**CERTIFICATE OF AMENDMENT**

 **THE UNDERSIGNED**, being the duly and acting President of **THE SHORES OF CALOOSA YACHT & RACQUET CLUB, INC.** (“The Shores of Caloosa”), a Florida corporation not for profit, hereby certifies that at a meeting of the members held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, where a quorum was present, after due notice, the resolution set forth below was approved by the vote indicated for the purpose of amending and restating the Declaration of Covenants and Restrictions for The Shores of Caloosa, as originally recorded at O.R. Book 1817, Page 2827 et seq., of the Public Records of Lee County, Florida, for the purpose of amending said Declaration, as previously amended.

1. The following resolution was approved by affirmative vote of 67% of the voting interests in the Shores of Caloosa.

**RESOLVED: That the Declaration of Covenants and Restrictions for The Shores of Caloosa is hereby amended and the amendment is adopted in the form attached hereto, and made a part hereof.**

1. The following resolution was approved by the affirmative vote of at least a majority of the voting interests.

**RESOLVED: That the Articles of Incorporation of The Shores of Caloosa are hereby amended and the amendment is adopted in the form attached hereto and made a part hereof.**

1. The following resolution was approved by the approval of at least a majority of the voting interests present, in person or by proxy.

**RESOLVED: That the By-Laws of The Shores of Caloosa are hereby amended and the amendment is adopted in the form attached hereto, and made a part hereof.**

**THE SHORES OF CALOOSA**

**YACHT & RACQUET CLUB, INC.**

 a Florida not-for-profit corporation

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Witness \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, its President

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Witness

 (CORPORATE SEAL)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Witness

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF

 Sworn to and subscribed before me, an officer duly authorized to take acknowledgments, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ President of THE SHORES OF CALOOSA YACHT & RACQUET CLUB, INC., to me personally known or identified by a drivers’ license and who did take an oath, on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2018.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Printed name of Notary

 My Commission Expires:

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION.**

**FOR PRESENT TEXT SEE EXISTING DECLARATION OF COVENANTS.**

**AMENDED AND RESTATED**

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**THE SHORES OF CALOOSA YACHT & RACQUET CLUB, INC**.

**KNOW ALL MEN BY THESE PRESENTS** that the original Declaration of Covenants and

Restrictions of The Shores of Caloosa Yacht & Racquet Club, Inc., was recorded in O.R. Book 1817, Page 2827 et seq., of the Public Records of Lee County, Florida. That Declaration, as it has previously been amended, is hereby further amended and is restated in its entirety, as amended.

The land subject to this Declaration (hereinafter “The Shores of Caloosa” or the “Property”) is legally described in Exhibit “A” to the original Declaration as amended. That Exhibit is hereby incorporated herein by reference. No additional land is being added by this instrument. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners. The acquisition of title to a Parcel or any other ownership interest in the Property, or the lease, occupancy or use of any portion of a Parcel or the Property, constitutes and acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

**1. DEFINITIONS** The following words and terms used in this Declaration or any of the governing documents (unless the context shall clearly indicate otherwise) shall have the following meanings:

* 1. "**Assessments**" means a share of the funds required for the payment of common expenses which from time to time are assessed by the Association against an Owner.
	2. "**Articles**" and "**Bylaws**" as used herein, means the Articles of Incorporation and the Bylaws of The Shores of Caloosa Yacht & Racquet Club, Inc., as amended from time to time. A copy of the Amended and Restated Articles of Incorporation and Bylaws are attached hereto as Exhibits "B" and "C" respectively.
	3. "**Association**" means The Shores of Caloosa Yacht & Racquet Club, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the common areas and amenities at The Shores of Caloosa.
	4. "**Board**" means the Board of Directors responsible for the administration of The Shores of Caloosa Yacht & Racquet Club, Inc.
	5. “**Common Areas**" or "**Common Properties**" shall mean and refer to those areas of land within the community intended to be devoted to the common use and enjoyment of the Owners of The Properties.
	6. "**Common Expenses**" means the expenses incurred by the Association in the course of performing its duties under the governing documents and the law. Common expenses of the Association include the costs of operating the Association, the costs of administration, maintenance, operation, repair and replacement of the common areas, other expenses declared by the governing documents to be common expenses, and any other valid expenses or debts of the common property as a whole of the Association which are assessed against the Parcel Owners.
	7. "**Common Surplus**" means the excess of all receipts of the Association, including but not limited to assessments, rents, profits and revenues over the common expenses.
	8. "**Declaration of Covenants**" means this Declaration, as amended from time to time.
	9. "**Family**" or "**Single Family**" shall refer to either (A) one natural person; or (B) Two or more natural persons who commonly reside together as a single housekeeping unit.
	10. “**Governing Documents**” means and included this Declaration, the Articles and Bylaws, and all recorded exhibits thereto, as amended from time to time.
	11. “**Guest**” means any person who is not the Owner or lessee of a home or residence or a member of the Owner’s or lessee’s family, who is physically present in, or occupies a home or residence on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.
	12. “**Home**” or “**Residence**” means each one of the sixty-six (66) residences intended for residential use which is constructed on a lot or Parcel.
	13. “**Institutional Mortgagee**” means the mortgagee (or its assignee) of a mortgage against a Parcel, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Parcel which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns.
	14. "**Lease**" means the grant by a residential Owner of a temporary right of use of the Owner's Parcel and residence for valuable consideration.
	15. "**Lot**," "**Parcel**" or "**Unit**" means a parcel of land located within the real property described in Exhibit "A" as previously amended upon which a home or residence has been or may be permanently placed and affixed and which fee simple title to the parcel has been conveyed to the Owner of the home. No lot or parcel may be subdivided or joined together without the consent of the Association.
	16. "**Members**" means and refers to those persons who are entitled to membership in the Association as provided in this Declaration and the Association's Articles of Incorporation and Bylaws.
	17. "**Occupy**" when used in connection with a residential Parcel, means the act of staying overnight in a home or residence. "Occupant" is a person who occupies a home or residence.
	18. "**Owner**" or "**Parcel Owner**" means the record owner of legal title to a Parcel or lot.
	19. "**Plats**" means the plats of The Shores of Caloosa recorded in the Plat Books of the Public Records of Lee County, Florida.
	20. "**Primary Occupant**" means the natural person approved for occupancy of a home or residence when title to the home or residence is held in the name of two or more persons, or by a trustee or corporation or other entity which is not a natural person. When used in reference to a Parcel owned in one of the forms listed above, the term "primary occupant" shall be synonymous with the term "Owner."
	21. "**Properties**" or "**Community**" means all the real property, which is subject to this Declaration as described in Exhibit "A" of the original Declaration as previously amended.
	22. “**Structure**” means that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.” The term includes, without limitation, swimming pools, fences, flagpoles, antennas, playground equipment, and storage sheds.
	23. “**Voting** **Interests**” means the voting rights distributed to the Association members pursuant to the Bylaws.

