

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President of WATER OAKS ASSOCIATION, INC., a Florida corporation not for profit, does hereby certify that, at an annual meeting of the members held on February 13, 1997, where a quorum was present, after due notice, all the resolutions set forth below were approved and adopted by the votes indicated for the purpose of amending the Declaration of Covenants, Conditions and Easements for Water Oaks (the "Declaration") as originally recorded at O.R. Book 1182, Page 1231 *et seq.*, Public Records of Collier County, Florida, the Articles of Incorporation and the By-Laws of the corporation. The property subject to the terms of the Declaration is legally described in Exhibit "A" hereto and made a part hereof less and except that property legally described in Exhibit "B" attached hereto and made a part hereof.

1. The following resolution was approved by the affirmative votes of the Owners owning at least sixty-seven percent (67%) of the Lots.

RESOLVED: That the Declaration of Covenants, Conditions and Easements for Water Oaks be and is hereby amended in part and restated in its entirety, and the amendment and restatement is adopted in the form attached hereto, and made a part hereof; and

2. The following resolution was approved by majority vote of the votes of the members.

RESOLVED: That the By-Laws of this corporation be and are hereby amended and restated, and the amendment and restatement is adopted in the form attached hereto and made a part hereof; and

3. The following resolution was approved by the affirmative vote of a majority of all members entitled to vote thereon.

RESOLVED: That the Articles of Incorporation of this corporation be and are hereby amended and restated, and the amendment and restatement is adopted in the form attached hereto and made a part hereof.

February 27, 1997
Date

Water Oaks Association, Inc.

L. Sue Hicks
Signature of Witness
L. SUE HICKS

Print Name of Witness

Suzanne E. Gephart
Signature of Witness

Signature of Witness

SUZANNE E. GEPHART
Print Name of Witness

Print Name of Witness

By: [Signature]

President

385 Edgemere Way, North
Naples, Florida 34105

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF COLLIER

I hereby certify that on the 27th day of February, 1997, personally appeared before me Burr J. Mosher, as President of Water Oaks Association Inc., a Florida corporation not for profit, who executed the foregoing certificate in the name and on behalf of said corporation. He is personally known to me or has produced _____ as identification.

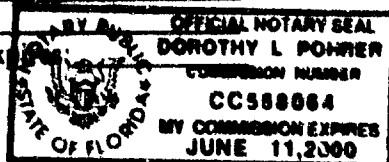
(SEAL)

Dorothy L. Pohrer
Notary Public

Printed Name: DOROTHY L. POHRER

Commission No.:

My Commission Expires



NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION. FOR PRESENT TEXT, SEE EXISTING DECLARATION.

AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

WATER OAKS

KNOW ALL MEN BY THESE PRESENTS:

That heretofore on March 5, 1986, the original Declaration of Covenants, Restrictions and Easements for Water Oaks (hereinafter the "Community") was recorded in Official Records Book 1182, at Page 1231 *et seq.*, of the Public Records of Collier County, Florida. That Declaration of Covenants, Restrictions and Easements (hereinafter the "Declaration") as it has previously been amended, is hereby further amended in part and is restated in its entirety.

1. **SUBMISSION OF PROPERTY:** This Amended and Restated Declaration of Covenants, Restrictions and Easements is made by Water Oaks Association, Inc., a Florida corporation not for profit, hereinafter the "Association". The land subject to this Declaration and the improvements located thereon have already been made subject to covenants and restrictions by the original Declaration. No additional property is being made subject to the covenants and restrictions contained herein.

2. **NAME:** The name of the Community is Water Oaks.

3. **DESCRIPTION OF COMMUNITY:** The land which is subject to this Declaration is legally described as the land described on Exhibit "A" to the original Declaration, which Exhibit is incorporated herein by reference and made a part hereof, less and except those portions thereof that are within Parcel G-C-1 (golf course property) per Replat of Replat of Part of Wyndemere Tract Map per Plat in Plat Book 14, pages 107-114, Public Records of Collier County, Florida. An ingress and egress easement for the Community was recorded as Exhibit "B" to the original Declaration and is also incorporated herein and made a part hereof.

3.1 **Applicability of Declaration.** All property subject to this Declaration shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth. All provisions of this Declaration shall be equitable servitudes which run with the land, and are binding upon and inure to the benefit of all present and future owners of parcels. The acquisition of fee simple title to a parcel, or any ownership interest in the Community, or the lease, occupancies, or use of any portion of a parcel, shall constitute an acceptance and ratification of all provisions of this Declaration as it may be amended from time to time, and an agreement to be bound by its terms.

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4. DEFINITIONS. All terms and words in this Declaration and its recorded exhibits shall have the meanings stated below unless the context clearly requires otherwise.

- 4.1** "ARC" means and refers to the Architectural Review Committee of the Master Association.
- 4.2** "Association" means and refers to Water Oaks Association, Inc. a Florida corporation not for profit.
- 4.3** "Board" means and refers to the Board of Directors of the Association.
- 4.4** "Declaration" means and refers to this Amended and Restated Declaration of Covenants, Restrictions and Easements for Water Oaks, and any future amendments hereto.
- 4.5** "Family" or "Single Family" means and refers to two (2) or more natural persons, each of whom is related to each of the others within the first degree by blood, marriage, or adoption, or not more than two (2) persons not so related who reside together as a single housekeeping parcel.
- 4.6** "Governing Documents" means and refers to this Declaration, and the Articles of Incorporation, Bylaws, the Rules and Regulations and the Resolutions of the Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority stated above.
- 4.7** "Guest" means and refers to any person who is physically present in, or occupies a parcel on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.
- 4.8** "Institutional Mortgage" means and refers to any lending institution or real estate investment trust having a first mortgage lien upon a parcel and includes any insurance company doing business in Florida and approved by the Commissioner of Insurance of the State of Florida; a Federal or State Savings and Loan Association, Building and Loan Association or bank doing business in the state of Florida and approved by the office of the comptroller, Division of Banking of the State of Florida; a mortgage banking company licensed in the State of Florida and any "Secondary Mortgage Market Institution" which includes the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institution as the Board shall hereinafter approve in writing. An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a parcel.
- 4.9** "Lease" means and refers to the grant by an owner of a temporary right of use of the owner's parcel for valuable consideration.
- 4.10** "Limited Common Area" means and refers to the real property and structures situated thereon within the Community which is located outside the boundaries of a particular parcels but exclusive use of which is reserved for the owner of the parcel served by the property or structure. Limited Common Areas include driveways, walkways and landscaping.
- 4.11** "Master Association" means and refers to Wyndemere Homeowners Association, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the common

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areas and improvements within Wyndemere as described in the Master Declaration. All owners of parcels in the Community shall be members of the Master Association.

4.12 "Master Declaration" means and refers to the Declaration of Covenants, Conditions and Restrictions of Wyndemere as originally recorded in Official Record Book 916, Page 1080 et seq., Public Records of Collier County, Florida, including all recorded exhibits thereto, as the same may be amended from time to time.

4.13 "Member" means and refers to all persons who are members of the Association as provided in this Declaration, and the Articles of Incorporation and Bylaws of the Association.

4.14 "Occupant" or "Occupy" when used in connection with a parcel means any person who is physically present in the parcel on two or more consecutive days, including staying overnight.

4.15 "Parcel" or "Lot" means and refers to a lot within the Community which is subject to private ownership and except where the context clearly indicates to the contrary the term "parcel" shall also include the villa or single family residence located thereon.

4.16 "Parcel Owner or Owner" means and refers to any person or persons, entity or entities, who are the record owner of the fee simple title to any parcel in the Community.

4.17 "Residence" means and refers to both a villa and a detached single family residence, unless the context otherwise clearly indicates.

4.18 "Rules and Regulations" means and refers to administrative rules and regulations governing the procedures for administering the Association and the Community, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

4.19 "Villa" means and refers to an attached single family unit located in a villa building and upon a parcel.

4.20 "Villa Building" means and refers to an entire building containing attached villas constructed in the Community. The Community consists of twenty one (21) villa buildings and three (3) detached single family residences.

4.21 "Voting Interest" means and refers to the voting rights distributed to members as further described in Section 5.4 below.

4.21 "Wyndemere" means and refers to that real estate development which is the subject of the Master Declaration.

5. ASSOCIATION; MEMBERSHIP; VOTING RIGHTS. The administration and management of the Association is by Water Oaks Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

5.1 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "C".

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5.2 Bylaws. The Amended and Restated Bylaws of the Association shall be the Bylaws as attached as Exhibit "D".

5.3 Membership. Every person or entity who is a record owner of a fee interest in any parcel located within the Community shall be a member, provided, however, that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be deemed the owner for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events:

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the parcel in the member.
- (B) Delivery to the Association of a copy of the recorded Deed or other instrument evidencing title.

Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based. If a parcel is sold under a recorded agreement for deed, and the agreement for deed specifically so provides, then the purchaser (rather than the fee owner) shall be considered the owner and, hence, the member.

5.4 Voting Interests. The members of the Association are entitled to one (1) vote for each parcel owned by them. The total number of votes shall not exceed the total number of parcels subject to this Declaration. The vote of a parcel is not divisible. The right to vote may not be denied because of delinquent assessments. If a parcel is owned by one natural person, his right to vote shall be established by the record title to the parcel. If a parcel is owned jointly by two or more natural persons who are not acting as trustees, that parcel's vote may be cast by any one of the record owners. If two or more owners of a parcel do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the owner of a parcel is a corporation, the parcel's vote shall be cast by the President or Vice-President of the corporation. If the owner of a parcel is a partnership, any general partner may cast the parcel's vote. If a parcel is owned in trust, any of the trustees may cast the parcel's vote.

