

Prepared By/Record and Return To:
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**SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS OF CYPRESS BAY**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF CYPRESS BAY (this "Second Amendment to Declaration") is entered into as of this **26th day of October, 2015**, by **CYPRESS BAY HOMEOWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Association").

RECITALS:

- A. The Association is a Florida not-for-profit corporation responsible for the maintenance of the Common Area and the Maintenance Area located within the Cypress Bay Community pursuant to the Declaration of Covenants, Conditions and Restrictions of Cypress Bay dated January 7, 1986, and recorded in Official Records Book 6073, page 1800 of the public records of Duval County, Florida, as amended by that certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Cypress Bay Homeowners Association, Inc. dated April 16, 2009 and recorded in Official Records Book 15563, page 481 of the public records of Duval County, Florida, and as further amended of record (collectively, the "Declaration").
- B. Pursuant to Article VII, Section 7.2 of the Declaration, the Declaration may be amended by the Association, but there are no specific provisions governing such amendments.
- C. Section 720.306(1)(b), *Florida Statutes*, provides that "[u]nless otherwise provided in the governing documents or required by law . . . any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association."
- D. The Association, having obtained the affirmative vote of two-thirds of the Association's voting interests, desires to amend the Declaration as more particularly described herein.

NOW THEREFORE, in consideration of the mutual benefits to be derived by the Association and all current and future Members, the receipt of which is hereby acknowledged, the Association hereby declares that:

1. **Defined Terms**. Except as otherwise expressly provided for herein, capitalized terms used herein shall have the same meanings as set forth in the Declaration.
2. **Article I, Section 1.19 – Commercial Vehicle**. Article I, Section 1.19 is hereby added to the Declaration as follows:

“1.19 **Commercial Vehicle**. “Commercial Vehicle” shall mean any vehicle and associated equipment that displays commercial markings, symbols, logos or signs, or in any other way indicates that it is used in a commercial manner. This definition shall not include police or other governmental vehicles and associated equipment.”

3. **Article V, Section 5.2 – Use Restrictions**. Article V, Section 5.2 is hereby deleted in full and replaced with the following:

“5.2 **Use Restrictions**. Except as otherwise expressly set forth in this Article V, no structures of any kind shall be erected, altered, placed or permitted to remain on any Lot other than: (i) one single family dwelling, not to exceed two and one half stories in height; (ii) one private garage for not more than two (2) cars; and (iii) one “in-law suite” or similar suite or utility room attached to the garage on the ground floor level.”

4. **Article V, Section 5.8 – Prohibited Activities**. Article V, Section 5.8 is hereby amended by adding “and Structures” at the end of the subheading so that the subheading reads as follows:

“5.8 **Prohibited Activities and Structures**.”

Article V, Section 5.8 is hereby further amended by deleting the second and third sentences of the paragraph in full and replacing them with the following:

“No garage shall at any time be used as a residence or enclosed and incorporated into a residence, **nor shall any commercial warehousing activities occur involving onsite pick-up and delivery of merchandise by customers, be carried out in the residence, garage or any permitted structure attached to the garage, temporarily or permanently.** Notwithstanding the foregoing, an Owner or resident of the Cypress Bay Community may host periodic garage sales on that Owner’s or resident’s Lot, provided such garage sales: (i) are confined to the hours of 7 A.M. and 5 P.M. and (ii) are conducted in such a manner as to (a) minimize any disturbance to other Owners or residents and (b) maintain the aesthetics of the Cypress Bay Community. No structures of a permanent or temporary character other than those structures specifically permitted under Section 5.2 hereof, including but not limited to trailers, mobile homes, sheds, shacks, garages (other than the

garage permitted under Section 5.2 hereof), barns, and other outbuildings, including additions thereto, shall be placed on any Lot, at any time, for any reason, either temporarily or permanently, without the prior written approval of the Board of Directors. Additionally, no tents, dog houses, tree houses or other similar structures shall be placed on any Lot, at any time, either temporarily or permanently, without the prior written approval of the Board of Directors. Any approval required by the Board of Directors pursuant to this Section may be provided or withheld in the Board of Director's sole discretion. Any Owner or resident in the Cypress Bay Community who desires to erect one of the aforementioned outbuildings or structures must submit all plans and specifications showing the nature, kind, shape, height, materials and location of the same to the Board of Directors. Such plans and specifications must include:

(A) a graphic illustration of the proposed outbuilding or structure to be placed on the Lot;

(B) a plot plan of the proposed outbuilding or structure to be placed on the Lot; or

(C) a survey showing the placement of the proposed outbuilding or structure to be placed on the Lot, its relationship to existing structures and a description of the structure or addition.

