragraph. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this paragraph. The minimum damages shall be \$50 per calendar day up to 10 days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the Association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain an adequate number of copies of the Declaration, Articles of Incorporation, Bylaws, and Rules, and all Amendments to each of the foregoing, as well as the question and answer sheet provided for in F.S. 718.504 and year-end financial information required in Chapter 718, 718.111 on the Condominium property to ensure their availability to Unit Owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to Unit Owners:

- 16. A record which was prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.
- 17. Information obtained by an association in connection with approval of the lease, sale, or other transfer of a unit.

18. Medical records of Unit Owner.

X. OBLIGATIONS OF OWNERS.

10.1 Violations, Notice, Actions. In the case of a violation (other than the nonpayment of an assessment) by a Unit Owner of any of the provisions of the Act, the Declaration, the Articles, these Bylaws, or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors may transmit to the Unit Owner by certified mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of 30 days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provisions cited in the notice. It then, at its option, may take the following actions:

- a. File an action to recover for its damages on behalf of the Association or on behalf of other Unit Owners.
- b. File an action for injunctive relief requiring the offending Unit Owner to take or desist from taking certain actions.
- c. File an action for both damages and injunctive relief.

A Unit Owner may bring an action against the Association or any Director for damages, injunctive relief, or both, if the Association or a Director willfully and knowingly fails to comply with the provisions of the Act, the Declaration, the Articles, these Bylaws, or the rules and regulations.

The foregoing action may be taken in addition to the Association's right to impose fines under Section 4.25 of these Bylaws.

10.2 Attorneys' Fees. In any action brought under the provisions of Section 10.1, the prevailing party is entitled to recover reasonable attorneys' fees.

10.3 No Waiver of Rights. Neither a Unit Owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a Unit Owner or the purposes of the provision, except that Unit Owners or Board members may waive notice of specific meetings in writing.

XI. ARBITRATION OF INTERNAL DISPUTES.

All issues or disputes that are recognized by the Act or by administrative rules promulgated under the Act as being appropriate or required for mediation or arbitration shall be resolved through the alternative dispute resolution procedures instead of civil litigation.

XII. LIABILITY SURVIVES MEMBERSHIP TERMINATION.

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the Condominium during the period of membership nor impair any rights or remedies that the Association may have against the former member arising out of membership and his or her covenants and obligations incident to that membership.

XIII. LIMITATIONS ON UNIT OWNER LIABILITY FOR USE OF COMMON ELEMENTS.

Each Unit Owner may be personally liable for the acts or omissions of the Association relating to the use of the Common Elements. That liability shall be shared with other Unit Owners

in the same percentages as their respective interests in the Common Elements. No individual Unit Owner's liability shall exceed the value of his or her Unit.

XIV. PARLIAMENTARY RULES.

Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, the Articles, or these Bylaws.

XV. RULES AND REGULATIONS.

15.1 Board May Adopt. The Board of Directors from time to time may adopt and amend reasonable rules and regulations governing the details of the use and operation of the common Elements, Association property, and recreational facilities serving the Condominium.

15.2 Posting and Furnishing Copies. A copy of the rules and regulations adopted from time to time by the Board of Directors, and any amendments to existing rules and regulations, shall be posted in a conspicuous place on the Condominium property and a copy furnished to each Unit Owner. No rule, regulation, or amendment shall become effective until 30 days after posting, except in the case of an emergency, in which case the rule, regulation, or amendment shall become effective immediately on posting.

15.3 Limitations on Authority. The Board of Directors may not unreasonably restrict any Unit Owner's right to peaceably assemble or to invite public officers or candidates for public office to appear and speak in Common Elements, Association property, common areas, and recreational facilities. The Board may not deny any resident of the Condominium, whether tenant or owner, access to any available franchised or licensed cable television service or exact a charge or anything of value in excess of charges normally paid for like services by residents of single-family homes within the same franchise or license area.

15.4 Reasonableness Test. Any rule or regulation created and imposed by the Board of Directors must be reasonably related to the promotion of the health, happiness, and peace of mind of the Unit Owners and uniformly applied and enforced.

XVI. RESTRICTIONS ON AND REQUIREMENTS FOR USE, MAINTENANCE, AND APPEARANCE OF UNITS.

16.1 Where Contained. Restrictions on the use, maintenance, and appearance of the individual Condominium Units shall be as stated in the Declaration and no amendments to the restrictions shall be contained elsewhere than in the Declaration as adopted by a vote of the Unit Owners conducted in the manner prescribed in these Bylaws.

16.2 Tests for Validity of Restrictions. Restrictions contained in the Declaration and any amendments duly adopted by a vote of the Unit Owners shall be valid and in the nature of covenants running with the land, unless it is shown that they (1) are wholly arbitrary in their application; (2) are in violation of public policy; or (3) abrogate some fundamental constitutional right.