**2. ASSOCIATION**

2.1 **Membership**. Every Owner of a Parcel shall be a member of the Association, and by acceptance of a deed or other instrument evidencing his ownership interest, each Owner accepts his membership in the Association, acknowledges the authority of the Association as herein stated and agrees to abide by and be bound by the provisions of this Declaration, the Articles and Bylaws, and the rules and regulations of the Association, as amended from time to time.

2.2 **Voting Rights**. Voting rights are set forth in the Bylaws of the Association.

2.3 **Articles of Incorporation**. A copy of the Amended and Restated Articles of Incorporation of the Association is attached to this Declaration as Exhibit "B."

2.4 **Bylaws**. The Bylaws of the Association shall be the Amended and Restated Bylaws attached to this Declaration as Exhibit "C," as they may be amended from time to time.

2.5 **Delegation of Management**. The Association may contract for the management and maintenance of those portions of the Property it is required to maintain, and may authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the common areas with funds made available by the Association for such purposes.

2.6 **Acts of the Association**. Unless the approval or affirmative vote of the Parcel owners is specifically made necessary by some provision of the law or the governing documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Parcel Owners. The officers and Directors of the Association have a fiduciary relationship to the Parcel Owners. A Parcel Owner does not have the authority to act for the Association by reason of being a Parcel Owner.

2.7 **Powers and Duties**. The powers and duties of the Association include those set forth in Chapters 617 and 720, Florida Statutes, and in the governing documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the common areas. The Association may impose fees for the use of common areas or Association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory, easement or use interest in land or facilities for the use and enjoyment of the Owners.

2.8 **Official Records**. The Association shall maintain its official records as required by law. The records shall be open to inspection by Members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the Member seeking copies.

2.9 **Purchase of Parcels**. The Association has the power to purchase parcels and to hold, lease, mortgage, or convey them. Such power is to be exercised by the Board of Directors.

2.10 **Interests in Real Property**. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 2.9 above, the power to acquire, or convey ownership interests in real property shall be exercised by the Board of Directors only after approval by at least a majority of the voting interests of the Association, present, in person or by proxy, at a duly called meeting of the members of the Association, called for the purpose. However, the power to lease or grant easements to Association property or common areas shall be exercised solely by the Board of Directors.

2.11 **Disposition of Personal Property**. Any personal property owned by the Association, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the Parcel Owners.

2.12 **Roster**. The Association shall maintain a current roster of names and mailing addresses of Parcel Owners, based upon information supplied by the Parcel Owners. A copy of the roster shall be made available to any Member upon request.

3. **ASSESSMENTS**. The provisions of this section shall govern assessments payable by all Owners of parcels, for the common expenses of the Association not directly attributable to one of the parcels.

* 1. **Covenant to Pay Assessments.** Each Owner of a parcel by the act of becoming an Owner covenants and agrees, and each subsequent Owner of any parcel (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

(A) the Parcel Owner's pro-rata share of annual assessments based on the annual budget adopted by the Association;

(B) the Parcel Owner's pro rata share of special assessments for capital improvements or other

Association expenditures not provided for by annual assessments; and

(C) any charges properly levied against individual Parcel Owners without participation from other Owners.

Assessments and charges shall be established and collected as provided herein and elsewhere in the governing documents. The owner of each parcel, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 3.10 below, whenever title to a parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments and charges against the transferor, regardless of wen incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee. No Owner may waive or otherwise escape liability for the assessments and charges provided for herein by waiver or non-use of the common areas, by abandonment, or otherwise. Except as provided elsewhere in the governing documents as to Institutional Mortgagees, no Owner may be excused from the payment of assessments unless all Owners are similarly excused. Assessments and other funds collected by or on behalf of the Association become the property of the Association. No Parcel Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his parcel. No Owner can withdraw or receive distribution of his prior payments to the common surplus or Association reserves, except as otherwise provided herein or by law.

* 1. **Purposes of Assessments**. The assessments levied by the Association shall be used for the purposes of promoting the security, health, safety and general welfare of the Parcel Owners and residents of Shores of Caloosa; to operate, maintain, repair, improve, construct, reconstruct and preserve, on a not for profit basis the common areas owned by the Association for the benefit of its Members, their guests, tenants and invitees; and to perform all other duties and responsibilities of the Association as provided in the governing documents. Common expenses also include the funds necessary to provide reserve accounts for:
1. renovation or major repairs to the common areas; and
2. for emergency and other repairs required as a result of storm, fire, natural disaster or other

casualty loss.

