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NAPLES FL 34103

(Space above line for recording information)

### CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the President of Victoria Park II Property Owners Association, Inc., a Florida corporation, not for profit, does hereby certify that, at the special meeting of the members held on the 19<sup>th</sup> day of April, 2005, where a quorum was present, after due notice, the Amended and Restated Declaration of Protective Covenants for Victoria Park II and the Amended and Restated By-Laws of Victoria Park II Property Owners Association, Inc. attached hereto, were approved and adopted by the required vote of the membership. The Declaration of Condominium for Victoria Park II was originally recorded at O.R. Book 814, Pages 165 et seq., Public Records of Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

VICTORIA PARK II PROPERTY OWNERS  
ASSOCIATION, INC.

(SEAL)

By: Tom Rauschenberger  
Tom Rauschenberger, President

Witness

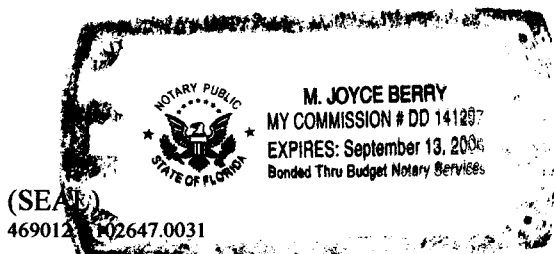
Print Name: Maribelyn Lupo

Witness

Print Name: AMBER M. DEAN

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of April, 2005, by Tom Rauschenberger, President of Victoria Park II Property Owners Association, Inc., the corporation described in the foregoing instrument who is personally known to me or who has produced [REDACTED] as identification.



M. Joyce Berry  
Notary Public, State of Florida

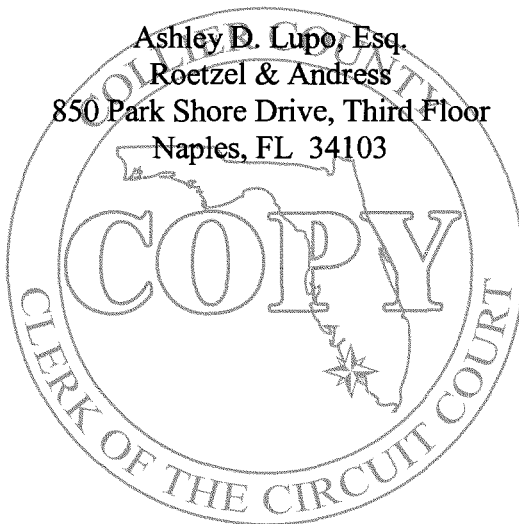
Printed Name of Notary Public

My Commission Expires:

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS  
FOR  
VICTORIA PARK II**

Instrument prepared by and after recording return to:

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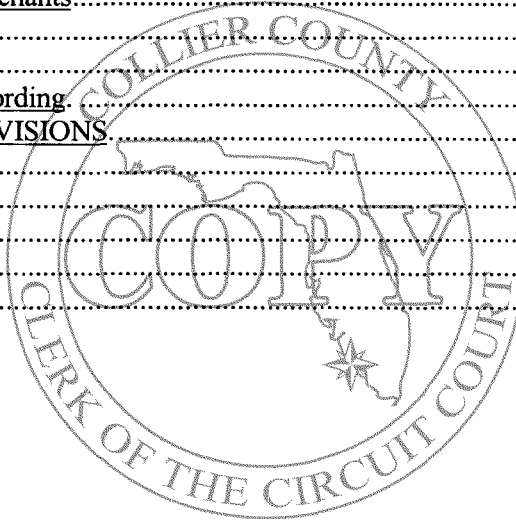


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**FOR**  
**VICTORIA PARK II**

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**AMENDED AND RESTATED DECLARATION OF  
PROTECTIVE COVENANTS FOR VICTORIA PARK II**

That on June 5, 1979, the original Declaration of Protective Covenants For Victoria Park II ("Declaration") was recorded in Official Records Book 814, Pages 165 et seq., of the Public Records of Collier County, Florida, as amended. The Declaration is hereby amended and restated in its entirety.

The real property, described as:

The South ½ of the South ½ of Section 26, Township 48 South, Range 25 East, Collier County, Florida, a portion of which was platted as Victoria Park II in Plat Book 12, Page 65, and a portion of which was platted as Victoria Park II Addition, in Plat Book 13, Page 46, and a portion of which was platted as Victoria Park West, in Plat Book 13, page 92, and a portion of which was subject to replat as Hidden Harbour at Victoria Park in Plat Book 19, Page 52 (all of which shall be collectively referred to herein as "Victoria Park II").

has already been submitted to the Declaration. For the purpose of enhancing and protecting the value, attractiveness and desirability of the residential Living Units constituting such development, all of the real property described and each part thereof shall be bound by the Declaration and shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof and the Association.

1. DEFINITIONS. The terms used in this Declaration and its recorded exhibits shall have the definitions set forth in Chapter 720, Florida Statutes (2004).

1.1 "Act" shall mean and refer to Chapter 720, Florida Statutes (2004).

1.2 "Architectural Review Committee" means and refers to the Committee described in Section 4 of this Declaration.

1.3 "Association" shall mean and refer to Victoria Park II Property Owners Association, Inc., a Florida corporation not for profit.

1.4 "Board" means and refers to the Board of Directors of the Association.

1.5 "Common Area" means and refers to all real property which is now or hereafter owned by the Association or dedicated for use or maintenance by the Association or its members by a recorded plat or this Declaration.

1.6 "Declaration" means and refers to this Amended and Restated Declaration of Protective Covenants for Victoria Park II, and any amendments hereto.

1.7 "Family" or "Single Family" shall refer to one natural person (as opposed to an artificial entity); or a group of two or more natural persons living together each of whom is related to each of the others by blood, marriage, legal custody or adoption; or not more than two (2) persons not so related, who reside together as a single housekeeping Living Unit, along with their children, if any.

1.8 "Governing Documents" means and refers to this Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and the Resolutions of the Association.

1.9 "Guest" or "Guests" means any person or persons physically present in, or occupying a Living Unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.10 "Institutional Mortgagee" means the mortgagee or assignee of a first mortgage against a Parcel or Living Unit, which mortgagee or assignee is a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Parcel or Living Unit which mortgage is guaranteed or insured (as evidenced by a recorded instrument) by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private agency engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns. An "Institutional Mortgage" is a first mortgage held by an Institutional Mortgagee encumbering a Living Unit.

1.11 "Lease" means the grant by a Living Unit owner of a temporary right to occupy the owner's Living Unit for valuable consideration.

1.12 "Living Unit", "Unit" or "Residence" means and refers to any dwelling located on a Parcel, intended for use and occupancy as a residence for a single family.

1.13 "Parcel", "Parcels", or "Lot" means one or more of the platted parcels of land contained within the Plat bearing a numerical designation, into which the Properties have been subdivided, upon each of which a Living Unit has been or is intended to be constructed. Wherever herein the term "Parcel" is used, it shall be interpreted as if followed by the words "and Living Unit constructed thereon" except where the context clearly requires otherwise.

1.14 "Member" means and refers to all persons who are members of the Association as provided in this Declaration, the Articles of Incorporation and By-laws of the Association.

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

1.16 "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 Properties. It does not include those whose interest is solely for security for the performance of an obligation.

1.17 "Primary Occupant" means the natural person approved for occupancy, together with her family. When title to a Living Unit is held in the name of more than two persons, or by a trustee or a corporation or other entity which is not a natural person, then the Owner shall designate a primary occupant.

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

1.19 "Single Family Residence" means and refers to a Living Unit which is restricted to occupancy only by the owner or primary occupant and his family, guests and tenants, as further provided herein.

1.20 "Tenant" or "Tenants" means and refers to one who leases or rents from an Owner and holds temporary possession of a Living Unit, regardless of whether monetary consideration is exchanged.

2. ASSOCIATION: MEMBERSHIP: VOTING RIGHTS. The administration and management shall be by the Victoria Park II Property Owners Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

2.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "A".

2.2 Bylaws. The Bylaws of the Association shall be the Bylaws as attached as Exhibit "B".

2.3 Delegation of Management. The Association may contract for the management and maintenance of the Association property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Area, with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Governing Documents.

2.4 Membership. Every person or entity who is a record Owner of a fee interest in any Parcel located upon the Properties, shall be a Member, except that no such person or entity who holds such interest merely as a security for the performance of an obligation shall be deemed the owner for purposes of determining membership and use rights.

2.5 Voting Interests. A Member is entitled to one (1) vote for each Parcel owned by them. The vote of a Parcel is not divisible. If a Parcel is owned by one natural person, his right to vote shall be established by the record title. 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 the Living Unit's primary occupant designated as set forth in Section 12.1 of this Declaration.



2.6 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of an Association meeting, such decision or approval shall be expressed by the same person who would cast the vote of such Parcel if present in person at an Association meeting, unless the joinder of all record Owners is specifically required.

2.7 Change of Membership. Following written approval of the Association, as elsewhere required herein, 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.