XVII. PRIORITIES IN CASE OF CONFLICT

In the event of conflict between or among the provisions of the following, the order of priorities shall be, from highest priority to lowest:

- a. The Act, as it existed on the date of recording the Declaration,
- b. The Declaration.
- c. The Articles.
- d. These Bylaws.

- e. The rules and regulations.

XVIII. INDEMNIFICATION.

Every Officer and Director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which he or she may be a party, or in which he or she may become involved by reason of being or having been an Officer or Director of the Association, whether or not an Officer or Director at the time the expenses are incurred. The Officer or Director shall not be indemnified if adjudged guilty of gross negligence or willful misconduct or if he or she shall have breached the fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved by the Board of Directors. The foregoing rights shall be in addition to and not exclusive of all other rights to which the Director or Officer may be entitled.

XIX. DEFECTIVE CONDOMINIUM DOCUMENTS; CURATIVE PROVISIONS.

Under F.S. 718.110 (10), the Association or a Unit Owner may petition the circuit court having jurisdiction in the county in which the Condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the Condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration or the Act. In any case, after three years from the filing of the Declaration, it shall be deemed to be effective under the Act to create a Condominium, whether in fact it substantially complies with the mandatory requirements of the Act or not.

XX. AMENDMENTS.

Amendments to these Bylaws shall be proposed and adopted in the following manner:

20.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

20.2 Adoption. An amendment may be proposed either by a majority of the Board of Directors or by not less than one third of the voting interests of the Association. The amendment shall be adopted if it is approved by not less than two thirds of the voting interests of the Association.

20.3 Limitation. No amendment shall be made that is in conflict with the Act or the Declaration, nor shall any amendment abridge, alter, or amend the rights of the Developer or mortgagees of Units without their consent.

20.4 Recording. A copy of each amendment shall be attached to or included in a certificate certifying that the amendment was duly adopted as an amendment of the Bylaws. The certificate, which shall identify the first page of the book and page of the public records where the Declaration of each Condominium operated by the Association is recorded, shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the county where the Declaration is recorded.

20.5 Format. Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER FOR PRESENT TEXT."

XXI. CONSTRUCTION.

When the context permits or requires, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

The foregoing were adopted as the **Bylaws of Bella Vista Condominium, Inc.**, on this 22nd day of November, 2004.

BELLA VISTA CONDOMINIUM, INC.

ATTEST:

Sandra Cook
Secretary

BY:

Douglas M. Cook
Douglas M. Cook, President

ENFORCEMENT OF RULES

1. Upon the occurrence of a violation, the Board shall notify the Unit Owner, tenant, or invitee, of the date, time and place and type of violation, in a friendly manner. The parties are notified that a fine is assessable for reoccurrence of the violation. A copy of the applicable rule shall be included. A copy of the notification shall be on record with the Board. an officer of the Board (secretary) shall be in charge of sending these notices. The Board responsibility for enforcement of these rules rests with the Board and not with the Rules Committee.
2. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner and if applicable, his licensee or invitee. The hearing must be held before a committee of other Unit Owners. If the committee does not agree with the fine, the fine may not be levied.
3. The Association must adopt a written procedure as part of the Association Bylaws or Rules. That procedure in general terms must provide for a hearing if requested with at least 14 days notice of the hearing date, time and place. Additionally, the notice must include a statement of the provision of the Declaration of the Condominium, Bylaw or rule which has been violated, as well as a short, plain statement of the Association's position. The party against whom a fine is sought to be levied must be afforded the opportunity to respond, present evidence, provide written and oral argument on all issues, and review, challenge, and comment on any material considered by the Association.
4. The Board shall appoint a Covenants Review Committee which shall consist entirely of Unit Owners other than Board members, and which shall be charged with conducting the hearing and rendering the decision with regard to the levy of fines. The committee shall report findings to the Board for further action.
5. The Board may levy fines up to the maximum allowable by law.
6. Mediation, arbitration, or legal action may be undertaken against a Unit Owner for not paying a fine.

GENERAL

1. The public hallways, sidewalks, driveways and stairways shall not be obstructed or used for any purpose other than ingress to and egress from the residence. Door mats, shoes or other items shall not be placed or stored in the walkways.
2. Noise which disturbs others shall not be permitted if avoidable. Sliding glass doors and screens shall be operated slowly and as quietly as possible. The volume on television, radio, stereo or other musical and sound devices shall be turned low at all times, especially during the hours from 11:00 P.M. to 8:00 A.M. daily.
3. Toys and vehicles, such as tricycles, bicycles, skates, skateboards, scooters and the like which are ridden or propelled shall not be utilized on any balcony, lanai or in any of the common elements and common areas of the buildings or grounds other than those areas which may be specifically designated for their use. The operation of such equipment in the garage area is prohibited at all times.
4. Bicycles are not permitted in the elevators or lobbies at any time, except to take bicycles to and from an owner's or lessee's condominium.
5. Responsibility for repair of damage caused to common areas, common elements, limited common elements, including but not limited to elevators, walls, landscaping,

appurtenances, properties or equipment will be that of the owner of the unit whose family, guest, or lessee caused such damage. The owner will be responsible for all costs.