5.5 Approval or Disapproval of Matters. Whenever the decision or approval of an owner is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person who could cast the vote of such owner's parcel if present in person at an Association meeting, unless the consent of all record owners is specifically required.

5.6 Change of Membership. A change of membership in the Association shall be established by the new owner's membership becoming effective as provided above, and the membership of the prior owner shall thereby be automatically terminated.

5.7 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

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5.8 Association As Owner of Parcels. The Association has the power to purchase parcels with the prior approval of at least a majority of the voting interests, and to acquire and hold, lease, mortgage, and convey them, by act of a majority of the Board of Directors.

5.9 Membership Roster. The Association shall maintain a current roster of names and mailing addresses of owners. A copy of the up-to-date roster shall be available to any owner upon request.

5.10 Limitation on Liability. The Association shall not be liable to owners for property damage caused by any latent condition of the property to be maintained and repaired by the Association. The Association shall not be liable for damage caused by the elements or owners or other persons.

5.11 Board of Directors. Except as otherwise provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the members shall be required. The officers and Directors of the Association have a fiduciary relationship to the members. An owner does not have the authority to act for the Association by virtue of being an owner.

5.12 Powers and Duties. The powers and duties of the Association include those set forth in this Declaration, the Articles of Incorporation and the Bylaws. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. If the Association has the authority to maintain a class action, the Association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the Association could bring a class action. Nothing herein limits any statutory or common law right of an individual owner or class of owners to bring any action which may otherwise be available.

6. COMMON STRUCTURAL ELEMENTS.

- (A) **Definition.** Each villa building contains or shall contain certain elements, features or parts which are structural elements of the villa building or of more than one villa contained in said villa building (hereinafter referred to as "common structural elements"). The common structural elements of each villa building include, or shall include, the following:
- (B) **Utility Lines.** All utility lines, ducts, conduits, pipes, wires and other utility fixtures and appurtenances which are located on or within the Community and which directly or indirectly in any way service more than one villa in the villa building in question, all of which are collectively referred to herein as the "utility lines".
- (C) **Party Walls.** All division walls (hereinafter referred to as "party walls") between two villas located upon a lot line between two villas (hereinafter referred to as "lot lines"), provided that the mere fact that such a division wall between two villas is found to be not on a lot line shall not preclude that division wall from being a party wall.
- (D) **Roofing.** The entire roof of the villa building, any and all roof support structures, and any and all appurtenances to such roof and roof support structures including, but not limited to, the roof covering, roof trim and roof drainage fixtures, all of which are collectively referred to herein as the "roofing".

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- (E) **Siding.** Any and all siding, finish, trim, exterior sheathing and other exterior materials and appurtenances on the exterior of the villa building, all of which are collectively referred to herein as the "siding".
- (F) **Flooring.** The entire concrete floor slab or wood floor system if utilized in lieu thereof and all foundational and support structures and appurtenances thereto, all of which are collectively referred to as the "flooring".

7. USE AND MAINTENANCE OBLIGATIONS. The maintenance and repair of the Community is either the responsibility of the parcels owners or the Association as hereinafter more particularly set forth:

7.1 Responsibility of Owners.

- (A) Each owner shall maintain in good condition and repair at his own expense: (i) all portions of his parcel including the residence located thereon; (ii) all utility lines, ducts, conduits, pipes, wires and other utility fixtures and appurtenances which are located upon or under his lot and which services only his residence; (iii) all glass and screens in windows and doors, in a manner consistent and in uniformity with the standards promulgated by the Board. Each owner shall perform promptly all such maintenance and repairs and shall be liable for any damages that arise due to his failure to perform such maintenance and repairs. Furthermore, should the negligence or willful misconduct of an owner result in the need for work (including, but not limited to, work in the nature of maintaining or repairing portions of the Community which would otherwise be the responsibility of the Association), the owner in question shall be liable to the Association for the cost and expense so incurred and shall be subject to a special assessment therefor.

7.2 Responsibility of Owners Within a Building.

- (A) The owners of each individual villa within any particular villa building shall be responsible jointly for the maintenance and repair of all portions of the property which are not the responsibility of any individual owner. Maintenance, repair and replacement of all common structural elements of the villa building shall be the joint obligation of the owners within the villa building. In the event that the joint owners of villas within any villa building disagree as to the need for or method of undertaking such maintenance, repair or replacement then either party shall have the right to request the Board to decide the issue and when rendered by the Board such decision shall be binding on both owners.
- (B) In the case of a situation deemed an emergency by the Board or arising because of the failure of such owners to perform proper maintenance, the Board may repair, replace, or maintain those portions of a villa and/or villa building which are otherwise the responsibility of an owner or owners and levy a special assessment against owner or owners for same.

7.3 Limited Common Areas. Except to the extent otherwise provided in Section 7.4 below as to landscaping, an owner shall be responsible for the maintenance of any limited common areas which serve his parcel including the driveway and walkway.

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7.4 Landscaping. In order to provide a means by which the covenants in this Declaration as to landscape maintenance by owners of their parcels may be fulfilled without jeopardizing the security of Wyndemere by the possibility of admission thereto of a large number of landscaping or pool maintenance contractors and their agents and employees, the Association shall be responsible for the maintenance of landscaping and in particular lawn care of each and every parcel within the Community; provided, however, such duty of maintenance shall not extend to areas specifically designated by the Board as an "area of high maintenance." Areas of high maintenance shall be maintained by the owner of the parcel or by such special arrangement as may be approved by the Board. The Association shall contract for the maintenance of the parcels and shall assess as a portion of the individual unit assessment attributable to each parcel hereunder a "maintenance fee" equal to the cost of the provision of such services to the parcel. The maintenance fee shall be collected in the same manner and shall be subject to the same lien rights as hereinafter provided for the collection of the Association expenses.

7.5 Painting and Roofing Reserves. Notwithstanding the obligation of owners to maintain, repair and replace their individual residences, the Association shall maintain separate roof and painting accounts for each villa building and each detached single family residence. The amount to be reserved shall be at the discretion of the Board and shall be a part of the individual assessment defined in Section 9.1(A) hereof. At such time as repairs or replacements to a roof or painting of the residence is required, the costs shall first be paid from the money reserved. Any additional costs shall be paid by the owner(s) thereof. If monies remain in the account following such remedial work, it shall be retained in the account. No owner can withdraw or receive distribution of his share of reserves except as provided above for the costs of actual maintenance performed.

7.6 Negligence; Damage Caused by Condition in Parcel. The owner of each parcel shall be liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees; but, unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the owner shall be liable only to the extent that such expense is not met by the proceeds of insurance. If any condition, defect or malfunction existing within a parcel, whether caused by the owner's negligence or otherwise, shall cause damage to other parcels, the owner of the offending parcel shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not met by insurance. If one or more of the damaged parcels is not occupied at the time the damage is discovered, the Association may enter without prior notice to the owner and take reasonable actions to prevent the spread of the damage. The Association may, but is not obligated to, also repair the damage.

8. ASSOCIATION EXPENSES. In order to fulfill the covenants contained in this Declaration and in order to maintain and operate the residences for the use, safety, welfare and benefit of owners, their families, invitees, guests and lessees there is hereby imposed upon each parcel and its owners the affirmative covenant and obligation to pay the Association (in the manner set forth Section 9 hereof), and upon the Association, the obligation to assess, collect and expend, the Association expenses, as those expenses are now about to be more fully set forth in and described.

8.1 Categories of Association Expenses.

(A) **Administration.** The costs of administration for the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the

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Association under this Declaration, notwithstanding the fact that some of these services may be expended in providing services to or collecting sums owed by particular owners. In addition, the Association may retain a managing company or contractors to assist in the operation of the Community and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be part of the common expenses.

- (B) **Indemnification.** The costs to the Association of indemnifying its officers and members of the Board and Committee for all costs and expenses whatsoever and in legal defense of such actions or in settlement thereof including, without limitation, counsel fees and costs at all levels of any trial or appeal or other proceeding.
- (C) **Enforcement.** Any and all expenses incurred by the Association in enforcing any of the covenants, restrictions, terms and conditions of this Declaration or in curing any default, violation or failure to perform or abide by such covenants, restrictions, terms and conditions.
- (D) **Insurance.** As enumerated in Section 13.1 hereof.
- (E) **Miscellaneous Expenses.** The costs of all items of expense pertaining to or for the benefit of the Association or Community not herein specifically enumerated and which are determined to be a common expense by the Board including, but not limited to, the costs of refuse collection if billed to the Association and not individual owners and the costs of providing security services to the Community in the event the Board elects to provide such services.

9. **METHOD OF DETERMINING ASSESSMENT OF ASSOCIATION EXPENSES.** It is hereby declared, and all owners agree, that the Association expenses shall be disbursed by the Association out of funds assessed and collected from and paid by all owners in the Community.