2.8 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.

2.9 Association As Owner of Parcels. The Association has the power to acquire title to Parcels and Living Units with approval from the Board of Directors and two-thirds (2/3) of the Owners. Membership approval is not required to acquire title to Parcels and Living Units when the acquisition results from a foreclosure of an Association Claim of Lien (or deed in lieu of foreclosure). The Association, acting through its Board of Directors, also has the authority to hold, lease, mortgage or convey any Parcels and Living Units so acquired.

2.10 Membership Roster. The Association shall maintain a current roster of names and mailing addresses of Owners and Primary Occupants. A copy of the up to date roster shall be available to any Owner upon request.

2.11 Limitation on Liability. Notwithstanding the duty of the Association to maintain and repair the Common Area, the Association shall not be liable to Owners for property damage other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Owners or other persons.

2.12 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.

2.13 Powers and Duties. The powers and duties of the Association include those set forth in the Governing Documents. 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 owner to bring any action which may otherwise be available.

### 3. COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS.

3.1 Creation of Lien and Personal Obligation for Assessments. For each Parcel within the Neighborhood, 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 pro rata share of annual assessments based on the annual budget adopted by the Association; and

(B) the Parcel's pro rata share of special assessments or other Association expenditures not provided for by annual assessments; and

(C) any charges against less than all of the Parcels specifically authorized in this Declaration or the Association Bylaws.

Assessments shall be established and collected as provided herein and in the Bylaws. The annual and special 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.

3.2 Share of Assessments. Each Parcel (and the Owner thereof), shall be liable for its pro rata share of all annual and special assessments, such share being a fraction of the whole, the numerator being "one" and the denominator being the total number of Parcels within the neighborhood.

3.3 Establishment of Liens. Any and all assessments levied by the Association or collected on behalf of 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 of collection (including, but not limited to reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Parcel and Living Unit against which each such assessment or charge is made, and shall also be the personal obligation of the Owner of each Parcel and Living Unit 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 his Parcel from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area, or by abandonment of his Living Unit; the lien shall be perfected from and after the recording in the Public Records of the County of a Claim of Lien by the Association, setting forth the description of the Parcel, the name of the record owner, the name and address of the Association, the amount and due date of each

unpaid assessment as of the date the Claim of Lien is recorded, and the effectiveness of the lien shall relate back to the date of recording the original. A Claim of Lien shall secure payment of all assessments due at the time of recording (including interest, costs and attorney's fees as provided above), as well as all assessments, interest, costs and attorney's fees 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 of Lien in recordable form.

3.4 Priority of Liens. The foregoing notwithstanding, unless provided to the contrary in the Act, the Association's lien for unpaid assessments shall be subordinate and inferior to: the lien of all taxes and other levies which by law would be superior thereto. The Association's lien shall be subordinate and inferior to the lien of any recorded First Institutional Mortgage, unless the Association's Claim of Lien was recorded prior to the Institutional Mortgage, but shall be superior to, and take priority over, any other mortgage or lien regardless of when recorded. Any lease of a Living Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. An Institutional Mortgagee, a purchaser at a foreclosure sale resulting from the foreclosure of an Institutional Mortgage, or an Institutional Mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or Institutional 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.

3.5 Acceleration. If any special assessment or installation of a regular assessment as to a Living Unit becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Living Unit's assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the Public Records. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, post paid.

3.6 Collection of Assessments. If any Owner fails to pay any Assessment, or installment thereof, within ten (10) 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 charge, from the date it becomes due until paid at the highest rate allowed by law, as well as to impose a late payment penalty of up to 10% of the delinquent payments. This penalty shall not be considered a fine as provided for in Section 10.3, and the procedural requirements for levying fines set forth therein shall not apply.

(B) To deny Association approval of any proposed sale or transfer of the Owner's Parcel and Living Unit.

(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 that provided pursuant to Florida law for the foreclosure of liens on condominium Living Units for unpaid condominium assessments, or in the manner provided by the Act if the Act is amended to set forth a statutory procedure for homeowner's associations.

(D) To bring an action at law for a money judgment against the Owner without waiving any lien foreclosure rights of the Association.

(E) To suspend the voting rights of the Owner in the Association for the nonpayment of regular annual assessments that are delinquent in excess of 90 days.

(F) To accelerate the due date for the entire remaining unpaid amount of the annual assessment against the Owners Parcel for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

(G) To suspend, for a reasonable period of time, the rights of an Owner or the Owner's family, Guests, Tenants and invitees, to use Common Areas and facilities, including the revocation of the Owner's key card privileges, and to charge the Owner a reasonable fee or deposit to reinstate such privileges.

3.7 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.

#### 4. ARCHITECTURAL AND AESTHETIC CONTROL.

4.1 Necessity of Architectural Review and Approval. No Owner shall make or permit the making of any alterations or additions to his Parcel or in any manner change the exterior appearance of any portion of the Living Unit, including, landscaping, grading, excavation, change of exterior color or other work without first obtaining the written approval of the Architectural Review Committee ("ARC") of the Association. No Owner may make any alterations or additions to the Common Area. In obtaining said written approval, Owner, or any other person applying, shall comply with all applicable requirements and procedures of the Governing Documents. The approval of the ARC may be denied if the ARC determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, Victoria Park II, in part or in whole, of any exterior glass, screen, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the Living Unit, are subject to regulation by the ARC. Hurricane shutters may be installed in accordance with the Association's specifications. The Architectural Review Committee shall be governed by the Architectural Criteria.

4.2 Architectural Review. The architectural review and control functions of the Association shall be administered and performed by the "Architectural Review Committee", as defined herein.

4.3 Powers and Duties of Architectural Review Committee. The Architectural Review Committee shall have the following powers and duties:

(A) To enact modifications and/or amendments to the Architectural Criteria. Any modification or amendment to the Architectural Criteria shall be consistent with the provisions of this Declaration. Notice of any modification or amendment to the Architectural Criteria, including a verbatim copy of such change or modification, shall be delivered to each Member of the Association; provided that the delivery of a copy of the modification or amendment to the Architectural Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

(B) To require submission of one (1) complete set of all plans and specifications for any improvement or structure of any kind, including without limitation, any building, sign, site paving, grading, pool, parking and building additions, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object or other improvement, the construction of placement of which is proposed upon any Parcel, together with a copy of any required governmental permits. The ARC may also require submission of samples of building materials and colors proposed for use on any Parcel and may require such additional information as reasonably may be necessary for the ARC to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Criteria. Reviews shall be coordinated with required governmental approvals. The ARC shall have thirty (30) days to respond once a complete set of plans and specifications have been submitted. Failure to respond within said thirty (30) days shall be deemed an approval.

(C) To approve or disapprove any improvement or structure of any kind, including without limitation, any building, sign, site paving, grading, pools, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building landscaping, landscape device or object, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Parcel and to approve or disapprove any exterior additions, changes, modifications or alterations (including, but not limited to, changes in exterior colors, finishes and materials) therein or thereon. With respect to exterior, existing landscaping, ARC approval is only required where improvements are being made to more than 20% of the existing landscaped area.. All decisions of the ARC shall be in writing and may, but need not be made by a certificate in recordable form.

(D) To approve or disapprove any change, modification or alteration to any improvement or structure as hereinabove described, and the plans and specifications if any upon which such change modification or alteration is based, prior to commencement of construction of such change, modification or alteration. If any improvement or structure as aforesaid shall be changed, modified or altered without prior approval of the ARC of such change, modification or alteration, and the plans and specifications therefore, if any, then the Owner shall upon demand, cause the improvement or structure to be restored to comply with the plans and specifications, originally approved by the ARC and shall bear all costs and expenses of such restoration, including costs and reasonable attorney's fees of the ARC or the Association. The ARC shall be specifically

empowered to grant variances from the covenants, conditions and restrictions as contained herein and as are deemed reasonable, required or necessary to meet the needs of the particular building site.

(E) To adopt a schedule of reasonable fees for processing requests for approval or proposed improvements. Such fees, if any, shall be payable to the ARC, at the time that plans and specifications are submitted to the ARC. In the event such fees, as well as any other costs or expenses of the ARC pursuant to any other provisions of this Article are not paid by the Owner, the Association will be entitled to collect attorneys fees and costs in any action to collect said amounts.

(F) To monitor construction to verify compliance with the provisions hereof and any approvals and conditions of the ARC.

(G) Review of the plans by the ARC shall not impose upon the ARC or the Association any liability, including liability for the design and construction, including, but not limited to, structural integrity design, quality of materials and compliance with the building code. The scope of review and approval by the Association is limited to whether the plans meet certain requirements, standards and guidelines relating to the aesthetics, harmony and compatibility of proposed improvements on the Parcels. No person other than the Association or the Owner shall have the right to rely on an approval.

(H) Monitor construction to determine compliance with the plans and specifications which were approved, and such inspection shall not be deemed a trespass. The Association may enforce any non-compliance through an equitable action or by self-help as provided in this Declaration.