Notwithstanding the foregoing, the restrictions imposed herein on the placement of tents shall not apply to camping tents or party tents, provided such tents are: (i) not used for commercial or storage purposes; (ii) not used as non-recreational residences; (iii) are limited in size to cover an area no more than twenty-feet-by-thirty-feet (25'x 30'); (iv) reach a maximum height of twelve (12) feet; and (v) are immediately removed when not in use, but, in any event, are removed no later than seventy-two (72) hours after they are placed on a Lot. Additionally, temporary storage units similar or in kind to storage units colloquially referred to as PODS (whether or not of the name brand "PODS®") may be placed on a Lot driveway by an Owner or resident of the particular Lot for up to five (5) consecutive days. Such temporary storage units shall not be used for business related activities by the Lot Owner or resident. Construction waste units and dumpsters shall not be classified as temporary storage units for the purposes hereof, and the use thereof shall be subject to the notification and approval of the Board of Directors."

5. **Article V, Section 5.17 – Maintenance of Lot.** Article V, Section 5.17 is hereby added to the Declaration as follows:

"5.17 Maintenance of Lots. Each Owner shall be responsible, at the Owner's sole cost and expense, for the maintenance and upkeep of the Owner's Lot and any structures or improvements located thereon. Each Owner shall at all times keep that Owner's Lot and any structures or improvements located thereon in a safe, clean, wholesome and attractive condition. Each Owner

shall be responsible for clearing all weeds, underbrush or other unsightly growth from the Owner's Lot promptly upon discovery of the same, and no Owner shall allow any trash, rubbish, refuse, debris or unsightly objects of any kind to accumulate on the Owner's Lot. Each Owner shall maintain any lawn area on the Owner's Lot in a healthy and attractive growth condition, and shall routinely collect and dispose of all fallen leaves and trim all plants on the Owner's Lot as required to maintain an aesthetically pleasing appearance. The Board of Directors shall be permitted to exercise its reasonable discretion (i.e. anything that causes multiple complaints from homeowners to the Board) in determining whether an Owner has allowed the Owner's Lot to deteriorate or otherwise fall into disrepair or become unsafe or unsightly in violation of this Section 5.17."

6. **Article V, Section 5.18 – Vehicles and Recreational Equipment.** Article V, Section 5.18 is hereby added to the Declaration as follows:

“5.18 Vehicles and Recreational Equipment. No truck (other than “pickup trucks” with a cargo capacity of one (1) ton or less), Commercial Vehicle, mobile home, motor home, house trailer, utility trailer, horse or animal trailer, commercial use trailer, heavy equipment trailer, tractor trailer, camper, boat, boat trailer, or any other trailer or other recreational vehicle or equipment, bus, passenger vehicle lacking current registration, van (other than a non-commercial passenger van with a carrying capacity of ten (10) persons or less), or the like shall be permitted to be parked, stored or otherwise situated on any portion of the Property unless parked or stored in a garage located on the Lot of the Owner commissioning or otherwise in control of the vehicle, trailer or other recreational equipment. Notwithstanding the foregoing, the prohibitions detailed above shall not apply to vehicles that are temporarily parked on the Property for the sole purpose of retrieving or delivering goods to any Lot, or vehicles that are necessary to complete any repair or maintenance required on any Lot, provided such vehicle shall be parked in such a manner as to minimize interference with other Owners and residents in the Cypress Bay Community and provided such vehicles are removed from the Property within twenty four (24) hours of first entering the Property. In the event an Owner or resident requires that one of the aforementioned vehicles remains on the Property for a period in excess of twenty four (24) hours, such Owner or resident must notify the Board of Directors of the requirement as far in advance as reasonably possible, and the Board shall thereafter in a reasonably expedient manner approve or disapprove the parking of the vehicle. If a vehicle, trailer or any other recreational equipment violates any provision of this Section 5.18 or other provision of this Declaration, the offending vehicle, trailer or recreational equipment **when parked on Association or public roadway** shall be subject to police notification, removal, and any other action to restrict the movement of the same. The Association disclaims any liability to the owner of the offending vehicle, trailer or recreational equipment for any action taken with respect thereto, including but not limited to trespass and conversion, while located on the

Property or while subject to towing or other act resulting from a violation of this Declaration. The Association shall not be guilty of any criminal act in relation to the towing of the vehicle, trailer or recreational equipment or other act resulting from a violation of this Declaration, and the removal of the vehicle, trailer or recreational equipment without notice to the owner shall not be grounds for relief of any kind.