* 1. **Share of Assessments**. Shores of Caloosa contains sixty-six (66) lots. The Owners of each Lot shall be jointly and severally liable for an undivided one sixty-sixth (1/66th) share of annual and special assessments. The Owners of each Lot shall also be jointly and severally liable with the prior parcel Owner(s) for all unpaid assessments that come due prior to the transfer of title.
	2. **Lien**. The Association has a lien on each parcel for unpaid past due Association assessments and charges, together with interest, late payment penalties and reasonable attorney fees incurred by the Association in enforcing this lien. The lien is perfected by recording a Claim of Lien in the public records of the county, which Claim of Lien shall state the description of the property encumbered thereby, the name of the record Owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Association. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid assessments and charges, interest, costs and attorney fees which are due and which may accrue or come due after the recording of the Claim of Lien and before the entry of a final judgment of foreclosure. Upon full payment, the person making payment is entitled to a satisfaction of the lien.
	3. **Foreclosure of Lien**. The Association may bring an action in its name to foreclose its lien for unpaid assessments or charges by the procedures and in the same manner as is provided in Section 720.3085, Fla. Stat., as amended from time to time, for the foreclosure of a lien upon a parcel for unpaid assessments. The Association may also bring an action at law against any Owner liable for unpaid charges or assessments. If final judgment is obtained, such judgment shall include interest on the assessments as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action, and the Association shall be entitled to recover reasonable attorney's fees in connection with any appeal of such action.
	4. **Priority of Liens**. Except as otherwise provided by Section 720.3085, Fla. Stat., as it presently exists or as it may be amended from time to time, the Association's lien for unpaid charges or assessments shall be subordinate and inferior to any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but shall be superior to, and take priority over, any other lien or mortgage regardless of when recorded. Any lease of a parcel shall be subordinate and inferior to the lien of the Association, regardless of when the lease was executed.
	5. **Application of Payments; Failure to Pay; Interest**. Assessments, charges and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late payment fee (in addition to interest). Assessments, charges and installments thereon shall become due, and the parcel Owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, late payment fees, court costs and attorney fees, and then to delinquent charges or assessments. The Association may refuse to accept a partial payment which bears a restrictive endorsement and such will be the equivalent of no payment. No payment by check is deemed received until the check has cleared.
	6. **Acceleration**. If any special assessment or installment of a regular assessment as to a parcel becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the residential parcel's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the acceleration, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid.

If a unit Owner fails to pay in full all assessments due under a lien and said default shall continue into a new fiscal year, the Association shall have the right to accelerate the due date of the entire balance of the residential parcel's assessments for that fiscal year as well. The due date for all accelerated assessments for that fiscal year shall be the first day of that fiscal year. The right to accelerate a new fiscal year's assessments shall be exercised by sending to the delinquent Owner a notice of the acceleration, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid.

* 1. **Certificate as to Assessments**. Within fifteen (15) days after request by a Parcel Owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Association by the parcel Owner with respect to the parcel have been paid. Any person other than the Parcel Owner who relies upon such certificate shall be protected thereby.
	2. **Mortgage Foreclosure**. The liability of a first mortgagee or its successor or assignees who acquire title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of:

(A) The unit's unpaid common expenses and regular periodic or special assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or

1. One percent (1%) of the original mortgage debt. The provisions of this paragraph 3.10 apply only if the first mortgagee 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 which was known to or reasonably discoverable by the mortgagee.
2. **EASEMENTS**
	1. **Appurtenant Enjoyment Easements**. The Owner of each Parcel, their guests, lessees and invitees, shall have as an appurtenance to their Parcels a perpetual nonexclusive easement for ingress and egress over, across and through the common areas, for the use and enjoyment of all recreational facilities and common areas, such use and enjoyment to be shared in common with the other Owners of Parcels, their guests, lessees and invitees, subject to the provisions of this Declaration. Guests and invitees must be accompanied by a Shores of Caloosa Resident when using the recreational facilities and common areas. From time to time the common areas, or any portion thereof, is opened and put into use for the enjoyment of Owners, tenants, guests and invitees, Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners, and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the common areas or any of its improvements, fixtures, and facilities; inasmuch as the control, operation, management, use and enjoyment, of the common elements and Association property shall be within, under, and subject to the Association. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the common areas and its facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the common elements and Association property and their improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.
	2. **Interior Roadway Easements**. The interior roadway system of Shores of Caloosa is common property owned by the Association. The roadways are subject to the rules and regulations as the Association imposes, however, each Owner of a Parcel shall have an easement for ingress and egress over said roadway system. The Board of Directors shall have the right to establish parking regulations and to enforce such regulation by all means lawful for such enforcement on drives and roadways.
	3. **Utility Easements**. A perpetual easement shall exist upon, over, under and across Shores of Caloosa for the purpose of maintaining, installing, repairing, altering and operating sewer lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, valves, gates, pipelines, cable television and all machinery and apparatus appurtenant thereto as may be necessary for the installation and maintenance of utilities servicing all Owners of parcels and servicing the common areas, all such easements to be of a size, width and location so as to minimize and not unreasonably interfere with the use of any improvements which are now, or will be, located upon said property. The Association, through its Board of Directors, has the authority to grant additional such easements, and to modify, move or vacate such existing easements as may be necessary to efficiently and effectively provide utility and other services to the parcels and the common elements and common areas.
	4. **Subordination**. Notwithstanding any of the foregoing to the contrary, it is understood that these covenants and restrictions are subordinate, and will be subordinate without the necessity of any other instrument, to any existing easement covering the basic water, sewer and drainage systems installed in the common areas, and any existing easement or easements to any public or quasi-public utility for the installation and maintenance of service lines in the common areas.
	5. **Extent of Easements**. The rights and easements of enjoyment created hereby shall be subject to the following:

(A) the right of the Association with the prior approval of at least a majority of the voting interests present and voting, in person or by proxy, at any special or annual meeting, to borrow money for the purpose of improving and/or maintaining the common areas and providing the services authorized herein, and, in aid thereof, to mortgage said properties;

(B) the right of the Association to impose rules and regulations governing the use of the common areas and Association property as further provided in Section 7 of the Bylaws; and

(C) the right of the Association to a non-exclusive easement over, across and through each parcel as necessary to meet the Association's maintenance responsibilities.