(I) In the event of a natural disaster or other act of God, an Owner may take what actions are imminently and reasonably necessary to protect his property without prior ARC approval. Any permanent emergency measures so taken must be approved by the ARC as soon as practicable after such emergency.

#### 4.4 Building Restrictions.

The approval contemplated by this Section for the construction or alteration of any building or structure shall be conditioned upon, but not be limited to, the following criteria:

a. That the floor area of any new Living Unit shall have a minimum of 2,000 square feet of living area. The living area is defined as the portion of the residence which has finished walls, ceilings, and floors, and which is insulated, heated or air conditioned. The floor area within the garage, breezeway, porch or unfinished storage area or utility room shall not be included within the living area for purposes of determining the minimum required area.

b. Every home within Victoria Park II shall have at a minimum a two car garage, which shall be attached to said home, and shall not be used as office space or living quarters. Carports are prohibited.

c. All lawn areas and easements shall be sodded no later than sixty (60) days from completion of construction of either a new home or renovations which effect the lawn area.

d. Construction which lasts more than eighteen (18) months from the date of the recording of the initial Notice of Commencement is prohibited. If for any reason work is discontinued and there is no substantial progress toward completion for a continuous three month period, then the Association shall have the right to notify the owner of record of the premises and take such steps as might be required to correct any undesirable appearance; the reason for such correction shall be solely in the discretion of the Association and may include but not be limited to purely aesthetic grounds.

## 5. PROPERTY RIGHTS: EASEMENTS.

5.1 Use of Common Area. Every Owner and his Tenants, guests and invitees shall have a perpetual non-exclusive easement for ingress, egress and access in, to and over the sidewalks, walkways and private roads which may be contained within the Common Area for use in common with all other Owners, their tenants, guests and invitees. These easements shall be appurtenant to and shall pass with the title to every Living Unit subject to the following:

(A) The right and duty of the Association to levy assessments against each Parcel for the upkeep, maintenance, repair or betterment of the Common Area and improvements thereon.

(B) The right of the Association to dedicate or transfer or grant an easement covering all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board. No such easement shall materially interfere with the rights of the Owner to use the Common Area for the purposes intended.

(C) The right of an Owner to the use and enjoyment of the Common Area and facilities thereon shall extend to the members of his family who reside with him, and to his tenants, guests and invitees subject to regulation from time to time by the Association.

5.2 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 Common Area and to grant access easements and to relocate any existing access easements in any portion of the Common Area as the Association shall deem necessary or desirable, operation and maintenance of Victoria Park II, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of the Governing Documents. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Parcels and Living Units. Included within the Association's maintenance responsibilities is the duty to maintain the easement area around Lake Victoria. The Association has the right to remove any landscaping or improvement structure which interferes with its maintenance responsibilities under this Declaration without notice to Owner.

5.3 Partition: Separation of Interest. There shall be no judicial partition of the Common Area, except as expressly provided elsewhere herein, nor shall any Owner or any other person acquiring any interest in the Common Area, or any part thereof, seek judicial partition thereof.

Nothing herein shall be construed to prevent judicial partition of any Parcel and Living Unit owned on co-tenancy. The ownership of any Parcel and the ownership of the Living Unit 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 and Living Unit hold membership in the Association.

5.4 Driveway. The owner of each Parcel shall have an exclusive easement over any portion of the Common Areas crossed by his driveway.

5.5 Ingress and Egress. A non-exclusive easement shall exist in favor of each Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Common Areas as from time to time may be paved or intended for such purposes, or for purposes of ingress and egress to the public ways.

## 6. MAINTENANCE OF COMMON AREA AND LIVING UNITS.

6.1 Association Maintenance. The Association shall maintain, repair and replace those items set forth in this Section and elsewhere in this Declaration. All maintenance, repair and replacement which is the responsibility of the Association shall be a common expense, unless the Association undertakes maintenance, repair or replacement of those portions of a Parcel for which a Owner is responsible, due to an Owner's failure to undertake the maintenance, repair or replacement. The Association is responsible for the protection, maintenance, repair and replacement of the Common Area.

6.2 Owner Maintenance. Parcel Owners shall maintain all portions of their Living Unit and Parcel in a good and attractive appearance.

6.3 Alterations and Additions to Common Area. Material alterations or substantial additions to the Common Area may be undertaken and funds necessary levied as special assessments by the Association only upon approval by a majority of the Board of Directors.

6.4 Enforcement of Maintenance. In the event that an Owner fails or refuses to comply with these provisions, after fourteen (14) days notice and demand from the Association and the Owner's failure to comply, the Association shall have the authority (but not the obligation) to take whatever action is reasonably necessary in its judgment to bring the Parcel and Living Unit into conformity and the expenses of doing so (including reasonable attorney's fees and costs) shall be an obligation of the Owner collectable as a special assessment against that Parcel. The Association is granted an easement upon the Parcel and its improvements for these purposes. The Association may repair, replace or maintain any item which constitutes a hazard to other property or residents, or which has a material adverse effect on the appearance of Victoria Park II. In the alternative, the Association may institute legal proceedings to compel the Owner to observe his obligations set forth in the Governing Documents.

7. INSURANCE: In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:



7.1 Duty and Authority to Obtain. The Board of Directors shall use its best efforts to obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. The Board may obtain insurance policies containing deductibles.

7.2 Required Coverage. The Association shall use its best efforts to obtain and maintain adequate insurance covering all of the Common Area, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

A. Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract.

B. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

7.3 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Owners. Some of the more common options include:

- A. Additional flood insurance.
- B. Broad Form Comprehensive General Liability Endorsement.
- C. Directors and Officers Liability.
- D. Medical Payments.
- E. Leakage, seepage and wind-driven rain.
- F. The Association may maintain Workers' Compensation insurance on at least a minimum premium basis.

7.4 Description of Coverage. A detailed summary of the coverages included in the Association policies, and copies of the Association policies, shall be available for inspection by Owners or their authorized representatives upon request.

7.5 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association, Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

7.6 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust for the Owners.

7.7 Association as Agent. The Association is hereby irrevocably appointed as agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to those portions of the Common Areas within the Association's insurance responsibility.

## 8. USE RESTRICTIONS.

8.1 Residential Purposes. No Parcel shall be used for other than single-family residential purposes. No trade or business may be conducted in or from any Parcel, except that an Owner or Occupant residing in a Living Unit may conduct business activities within the Living Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Parcel; (b) the business activity conforms to all zoning requirements; (c) the business activity involves only telephone calls and correspondence to and from the Parcel and does not involve persons coming to the Parcel who do not reside in the Association or door-to-door solicitation of occupants of the Association, except in the case of babysitting for five or fewer children which is exempt from this requirement; and (d) the business activity is consistent with the residential character of Victoria Park II and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other occupants of Parcels. The use of a Parcel as a public lodging establishment shall be deemed a business or trade use. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding anything above, babysitting does not constitute a trade or business activity prohibited by this section as long as it complies with the restrictions delineated above.

8.2 Signs. No sign, advertisement, notice or other lettering of any kind, including, without limitation, those of contractors and subcontractors, shall be erected within Victoria Park II. Provided, however, that signs advertising a Parcel for sale or rent, advertising a garage sale or security services are permitted with prior approval of the Board or its designee, and subject to setback and size requirements established by the Board of Directors. The Board of Directors shall have the right to summarily remove and destroy all unauthorized signs.

8.3 Nuisance. Nothing shall be done upon any Parcel or in the Common Area which may be or may become an annoyance or nuisance to any person. No obnoxious, unpleasant or offensive activity shall be carried on, nor shall anything be done which can be reasonably construed to

constitute a nuisance, public or private in nature or which may cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of Victoria Park II or the Common Area.

8.4 Temporary Structures. No structure of a temporary character, including trailer or shack shall be used on any Parcel at any time as a residence, either temporarily or permanently. However, tents may be erected in the rear yard of a Parcel for no more than two consecutive nights.

8.5 Appearance; Refuse Disposal. Each Owner shall keep his Parcel free and clear of trash and debris and shall reasonably maintain his Living Unit. No Parcel shall be used or maintained as a dumping ground for rubbish, trash or other waste. Trash, garbage or other waste shall not be kept except in sanitary containers with lids fully screened from the street. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, shall be brought to the curb for pickup no earlier than the night before the applicable scheduled pickup, and shall be returned to their screened area within 24 hours after pickup. No garbage incinerators shall be permitted. The screening herein is subject to regulation by the ARC.

8.6 Maintenance. The Association shall have the right to repair any structure or improvement on any Parcel which constitutes a danger or nuisance or is in unsightly disrepair, provided that the Parcel Owner is given no less than five (5) days notice of the Association's intent to do so which reasonably specifies the proposed action. The Association shall charge the expense of same against the Owner of said Parcel.

8.7 Common Area. No Parcel Owner shall make use of the Common Area in such a manner as to abridge the equal rights of the other Parcel Owners to their use and enjoyment thereof nor shall any Parcel Owner remove, prune, cut, damage or injure any trees or other landscaping located in the Common Area.