6. Except for Christmas lights or displays and the United States flag, and on Armed Forces Day, Flag Day, Independence Day, and Veterans Day may display in a respectful way portable, removable official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Co, no sign, signal advertisement or illumination shall be inscribed or exposed on or at any window or other part of the building, unless approved in writing by the Association.
7. No outside shades, awnings or window guards shall be used, except those put up or approved by the Association.
8. Smoking in the elevators is specifically forbidden and punishable by State law. Elevators shall be kept clean and free of sand and debris. Proper attire must be worn at all times (e.g., shoes, shirts, cover-ups).
9. Names or signs are not permitted, except in the space provided on the door of each residence. Management will specify and procure identification signs for use on the mail box, directory and intercom panel.
10. Common areas, common elements and limited common elements shall not be used for the storage of furniture or other personal property. hazardous or flammable materials may not be stored anywhere on the property.
11. Beach and swimming attire may be worn only with appropriate cover-up in elevators and lobbies.
12. The exterminator must be permitted entrance into each condominium by owners or occupants to insure maintenance of adequate control of bugs and insects.
13. Eating of food, drinking of beverages and littering of any kind, is prohibited in the lobby, elevators, walkways and common indoor areas other than club room.
14. Footwear must be worn to and from the pool area.
15. Keep your units secure, however management must have reasonable access for repairs and immediate access for emergencies.
16. Owners who are absent should turn off the main water valve and small appliances.

BALCONIES, PATIOS & WINDOWS

1. It is prohibited to throw cigarettes, cigars, or any other abject from the balconies, patios or windows.
2. It is prohibited to hang garments, rugs, towels, bathing suits and similar items from windows, balconies, patios or other common elements of the building.
3. The use of charcoal or propane gas grills is prohibited on balconies or patios.
4. Washing down balconies, patios or windows with a water hose is permitted only during a rain shower so as not to interrupt the enjoyment of those living below each condominium unit.
5. PATIOS OR BALCONIES CANNOT BE USED FOR STORAGE.

6. Young children should never be left alone on a balcony and should be accompanied by an adult at all times.
7. Feeding birds from the balcony is not permitted.

SECURITY

1. Lobby doors, garage doors and service entrance doors shall not be opened for unknown or unidentified persons. Do not allow such persons to follow you into the building. Advise strangers to call those they wish to visit.
2. The Association should have a key to all condominium units for use in case of emergencies. Anyone changing a lock or adding a lock must supply a key to be kept in the key vault. Should it be necessary for the Association to enter the unit under emergency conditions, cost of forced entry, if no key is available, will be the responsibility of the owner.

PETS

1. Unit Owners may have pets appropriate to condominium living.
2. Indoor pets may include cats, fish aquariums and birds. They are limited to the confines of the unit within the boundary of the lanai.
3. Outdoor pets may include dogs and cats. A maximum of two pets is allowed and no pet may weigh more than 60 lbs. The demeanor of the pet must be appropriate to condominium living.
4. Any pet leaving a condominium unit shall be adequately contained or leashed while in the common areas.
5. Dogs are to be walked outside of the fence line west of the sidewalk and not in common areas except for egress and ingress to the condominium property. No pet is allowed at the pool area or back side. Pets must not be walked on grass inside or outside of the fence line that borders the condominium property.
6. A city ordinance and these condominium rules require unit owners and renters to clean up after their pets.
7. No pet shall be bred or maintained for commercial use.
8. Outdoor pets must have required immunizations and vaccination shots as recommended by the American Veterinary Association.
9. Any pet which creates nuisance to residents must be removed.
10. A Unit Owner who leases their unit shall prohibit renters/lessees from having pets in the unit during the rental /lease term.
11. A Unit Owner may allow guests to bring a pet during their visit, however at no time are more than a total of two outdoor pets allowed during the guest's visit. A guest's pet is subject to the same rules as the Unit Owner.