(D) the right of the Association to levy assessments on Lots and units to enable the Association to pay the costs of operating and maintaining the Common Properties and other costs of the Association, and

(E) the right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, or for a period that may be determined by the Board of Directors for any violation of this Declaration, the Association's Articles, Bylaws or published rules and regulations; and

(F) the right of the Association to dedicate or transfer all of any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, determination as to purposes or as to the conditions hereof, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that at a Special or Regular Meeting of Members called for such purpose, of which thirty (30) days written notice was sent to each Member, the vote of two thirds (2/3) of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer;

(G) the right of the Association to grant exclusive easements and rights-of-way over certain parts of the Common Properties to Members of the Association when the Association deems it necessary; and

(H) the right of the Association to provide, restrict or limit access across the roadways as the Board of Directors deems necessary and proper. Such limitation may include but not be limited to the stopping and questioning of visitors into and across the property by such means as the Board of Directors deems is necessary and proper.

* 1. **Access and Drainage Easements. Lake Areas; and Wetland Areas.** Easements for installation and maintenance of utilities and drainage facilities are shown on the Plat, or are of record, and the same are reserved for such use. Within these easements, or on any Lot, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, unless approved by the Association, Lee County and, if applicable, South Florida Water Management District. It is important that the banks, berms, swales and drainage areas located within the Properties remain undisturbed and properly maintained in order to perform their function. Where any portion of such berms, swales or banks lie within a Lot, the Owner of that Lot shall maintain the same continuously and shall not disturb, damage or otherwise interfere with the berms, swales, drainage areas, and banks which are located on or adjoin the Lot. Lot swales/berms which are required to be located on certain Lots in the Subdivision pursuant to the Subdivision construction plans and South Florida Water Management District permit, and which may or may not be part of the surface water/storm water management system for the Subdivision, shall be constructed, maintained and repaired by the respective Lot Owners in accordance with said plans and permit. The initial construction of the Lot swales/berms shall be completed prior to the issuance of a certificate of occupancy for any residence to be constructed on said Lot; provided, however, initial construction of said berms and swales must be completed no later than the mandatory completion date established pursuant to the South Florida Water Management District permit, even if a residence has not been constructed on the Lot(s).
1. **MAINTENANCE.**
	1. **Maintenance and Alteration of Parcels and Residences**. Each Owner of a Parcel shall, at his sole cost and expense, maintain and repair all parts of the residence and structuring located on his Parcel (including but not limited to all fixtures, equipment, appliances, patios and pools) and damage caused by wildlife, including birds, keeping the same in a condition comparable to their condition at the time of their initial construction, except for ordinary wear and tear. No Owner shall materially alter, or make any substantial additions to his Parcel or to the exterior of his residence without the prior written approval of the Association, as further provided in Section 6. Such additions and alterations shall include, but not be limited to, landscaping, swimming pools, decks, awnings, hurricane protection and related equipment. The Owner shall also maintain all grassed or sodded areas, lawns, landscaping, trees and vegetation located on the individual Parcels in accordance with the rules and regulation and standards adopted by the Association from time to time. However, the Association may contract for some landscaping services and fund via assessments.
	2. **Association Maintenance**. The Association shall be responsible for the maintenance, repair, replacement and operation of all common areas, including, but not limited to, water retention and water management areas (excluding only those areas maintained by Owners.) landscaping, trees, plantings, lawns, flowers, water management facilities, irrigation systems and footpaths, roadways, common driveways, parking areas, and lighting.
	3. **Enforcement of Maintenance**. If the Owner of a Parcel fails to maintain his Parcel and/or residence as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Parcel, with or without consent of the Parcel Owner. The Association may repair, replace or maintain any item which constitutes a hazard to other property or residents, prevents the Association from fulfilling its maintenance responsibilities, or which has a materially adverse effect on the appearance of the Parcel. Any expenses so incurred by the Association shall be billed directly to the Owner of the Parcel to which such services are provided, and shall be a charge against the Parcel, secured by a lien against the Parcel as provided in Section 3 above.
	4. **Negligence; Damage Caused by Condition in Parcel**. Each Parcel Owner shall be liable for the expenses of any maintenance, repair or replacement of common areas, other residential Parcels, or personal property made necessary by his act or negligence or by that of any Member of his family or his guests, employees, agents, or lessees.
2. **ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY, QUALITY AND VALUE OF THE COMMUNITY.**
	1. **Improvements Requiring Approval**. No building, structure, enclosure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any structure, Parcel or common area, be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by the Association. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography.
3. **USE RESTRICTIONS**. The following rules and standards shall apply to Shores of Caloosa and shall be enforced by the Association:
	1. **Residences**. Each residence shall be occupied by only one Family at any time. Each residence shall be used as a home and for no other purpose. No business or commercial activity shall be conducted in or from any residence. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library in his residence, from keeping his personal, business or professional records in his residence, or from handling his personal, business or professional telephone calls or written correspondence in and from his residence. Such uses are expressly declared customarily incident to residential use.
	2. **Occupancy By Guests**. There is no restriction on the number of guests, whether related or unrelated to the Owner, who may occupy the residence, so long as the total number within the residence does not exceed the total occupancy limit permitted by County Code. Non-relative guests must submit a guest application, subject to Board approval, if staying for longer than seven (7) consecutive days while the Owner is not present or longer than thirty (30) consecutive days if the Owner is present. The Board may also require a background check.
	3. **Pets, Animals, Birds and Fowl**. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that two (2) dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Animals shall not weigh more than forty (40) lbs. each. No kennel or other commercial animal operation shall be maintained on any Lot. Notwithstanding the foregoing provisions of this section permitting dogs, cats or other household pets, no such pets may be kept, raised or maintained on any Lot under circumstances which, in the good faith judgment of the Association, shall constitute an unreasonable annoyance or nuisance to other residences in the vicinity, or an unreasonable interference with the comfortable and quiet use, occupation and enjoyment of the Properties. The keeping of birds, barking dog or other such noisy pets, except within the enclosed permanent walls of the residence and with windows closed, shall be prima fascia evidence of unreasonable annoyance or nuisance. Any pet must be carried or kept on a leash when outside the Lot or fenced-in area. Each Owner shall be responsible for his pets and the pets of any person residing on his Lot. Any resident shall pick up and remove any solid animal waste deposited by his pet on the Common Areas or on other Lots. The Board of Directors may require any pet to be immediately and permanently removed from a Lot due to a violation of this paragraph, or may seek other remedies as provided in this Declaration. The Board of Directors may grant written permission, in their discretion, allowing any Owner to keep on any Lot other animals not specifically permitted herein. Permission may be withdrawn at any time and may have specific restrictions placed on it by the Board of Directors, which may be modified by the Board of Directors from time to time, at its sole discretion. The Board of Directors may establish rules and regulations regarding the maximum size of animals permitted within the Association and may also establish breed restrictions for dogs if recommended for insurance purposes.
	4. **Nuisances**. No Owner shall use his Parcel and/or residence, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant or Owner of another Parcel and residence, or which would not be consistent with the maintenance of the highest standards for a first class residential community nor permit the premises to be used in a disorderly or unlawful way. The use of each Parcel and residence shall be consistent with existing laws and the governing documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner. No solicitation will be allowed at any time within the community.
	5. **Signs**. No person may post or display "For Sale," "Open House" or other signs anywhere within Shores of Caloosa, including those posted in windows of buildings or motor vehicles, other than of a size, shape, content, location and duration of posting as approved by the Board of Directors. "For Rent" signs are prohibited anywhere within Shores of Caloosa. Small security signs will be permitted and open house advertising signs will be permitted on the day of the open house.