8.8 Pets. The Owner of each Living Unit may keep pets of a normal domesticated household type (such as cats, dogs, birds, fish, and hamsters) in the Living Unit. The Owner may keep no more than three (3) dogs in the Living Unit, except that pit bulls, "wolf hybrids", or other dogs prone to or exhibiting aggressive behavior are not permitted in a Living Unit. No pet may be kept, bred, or maintained for commercial purposes. Pet owners shall not permit their pets to urinate or defecate on the property of other Owners. In the event that a pet does urinate or defecate on another Owner's property, the Owner shall promptly clean up after it. The pet must be carried under the Owner's arm or leashed at all times while in public. In the case of hamsters or other domesticated rodents, such animals shall be kept in a self-contained Living Unit while in the Living Unit, and shall not be allowed to roam freely in the Living Unit. The Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance, in the sole discretion of the Board, to other residents of the Properties. No dangerous reptiles and amphibians, nor livestock may be kept, raised or bred on the Properties. Pets shall not be left unattended on screened porches, lanais or in garages.

8.9 Trucks, Commercial Vehicles, Recreation Vehicles, Mobile Homes, Boats, Campers and Trailers.

(A) Vans, sport utility vehicles and pick-up trucks shall be considered to be automobiles and may be parked on driveways if the vehicle is used for the primary purpose of transportation of passengers and their personal goods. If the vehicle is used primarily for the transportation of goods then it shall be considered a commercial vehicle. The following vehicles are prohibited: Inoperable, wrecked, junked, abandoned or partially dismantled automobiles, golf carts, go carts, swamp buggies, stock cars, racing cars, commercial vehicles, recreational vehicles, all-terrain vehicles, electric and motor scooters, vehicles with commercial markings, vehicles with a commercial tag, vehicles with racks or tools in the bed and tractors are prohibited. The following vehicles are permitted as long as they are fully enclosed in a garage: ambulances, police cars, hearses, motorcycles, motorbikes and bicycles. Parking in the roadway is prohibited. Bicycle racks are permitted on non-commercial vehicles. Garage doors must be kept closed except when a vehicle must enter or exit the garage, or when the garage is in active use. Any use of a motorcycle is limited to providing ingress/egress to a Parcel over roadways. All motorcycles shall be equipped with effective sound muffling devices and must be parked in a garage when not in use. Recreational vehicles such as campers, motor homes and trailers are permitted to be kept at a Parcel for no more than two consecutive 24 hour periods, not more than six (6) times per year, provided that they are not used as a residence or lodging. Boats, wave runners, and similar vessels, including trailers used for their transport are prohibited, except small boats intended for use on Lake Victoria, provided such boats are used and stored in accordance with rules which the Board of Directors is hereby authorized to adopt. Motorized vessels, other than small boats powered by electric motors, are specifically prohibited on Lake Victoria.

(B) No commercial vendor vehicle of any kind shall be permitted to be parked on a Parcel for a period of more than two (2) hours unless such vehicle is necessary and being used in the actual construction or repair of a Living Unit or for grounds maintenance.

8.10 Parking and Storage of Vehicles. Owners and occupants of Living Units and their guests may not park, store or keep any vehicle whatsoever on unpaved areas or on adjacent roads and streets. Because guest parking may be limited in some areas, each Owner is specifically cautioned that he and the other occupants of his Living Unit may be limited or restricted as to the number of motor vehicles they may keep on his Parcel. No more than four (4) vehicles may be parked in a driveway overnight. Vehicles may be parked in the Common Area temporarily while the owner is using the Association's facilities. No vehicle is permitted to park overnight on Common Area. Any vehicle parking on streets or Common Area for more than three nights will be towed at the Unit Owner's expense. Prohibited vehicles parked overnight will be towed at the Owner's expense.

8.11 Exterior Colors and Structures. No exterior colors on any structure, nor the colors of driveways and walkways shall be permitted that, in the judgment of the ARC, would be inharmonious or incongruous with the remainder of Victoria Park II. Awnings, hurricane shutters, solar film, and other window shading or decoration shall be subject to the prior approval and control of the ARC. Any future color changes, as described above, desired by Owners must be first approved in writing by the ARC.

8.12 Landscaping. To preserve the appearance of Victoria Park II and protect property values, Owners shall maintain all landscaping, including without limitation, the trees, shrubs, lawns,

flower beds, walkways and ground elevations, in a neat and orderly fashion and in compliance with the following:

(A) Lawns shall be mowed, watered, weeded, fertilized and treated for infestation as necessary to maintain an aesthetically pleasing appearance of green grass. All Parcels must be sodded and have an automatic irrigation system installed. Sod shall be Floratam, St. Augustine, Bahia or an ARC approved equivalent. In conjunction with ARC approval, a homeowner may implement xeriscape or Florida-friendly landscape on his parcel as defined in Florida Statutes Section 373.185(1). Lawn areas abutting a sidewalk, walkway or roadway shall be edged to prevent grass from growing over the sidewalk, walkway or roadway. Owners whose parcels do not presently have an irrigation system must bring their Parcels into compliance with this section by the earlier of the replacement of the sod or the sale or transfer of the Parcel.

(B) Homes shall have appropriate foundation plantings on sides facing a street.

(C) Shrubs, trees, flowers, ornamentals and other plantings shall be maintained so they are aesthetically pleasing and do not interfere with other Parcels or persons using sidewalks or common areas.

No landscaping shall be installed, cut down, destroyed or removed without the prior written consent of the ARC, in accordance with Section 4.3 (C) above. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Parcel, unless approved by the ARC.

In addition to all other remedies contained herein, should an Owner fail to comply with the provisions of this Section, the Association may require the Owner to contract for an annual lawn maintenance contract, or may perform the work, with fourteen (14) days notice to the Owner and may bill the Owner for the cost of such maintenance.

8.13 Antennas/Flagpoles. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted. The Board of Directors may require that a Reception Device be painted or screened by landscaping in order to blend into the Living Unit and removed from view from the street and other Living Units. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the ARC, but no Owner shall be prevented from displaying a portable, removable American flag in a respectful manner, or the official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans' Day may display in a respectful manner portable, removable, official flags, not longer than 4 1/2 feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

8.14 Outdoor Equipment. All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment, housing and sprinkler pumps and other such outdoor equipment must

be placed underground, or placed in sight-screened areas so that they shall not be readily visible from any adjacent streets or properties. Otherwise, adequate landscaping shall be installed and maintained around these facilities.

8.15 Walls and Fences. No wall or fence shall be constructed on any Parcel.

8.16 Outside Lighting. No spotlights, floodlights, or similar type 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 ARC. Other types of low intensity lighting which do not unreasonably disturb the Owners or other occupants of the Properties shall be allowed.

8.17 Garage Sales. No garage sale, estate sale, flea market, auction, or similar event shall be held on any Parcel without prior written approval of the County.

8.18 Mailboxes, Lamp Posts. Mailboxes, front yard lamp posts, and their supporting structures on each Parcel shall be uniform in style, appearance and location, and shall be subject to regulation by the ARC. Owners must bring their mailboxes into compliance with this section by the earlier of the replacement of the mailbox or the sale or transfer of the Parcel.

8.19 Key. A key is required to open the gate controlling access to the swimming pool/tennis court complex. One key will be issued for each Parcel. Keys must only be used in accordance with the Governing Documents, including the applicable Rules and Regulations adopted by the Board of Directors. Keys may not be used by anyone who is not entitled to use the Association's facilities. Members assume responsibility for the conduct of persons who gain entry to Association facilities using the key assigned to that Member's Parcel. Keys remain the property of the Association, and must be surrendered to the Association upon demand. Upon sale of a Parcel, the key issued for that Parcel must be transferred to the new owner. Members must promptly notify the Association in the event a key is Parcel or stolen. There will be a reasonable replacement fee to replace a lost, misplaced or stolen key in an amount to be set by the Board.

8.20 Prohibited structures. The following are prohibited within Victoria Park II:

- (A) Carports.
- (B) Detached garages, storage sheds, barns and similar outbuilding structures.
- (C) Garages which have been converted into living space, unless the conversion was approved by the Board and a replacement garage built.
- (D) Clothes lines, unless situated so as not to be visible from the street or other Parcels.

8.21 Play Equipment. A swing set, playhouse, treehouse or other play equipment less than twelve (12) feet in height shall be permitted so long as it is located in the backyard or rear portion of the Parcel and is specifically approved as to location, screening, size, shape, color, material and other relevant factors. The ARC has the sole discretion to disapprove such play equipment on aesthetic grounds. Such play equipment must be maintained in good condition and appearance or the Board may order its removal.