POOL

1. Rules for use at the pool and pool area will be posted at the pool area and will be enforced.
2. Pool hours: 8:00 A.M. to 11:00 P.M.
3. Pool may be used by owners, renters and guests.
4. No lifeguard is on duty. Use the pool at your own risk.
5. Children under 12 years must be supervised by an adult at all times.
6. Parents are responsible for the conduct and safety of their minority aged children and guests at all times.
7. Children who are not toilet trained and/or wear diapers must wear protective pants.
8. No breakable containers and no food or drinks are permitted while in the pool.
9. No beverage drinking is permitted while in the pool.
10. NO DIVING!!
11. No running, rough play or throwing any (i.e., frisbees, balls, etc.).
12. Floats, boogie boards and remote control toys are not allowed in the pool. Fun noodles and life vests are permitted.
13. Animals are not allowed in the pool, pool area or beach.
14. Only bathing suits are to be worn in the pool.
15. Only battery operated devices are permitted in the pool area. Radios must be maintained at a low volume so as not to disturb others. Personal headphones are preferred.
16. Do not remove furniture from pool area.
17. Cover chairs and lounges with towels or cloth when sunbathing.
18. All pool gates must be locked at all times for safety and security of children.
19. No one at any time, may climb or jump over a fence on community grounds. This specifically includes the pool area.
20. No food or drink is permitted within four feet of the pool.

CLUB ROOM

1. The lobby door is to be locked at all times and opened only during meetings and social events.
2. Children under 12 must be chaperoned by an adult at all times.
3. Swim wear, bare feet and water sports equipment are not allowed in the clubroom.
4. All food and drink containers and other trash must be removed by the users.

5. If the kitchen is used, it must be cleaned up by the user, and all appliances used must be turned off. Appliances are only available by special request on application for rental of the Club Room and for Association related activities.
6. No smoking is permitted in the club room.
7. If the television is used, the user must turn off when finished and replace the remote control on the table.
8. The last one to leave the room must set the thermostat at 78 degrees for cooling or 72 degrees for heating.
9. Decorations cannot be attached to walls, ceilings or painted surfaces by tape, push pins, nails or any other fastener that may damage or discolor the surfaces.
10. No animals are allowed in the club room.
11. All club room activities and parties are to conclude by 12:00 midnight, except for New Years Eve.
12. Unless otherwise reserved, the club room will be closed from midnight until 8:00 A.M. No one is permitted in the club room during these hours.

FITNESS CLUB (EXERCISE ROOM)

1. Children under 12 must be accompanied by an adult at all times.
2. Use of exercise machines are at your own risk.
3. No radios or other audio devices (except that which has been provided for in the facility) are permitted. Personal head sets are acceptable.
4. Smoking is not permitted.
5. Fitness club hours are from 6:00 A.M. to 9:00 P.M.

GARAGE & PARKING

There are two areas for parking. One is **Garage** and the other is **Outside**. Both areas are regulated and are reserved only for Owners, Guest and lessees.

1. Vehicles must be parked Between the lines.
2. Owners and Lessees (displaying the appropriate decal or permit) are permitted to park in the garage.
3. Guest must only park Outside and are forbidden to park in the garage.
4. No trucks or commercial vehicles, boats, house trailers, boat trailers, jet ski trailer, motorcycle trailers, mobile homes, campers or trailers of any description shall be parked in any parking space except with the written consent of the Board of Directors. This protection of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and such other services as may be necessary for the maintenance and service of the condominiums, common areas and common elements.

5. VEHICLES IN VIOLATION OF THE ABOVE WILL BE TOWED AT VEHICLES OWNER'S EXPENSE.
6. owners are responsible for their guests and lessees.
7. Never follow another car through the garage opening when entering or leaving the garage.
8. Skateboarding, roller-blading and bike riding are prohibited.
9. No car repairs can be made in the garage.
10. No refueling of any kind.
11. No oil changing of any kind.

LEGAL DESCRIPTION

LOT 28 AND THE NORTHERLY $\frac{1}{2}$ OF LOT 29, LYING EASTERLY OF ATLANTIC AVENUE AS NOW LOCATED, CHARLES N. MORRIS SUBDIVISION, AS PER MAP OR PLAT THEREOF RECORDED IN MAP BOOK 1 AT PAGE 118 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

THE SOUTHERLY $\frac{1}{2}$ OF LOT 29 AND THE NORTHERLY 21 FEET OF LOT 30, LYING EASTERLY OF ATLANTIC AVENUE AS NOW LOCATED, CHARLES N. MORRIS SUBDIVISION, AS PER A MAP OR PLAT THEREOF RECORDED IN MAP BOOK 1 AT PAGE 118 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH:

THE SOUTHERLY 87.75 FEET OF LOT 30, AS MEASURED ALONG THE EAST SIDE OF SOUTH ATLANTIC AVENUE, AS LAYS EASTERLY OF ATLANTIC AVENUE IN CHARLES N. MORRIS SUBDIVISION, ACCORDING TO MAP FILED IN MAP BOOK 1 AT PAGE 118 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.