9.1 **Individual Assessments.**

- (A) As provided in the Bylaws of the Association, the Board shall prepare an annual estimated budget which shall reflect the estimated Association expenses. Thereupon the Board shall allocate to all parcels located in the Community an equal share of the expenses and shall allocate to each parcel a "maintenance fee" as provided in 7.3 above and a reserve amount as provided in Section 7.4 above. The share of the Association expenses (including the maintenance fee and reserves) allocated to a parcel is the "individual assessment" for each parcel.
- (B) For purposes of assessments, the number of villas located in the Community shall include all villas located therein for which a Certificate of Occupancy has been issued by an appropriate governmental agency, and the number of villas contained in any villa building which is subsequently destroyed, damaged or demolished shall be the number of villas originally constructed thereon until such time as the structure is replaced and new certificate of occupancy is issued, whereupon the number of villas contained in the replaced structure shall be used.

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- (C) The individual assessments shall be payable quarterly in advance on the first day of January, April, July and October of each year.

9.2 Special Assessments. Special assessments include, in addition to other assessments designated as special assessments in the Governing Documents and whether or not for a costs or expense which is included within the definition of Association expenses, any other assessments in addition to the individual assessments as shall be levied by the Board as a result of: (i) extraordinary items or expenses under this Declaration; (ii) the failure or refusal of other owners to pay assessments of association expenses; and (iii) such other reasons or basis determined by the Board which is not inconsistent with the terms of any of the Governing Documents. Special assessments shall be assessed in the same manner as the individual assessments. Special assessments shall be paid in such installments or lump sum as the Board shall determine from time to time.

10. LIENS.

10.1 Creation of Lien and Personal Obligation for Assessments. Each 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 to the Association:

- (A) the parcel's prorata share of assessments for common expenses based on the annual Association budget; and
- (B) any other charges against less than all of the parcels specifically authorized in this Declaration or the Association Bylaws.

Individual assessments shall be established and collected as provided herein and in the Bylaws of the Association. The individual assessments and charges, together with interest, costs, and reasonable attorney's fees shall bind such property in the hands of the owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor the amounts paid by the transferee. Except as provided elsewhere in this Declaration as to the Institutional Mortgagees, no owner may be excused from the payment of assessments unless all owners are similarly excused.

10.2 Establishment of Liens. Any and all assessments levied by the Association in accordance with the provisions of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, and costs and collection (including, but not limited to reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the parcel against which each such assessment is made, and shall also be the personal obligation of the owner of each parcel assessed. This lien is superior to any homestead rights the owner may acquire. No owner may exempt himself from personal liability for assessments, or release the parcel owned by him from the liens and charges hereof, by abandonment of his parcel. The lien shall be perfected from and after the recording in the Public Records of Collier County of a Claim of Lien by the Association setting forth the amount and due date of each unpaid assessment as of the date the Claim of Lien is recorded. A Claim of Lien shall secure payment of all assessments due at the time of recording (including interest, costs and attorney's fees as

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provided above), as well as all assessments coming due subsequently, until the Claim is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a satisfaction.

10.3 Priority of Liens. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded institutional first mortgage, unless the Association's Claim of Lien was recorded prior to the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when recorded. Any lease of a parcel shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or mortgagee shall hold title subject to the liability and lien of any assessment coming due after foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any parcel by reason of the provisions of this Section, shall be treated as a special assessment divided equally among, payable by, and assessed against all parcels, including the parcel as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

10.4 Collection of Assessments. If any owner fails to pay any assessment, or installment thereof, within thirty (30) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

- (A) To charge interest on such assessment or installment, from the date payment is due until paid, at the highest rate allowed by law, as well as to impose a late payment penalty in such amount as determined by the Board of Directors. A separate penalty may be imposed for each month that the assessment or installment remains unpaid. This penalty shall not be considered a fine as provided for in Section 15 hereof, and the procedural requirements for levying fines set forth therein shall not apply. All payments on account shall be applied first to interest, then to late payment penalties, court costs and attorney's fees and finally to delinquent assessments.
- (B) To accelerate the due date for the entire remaining unpaid amount of the assessments against the owner's parcel for the remainder of the fiscal year notwithstanding any provisions for the payment thereof in installments.
- (C) To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the same manner as provided in Section 718.116 of the Florida Condominium Act, as amended from time to time, for the foreclosure of liens on condominium parcels for unpaid condominium assessments.
- (D) To bring an action at law for a money judgment against the owner without waiving any lien foreclosure rights of the Association.

10.5 Certificate. The Association shall, within fifteen (15) days of receipt of a written request for same, furnish to any owner liable for assessments a certificate in writing signed by an officer of the Association, setting forth whether said assessments and any other sums due the Association have been paid. Such certificate may be relied upon by all interested persons except the owner. The Association

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may require the advance payment of a processing fee not to exceed fifty dollars (\$50.00) for the issuance of such certificate.

11. ARCHITECTURAL AND AESTHETIC CONTROL. No building, structure or other improvement shall be erected or altered on any parcel, nor shall any grading, excavation, landscaping, or other work which in any way materially alters the exterior appearance of any structure or parcel be performed without the prior written approval of the Board of Directors of the Association. In obtaining said written approval, the owner, or any other person applying, shall comply with all applicable requirements and procedures of the Governing Documents. Refusal of approval for plans and specifications may be based on any reason including purely aesthetic reasons. Any or all duties of the Board of Directors pursuant to this Section 11 may be delegated by the Board to an architectural review committee.

11.1 Master Association Approval. All improvements made to parcels shall also be subject to review and approval by the Architectural Review Committee (ARC) of the Master Association, in accordance with the provisions of the Master Documents.

11.2 No Liability. Review and approval of any application pursuant to this Section 11 is made on the basis of aesthetic considerations only and the Board of Directors or the Association shall not bear any responsibility of ensuring the marketability, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes or other governmental requirements. Neither the Association or the Board of Directors shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction of or modifications to any residence or other structure.

12. PROPERTY RIGHTS; EASEMENTS.

12.1 Separation of Interests. The ownership of any parcel and the ownership of the residence constructed thereon may not be separated or separately conveyed; nor may any person who does not have an ownership interest in at least one parcel hold membership in the Association.

12.2 Easements. The Association shall have the right to grant such electric, telephone, gas, water, sewer, irrigation, drainage, cable television or other easements, and to relocate any existing easement in any portion of the Community and to grant access easements and to relocate any existing access easements in any portion of the Community as the Association shall deem necessary or desirable, for the proper operation and maintenance of the Community, or any portion thereof, or for the general health or welfare of the owners or for the purpose of carrying out any provisions of this Declaration. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the parcel. Each parcel shall be subject to an easement in favor of all other portions of the Community for the location of utilities, and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement of the party walls, structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving other portions of the Community.

13. INSURANCE.

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13.1 Duty to Insure Association. The Association shall maintain adequate liability insurance, and such other insurance which the Board of Directors deems to be in the best interest of the Association and its members, including Directors and Officers liability coverage (with coverage for Directors, officers and Committee members) in amounts determined annually by the Board of Directors.

13.2 Duty to Insure Parcel. By virtue of taking title to a parcel subject to the terms of this Declaration, each owner covenants and agrees with all other owners and the Association that each owner shall carry sufficient casualty insurance on his residence (including, but not limited to, the common structural elements which are a part of a villa).

13.3 Duty to Reconstruct. If any residence or other improvements located on any parcel are 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, unless a hardship exception to such time period is granted by the Board of Directors. 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 except as otherwise approved by the Committee.

13.4 Failure to Reconstruct. If the owner of any parcel fails to commence or complete construction to repair or replace any damaged or destroyed improvements for which he is responsible within the time periods provided for in Section 13.3 above, the Association shall give written notice to the owner of his default. If after thirty (30) days the owner has not made satisfactory arrangements to meet his 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 parcel 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 to secure payment.

13.5 Association's Right of Entry. For the purpose of performing the duties authorized by this Section 13, the Association, through its duly authorized agents and employees, shall have the right, after reasonable notice to the owner, to enter upon the parcel at reasonable hours.

14. GENERAL COVENANTS AND RESTRICTIONS.

14.1 Residential Use. No parcel shall be used for other than a single family residence. Parcels owned by corporations, partnerships, in trust or some other form of multiple ownership shall designate one (1) natural person and his or her family to occupy the parcel prior to, or at the time of conveyance of the parcel to the multiple ownership entity. The designation of such occupants may be changed only with prior written notice to the Board of Directors. No more than one (1) villa or detached single family residence may be built upon a single parcel. No business or commercial activity shall be conducted in or from any parcel. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his residence or from handling his personal, business or professional telephone calls, computer

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communications or written correspondence in and from his parcel. Such uses are expressly declared customarily incident to residential use.

14.2 Leases. Parcels may not be leased for periods of less than thirty (30) days or more than three (3) times in any calendar year. The first day of the lease term shall determine in which year the lease occurs. No subleasing or assignment of lease rights is allowed.

14.3 Nuisance. No noxious or offensive activity shall be carried on in any parcel, nor shall any owner permit or condone any activity that is or may reasonably become a source of annoyance or nuisance to other residents.

14.4 Temporary Structures. No temporary structure, including trailer, tent or shack shall be used at any time as a residence, either temporarily or permanently.

14.5 Signs. No sign of any kind shall be displayed to the public view on any of the parcels or residence, except for signs approved by the Architectural Review Committee (ARC) of the Master Association.

14.6 Appearance; Refuse Disposal. Each owner shall keep his parcel and abutting sidewalk and bike path, if any, clear of trash and debris and shall reasonably maintain his parcel. No parcel shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers or plastic bags within the parcel, except that such containers may be placed on the street the day of or night before scheduled refuse removal service. Such containers must be replaced inside the parcel on the day of the service, following said service. No garbage incinerators or burning of trash shall be permitted.