* 1. **Single Family Parcel Structures**. Other than one single family residence, pool, deck and related equipment, no structure, trailer, house trailer, tent, shack, garage, barn or other outbuilding shall be used or placed on any Parcel at any time either temporarily or permanently.
	2. **Parking of Motorized or Electric Vehicles and Boats**. The parking of commercial vehicles, which description shall include vans, trucks (larger than a pickup truck), tractor-trailers, semi-trailers and commercial trailers, at any time on driveways or otherwise on a Lot, or Association Property is prohibited, except for loading and unloading purposes or when parked entirely within a closed garage permitted to be built under the provisions of these restrictions. The parking of pickup trucks or vans used in a trade or business, or which have any business markings or identification on any Lot is prohibited. The parking of any vehicle on Association Property is prohibited (this includes no parking over sodded and landscaped areas between the street and sidewalk, the sidewalk, the portion of driveway that is the extension of the sidewalk). No maintenance or repair of any boat, automobile or any other motorized vehicle of any kind shall be permitted upon any Lot except within an enclosed garage. Boats, motor homes, campers, travel trailers, electric vehicles, all terrain vehicles and similar recreational vehicles may only be placed, kept or stored upon a Lot inside a closed garage. Inoperable vehicles or vehicles under repair may only be placed, kept or stored upon a Lot inside a closed garage. Commerical vehicles and Owner guests are permitted to park on the street for no longer than eight (8) hours. No overnight parking is permitted on the street.
	3. **Grounds and Yard Maintenance**.
1. Grass, hedges, shrubs, vines, trees and mass plantings of any type on each Lot and any portion of the right-of-way between the street pavement and the front Lot line of a Lot shall be kept trimmed and shall at regular intervals be mowed, trimmed cut, and irrigated with an in-ground irrigation system by the Lot Owner so as to maintain the same in a neat and attractive manner Grass, lawns, flower beds and planted areas shall be maintained so as to be free from weeds, and no such area shall be allowed to be overgrown or in any way maintained in a less than neat manner. Any trees, shrubs, vines, grass and plants, which die, shall be promptly removed and replaced. Trees, hedges or shrubs may not encroach into the sidewalks.
2. No weeds, vegetation, rubbish, debris, garbage, objects, waste, or materials of any kind whatsoever shall be placed or permitted to accumulate upon any portion of a Lot, which would render it unsanitary, unsightly, offensive, or detrimental to the Lots in the vicinity thereof or to the occupants of any such Lots in such vicinity.
3. No building material of any kind or character shall be placed or stored upon any Lot so as to be open to view by the public or neighbors, unless such material will be used and is used within two (2) months for the construction of buildings or structures upon the Lot on which the material is stored.
	1. **Exterior Light Fixtures**. No exterior lighting fixtures shall be installed on any Lot or residential dwelling without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to the residents of the Association.
	2. **Excavations**. No excavation for stone, gravel, dirt or earth shall be made on any portion of a Lot, except for the construction of dwellings, walls, foundations, swimming pools, structures and other appurtenances, for which plans and specifications for such excavations have been approved by the Board.
	3. **Preservation and Maintenance of Slopes, Banks and Swales**. No person shall construct, damage or destroy, clear, open, reduce, remove, alter, modify or install any thing or improvement within, over or upon any battle, slope, swale, easement or Conservation Area without first obtaining approval from the Board. No construction or excavation in the proximity of any lake, canal, bank, slope or swale, shall be permitted which may substantially impair the stability of the character or drainage in said area.
	4. **Open Burning**. Open burning to reduce solid waste on a Lot is prohibited.
	5. **Games and Play Apparatus**. No permanent games or play apparatus are allowed. Temporary apparatus must be removed and stored by sunset and cannot be left out and visible overnight.
	6. **Oil and Mining Operations**. No oil or gas drilling, oil or gas development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring of oil or natural gas shall be erected, maintained or permitted upon any Lot.
	7. **Individual Water Supply**. No individual water supply system shall be permitted on any Lot, except for a well and pump to provide water for a lawn sprinkler system or a heating and air conditioning system. In the event such a private water supply system is installed, it shall contain a filtering system intended to filter out minerals that will cause discoloration of drives, sidewalks and buildings.
	8. **Individual Sewage Disposal System**. No individual sewage disposal system shall be permitted on any Lot.
	9. **Air-Conditioning Units**. No window or wall air-conditioning units shall be permitted on any Lot.
	10. **Storage Tanks**. No above ground storage tanks, including but not limited to, those used for storage of water (except water brine filtration systems, where approved by the Board), gasoline, oil, or other liquid or gas (except propane or LPG storage, where approved by the Board) shall be permitted on the Lot outside of the building.
	11. **Fences, Hedges and Walls**. No fence, hedge, wall or other dividing instrumentality shall be constructed or maintained on any Lot unless approved by the Board. The Board must consider whether the dividing instrumentality negatively impacts views from other Lots before approving.
	12. **Garbage and Refuse Disposal**. No lot shall be used as a dumping ground for rubbish, trash, garbage, or other waster matter. Trash, garbage and other waste shall be kept only in sanitary containers which shall be kept in a clean and sanitary condition and screened from view from neighboring residences and the interior roadways except when out for pick-up. Trash and recycle bins shall not be put on the curb, for pick-up, prior to 7:00 p.m. the night before the scheduled pick-up. All trash and recycle bins shall be removed by 7:00 p.m. in the evening of the scheduled pickup.
	13. **Exterior Lighting and Post Lights**. No exterior lighting fixtures shall be installed on any Lot or residential dwelling without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to the residents of the Properties.
	14. **Mailbox**. All mailboxes throughout the single-family area shall be of the size, color, shape and post as approved by the Board. Mailbox maintenance is an Owner responsibility.
	15. **Underground Utility Lines**. All telephone, electric, water, sewer, television or other distributors must be underground from the Parcel line to the structure being served.
	16. **Drainage**. Except to comply with the governmental regulation or control, no changes in the elevation of the lands shall be made which will interfere with the drainage or otherwise cause undue hardship to adjoining property.
	17. **Roofs**. Any replacement roof must be replaced with a roof approved by the Board. No asphalt shingle roofs are allowed.
	18. **Clothes Drying**. No towels, garments, rugs, etc. may be hung from windows, railings or other parts of the residences. No clotheslines or drying yards shall be located so as to be visible from neighboring residences or from the interior roadways within Shores of Caloosa.
	19. **Antennas**. No antenna of any kind shall be placed or erected upon any Parcel or affixed in any manner to the exterior of any building without Board approval.
	20. **Water Restrictions**. Individual lawn watering must conform to Association adopted best management practices and be in conformance with Lee County water restrictions. Residents must adhere to watering schedules put forth by Lee County and must have a rain sensor installed as part of their irrigation system. Fertilization of lawns, if accomplished by residents, must be in accordance with Lee County Fertilization Ordinance (08-08), and Association best management practices for fertilization.