8.22 Notice of Noncompliance. If an Owner fails to comply with the restrictions set forth in this Declaration, but in particular this Section 8, the Association, acting through its Board of Directors, shall have the right, in addition to any other rights permitted by the Governing Documents, to mail or hand deliver a Notice of Noncompliance setting forth with reasonable particularity the alleged deficiencies. That notice may contain, at the Board's discretion, proposed remedies for the deficiencies cited. The following procedures shall apply to Notices of Noncompliance:

- (a) Voluntary Compliance. If an Owner admits the deficiencies cited in a Notice of Noncompliance, he shall, within 10 days of receiving the Notice, deliver to the Board of Directors a proposed timetable for correcting the deficiencies. If the timetable is acceptable to the Board, and the Owner performs the corrective actions as scheduled, he shall be considered to be in compliance, and no further action is necessary.
- (b) Disputed Deficiencies. If an Owner disputes the deficiencies cited in a Notice of Noncompliance, or if the Owner and the Board of Directors are unable to agree on a timetable for corrective action, the Board shall appoint a committee of three Owners in good standing, none of whom may be members of the Board or relatives of a Board member, to determine, by a majority vote, whether or not the Owner is in compliance, if compliance is disputed, and to establish a timetable for corrective action. Any timetable established by the committee shall be binding on both the Owner and the Association.
- (c) Failure to Respond/Perform. If an Owner fails to take corrective action called for by a timetable established under sub-paragraphs (a) or (b) above, or if an Owner fails to respond to a Notice of Noncompliance, the Association, acting through its Board of Directors, shall have the right to hire appropriate contractors to correct the deficiencies cited in the Notice of Noncompliance. Upon 5 days' written notice to the Owner, the contractors shall have the right to enter upon the Parcel in question to perform the work required to bring the Parcel and/or structures thereon into compliance. Any expenses incurred by the Association pursuant to this sub-paragraph (d) shall be assessed against the Owner of the Parcel in question. If not paid within thirty days after the Owner is provided with an accounting of such expenditures, the Association may, in its discretion, institute an action at law to collect the amount in question. The Owner shall be responsible for reasonable attorney's fees and other expenses of enforcement.

9. ASSOCIATION'S EXCULPATION. The Association may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without incurring liability of any nature to the Owners or any other person for any reason whatsoever. Any permission or approval so granted shall be binding upon all persons.

# 10. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS.

Every Owner and the Owner's family members, tenants, guests and invitees shall at all times comply with all the covenants, conditions and restrictions of the Governing Documents. All violations of the Governing Documents shall be reported immediately to a member of 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 for parking violations and 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, the Association shall have the ability to take any action to compel compliance as set forth below.

10.1 Legal Action. Judicial enforcement of the Governing Documents 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. 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 shall, in addition, be entitled to recover its costs and attorney's fees incurred in enforcing the Governing Documents.

10.2 Entry by Association. Violation of any conditions or restrictions, or breach of any covenant, herein contained or in any of the Governing Documents, shall also give the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land of a Living Unit where such violation or breach exists and in the event of an emergency, summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

10.3 Fines and Suspension. The Board may impose a fine or fines against an Owner for failure of the Owner, his family, Guests, invitees, Tenants, or agents of any of the foregoing, to comply with the Governing Documents. Fines may not become a lien against the Parcel. The fine may not exceed the maximum amount allowed by law.

In addition to the remedies set forth above or permitted by the Governing Documents, the Association may suspend, for a reasonable period of time, the rights of an Owner or the Owner's family, Guests, Tenants and invitees, to use the Common Areas, including the revocation of the Owner's key card privileges.

Fines and suspensions shall adhere to the following guidelines:

(A) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons appointed by the Board of Directors, which persons may not be officers, directors or employees of the Association or the spouse, parent or child of an officer,



director or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

(B) Fines approved by the committee shall be due and payable when the committee renders its decision. Suspensions approved by the committee shall take effect when the committee renders its decision. If no hearing has been requested, a fine shall be due and payable and a suspension shall take effect, when the time to request a hearing has expired.

(C) Owners are responsible for payment of fines imposed on their tenants, guests and invitees, should the tenant, guest or invitee fail to pay the fine when due. If an Owner or Parcel is in violation of the Governing Documents when an application for a certificate of approval is submitted for a proposed purchase, the Owner must correct all violations prior to closing or make provisions acceptable to the Association to ensure their correction after closing. The parties may hold funds in escrow to correct violations, only if the terms of such escrow have been previously approved by the Association.

11. LEASING, CONVEYANCE, DISPOSITION. In order to maintain a community of congenial, financially responsible residents with the objectives of inhibiting transiency, protecting the value of the Parcels and facilitating the development of a stable, quiet community and peace of mind for all residents, the lease, and transfer of ownership of a Parcel by an Owner shall be subject to the following restrictions, which each Owner covenants to observe (except for the exceptions set forth in Section 11.5 below):

11.1 Forms of Ownership.

(A) A Parcel may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(B) Co-ownership. Co-ownership of Parcels may be permitted. If the proposed co-owners are other than husband and wife, the Board shall condition its approval upon designation of one (1) of the approved co-owners as the "primary occupant", and the use of the Parcel by other persons shall be as though the primary occupant was the only actual Owner. The intent of this provision is to permit multiple owners, but to prohibit short term, transient use by several individuals or families. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all of the provisions of this Section. No more than one such change will be approved in any twelve-month period.

(C) Ownership by Corporations, Partnerships or Trusts. A Parcel may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers of title. However, the intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Parcel may be used as short term transient accommodations for several individuals or families. The approval of a trustee, corporation or other entity as an Owner shall be conditioned upon designation of one (1) natural person as the "primary occupant", and the use of the Parcel by other persons shall be as though the primary occupant was its only actual Owner. Any change in the

primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section.

(D) Life Estate. A Parcel may be subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the life tenant shall be the only member from such Parcel, and occupancy of the Parcel shall be as if the life tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and holders of the remainder interest shall be jointly and severally liable for all assessments and charges against the Parcel. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. Except in the case where such a transfer has been made, if the consent or approval of the Owner is required for any purpose, consent or approval of the holders of the remainder interest shall not be required.

11.2 Transfers. Prior to the lease or transfer, it is the responsibility of the Owner to provide the tenant or purchaser the complete set of Governing Documents and any other documents required by law.

(A) Lease, Sale or Gift. No Owner may effectively lease, or convey title to a Parcel or any interest therein by sale or gift without the prior written approval of the Board of Directors of the Association.

(B) Devise or Inheritance. If any Owner acquires his title by devise or inheritance, his right to Occupy or use the Parcel shall be subject to the approval of the Association. The approval of the Association shall not be denied to any devisee or heir who was the decedent's lawful spouse or related to the Owner by blood or adoption within the first degree.

(C) Other Transfer. If any person acquires title in any manner not considered in the foregoing subsections, his right to Occupy the Parcel shall be subject to the approval of the Association under the procedure outlined in Section 11.3 below.

### 11.3 Procedures.

(A) Notice to Association.

(1) Lease, Sale or Gift. An Owner intending to lease his Living Unit or sell or make a gift of his Parcel or any interest therein, shall give to the Board of Directors or its designee, written notice of such intention at least twenty (20) days prior to the date of the proposed lease or transfer, together with the purchase and sale agreement or lease, and the name, and address of the proposed tenant, purchaser or donee and such other information as the Board may reasonably require. The Association may charge a transfer fee in the amount set by the Board for the cost of processing each application.

(2) Devise, Inheritance or Other Transfers. The transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall

have no occupancy right unless approved by the Board, but may sell or lease the Parcel in accordance with the procedures provided in this Declaration.

(3) Failure to Give Notice. If no notice is given, the Board of Directors at its election may approve or disapprove the lease or transfer without prior notice. If it disapproves, the transferee shall have no occupancy rights; however, the proposed transferee may provide the Board with the required notice and request reconsideration.

(B) Key Card. As used herein, the term "key card" shall mean the device used to gain access to gated Association facilities.

- (i) Turnover of existing card. If a key card was previously issued for that Parcel, the parties must acknowledge, in writing, that the seller will transfer the key card to the Buyer at closing and that the Buyer will agree to comply with the rules governing key cards.
- (ii) No card issued. If no key card was previously issued for that Parcel, the Association will make arrangements for the issuance of a key card as soon after closing as reasonably practicable, at which time the Buyer will sign a document acknowledging receipt and agreeing to abide by the rules governing use of key cards.
- (iii) Lost card. If a previously issued key card has been lost or misplaced, the seller shall pay the Association's current replacement fee, which shall be sent to the Association by the closing agent. Upon receipt, the Association will issue a new key card to the Buyer.

(C) Dues. All outstanding assessments, fines or other amounts owing to the Association must be collected by the closing agent and sent to the Association immediately after closing.

(D) Violations of Governing Documents. Any outstanding violations of the Governing Documents must either be corrected prior to closing, or a monetary amount sufficient to correct the violations, in the sole discretion of the Board, must be provided to the Association in escrow at closing. The new Owner shall have thirty (30) days from the date of closing to correct the violation, or the Association may use the escrowed funds to remedy the violation and charge any additional amounts incurred to the new owner.