14.7 Windows. Storm shutters and other window coverings shall be subject to the prior approval and control of the Committee.

14.8 Outside Lighting. No spotlights, floodlights, or similar type of high intensity lighting shall be placed or utilized upon any parcel which in any way will allow light to be reflected on any other parcel or the improvements thereon, without the written authorization of the Committee. Other types of low intensity lighting which do not unreasonably disturb the owners or other occupants of the Community shall be allowed.

14.9 Pets. Normal domesticated household type pets (such as a cats or dogs) may be kept in a residence, provided that no pet may be kept, bred or maintained for any commercial purpose. The pet must be under direct and immediate voice control, carried under the owner's arm or leashed at all times while outside of the residence. The owner of the pet is responsible for the appropriate removal of all pet waste. The ability to keep such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Community. No poultry or livestock may be kept in the Community.

14.10 Parking and Vehicular Restrictions.

(A) **Parking.** No motor vehicle of any kind (including trucks and vans) other than a four wheel passenger automobile shall be parked in Wyndemere for a period exceeding eight (8) hours, unless such vehicle is kept in a closed garage or screened from view from all portions of

DECLARATION

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Wyndemere by a fence or landscaping approved by ARC. No boat, boat trailer or other trailer of any kind, camper, mobile home, golf cart or disabled vehicle shall be permitted in Wyndemere unless kept in a closed garage or screened from view from all portions of Wyndemere by a fence or landscaping approved by ARC. No maintenance or repair shall be done upon or to any vehicle (including four wheel passenger automobiles), except within a closed garage. Nothing herein shall prohibit the establishment by the Master Association of an area within Wyndemere designated and available for the storage of prohibited vehicles if the establishment of such storage facility is otherwise permitted by applicable government regulation and the ARC. No vehicle shall be parked anywhere but on paved areas intended for the purpose. Parking on lawns or landscaped areas is prohibited. These restrictions shall not preclude the entry to the Community of necessary service or development related vehicles.

- (B) **Towing.** Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations promulgated by the Board may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean boats, campers, mobile homes, motor homes, and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

14.11 Satellite Dishes, Television and Other Outdoor Antennae. No outdoor satellite dishes, television, radio or other antenna or antenna system may be erected or installed on any parcel unless approved by Committee. The approval rights set forth herein shall exist to the fullest extent permitted by applicable law.

14.12 Garage Sales. No garage sale, estate sale, flea market, auction, or similar event shall be held from any parcel.

14.13 Dikes, Dams or Canal Walls. No dikes, dams or canal walls shall be erected or constructed except pursuant to a plan approved by the Association and appropriate governmental officials.

14.14 Docks, Boathouses, Waterfront Construction, and Shore Contours. No docks, bulkheads, moorings, pilings, boathouses, or boat shelters of any kind or any construction shall be erected on or over waterways of and within the Community without the consent of Wyndemere Country Club, Inc. The area, if any between the rear lot line of the parcel and the water edge of any lake or other body of water within the Community shall be landscaped and/or sodded and maintained by the Association. No person or persons whomsoever shall be permitted upon that portion of the Community lying between the rear lot line and the parcel and the water's edge of any lake or other water body within the Community, except:

- (A) Owners, their families, guests and invitees, or

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- (B) An employee or contractor of the Association for the sole and exclusive purpose of performing landscape maintenance upon the backs of property along lake or lake bank itself or within said lake or other water body.

14.15 Boats. No boats shall be used upon any portion of the Community which is designed for water retention. The administration, management, operation and maintenance of water retention areas and drainage system shall be the responsibility of Wyndemere Country Club, Inc. (The Club)

14.16 Water Supply. No individual water supply system for drinking purposes or household use shall be permitted on any parcel. This provision, however, shall not preclude the installation of any water supply system for irrigation or sprinkler purposes; provided, however, that such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Association and the applicable governmental authorities. A water supply system for irrigation or sprinkler purposes has been installed by the Master Association and the Master Association requires that an owner use such water.

14.17 Sewage Disposal. No individual sewage disposal system shall be permitted on any parcel.

15. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. Every owner shall at all times comply with Chapter 617, Florida Statutes, other applicable laws, ordinances and regulations as well as all the covenants, conditions and restrictions of the Governing Documents. All violations of laws or the Governing Documents shall be reported immediately by any owner to the Board of Directors. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. If any person, firm or entity subject to the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors of the Association, that person shall be liable to be fined by the Association for each such failure to comply or other violation.

15.1 Legal Action. Judicial enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the parcel to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If such action is instituted, the Association, in addition, shall be entitled to recover its costs and attorney's fees incurred in enforcing the Governing Documents.

15.2 Fines. The Board may impose a fine or fines upon an owner for failure of the owner, his family, guests, invitees, tenants, or employees to comply with any covenant, restriction, rule, or regulation contained herein or promulgated pursuant to the Governing Documents. The procedures for levying fines shall be as follows:

- (A) **Notice.** The Association shall notify the owner of the nature of the alleged infraction or infractions. Included in the notice shall be the date and time of the next Board of Directors meeting at which time the owner shall have an opportunity for a hearing and a right to

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present reasons why penalty(ies) should not be imposed. Notice of the hearing must be given at least fourteen (14) days in advance of the hearing.

- (B) **Hearing.** At the hearing, the facts of the alleged infraction(s) shall be presented to a committee appointed by the Board consisting of at least three (3) members who are not officers, directors or employees of the Association or the spouse, parent, child, brother or sister of an officer, director or employee. The owner shall then have a reasonable opportunity to present evidence as to why the penalty(les) should not be imposed. If the committee, by majority vote, does not approve a proposed fine, it may not be imposed.
- (C) **Amount of Fine.** The Board of Directors may impose fines in amounts reasonably related to the severity of the offense and deemed adequate to deter future offenses, however, no fine may exceed fifty dollars (\$50.00) per violation. Each day of a continuing violation may be considered a separate violation, with the requirement of only one notice and opportunity for hearing.
- (D) **Collection of Fines.** Fines shall be treated as an assessment due to the Association ten (10) days after the hearing.
- (E) **Application.** All monies received from fines shall become part of the common surplus.
- (F) **Nonexclusive Remedy.** Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such owner.

15.3 Applicability of Documents. All of the provisions of the Governing Documents pertaining to use and occupancy shall be applicable and enforceable against any person occupying a parcel as a lessee, guest or invitee to the same extent as against an owner, and 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 and evict the tenant in the event of violations by the tenant of such covenant, shall be deemed to be included in every lease whether oral or written, and whether specifically expressed in such lease or not. The Association may also bring an action at law or in equity, or both, to redress alleged failure or refusal to comply with the Governing Documents or law against any tenant, guest or invitee occupying a parcel. The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs.

16. MASTER ASSOCIATION.

16.1 Applicability of Master Documents. By taking title to a parcel, the owner becomes subject to the terms and conditions of the Declaration of Covenants, Conditions, and Restrictions for Wyndemere, originally recorded in Official Record Book 916, Page 1080 *et seq.*, of the Public Records of Collier County, Florida (the "Master Declaration"), as it may be amended from time to time.

16.2 Master Association Assessments. Pursuant to the Master Declaration, the Master Association has the right to assess its members for all expenses which may be incurred by the Master Association in the performance of its duties and to place liens on parcels in the event of failure to pay said assessments.

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16.3 Membership in Master Association, Inc. In accordance with the provisions of the Articles of Incorporation of the Master Association, all owners are automatically and irrevocably members of the Master Association.

17. DURATION OF COVENANTS; AMENDMENT OF DECLARATION.

17.1 Duration of Covenants. This Declaration and its terms, provisions, conditions, covenants, restrictions, reservations, regulations, easements, burdens and liens contained herein, including without limitation, the provisions for assessment of a parcel, shall run with and bind the land and inure to the benefit of the Association, owners and their respective legal representatives, heirs, successors and assigns for the term of ninety (90) years from the date of the original recording of this Declaration amongst the Public Records of Collier County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each, unless at least one (1) year prior to the termination of such ninety (90) year term of any such ten (10) year extension thereof there is recorded amongst the Public Records of Collier County, an instrument signed by the then owners owning two-thirds (2/3rds) of the parcels and all Institutional Mortgagees in existence one (1) year prior to the termination of such term or extension agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of the ninety (90) year term or the then ten (10) year extension during which such instrument of termination is recorded.

17.2 Vote Required to Amend. Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended by concurrence of at least a majority of the voting interests at any annual or special meeting called for the purpose, provided that notice of each proposed amendment has been given to the members in accordance with law. No amendment shall change the owner's share of liability for assessments or voting rights unless the owner consents to the amendment.

17.3 Certificate Recording. A copy of each 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 officers of the Association with the formalities of a deed. The certificate must also set forth the legal description of the Community. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

18. GENERAL PROVISIONS.

18.1 Waiver. Any waiver by the Board of Directors of any provisions of this Declaration or breach hereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

18.2 Severability. If any section, subsection, sentence, clause, phrase or portion of this Declaration or any of its recorded exhibits is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions.

DECLARATION

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18.3 **Headings.** The headings of any Sections herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

18.4 **Singular, Plural and Gender.** Whenever the context so requires, the use of the plural shall include the singular and the plural, and the use of any gender shall be deemed to include all genders.