4. **INSURANCE**. In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:
	1. **Association; Required Coverage**. The Association shall maintain adequate property insurance covering all of the common area buildings, the common areas and all Association property. The Association shall also provide adequate general liability insurance. The amounts of coverage shall be determined annually by the Board of Directors. The insurance carried by the Association shall afford at least the following protection:
5. Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract.
6. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit Owners as a group to a Parcel Owner.
7. Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles when used for Association business, in such limits of protection and with such coverage as may be determined by the Board of Directors.
8. Compensation. The Association may maintain Workers' Compensation insurance and shall if required by law.
	1. **Duty to Insure**. Each Parcel Owner is responsible for insuring the real and personal property within his own Parcel and residence. Each Owner must recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance liability including all risk, flood, liability, etc.
	2. **Duty to Reconstruct**. Except as otherwise approved by the Board of Directors, if any residence or other improvements located on any residential Parcel is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner of such improvements shall cause repair or replacement to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, and shall utilize and conform with the original foundation and appearance of the original improvements.
	3. **Failure to Reconstruct**. If the Owner of any residence fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section above, the Association shall give written notice to the Owner of default. If after thirty (30) days the Owner has not made satisfactory arrangements to meet its obligations, the Association shall be deemed to have been granted the right by the Owner, as such Owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Directors, the Owner of the residence shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Parcel and residence to secure payment.
	4. **Association Insurance**; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.
	5. **Optional Coverage**. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and residential unit Owners.
	6. **Description of Coverages**. A detailed summary of the coverage included in the policies, and copies of the policies, shall be available for inspection by residential unit Owners or their authorized representatives upon request.
	7. **Insurance Proceeds**. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Owners and their respective mortgagees in the following shares:
9. Common Areas. Proceeds on account of damage to common areas shall be held in as many undivided shares as there are residences, the shares of each Owner being the same as his share in the common areas.
10. Mortgagee. If a mortgagee endorsement has been issued as to a residence, the shares of the mortgagee and the Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Parcel or Parcels, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.
	1. **Distribution of Proceeds**. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Owners in the following manner: The proceeds shall be paid to defray the costs of reconstruction or repair by the Association. Any proceeds remaining after defraying costs shall be distributed to the beneficial Owners in any manner provided by law.
	2. **Association as Agent**. The Association is hereby irrevocably appointed as agent for each residence Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the common areas.
	3. **Damage to Common Areas**. Where insured loss or damage occurs to the common areas or Association property, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:
11. The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.
12. If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common areas, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all Parcel Owners for the deficiency. Such special assessments need not be approved by the Parcel Owners. The special assessments shall be added to the funds available for repair and restoration of the property.
13. **OWNERSHIP OF PARCELS.**
	1. **Forms of ownership:**
14. A Parcel may be owned by one natural person.
15. Co-ownership. Co-ownership of Parcels is permitted. If there are co-owners, the Board shall be entitled to require the Owners to designate one (1) natural person as "primary occupant." The use of the Parcel and residence by other persons shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant must be approved in advance by the Board of Directors. No more than one such change will be approved in any twelve (12) month period.
16. Ownership by Corporations, Partnerships or Trusts. A Parcel may be owned in trust, or by a corporation, partnership or other entity which is not a natural person. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Parcel and residence may be used as short-term transient accommodations for several individuals or families. A trustee, or corporation, partnership or other entity as a Parcel Owner shall be required to designate one (1) natural person to be the "primary occupant." The use of the Parcel and residence by other persons shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant must be approved in advance by the Board of Directors. No more than one such change will be approved in any twelve (12) month period.
17. Designation of Primary Occupant. Within thirty (30) days after the effective date of this provision, each Owner of a Parcel which is owned in the forms of ownership stated in preceding subsections (B) and (C) shall designate a primary occupant in writing to the Association. If any Parcel Owner fails to do so, the Board of Directors may make the initial designation for the Owner, and shall notify the Owner in writing of its action.
18. Life Estate. A Parcel may be subject to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant shall be the only Association member from such residence, and occupancy of the residence shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and charges against the Parcel. Any consent or approval required of members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights and shall be subject to subsection (B) above.
	1. **Transfers**.
19. Sale or Gift. No Parcel Owner may dispose of a Parcel or any ownership interest in a Parcel by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.
20. Devise or Inheritance. If any Parcel Owner acquires his title by devise or inheritance, his right to occupy or use the Parcel shall be subject to the approval of the Board of Directors under Section 9.3 (A)(2) below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse or non-spouse companion at the time of death, or was related to the Owner by blood or adoption within the first degree.
21. Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Parcel and residence before being approved by the Board of Directors under the procedures outlined in Section 10.3 below.
22. Committee Approval. To facilitate transfers proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificates of Approval on behalf of the Association.
	1. **Procedures**.
23. Notice to Association.
24. Sale or Gift. An Owner of a Parcel intending to make a sale or gift of his or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse or non-spouse companion, if any, as a pre-condition to approval.
25. Devise, Inheritance or Other Transfers. The transferee of a Parcel must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the Parcel following the procedures in this Section or Section 11.
26. Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove at the time it learns of the transfer. If any Parcel Owner fails to obtain the Association's approval prior to selling an interest in a Parcel, such failure shall create a rebuttal presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