11.4 Leasing. Only entire Living Units may be leased. No Living Unit may be leased for a period of less than three (3) months, nor may a home be rented more than two (2) times in any calendar year. No Living Unit may be used on a "time share" basis. All leases must and shall be deemed to contain the agreement of the tenant(s) to abide by all of the restrictions contained in the Governing Documents, and shall be deemed to provide that a violation thereof is grounds for damages, termination and eviction and that the tenant, and shall provide that the Owner agrees that the Association may proceed against either the Owner or the tenant and that the Owner or the tenant shall be responsible for the Association's costs and expenses, including attorney's fees and

costs. Prior to the commencement of a lease term, the Owner shall provide the tenant a copy of the most recent version of the Governing Documents.

Prior to the beginning of a lease term, the Owner shall deliver a copy of the signed lease to the Association together with a fee in an amount to be determined by the Board to defray the cost of reviewing the lease for compliance with the Governing Documents.

11.5 Exception. The provisions of Section 11 do not require Board of Director approval of the acquisition of title by judicial sale, nor by an Institutional Mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure; however, Association approval is required for a purchaser from such Institutional Mortgagee.

11.6 Unapproved Transfers. Any lease, sale or transfer which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the right to evict the lessee or other occupant in accordance with Chapter 83, Florida Statutes, without securing consent to such eviction from the Living Unit Owner.

## 12. DURATION OF COVENANTS: AMENDMENT OF DECLARATION:

12.1 Duration of Covenants. The covenants, conditions and restrictions of this Declaration shall run with and bind Victoria Park II, and shall inure to the benefit of and be enforceable by the Association, and any Owner, their respective legal representatives, heirs, successors and assigns, until the tenth year after recordation, at which time this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Declaration being renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the period, or during the last year of any subsequent ten (10) year renewal period, ninety percent (90%) of the entire membership, at a duly held membership meeting, vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

12.2 Proposal. Amendments to this Declaration may be proposed at any time by the Board of Directors or by written petition signed by one-fourth (1/4) of the voting interests. If by petition, the proposed amendments must be submitted to a vote of the Owners not later than the next annual meeting.

12.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended if the proposed amendment is approved by at least a majority of the voting interests present in person or by proxy and voting at any annual or special meeting called for that purpose, provided that the text of each proposed amendment has been given to the Members with notice of the meeting. No amendment shall change any Parcel's share of liability for assessments or any Owner's voting rights, unless the Owner and the record owner of liens on the parcel consents to the amendment.

12.4 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 amendment shall be effective when the certificate is recorded in the Public Records of Collier County, Florida.

### 13. GENERAL PROVISIONS.

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

13.2 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.

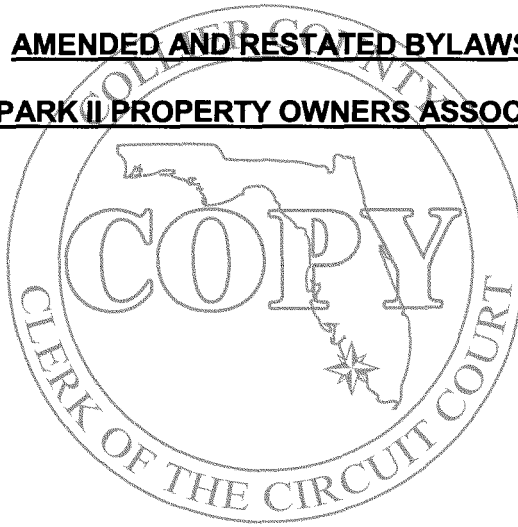
13.3 Headings. The headings of the Sections herein are for convenience only, and shall not affect the meaning or interpretation of the contents thereof.

13.4 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.

13.5 Interpretation. The Board of Directors is responsible for interpreting the provisions of the Governing Documents. Such interpretation shall be binding upon all parties unless wholly unreasonable.

**AMENDED AND RESTATED BYLAWS**

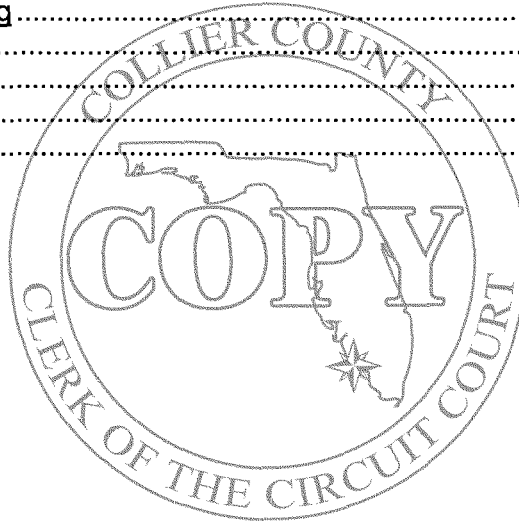
**VICTORIA PARK II PROPERTY OWNERS ASSOCIATION, INC.**



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**AMENDED AND RESTATED BYLAWS**

**VICTORIA PARK II PROPERTY OWNERS ASSOCIATION, INC.**

1. **GENERAL:** These are the Bylaws of Victoria Park II Property Owners Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating Victoria Park II (the "Properties") pursuant to Chapter 617, Florida Statutes, the Florida Not-For-Profit Corporations Act and Chapter 720, Florida Statutes, Homeowners' Associations.

1.1 **Principal Office.** The principal office of the Association is c/o American Property Management, 6702 Lone Oak Boulevard, Naples, FL 34109.

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 set forth in the Amended and Restated Declaration of Protective Covenants for Victoria Park II (the "Declaration"), and Sec. 720.301, F.S., (2004), shall apply to terms used in these Bylaws.

2. **MEMBERS:**

2.1 **Qualifications.** The members of the Association shall be the Owners of Units in the Properties. Membership shall become effective upon the occurrence of the last to occur of the following events. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Unit .
- (B) Approval by the Board of Directors as provided for in the Declaration.
- (C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

2.2 **Voting Interest.** Each Member of the Association is entitled to 1 vote for each Unit owned by them. The total number of votes shall not exceed the total number of Units subject to the Declaration.

2.3 **Approval or Disapproval of Matters.** Whenever the decision or approval of the Members is required upon any matter, such decision or approval may be expressed by any person authorized to cast the vote of such Unit, unless the joinder of all record owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above. At that time, the membership of the prior owner shall be terminated automatically.

2.5 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 Properties 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.

### 3. MEMBERS' MEETINGS: VOTING:

3.1 Date and Place of Annual Meetings. The annual meeting shall be held on a date selected by the Board in the month of February or March. The annual meeting shall be held in Collier County, Florida, each year at a place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members, and in particular, seating the Directors to fill any vacancy caused by the expiration of a Director's term.

3.2 Special Members' Meetings. Special meetings of the Members must be held whenever called by the President or by a majority of the Directors, and may also be called by 25% of all Members. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all meetings of the Members must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. The member is responsible for providing the Association with notice of any change of address. The Notice of Meeting must be mailed or delivered at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. A Member may waive notice of any meeting at any time, but only by written waiver. Notice may also be sent by electronic transmission to any Member who has consented in writing to receiving notices by electronic transmission. Notice to the Members, of meetings of the Board, meetings of a committee requiring notice in the same manner as meetings of the Board, and annual and special meetings of the members, may be electronically transmitted in the manner set forth in Section 617.0141, Florida Statutes (except as limited by Chapter 720, Florida Statutes and these By-Laws). Notice by electronic transmission is effective: when actually transmitted by facsimile telecommunication, if correctly directed to a number at which the recipient has consented to receive notice; when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the recipient has consented to receive notice. Notice is also effective when posted on an electronic network that the recipient has consented to consult, upon the later of: such correct posting; or the giving of a separate notice to the recipient of the fact of such specific posting; or when correctly transmitted to the recipient, if by any other form of electronic transmission

consented to by the recipient to whom notice is given. Consent by a recipient to receive notice by electronic transmission shall be revocable by the recipient by written notice to the Association. Any such consent shall be deemed revoked if: the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. The recipient is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the member has revoked his consent. However, the Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. As used in these By-Laws, the term "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmission of images, and text that is sent via electronic mail between computers. An affidavit of the Secretary, an Assistant Secretary, or other authorized agent of the Association that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice.

3.4 Quorum. The quorum shall be 20% of the voting interests. After a quorum has been established at a Members' meeting, the subsequent withdrawal of any of them, so as to reduce the number of interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.5 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the Members at which a quorum has been attained shall be binding upon all members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the Governing Documents.

3.6 Proxy Voting. A Member entitled to attend and vote at a Members' meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the Member, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Voting. Where membership is based upon co-ownership or family ownership, the member vote shall be cast by one of the co-owners or one of the adult family members. Where membership is held by a legal entity, the member vote shall be cast by the agent or official of that entity so authorized.

3.8 Adjourned Meetings. Any duly called meeting may be adjourned to be reconvened at a specific later time by vote of the majority of the Members present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to give notice to all Members who are not present, in person or by proxy, of the date, time and place of its continuance. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.9 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 Members' meeting.
- (C) Reports of Officers.
- (D) Reports of Committees.
- (E) Unfinished Business.
- (F) New Business.
- (G) Adjournment.