18.5 **Notices.** Any notice required to be sent to any owner under the provisions of this Declaration or the Bylaws, shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as owner on the records of the Association at the time of such mailing. The owner bears the responsibility for notifying the Association of any change of address.

18.6 **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.

IN WITNESS WHEREOF, the Association has caused these presents to be executed in its name and its corporate seal to be affixed by its proper officers on the day and year first above written.

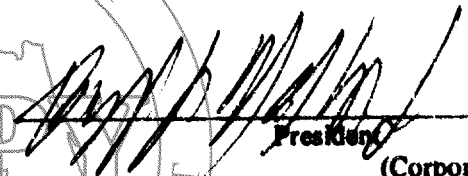


 Signature of Witness
 SUE HICKS

 Print Name of Witness


 Signature of Witness
 SUZANNE E. GEPHART

 Print Name of Witness

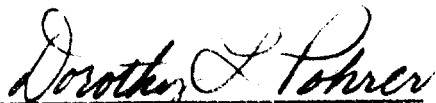
WATER OAKS ASSOCIATION, INC.


 President
 (Corporate Seal)

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 27th day of February, 1997, by Burr J. Mosher, President of Water Oaks Association, Inc., a Florida corporation not for profit, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification.

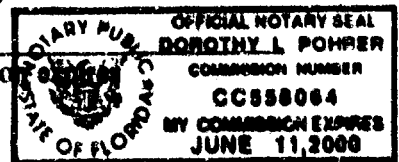
(SEAL)



 Notary Public
 DOROTHY L. POHRER

 Printed name

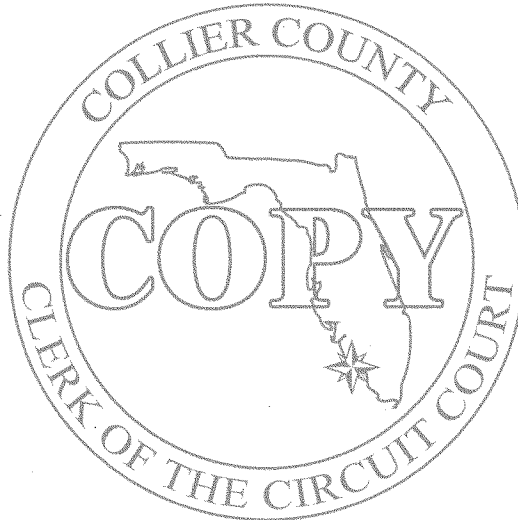
My commission



DECLARATION

EXHIBIT A

THE LAND BEING SUBMITTED TO THE WATER OAKS COVENANTS IS THE LAND DESCRIBED IN THIS EXHIBIT "A" WHICH IS THE LAND DESCRIBED IN A-1, page 1 and 2 (11.40 acres), LESS THE LAND DESCRIBED IN EXHIBIT B, WHICH IS THE ROADWAY TRACT WHICH HAS BEEN CONVEYED TO THE WYNDEMERE HOMEOWNERS ASSOCIATION AS PART OF THE WYNDEMERE ROADWAY SYSTEM.





WILSON, MILLER, BARTON, SOLL & PEEK, INC.
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Description of the proposed plat of
"WATER OAKS AT WYNDEMERE" (not recorded)
being a part of parcels GG-1 and MM-2 of
"REPLAT OF PART OF WYNDEMERE TRACT MAP"
(P.B. 13, pages 39-43) Collier County, Florida

Commencing at the center of Section 19, Township 49 South, Range 26 East, Collier County, Florida;
thence along the north and south 1/4 section line of said Section 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP" according to the plat thereof as recorded in Plat Book 13, pages 39 through 43, Public Records of Collier County, Florida and the POINT OF BEGINNING of the parcel herein described;
thence along said boundary line of parcel "MM-2" in the following (5) five described courses;
(1) South 56°-20'-30" West 173.11 feet;
(2) North 76°-31'-43" West 138.33 feet;
(3) North 89°-36'-00" West 154.83 feet;
(4) southwesterly 78.23 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 129.48 feet and being subtended by a chord which bears South 56°-39'-47" West 77.05 feet;
(5) South 73°-58'-20" West 151.25 feet;
thence leaving said boundary line North 22°-30'-02" West 215.35 feet to a point on said boundary line of parcel "MM-2";
thence along said boundary line in the following (4) four described courses;
(1) North 38°-58'-23" East 91.36 feet;
(2) North 6°-00'-43" West 45.01 feet;
(3) North 51°-03'-38" West 216.33 feet;
(4) northeasterly 56.35 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 50.00 feet and being subtended by a chord which bears North 47°-17'-01" East 53.41 feet;
thence leaving said boundary line, North 22°-00'-00" West 59.08 feet;
thence North 35°-30'-00" East 118.99 feet;
thence North 65°-10'-14" East 63.53 feet to a point on said boundary line of parcel "MM-2";
thence along said boundary line in the following (3) three described courses;
(1) South 82°-07'-42" East 334.44 feet;
(2) North 80°-43'-28" East 94.63 feet;
(3) North 71°-04'-48" East 109.00 feet;
thence leaving said boundary line, North 34°-00'-00" East 41.00 feet;
thence South 89°-00'-00" East 63.00 feet;
thence South 74°-45'-00" East 106.16 feet;
thence South 48°-00'-00" East 110.99 feet;
thence South 24°-00'-00" East 107.74 feet;
thence South 7°-00'-00" East 142.81 feet to a point on said boundary line of parcel "MM-2";

(continued on page 2)

Exhibit A-1- page 1

OR: 2301 PG: 0739



WILSON, MILLER, BARTON, SOLL & PEEK, INC.
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

"WATER OAKS AT WYNDEMERE"
part of parcels GG-1 and MM-2
(continued from page 1)

thence along said boundary line in the following (3) three described courses;

- (1) South 24°-21'-00" West 55.42 feet;
- (2) South 38°-40'-44" West 192.85 feet;
- (3) South 56°-20'-30" West 23.10 feet to said north and south 1/4 section line and the Point of Beginning of the parcel herein described;

being a part of parcels "GG-1 and MM-2" "REPLAT OF PART OF WYNDEMERE TRACT MAP" (P.B. 13, pages 39-43) and also being a part of Section 19, Township 49 South, Range 26 East, Collier County, Florida; subject to easements and restrictions of record; containing 11.40 acres of land more or less;

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Professional Engineers and Land Surveyors

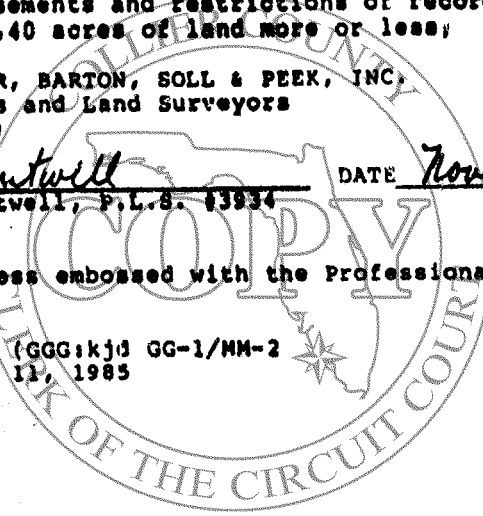


Boutwell
John S. Boutwell, P.L.S. #3934

DATE November 25, 1985

Not valid unless embossed with the Professional's seal.

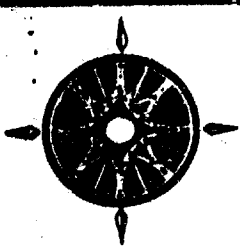
24174
Ref: 4G-596B (GGG:kjd) GG-1/MM-2
Date: October 11, 1985



OR: 2301 PG: 0740

Exhibit A-1 - page 2

Reviewed and Verified
in Official Records of
COLLIER COUNTY, FLORIDA
WILLIAM J. BEAMAN
Clerk of Circuit Court



Description of Tract "A" (ingress and egress easement)
 being a part of Parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE
 TRACT MAP" (P.B. 13, pages 39-43) Collier County, Florida

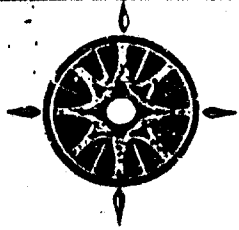
(Ref: Water Oaks at Wyndemere)

Commencing at the center of Section 19, Township 49 South, Range 26 East, Collier County, Florida;
 thence along the north and south 1/4 section line of said Section 19, South 0°-11'-46" West 47.15 feet to a point on the boundary line of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP" according to the plat thereof as recorded in Plat Book 13, pages 39 through 43, Public Records of Collier County, Florida;
 thence along said boundary line of parcel "MM-2" in the following five (5) described courses;