(B) Board Action. Within twenty (20) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or the Vice-President of the Association in recordable form and delivered to the transferee of the Parcel. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

1. Disapproval. Approval of the Association shall be withheld or denied only for good cause, and then only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:
2. The person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
3. The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;
4. The person seeking approval gives the Board reasonable cause to believe that person intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the property;
5. The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;
6. The person seeking approval has evidenced an attitude of disregard for Association rules by his conduct in Shores of Caloosa as a tenant, Parcel Owner or occupant of a residence;
7. The parties to the proposed transfer have failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process; or
8. The transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.
	1. **Exception**. The provisions of Sections 9.2 and 9.3 are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure.
	2. **Unapproved Transfers**. Any sale or transfer of ownership of a Parcel which is not approved, or which is disapproved pursuant to the terms of this Declaration, shall not be concluded; and if it is concluded in disregard of this Section, shall be void or voidable by the Association unless subsequently approved in writing by the Board.
	3. **Fees Related to the Sale, Lease or Other Transfer of Parcels**. Whenever herein the Board's approval is required to allow the sale, lease or other transfer of an interest in a Parcel, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed one hundred dollars ($100) per applicant, in addition to fees for background checks not to exceed one hundred dollars ($100) per applicant.
9. **LEASING OF PARCELS**. In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of Parcels and residences by their Owners shall be restricted as provided in this section. All leases of Parcels and residences must be in writing. An Owner may lease only his entire Parcel and residence, and then only in accordance with this Section, after receiving the approval of the Association. The lessee must be a natural person. The legal responsibility for paying Association assessments may not be delegated to the lessee. If the Parcel is occupied by a tenant and the Parcel Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand by notice as provided by Statute that the tenant pay to the Association the subsequent rental payments and continue to make such payments until all the monetary obligations of the Parcel Owner related to the Parcel have been paid in full to the Association and the Association releases the tenant or until the tenant discontinues tenancy in the Parcel. A tenant is immune from any claim by the Parcel Owner related to the rent timely paid to the Association after the Association has made written demand. If the tenant paid rent to the landlord or Parcel Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within fourteen (14) days after receiving the demand, the tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Parcel Owner until the association releases the tenant or the tenant discontinues tenancy in the unit. The Association shall, upon request, provide the tenant with written receipts for payments made. The Association shall mail written notice to the Parcel Owner of the Association's demand that the tenant pay monetary obligations to the Association. The liability of the tenant may not exceed the amount due from the tenant to the tenant's landlord. The tenant shall be given a credit against rents due to the landlord in the amount of assessments paid to the Association. The Association may issue notice under s. 83.56, Florida Statutes, and may sue for eviction under ss. 83.59-83.625,Florida Statutes, as if the Association were a landlord under part II of chapter 83 if the tenant fails to pay a monetary obligation. However, the Association is not otherwise considered a landlord under chapter 83 and specifically has no obligations under s. 83.51. The tenant does not, by virtue of payment of monetary obligations, have any of the rights of a Parcel Owner to vote in any election or to examine the books and records of the Association.
	1. **Procedures**.
10. Notice by the Owner. An Owner intending to lease his Parcel and residence shall give to the Board of Directors or its designee, written notice of such intention at least twenty (20) days prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with any lessee and his or her spouse or non spouse companion, if any, as a pre-condition to approval.
11. Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have twenty (20) days in which to approve or disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the lessee.
12. Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:
13. the residence Owner is delinquent in the payment of assessments at the time the application is considered;
14. the residence Owner has a history of leasing his Parcel without obtaining approval, or leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his Parcel;
15. the real estate company or rental agent handling the leasing transaction on behalf of the Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Association approval;
16. the application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the property;
17. the prospective lessee has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, any felony demonstrating dishonesty or moral turpitude; any felony involving damage or theft of property
18. the prospective lessee has a history of conduct which evidences disregard for the rights and property of others;
19. the prospective lessee evidences a strong probability of financial irresponsibility;
20. the lessee, during previous occupancy, has evidenced an attitude of disregard for the Association rules;
21. the prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit is not paid; or
22. the Parcel Owner fails to give proper notice of his intention to lease his Parcel and residence to the Board of Directors.
23. Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the lease. Any lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days notice, without securing consent to such eviction from the Parcel Owner.
24. Applications; Assessments. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Association assessments may not be delegated to the lessee.
25. Committee Approval. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) members.
	1. **Term of Lease and Frequency of Leasing**. No Parcel and/or residence may be leased more often than two (2) times in any calendar year, with the minimum lease term being one hundred eighty (180) days. The first day of occupancy under the lease shall determine in which year the lease occurs. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee is allowed.
	2. **Occupancy By Guests**. There is no restriction on the length of stay of guests, whether related or unrelated to the tenant of a Parcel and residence, so long as the Tenant is occupying the Parcel and the residence does not exceed the total occupancy limit permitted by Country Code, except as mentioned in section 7.2 above
	3. **Regulation by Association**. All of the provisions of the governing documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a Parcel and residence as a lessee or guest to the same extent as against the Owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the governing documents, designating the Association as the Owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.