3.10 Minutes. Minutes of all meetings of the Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by the Members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with Chapters 617 and 720, Florida Statutes or the Governing Documents. 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.

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 Chapter 617 and 720, Florida Statutes, as modified and explained in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the Members only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be five (5) and may thereafter be increased to any higher odd number, not to exceed nine (9). All Directors shall serve one (1) year terms. A Director's term will end at the expiration of his term and when his successor is duly qualified and elected, unless he sooner resigns, or is recalled as provided in 4.4 below.

4.2 Qualifications. A Director must be a Member or the spouse of a Member. If a unit is owned by a corporation, partnership, limited liability company or trust, any officer, director, manager, managing member, partner or trustee, as the case may be, shall be eligible to be a Director.

**4.3 Nomination and Elections.** On the day of each annual meeting, the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring. Notice of each annual election shall be given to all Owners at least sixty (60) day in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate may notify the Association in writing of his desire to be a candidate at least forty (40) days prior to the annual election. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also include with such notification, a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be received by the Association at least thirty-five (35) days prior to the election. The Association shall mail or deliver a second notice of the election, together with the candidate information sheets and a ballot which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required. Directors shall be elected by a plurality of the votes cast. In the election of Directors, there shall be appurtenant to each Parcel as many votes for Directors as there are Directors to be elected, but no Parcel may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information sheets and ballots may be given by electronic transmission (to those members who have so consented), pursuant to rules adopted or to be adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

**4.4 Vacancies on the Board.** If the office of any Director becomes vacant for any reason, other than removal (recall) as set forth in Section 4.5 below, a majority of the remaining Directors though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term.

**4.5 Removal of Directors.** Any Director may be removed with or without cause by vote of majority of the Members, either by a written Petition, or at any meeting called for that purpose, but in either event, in the manner required by Chapter 720, Florida Statutes.

**4.6 Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may be held immediately following the election, in which case noticing of the meeting may be effectuated by the Board existing prior to the election.

**4.7 Other Meetings.** 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 the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least forty-eight (48) hours prior to the day named for such meeting.

**4.8 Notice to Owners.** A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors shall be open to all Members, except for meetings with 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. Members shall be permitted to attend Board meetings, and speak to agenda items subject to the rules of the Association as to the manner of doing so. Notices of all Board meetings shall be posted in a conspicuous location in the Properties for at least forty-eight

(48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In addition to the posting requirements discussed above, notice of each Board meeting may be published in a newsletter, or by conspicuously posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically in the Properties, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws or Chapter 720, Florida Statutes. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

The requirement that board meetings and committee meetings be open to members is inapplicable to meetings between the board or a committee and the association's attorney, with respect to meetings of the board held for the purpose of discussing personnel matters.

4.9 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.

4.10 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists 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.

4.12 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

4.13 The Presiding Officer. The President, 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 the Directors present.

4.14 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deems necessary and convenient for the efficient and

effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by Section 720.303(2), Florida Statutes, committee meetings shall be open to attendance by Members, and notice of committee meetings shall be posted in the same manner as required in Section 4.7 above for Board meetings. As of the date these Bylaws have been adopted, pursuant to Section 720.303(2), Florida Statutes, the requirements of Section 4.7 shall apply to any committee meeting when the committee makes a final decision regarding the expenditure of Association funds, and to meetings of the Architectural Review Committee.

## 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 the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. No person may hold more than one office. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President and an Assistant Secretary and an Assistant Treasurer.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Board of 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 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 in the order of their seniority 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 assign.

5.4 Secretary. The Secretary shall attend Members' meetings and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books 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. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of 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 oversee the disbursement of the funds of the Association, keeping 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 accounting of all transactions 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.

6. FISCAL MATTERS: The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business 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.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year in accordance with the Declaration.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget may include reserve accounts for capital expenditures and deferred maintenance.

6.4 Assessments. Assessments based on the adopted budget shall be paid either monthly, quarterly, or annually, as determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

6.5 Special Assessments. Special Assessments may be levied in accordance with the Declaration. Special Assessments shall be due on the day specified in the resolution of the Board approving such Special Assessments.

6.6 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.7 Financial Reporting. Within 60 days following the end of the fiscal year, the Board of Directors shall mail or furnish by personal delivery to each Member a financial report for the previous 12 months. The financial report shall consist of financial statements presented in conformity with generally accepted accounting principles; or a financial report of actual receipts and expenditures, cash basis, which report shows the amount of receipts and expenditures by classification and the beginning and ending cash balances of the Association.

6.8 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt and amend rules and regulations subject to any limits contained in the Declaration.



Copies of such rules and regulations shall be furnished to the Members. Any rule or regulation created and imposed by the Board must be reasonably related to a legitimate purpose of the Association and uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the Declaration, the following provisions shall apply:

8.1 Obligations of members; Remedies At Law Or In Equity; Levy of Fines and Suspension of Use Rights.

(1) Each Member and the Member's tenants, guests and invitees, are governed by, and must comply with Chapter 720, Florida Statutes, and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by any members against:

- (A) The Association;
- (B) A Member;
- (C) Any Director or Officer who willfully and knowingly fails to comply with the provisions of Chapter 720, Florida Statutes and the Governing Documents; and
- (D) Any family members, tenants, guests, or invitees occupying a Unit.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy.

(2) The Association may suspend, for a reasonable time, the rights of a Member or a Member's family, tenants, guests or invitees to use the Common Areas, and may levy reasonable fines against Members, in those cases in which owners commit violations of Chapter 720, Florida Statutes, the provisions of the Governing Documents, or condone such violations by their family, tenants, guests, invitees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law. The procedure for suspending use rights and for imposing such fines shall be as follows:

(A) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be suspended or fined and opportunity for hearing before a committee of at least three Members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, sister of an officer, director or employee, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of Florida law and the Governing Documents which have allegedly been violated; and,
- (3) A short and plain statement of the matters asserted by the Association.

(B) The party against whom the suspension or fine may be imposed shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and

respond to any material considered by the Association. The Unit Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest.

(C) If the committee, by majority vote, does not approve the suspension or fine, it may not be imposed.

(D) The Association may suspend Common Area use rights and levy fines because of the failure of the Member to pay assessments or other charges when due in the manner set forth above, except that the Board of Directors may do so without the need for involvement of a committee of Members.

(E) Suspension of Common Area use rights shall not impair the right of an Owner or tenant of a Unit to have vehicular and pedestrian ingress to and egress from the Unit, including, but not limited to, the right to park.

(F) The Association may suspend the voting rights of a Member when Assessments are delinquent in excess of 90 days.

8.2 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the Properties free from unreasonable restraint and annoyance.

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

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors, and by written petition to the Board signed by Members representing at least one-fourth (1/4) of the Units.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or Unit Owners, such proposed amendment or amendments shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can still be given.

9.3 Vote Required. A proposed amendment to these Bylaws shall be adopted if it is approved by a majority of the Members present and voting at any annual or special meeting, provided that notice of the proposed amendment has been given to the Members in accordance with these Bylaws and Florida law.

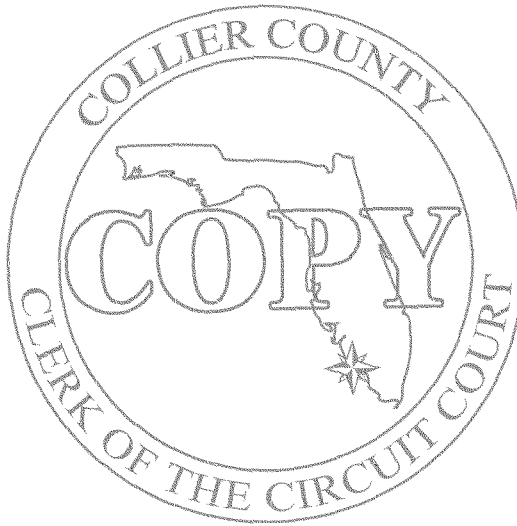
9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a Certificate that the amendment was duly adopted as an amendment to the Bylaws, which Certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the Certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

10. MISCELLANEOUS:

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

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

10.3 Conflict. The provisions of the Declaration and the Articles shall prevail over any conflicting provision of these Bylaws, in that order of priority, where the conflict is irreconcilable.



Instrument prepared by and after  
recording return to:  
Ashley D. Lupo, Esq.  
Roetzel & Andress  
850 Park Shore Drive  
Naples, FL 34103  
(239) 649-6200

Retn:  
ROETZEL & ANDRESS  
850 PARK SHORE DR 3RD FLOOR  
NAPLES FL 34103

(Space above line for recording information)

### CERTIFICATE OF AMENDMENT

This is to certify that at the duly noticed annual meeting of the membership held on March 13, 2007, the Amendments to the Amended and Restated Declaration of Protective Covenants for Victoria Park II attached hereto as Exhibit "A" were approved by the requisite vote of the membership. The Declaration of Protective Covenants for Victoria Park II was originally recorded in O.R. Book 814, Page 165, Public Records, Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

(SEAL)



VICTORIA PARK II PROPERTY OWNERS  
ASSOCIATION, INC.