7. **Article V, Section 5.19 – Vehicle Maintenance.** Article V, Section 5.19 is hereby added to the Declaration as follows:

“5.19 Vehicle Maintenance. An Owner may, within the confines of the Property, maintain or repair vehicles owned or possessed by said Owner **UNDER THE FOLLOWING:** (i) **UNLESS maintenance takes place entirely within a garage then no maintenance or repairs shall be performed on any vehicles whatsoever, including but not limited to cars, trucks, boats, jet skis, motor homes, recreational vehicles, ATVs, golf carts, Commercial Vehicles and other motorized forms of transportation** upon any portion of the Property located on the Lot of the Owner commissioning or performing the maintenance or repairs; and (ii) all such maintenance and repairs must be conducted in such a manner that will not cause a disturbance by noise, odor, dust, fumes or otherwise to the other Owners or residents of the Cypress Bay Community. In the event a vehicle breaks down or otherwise becomes disabled on any portion of the Property outside of a garage, to the extent that repairs must be performed to restore the vehicle to a condition sufficient to relocate the vehicle, such repairs must be completed within twelve (12) hours of the vehicle becoming disabled or if more than twelve (12) hours, then only with the prior approval of the Board of Directors. If such repairs are not completed within said period, the vehicle must be **removed** or otherwise relocated to the garage of the vehicle owner, the garage of a consenting Owner, or to a location outside of the Property.”

8. **Article VII, Section 7.5.1 – Remedies for Violations.** Article VII, Section 7.5.1 is hereby added to the Declaration as follows:

“7.5.1 Remedies for Violations. It is acknowledged and agreed by all Owners that a violation of any provisions of this Declaration by an Owner, resident of the Cypress Bay Community, or any agent, employee, invitee or licensee of an Owner or resident, may impose irreparable harm to the other Owners or residents. In the event the Board of Directors receives notice of a violation or discovers a violation of any provision of this Declaration, the Board of Directors shall send written notice to the offending party by certified mail delivered through the United States Postal Service detailing the violation. The offending party shall rectify the violation and comply with the terms of the Declaration within fifteen (15) days after deposit of the notice with the United States Postal Service. If the offending party does not rectify the violation within said period, then the Board of Directors, acting on behalf of the Association, shall have the right to commence an action at law or in equity to compel compliance with the terms of the Declaration. Such right shall be in addition to all other rights available to the Board of Directors or

Association at law or in equity, or provided hereunder, including those rights available under Article 7 hereof, the provisions of which are incorporated herein by this reference. Without limiting the generality of the foregoing, and provided the offending party is found in violation of the Declaration, the offending party shall be responsible for the payment of any and all legal fees incurred by the Board of Directors in connection with the enforcement of the Declaration, including reasonable attorneys' fees, and all costs of such enforcement action shall constitute part of the legal fees. Any lien arising from an award of legal fees and costs shall have the same attributes as the lien for Assessments and Special Assessments set forth in Article 4 hereof, which provisions are incorporated herein by reference, and the Board of Directors shall have identical powers and rights in all respects, including but not limited to the right to record a claim of lien among the Public Records of Duval County, Florida and to subsequently foreclose the lien. The failure of the Board of Directors to notify an offending party of the violation and refer the violation to legal counsel or to otherwise enforce its rights hereunder, however long the violation shall continue, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same violation, or as to any other violation thereof occurring prior or subsequent thereto. The invalidation by any court of any of the covenants or restrictions contained in the Declaration and subject to this Article 7 shall in no way affect any of the other covenants and restrictions contained herein, which shall remain in full force and effect."

9. **Miscellaneous.** This Second Amendment to Declaration shall become effective upon its recordation in the public records of Duval County, Florida. In the event of a conflict between the terms and provisions of the Declaration and this Second Amendment to Declaration, this Second Amendment to Declaration shall control. Except as specifically amended hereby, all terms and provisions of the Declaration shall remain in full force and effect.

(Remainder of Page Intentionally Left Blank; Signature Page Follows)

IN WITNESS WHEREOF, the Association has executed this Second Amendment to Declaration as of the date and year first above written.

***Signed, sealed and delivered in the presence of.

CYPRESS BAY HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation

By:

Name: Raymond M. Cusano

Its: President

Witness Name: Stephen Davenport, Secretary

Witness Name: Harold Eugene Gray, Jr., Vice President

STATE OF FLORIDA, In the COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 26th day of October, 2015, by RAYMOND M CUSANO, as PRESIDENT of Cypress Bay Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of said corporation. He/she is personally known to me or has produced Florida Drivers License as identification.

David A Helegda

Print Name: DAVID A HELEGDA

Notary Public

My Commission Expires: JAN 08 2018

Commission Number: FF81826