26. **AMENDMENTS; TERMINATION.**
	1. **Duration**. The conditions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns until April 24, 2024. On April 24, 2024, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten ( 10) year renewal period for an additional ten (10) year period provided, however, and subject to existing laws and ordinances, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten ( 10) year renewal period, at least two-thirds (2/3rds) of Owners of residences affirmatively vote at a duly held meeting of members of the Association in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, be given at least forty-five (45) days in advance of said meeting. If the Association votes to terminate this Declaration, the President and Secretary shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Lee County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.
	2. **Amendments by Members**. Except as otherwise provided herein or by law, this Declaration may be amended at any time by affirmative vote of at least two thirds (2/3rds) of the voting interests who are present and voting, in person or by proxy, at a duly called meeting of the members of the Association, called for the purpose. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by the President or Vice-President 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 Lee County, Florida.
27. **ENFORCEMENT; GENERAL PROVISIONS.**
	1. **Enforcement**. Enforcement of these covenants, conditions and restrictions may be by a proceeding at law or in equity and may be instituted by the Association, its successors or assigns, or by any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against any Parcel to enforce any lien created by these covenants. Failure of the Association or any Owner to enforce any covenant, condition or restriction herein contained for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter.
	2. **Owner and Member Compliance**. The protective covenants, conditions, restrictions and other provisions of the governing documents and the rules promulgated by the Association shall apply to members and all persons to whom a member has delegated his right of use in and to the common areas, as well as to any other person occupying any residence under lease from the Owner or by permission or invitation of the Owner or his tenants (express or implied), and their licensees, invitees or guests. Failure of an Owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the governing documents shall not in any way act to limit or divest the Association of the power to enforce these provisions. Each residential Parcel Owner shall be responsible for any and all violations by his tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants, at any time.
	3. **Litigation**. Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of law, or of the governing documents or Association rules, may be brought, but shall not be required to be brought, by the Association or by an Owner against:
28. the Association;
29. a Parcel Owner;
30. anyone who occupies or is a tenant or guest of a residential Parcel; or
31. any officer or Director of the Association who willfully and knowingly fails to comply with these provisions.
	1. **Attorney Fees**. In any legal proceeding arising out of an alleged failure of a guest, tenant, residential Parcel Owner, officer, Director or the Association to comply with the requirements of the law, or the governing documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney fees as may be awarded by the court.
	2. **Fines and Suspension**. The Association may suspend, for a reasonable period of time, the rights of an Owner or an Owner's tenants, guests, or invitees, or both, to use common areas and facilities and may leyy fines against any Owner, family member, guest, lessee, agent and/or occupant who commits any violation of this Declaration, the Bylaws, or the Rules and Regulations of the Association, or who condone such violations by any family member, guest, lessee, agent and/ or occupant on said Owner's behalf. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law. The procedure for imposing fines and/or suspensions shall be as follows:
32. Notice: The party against whom the fine or suspension is sought to be levied shall be afforded an opportunity for hearing after reasonable written notice of not less than fourteen (14) days, and the notice shall include:
	* 1. A statement of the date, time and place of the hearing;
		2. A specific designation of the provision(s) of the Declaration, Bylaws, or Rules and Regulations which are alleged to have been violated;
		3. A short and plain statement of the specific facts giving rise to the alleged violation(s); and
		4. The possible amounts of any proposed fine and/or the time of any proposed suspension.
33. Hearing: At the hearing, the party sought to be fined or suspended shall have a reasonable opportunity to respond, present evidence, provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a committee of three (3) members, appointed by the Board of Directors, none of whom may be serving as Board members nor residing in a Board member's household. If the panel, by a majority does not agree with the fine and/or suspension, it may not be levied.
34. Unless otherwise provided by Florida law, any fine of $ l,000.00 or more may be secured by and become a lien against the Lot. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs.
	1. **No Election of Remedies**. All rights, remedies and privileges granted to the Association or Owners under the law and the governing documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.
	2. **Notices**. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed to the last known address of the Owner appearing in the records of the Association, or to the address of the member's residence. Notice to one of two or more co-owners of a Parcel shall constitute notice to all co-owners. It shall be the obligation of every member to immediately notify the Secretary of the Association in writing of any change of address.
	3. **Severability**. Should any covenant, condition or restriction herein contained, or any section, subsection, sentence, clause, phrase or term of this Declaration or its recorded exhibits be declared to be void, invalid, illegal, or unenforceable, for any reason, by any court having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.
	4. **Interpretation**. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.
	5. **Non-Profit Status**. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity inconsistent with its non-profit status under applicable state or federal law.
	6. **Use of Singular and Plural and Gender**. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
	7. **Headings**. The headings used in the governing documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

The following exhibits, as previously recorded with the original Declaration and previously amended, are hereby incorporated by reference as exhibits to the Amended and Restated Declaration of Covenants and Restrictions

**Exhibit “A”** – Legal Description (Recorded in Official Records Book 1817 at Page 2844 of the Official records of Lee County, Florida.)

In addition, the following Exhibits are completely amended and restated, and the restatements are attached hereto and recorded herewith.

 **Exhibit “B”** – Articles on Incorporation.

 **Exhibit “C”** – Bylaws.