*Doris E Cruz*

Witness

Print Name: *DORIS E. CRUZ*

By: *Laura Main Prioli*  
President

*Traci L. Wray*

Witness

Print Name: *TRACI L. WRAY*

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 13TH day of December, 2007 by LAURA MAIN PRIOLI, as President of Victoria Park II Property Owners Association, Inc., the corporation described in the foregoing instrument, who is ( ) personally known to me or who has produced \_\_\_\_\_ as identification.

*Traci L. Wray*  
Notary Public

*TRACI L WRAY*  
Printed Name of Notary Public

Serial No.: DD320955

My Commission Expires:

*July 25, 2008*

**PROPOSED AMENDMENT TO THE AMENDED AND RESTATED DECLARATION  
OF PROTECTIVE COVENANTS FOR VICTORIA PARK II**

Additions indicated by underlining.

Deletions indicated by ~~striketrough~~.

8.15 Walls and Fences. No wall or fence shall be constructed on any Parcel, except pool fences which are required to comply with applicable governmental regulations. In no event may a pool enclosure extend beyond the boundaries of a pool patio to encompass yard area, not withstanding what is permitted by the applicable governmental regulations regarding pool enclosures.

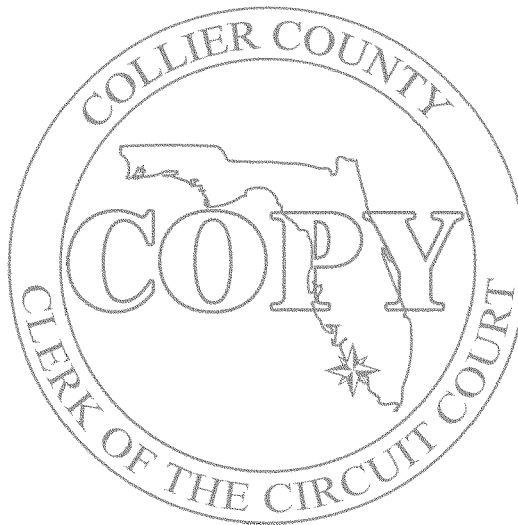


**PROPOSED AMENDMENT TO THE AMENDED AND RESTATED BYLAWS FOR  
VICTORIA PARK II PROPERTY OWNERS ASSOCIATION, INC.**

Additions indicated by underlining.

Deletions indicated by ~~striketrough~~.

1.1 Principal Office. The principal office of the Association is c/o ~~American Property Management~~, Guardian Property Management, 67006702 Lone Oak Boulevard, Naples, Florida 34109.



Instrument prepared by and after  
recording return to:  
Ashley D. Lupo, Esq.  
Roetzel & Andress  
850 Park Shore Drive  
Naples, FL 34103  
(239) 649-6200

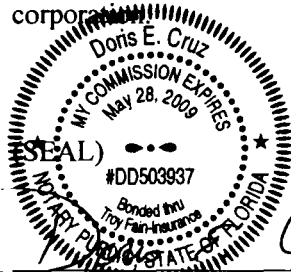
Retn:  
ROETZEL & ANDRESS  
850 PARK SHORE DR 3RD FLOOR  
NAPLES FL 34103

(Space above line for recording information)

### CERTIFICATE OF AMENDMENT

This is to certify that at the duly noticed annual meeting of the membership held on February 19, 2008, the Amendment to the Amended and Restated Declaration of Protective Covenants for Victoria Park II and the Amendment to the Amended and Restated By-Laws of Victoria Park II Property Owners' Association, Inc., attached hereto as Exhibits "A" and "B" respectively, were approved by the requisite vote of the membership. The Declaration of Protective Covenants for Victoria Park II was originally recorded in O.R. Book 814, Page 165, Public Records, Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand and the seal of the corporation.



VICTORIA PARK II PROPERTY OWNERS  
ASSOCIATION, INC.

By: Laura Main Prioli  
President

Witness

Print Name: Doris E. Cruz

Witness

Print Name: ERNA Miller

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2008 by Laura Main Prioli, as President of Victoria Park II Property Owners Association, Inc., the corporation described in the foregoing instrument, who is (☒) personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public

Printed Name of Notary Public

Serial No.:

My Commission Expires:

**PROPOSED AMENDMENT TO THE AMENDED AND RESTATED DECLARATION  
OF PROTECTIVE COVENANTS FOR VICTORIA PARK II**

Additions indicated by underlining.

Deletions indicated by ~~striketrough~~.

8.18 Mailboxes, Lamp Posts. ~~Mailboxes, front yard lamp posts, and their supporting structures on each Parcel shall be uniform in style, appearance and location, and shall be subject to regulation by the ARC. Owners must bring their mailboxes into compliance with this section by the earlier of the replacement of the mailbox or the sale or transfer of the Parcel.~~ The Association shall replace the mailboxes, front yard lamp posts, and their supporting structures on each Lot. After such initial replacement, the Association shall be responsible for maintaining, repairing and replacing the mailboxes and front yard lamp posts. The Owner shall be responsible to ensure that there is electric service to the front yard lamp post and the Owner shall be responsible for all electric charges related to the front yard lamp.

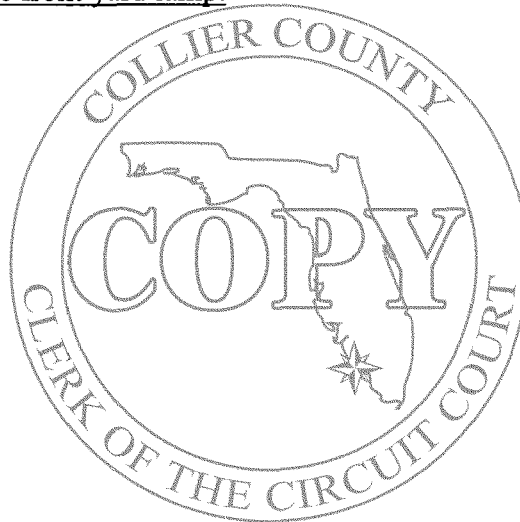


EXHIBIT A



**PROPOSED AMENDMENTS  
TO  
THE AMENDED AND RESTATED BYLAWS FOR  
VICTORIA PARK II PROPERTY OWNERS ASSOCIATION, INC.**

Additions indicated by underlining.  
Deletions indicated by ~~striking through~~.

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 Chapter 617 and 720, Florida Statutes, as modified and explained in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the Members only when such is specifically required.

4.1 **Number and Terms of Service.** The number of Directors which shall constitute the whole Board of Directors shall be ~~five (5)~~seven (7), and ~~may thereafter, the number of Directors may be any odd number between five (5) and nine (9) consistent with 4(B) below be increased to any higher odd number, not to exceed nine (9).~~ All Directors shall serve one (1) year terms. A Director's term will end at the expiration of his term and when his successor is duly qualified and elected, unless he sooner resigns, or is recalled as provided in 4.5 below.

(A) Beginning at the 2009 annual meeting, in order to create a staggered Board, the four (4) candidates receiving the most votes at the 2009 annual meeting shall be elected for terms expiring at the 2011 annual meeting. The remaining three (3) candidates who are elected at the 2009 annual meeting shall be elected for a term expiring at the 2010 annual meeting. Beginning with the election occurring at the 2010 annual meeting and for all subsequent elections, the directorships of those whose terms have expired shall be elected from the membership of the Association for a term of (2) years.

(B) No later than sixty (60) days prior to any annual meeting the Board of Directors may opt to change the number of Directors which shall constitute the whole Board of Directors. If this should occur, all terms will automatically expire at the next annual meeting, and in order to maintain a staggered Board, one of the following shall occur:

(i) If the Board is changed to nine (9) directors, the five (5) candidates receiving the most votes shall be elected for two (2) year terms. The remaining four (4) candidates shall be elected for a one (1) year term. Thereinafter, the directorships of those whose terms have expired shall be elected from the membership of the Association for a term of (2) years;

(ii) If the Board is changed to seven (7) directors, the four (4) candidates receiving the most votes shall be elected for two (2) year terms. The remaining three (3) candidates shall be elected for a one (1) year term. Thereinafter, the directorships of those whose terms have expired shall be elected from the membership of the Association for a term of (2) years; or

(iii) If the Board is changed to five (5) directors, the three (3) candidates receiving the most votes shall be elected for two (2) year terms. The remaining two (2) candidates shall be elected for a one (1) year term. Thereinafter, the directorships of those whose terms have expired shall be elected from the membership of the Association for a term of (2) years.

(C) In the event of a tie, or if no election is required (because there are fewer candidates than seats available), then the candidates shall decide amongst themselves who shall serve the initial two (2) year terms. If the candidates cannot voluntarily agree on who shall serve the initial two (2) year terms within ten (10) days of the election, then the Association shall conduct a run-off election.

[The Remainder of Section 4 Remains Unchanged].

**EXHIBIT B**