- (1) South 56°-20'-30" West 173.11 feet;
- (2) North 76°-31'-43" West 138.33 feet;
- (3) North 39°-36'-00" West 154.83 feet;
- (4) southwesterly 78.23 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 129.48 feet and being subtended by a chord which bears South 56°-39'-47" West 77.05 feet;
- (5) South 73°-58'-20" West 13.10 feet to the POINT OF BEGINNING of the parcel herein described;
 thence leaving said boundary line, North 6°-00'-00" West 97.46 feet;
 thence northerly and northeasterly 118.11 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 202.00 feet and being subtended by a chord which bears North 10°-45'-00" East 116.43 feet;
 thence North 27°-30'-00" East 54.07 feet;
 thence northeasterly, easterly and southeasterly 43.98 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 28.00 feet and being subtended by a chord which bears North 72°-30'-00" East 39.60 feet;
 thence South 62°-30'-00" East 121.21 feet;
 thence southeasterly 124.04 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 309.00 feet and being subtended by a chord which bears South 74°-00'-00" East 123.21 feet;
 thence South 85°-30'-00" East 41.98 feet;
 thence northeasterly 105.70 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 161.50 feet and being subtended by a chord which bears North 75°-45'-00" East 103.82 feet;
 thence North 57°-00'-00" East 18.32 feet;
 thence northeasterly and northerly 195.26 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 179.00 feet and being subtended by a chord which bears North 25°-45'-00" East 185.72 feet;
 thence North 5°-30'-00" West 65.96 feet;
 thence northerly and northwesterly 128.43 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 89.50 feet and being subtended by a chord which bears North 46°-36'-34" West 117.69 feet to a point of reverse curvature;
 thence northwesterly 28.61 feet along the arc of a tangential circular curve concave to the northeast, having a radius of

(continued on page 2)

Exhibit B - Page 1



Replat of Wyndemere Tract Map
Tract "A"
(continued from page 1)

38.00 feet and being subtended by a chord which bears North 66°-08'-57" West 27.94 feet to a point of reverse curvature; thence northwesterly, southwesterly, southeasterly and northeasterly 202.74 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 2°-52'-06" East 55.89 feet to a point of reverse curvature; thence northeasterly and southeasterly 51.35 feet along the arc of a tangential circular curve concave to the southeast, having a radius of 38.00 feet and being subtended by a chord which bears North 77°-33'-29" East 47.53 feet to a point of compound curvature;

thence southeasterly 62.50 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 61.50 feet and being subtended by a chord which bears South 34°-36'-48" East 59.84 feet;

thence South 5°-30'-00" East 65.96 feet;

thence southerly and southwesterly 164.72 along the arc of a tangential circular curve concave to the northwest, having a radius of 151.00 feet and being subtended by a chord which bears South 25°-45'-00" West 156.67 feet;

thence South 57°-00'-00" West 18.32 feet;

thence southwesterly 87.38 feet along the arc of a tangential circular curve concave to the northwest, having a radius of 133.50 feet and being subtended by a chord which bears South 75°-45'-00" West 85.82 feet;

thence North 85°-30'-00" West 41.98 feet;

thence northwesterly 112.80 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 281.00 feet and being subtended by a chord which bears North 74°-00'-00" West 112.04 feet;

thence North 62°-30'-00" West 163.21 feet;

thence northwesterly 59.56 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 108.33 feet and being subtended by a chord which bears North 46°-45'-00" West 58.81 feet;

thence North 31°-00'-00" West 28.96 feet;

thence northwesterly 83.61 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 286.00 feet and being subtended by a chord which bears North 39°-22'-30" West 83.31 feet;

thence North 47°-45'-00" West 74.96 feet;

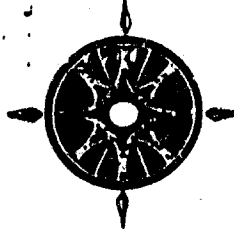
thence northwesterly, southwesterly, southeasterly and northeasterly 185.12 feet along the arc of a tangential circular curve concave to the east, having a radius of 42.00 feet and being subtended by a chord which bears South 5°-58'-49" West 67.72 feet to a point of reverse curvature;

thence northeasterly and southeasterly 48.34 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 38.00 feet and being subtended by a chord which bears South 83°-50'-34" East 45.15 feet to a point of compound curvature;

thence southeasterly 73.83 feet along the arc of a tangential circular curve concave to the southwest, having a radius of

(continued on page 3)

OR: 2301 PG: 0742



WILSON, MILLER, BARTON, SOLL & PEEK, INC.
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Replat of Wyndemere Tract Map
Tract "A"
(continued from page 2)

258.00 feet and being subtended by a chord which bears south 39°-11'-53" East 73.58 feet;
 thence South 31°-00'-00" East 28.96 feet;
 thence southeasterly 39.72 feet along the arc of a tangential circular curve concave to the northeast, having a radius of 136.33 feet and being subtended by a chord which bears South 39°-20'-45" East 39.58 feet to a point of reverse curvature;
 thence southeasterly and southwesterly 36.75 feet along the arc of a tangential circular curve concave to the southwest, having a radius of 28.00 feet and being subtended by a chord which bears South 10°-05'-45" East 34.16 feet;
 thence South 27°-30'-00" West 59.53 feet;
 thence southwesterly and southeasterly 134.48 feet along the arc of a tangential circular curve to the southeast, having a radius of 230.00 feet and being subtended by a chord which bears South 10°-43'-00" West 132.57 feet;
 thence South 6°-00'-00" East 102.41 feet to a point on said boundary line of parcel "MM-2";
 thence along said boundary line North 73°-58'-20" East 28.43 feet to the Point of Beginning of the parcel herein described;
 being a part of parcel "MM-2" of "REPLAT OF PART OF WYNDEMERE TRACT MAP" (P.B. 13, pages 39-43) Collier County, Florida;
 subject to easements and restrictions of record;
 containing 1.13 acres more or less.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

BY John E. Boutwell DATE Nov. 26, 1985
John E. Boutwell, P.L.S. #3934

Not valid unless embossed with the Professional's seal.

W.O. 24782
Ref: 4G-595 (GGG:kjd tract-a)
Date: November 21, 1985

Exhibit B - page 3

Examined and Verified
in Official Records of
COLLIER COUNTY, FLORIDA
WILLIAM J. REAGAN
Clerk of Circuit Court

OR: 2301 PG: 0743

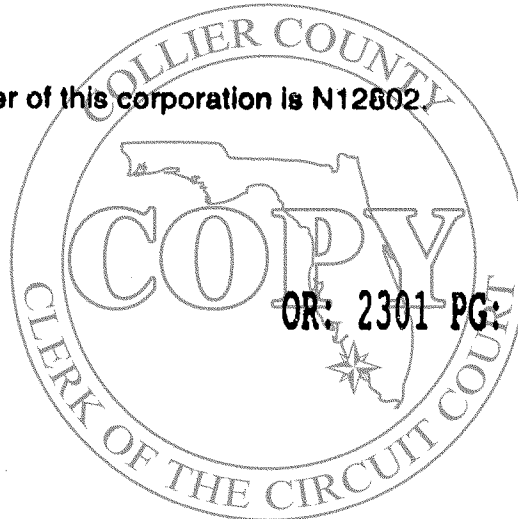
State of Florida



Department of State

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on March 6, 1997, for WATER OAKS ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N12602.



OR: 2301 PG: 0744

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capitol, this the
Tenth day of March, 1997



CR2EO22 (2-95)

Sandra B. Northam

Sandra B. Northam
Secretary of State

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION. FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION.

AMENDED AND RESTATED ARTICLES OF INCORPORATION

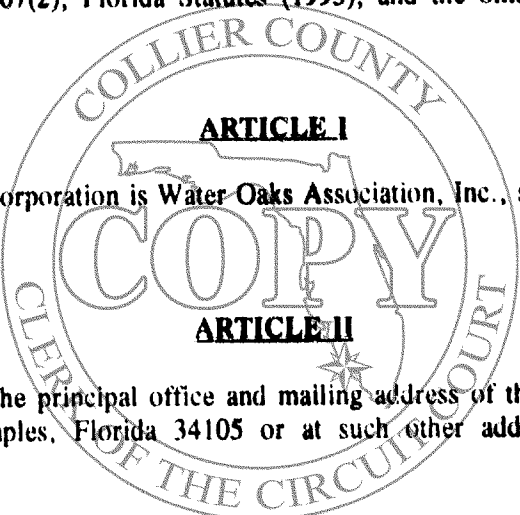
OF

WATER OAKS ASSOCIATION, INC.

FILED
97 MAR -6 AM 11:30
SECRETARY OF STATE
TALLAHASSEE FLORIDA

FILED
97 MAR -6 AM 11:00
SECRETARY OF STATE
TALLAHASSEE FLORIDA

Pursuant to Section 617.1007(4), Florida Statutes (1995), these Articles of Incorporation of Water Oaks Association, Inc., a Florida corporation not for profit which was originally incorporated under the same name on December 31, 1985, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1007(2), Florida Statutes (1995), and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles other than the inclusion of amendments, adopted pursuant to Section 617.1007(2), Florida Statutes (1995), and the omission of matters of historical interest.



ARTICLE I

NAME: The name of the corporation is Water Oaks Association, Inc., sometimes hereinafter referred to as the "Association".

ARTICLE II

PRINCIPAL OFFICE: The principal office and mailing address of the corporation shall be at 385 Edgemere Way North, Naples, Florida 34105 or at such other address as the Association may subsequently determine.

ARTICLE III

PURPOSE AND POWERS: This Association will not permit pecuniary gain or profit nor distribution of its income to its members, officers or Directors. It is a nonprofit corporation formed for the purpose of establishing a corporate residential neighborhood homeowners association which, subject to a Declaration of Covenants, Restrictions and Easements originally recorded in the Public Records of Collier County, Florida, at O.R. Book 1182 at Page 1231 *et. seq.*, has the powers described herein. The Association shall have all of the common law and statutory powers of a Florida corporation not for profit consistent with these Articles and with said Declaration of Covenants, Restrictions and Easements, and shall have all of the powers and authority reasonably necessary or appropriate to the operation and regulation of a residential neighborhood, subject to said recorded Declaration, as it may from time to time be amended, including but not limited to the power:

1. To make, levy and collect assessments for the purpose of obtaining funds from its members to pay for the operational expenses of the Association and costs of its collection and to use and expend the proceeds of assessments in the exercise of its powers and duties hereunder;
2. To make, amend and enforce reasonable rules and regulations governing the use of the Common Area and the operation of the Association;
3. To sue and be sued, and to enforce the provisions of the Declaration, these Articles, and the Bylaws of the Association;
4. To contract for the management of the Association and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration or by law to be exercised by the Board of Directors or the membership of the Association;
5. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Community;
6. To borrow or raise money for any purposes of the Association, without limit as to amount; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness; and to secure the payment of any thereof, and of the interest thereon, by mortgage, pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Association;
7. To participate in mergers and consolidations with other non-profit corporations organized for the same purpose or to annex additional residential property or common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3rds) of the voting interests;
8. To assist, cooperatively with Wyndemere Homeowners Association, Inc., in the administration and enforcement of the Declaration of Covenants, Conditions and Restrictions of Wyndemere as the same was originally recorded in O. R. Book 916, Page 1080 *et seq.* public records of Collier County, Florida, as amended from time to time.
9. Exercise any and all powers, rights and privileges which a corporation organized under Chapter 617 of Florida Statutes may now or hereafter have or exercise; subject always to the Declaration as amended from time to time; and

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: Membership and voting rights shall be as set forth in Article IV of the Declaration of Covenants, Restrictions and Easements for Water Oaks, to which a copy of these Articles is attached as Exhibit "C", and the Bylaws of the Association.

ARTICLE V

TERM; DISSOLUTION: The term of the Association shall be perpetual. The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3rds) of the members who are entitled to vote. Upon dissolution of the Association, other than incident to a merger or consolidation, its assets, both real and personal, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was formed. In the event there is a refusal to accept such dedication, then such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization which is devoted to purposes similar to those of this Association.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

ARTICLE VII

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

- A. **Proposal.** Amendments to these Articles shall be proposed by a majority of the Board or upon petition of one-fourth (1/4th) of the voting interests, and shall be submitted to a vote of the members not later than the next annual meeting.
- B. **Vote Required.** Except as otherwise required by Florida law, these Articles of Incorporation may be amended by vote of a majority of the voting interests, at any annual or special meeting, or by approval in writing of a majority of the voting interests without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that the notice contains a copy of the proposed amendment.
- C. **Effective Date.** An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Collier County, Florida.
- D. **Conflict.** In the event of a conflict between the provisions of these Articles and the provisions of the Declaration, the provisions of the Declaration shall prevail.

ARTICLE VIII**DIRECTORS AND OFFICERS:**

- A. The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.
- B. Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

- C. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE IX

INDEMNIFICATION:

The Association shall indemnify every Director, every officer and every committee member (including the Architectural Review Committee) of the Association against all expenses and liabilities including attorney's fees (at all trial and appellate levels), actually and reasonably incurred by or imposed on such person or persons in connection with any claim, legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director, officer or committee member of the Association. The foregoing provisions for indemnification shall apply whether or not such person is a Director, officer or committee member at the time such expenses are incurred. The foregoing right of indemnification shall not apply to:

- (1) Gross negligence or willful misconduct in office by any Director, officer or committee member.
- (2) Any criminal action, unless the Director, officer or committee member acted in good faith and in a manner reasonably believed was in, or not opposed to, the best interest of the Association, and had no reasonable cause to believe his action was unlawful.

To the extent that a Director, officer or committee member has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

CERTIFICATE

The undersigned, being the duly elected and acting President of Water Oaks Association, Inc., hereby certifies that the foregoing were approved by the affirmative vote of at least a majority of all members entitled to vote at the meeting held on the 13th day of February, 1997, after due notice, in accordance with the requirements of the Articles of Incorporation for their amendment, said vote being sufficient for adoption. The foregoing both amend and restate the Articles of Incorporation in their entirety.

Executed this 27th day of February, 1997.

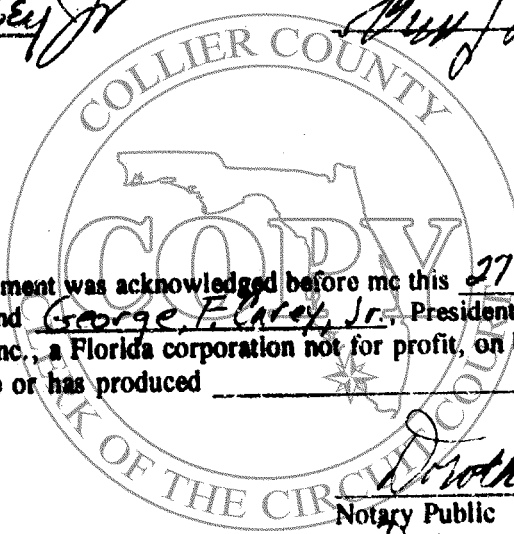
WATER OAKS ASSOCIATION, INC.

George F. Carey Jr
Secretary

[Signature]
President
(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 27th day of February, 1997, by Burr J. Mosher and George F. Carey, Jr. President and Secretary respectively, of Water Oaks Association, Inc., a Florida corporation not for profit, on behalf of the corporation. Each is personally known to me or has produced _____ as evidence of identification.



(SEAL)

Dorothy L. Pohrer
Notary Public
DOROTHY L. POHRER
Printed name

My commission expires _____
Commission number _____
OFFICIAL NOTARY SEAL
DOROTHY L. POHRER
COMMISSION NUMBER
CG888888
MY COMMISSION EXPIRES
JUNE 11, 2000

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE BYLAWS. FOR PRESENT TEXT SEE EXISTING BYLAWS.

AMENDED AND RESTATED
BYLAWS
OF
WATER OAKS ASSOCIATION, INC.

1. GENERAL. These are the Amended and Restated Bylaws of Water Oaks Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of serving as a residential neighborhood homeowners' association.

1.1 Principal Office. The principal office of the Association shall be at 385 Edgemere Way, Naples, Florida 34105 or such other location as the Board of Directors may designate.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 Definitions. The definitions for various terms used in these Bylaws shall be as set forth in Section 4 of the Declaration of Covenants, Restrictions and Easements for Water Oaks (the "Declaration"), to which these Bylaws are attached as Exhibit "D".

2. MEMBERS; VOTING RIGHTS. The members of the Association and their voting rights shall be as set forth in Section 5 of the Declaration.

3. MEMBERS' MEETINGS; VOTING.

3.1 Annual Meeting. The members shall meet at least once in each calendar year and such meeting shall be the annual meeting. The annual meeting shall be held in Collier County, Florida, each year on a day, place and time within sixty (60) days of the end of the fiscal year designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Board of Directors, and may also be called by members representing at least one-third (1/3rd) of the voting interests. Business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings. Notice of all members' meetings must state the time, date, and place of the meeting. The notice must be mailed to each member at his address as it appears on the books of the Association, or may be furnished by personal delivery. The member bears the responsibility for notifying the Association of any change of address. The notice must be mailed or delivered at least fourteen (14) days prior to the date of the meeting by first class mail to each owner. Meeting notices may be delivered in person if a written waiver of mailing is obtained. Notice of a special meeting must include a description of the purpose for the meeting.

3.4 Quorum. A quorum at a members' meeting shall be attained by the presence in person or by absentee ballot of persons entitled to cast at least thirty percent (30%) of the voting interests.

3.5 Vote Required. The acts approved by a majority of the votes cast at a meeting at which a quorum has been attained shall be binding upon all unit owners for all purposes, except where a higher vote is required by law or by any provision of the Governing Documents.

3.6 Procedure. Votes may be cast at a meeting either in person or by absentee ballot, which ballot shall be cast by the person who would be entitled to vote if present at the meeting. Proxy voting is prohibited.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice of the time and place of its continuance if such are announced at the meeting being adjourned. If a time and place for the reconvened meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for the reconvened meeting shall be sent in accordance with Section 3.3 above. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

3.8 Order of Business. The order of business at members' meetings shall be substantially as follows:

- A. Call of the roll or determination of quorum.
- B. Reading or disposal of minutes of last meeting.
- C. Reports of Officers.
- D. Reports of Committees.
- E. Election of Directors (annual meeting only).
- F. Unfinished Business.
- G. New Business.
- H. Adjournment.

3.9 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a business-like manner, must be maintained in written form or in another for that can be converted into written form within a reasonable time, and must be available for inspection by members or their authorized representatives at all reasonable times.

3.10 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws.

The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.11 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents to the action proposed to be taken, are signed by members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or a majority of the total votes of the entire membership, whichever is greater, unless a lesser vote is sufficient by law. If the requisite number of written consents are received by the Secretary within thirty (30) days of mailing notice of the proposed action to the members, a resolution passed by the Board of Directors on the action so authorized shall be of full force and effect as if the action had been approved by the vote of the members at a members meeting held on the date of the Board meeting. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as provided in Section 3.2 above. If the vote is obtained by polling the unit owners by mail, the unit owners list on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the unit owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors shall be three (3). In order to provide for a continuity of experience by establishing a system of staggered terms, at the 1997 annual meeting, the number of Directors to be elected shall be three (3). The one (1) candidate receiving the highest number of votes shall be elected for a three (3) year term. The one (1) candidate receiving the next highest number of votes shall be elected for a two (2) year term. The candidate receiving the least number of votes shall be elected for a one (1) year term. If there are only three (3) candidates, the determination of who will serve the longer terms shall be made among them by agreement or by lot. Thereafter, all Directors shall be elected for three (3) year terms. A Director will serve until the election at which his successor is duly elected, unless he sooner resigns or is recalled as provided in 4.5 below. Directors shall be elected by the members at the annual meeting, or in the case of a vacancy, as provided in 4.4 below.

4.2 Qualifications. Each Director must be a member or the spouse of a member.

4.3 Nominations and Elections. At each annual meeting the members shall elect as many Directors as there are regular terms of Directors expiring or vacancies to be filled. The nominating committee, if any, shall submit its recommended nominees for the office of Director in time to be included with notice of the annual meeting; any other eligible person may also be nominated as a candidate from the floor at the annual meeting. Directors shall be elected by a plurality of the votes cast at the annual meeting. In the election of Directors, there shall be appurtenant to each parcel as many votes for Directors as there are Directors to be elected. No member may cast more than one vote for any person nominated as a Director for each parcel owned by the member, it being the intent hereof that

voting for Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be declared elected, except that a run-off shall be held to break a tie vote.

4.4 Vacancies on the Board. If the office of any Director or Directors becomes vacant for any reason except as provided in Section 4.5 below, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor or successors who shall hold office for the remaining unexpired term or terms.

4.5 Removal of Directors. Any or all Directors may be removed with or without cause by a majority of the voting interests, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. Any vacancies created as a result of this meeting shall be filled by the members at the same meeting.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors.

4.7 Regular Meetings. Regular meetings of the Board may be held at such time and place in Collier County, Florida, as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least two (2) days prior to the day named for such meeting.

4.8 Special Meetings. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one-third (1/3rd) of the Directors. Not less than two (2) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

4.9 Open Meetings; Notice to Owners. All meetings of the Board of Directors shall be open to members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings shall be posted in a conspicuous place in the Community at least forty-eight (48) hours in advance of the meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Community, notice of each Board meeting shall be mailed or delivered to each member at least seven (7) days before the meeting, except in an emergency. This Section 4.9 shall also apply to meetings at which a quorum is present, of any committee or other similar body, including the Architectural Review Committee.

4.10 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.11 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of all Directors. Members of the Board of Directors may participate in any meeting

of the Board, by communicative arrangement whereby all persons present can simultaneously hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.12 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Governing Documents or by applicable statutes. Directors may not vote by proxy or by secret ballot at Board meetings except that secret ballots may be used in the election of officers.

4.13 Presumption of Assent. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. A vote or abstention from voting by each director present at a Board meeting shall be recorded in the minutes.

4.14 Adjourned Meetings. The majority of those present at any meeting of the Board of Directors, regardless of whether a quorum has been attained, may adjourn the meeting from time to time. At any adjourned meeting provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.15 Action Without Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent, in writing, setting forth the action so taken, shall be signed by all of the Directors. Such consent shall have the same force and effect as a unanimous vote.

4.16 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present.

4.17 Directors' Fees and Reimbursement of Expenses. No compensation or fees shall be paid to the Directors for services as a Director. Directors may be reimbursed for any reasonable expenditures incurred for the benefit of the Association upon approval of a majority of the Directors.

4.18 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, including a nominating committee and an executive committee, as the Board may deem necessary and convenient for efficient and effective operation. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee and must comply with the requirements of Section 4.9 above.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by a majority of the Board of Directors. Any officer may be removed with or without cause at any meeting by the vote of a majority of all Directors. Any person except the President may hold two or more offices. The Board of Directors shall appoint, from time to time, such other officers, and

designate their powers and duties, as the Board shall deem to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice President and the offices of Secretary and Treasure may be combined.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts and documents requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice Presidents. The Vice Presidents shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall prescribe.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall record all votes and the minutes of all proceedings in a book to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

5.6 Compensation of Officers. No compensation shall be paid to any member for services as an officer of the Association; provided any officer may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the Directors.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions as well as those contained in Section 8 below:

6.1 Depository. The Association shall maintain its accounts in such federally insured financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

6.2 Budget. The Board of Directors shall adopt an Association budget in advance for each fiscal year. The budget shall reflect the estimated revenues and expenses for the next year and the estimated surplus or deficit as of the end of the current year. The budget shall indicate separately any fees or charges for recreational amenities. The Association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon written request at no charge to the member. The copy must be provided to the member within the time limits set forth in Section 8 below.

6.3 Assessments. Regular annual assessments based on the budget adopted by the Board of Directors shall be paid in quarterly installments in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days prior to the due date. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget has not been adopted by the Board at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly payment, and shall be continued at such rate until a budget is adopted by the Board and pro rata assessments are calculated, at which time any overage or shortage calculated shall be added or subtracted from each unit's next due quarterly installment.

6.4 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any special assessment must contain a statement of the purpose(s) of the assessment, and the funds collected must be spent for the stated purpose(s) or returned to the members as provided by law.

6.5 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all Directors and employees of the Association handling or responsible for Association funds, may be bonded in such amounts as may be required by the Board of Directors. The premiums on such bonds shall be paid by the Association.

6.6 Financial Information. Annually, the Board shall prepare a financial report meeting the requirements of Section 617.303(7), Florida Statutes, within sixty (60) days after the close of the fiscal year. The Association shall either deliver the financial report to each member or send to each member a written notice that the financial report is available upon request at no charge to the member within ten (10) business days of receipt by the Association of the report.

6.7 Application of Payments and Commingling of Funds. All monies collected by the Association may be commingled in a single fund or divided into two or more funds, as determined by the Board of Directors. All payments on account by an owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, and regular or special assessments, in such manner and amounts as the Board of Directors may determine.

6.8 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

7. RULES AND REGULATIONS. The Board of Directors may, from time to time adopt and amend administrative rules and regulations governing the operation of the Association. Copies of such rules and regulations shall be furnished to each owner. The Board of Directors shall have the power to levy fines as further provided in Section 15.2 of the Declaration, for violations of the rules and regulations.

8. OFFICIAL RECORDS. The official records of the Association must be kept within the state of Florida (and may be kept within the Community) and shall be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within ten (10) business days after receipt by the Association of a written request for access. The Board of Directors may adopt written rules governing the frequency, time, location, notice and manner of inspections and may impose fees to cover its costs of providing copies of official records. The following items, when applicable, shall constitute the official records of the Association:

- (A) Copies of the Governing Documents, including all amendments thereto. The Association shall keep adequate numbers of copies of the documents to ensure their availability to members and prospective members and may charge only its actual costs to reproduce and deliver these documents.
- (B) Copies of any plans, specifications, permits and warranties related to property that the Association is required to maintain, repair or replace.
- (C) A copy of the current Association rules and regulations.
- (D) Minutes of all meetings of the Board of Directors and the members, which minutes shall be retained for a period of at least seven (7) years.
- (E) A current roster of all members, their mailing addresses and parcel identifications.
- (F) All of the Association's insurance policies or copies thereof which policies shall be retained for a period of at least seven (7) years.
- (G) A current copy of all contracts to which the Association is a party. Bids received by the Association for work to be performed are also official records and are required to be kept for a period of at least one (1) year.
- (H) The financial and accounting records of the Association, kept according to good accounting practices, which records must be maintained for a period of at least seven (7) years. The financial and accounting records must include the following:
 1. Accurate, itemized and detailed records of all receipts and expenditures.
 2. A current account and a periodic statement of the account of each member, designating the name and current address of each member obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on account, and the balance due.

3. All tax returns, financial statements and financial reports of the Association.
4. Any other records which identify, measure, record or communicate financial information.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws may be proposed and adopted in the following manner.

9.1 Proposal. Amendments to these Bylaws may be proposed by a majority of the Board or upon written petition signed by at least one-fourth (1/4th) of the voting interests.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by the Board or owners, such proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given. The notice shall set forth the full text of the proposed amendment.

9.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, these Bylaws may be amended by concurrence of majority of the voting interests at any annual or special meeting, provided that proper notice of any proposed amendment has been given to the Members. Amendments may be adopted without a meeting by following the procedure set forth in Section 3.11 of these Bylaws.

9.4 Certificate. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by officers 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 Collier County, Florida. The certificate must identify the book and page of the Public Records where the Declaration is recorded, and the legal description of the Community.

10. VOTING ON MASTER ASSOCIATION MATTERS. The Association is entitled to one (1) representative on the Board of Governors of the Master Association, which representative shall be entitled to cast all votes of the members of the Association in the affairs of the Master Association. The representative shall have as many votes in Master Association matters as the number of parcels in the Community. All such votes shall be cast in a block. Not later than March 15th of each year in which a regular vacancy will occur to the Community, the Board of Directors shall designate in writing one (1) natural person who shall serve as a Governor of the Master Association from the next annual organizational meeting of the Board of Governors until the following annual organizational meeting, or until his earlier death, resignation or removal. Any vacancy occurring in the office shall be filled by the Board of Directors. Any representative may be removed with or without cause by the Board of Directors. The representative shall be a member of the Association and may be the President or other officer or director thereof.

11. MISCELLANEOUS.

11.1 Gender. Whenever the masculine or singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

11.3 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflicts should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of the Bylaws.

