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**SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR OCEAN CAY**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR OCEAN CAY (the "Second Amendment") is made this 11<sup>TH</sup> day of April, 2000, by TAYLOR WOODROW COMMUNITIES, a Florida general partnership (hereinafter referred to as "Declarant"), and is joined in by OCEAN CAY HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter referred to as the "Association").

**WITNESSETH:**

- A. Declarant is the "Declarant" under that certain Declaration of Covenants, Conditions, Restrictions and Easements for Ocean Cay (the "Declaration"), dated July 9, 1997, and recorded in Official Records Book 8676, Page 528, of the Public Records of Duval County, Florida, as amended from time to time.
- B. Pursuant to the terms and provisions of Article XVI, Section 16.2 of the Declaration, the Declarant is authorized and empowered to modify provisions of the Declaration, as provided herein.
- C. Declarant and Association now desire to amend the Declaration as hereinafter set forth.

NOW THEREFORE, in consideration of Declarant's authority under the Declaration as stated above, it is hereby declared:

- 1. Definition of Terms. All the capitalized terms used herein shall have the same meaning ascribed to such terms in the Declaration, unless specifically defined herein.
- 2. Amendment. The By-Laws attached to the Declaration as Exhibit "C" are hereby deleted as Exhibit "C", and the Amended and Restated By-Laws attached hereto are hereby inserted in their place and stead as Exhibit "C" to the Declaration.
- 3. Conflict of Documents. In the event of any conflict or ambiguity between this Second Amendment and the Declaration, as amended, then the terms and provisions of this Second Amendment shall prevail. Except as specifically amended by this second Amendment, the Declaration, as amended, shall remain in full force and effect in accordance with its terms.

(19)

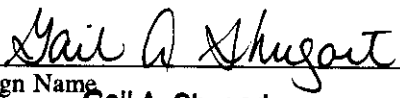
IN WITNESS WHEREOF, this Second Amendment has been executed as of the date first above written.

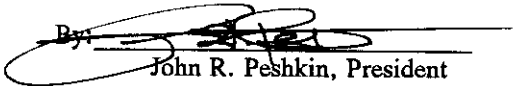
Signed, sealed and delivered  
in the presence of:

**TAYLOR WOODROW COMMUNITIES,**  
a Florida general partnership

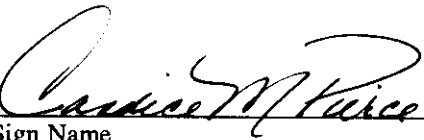
**By: Taylor Woodrow Homes Florida, Inc.,**  
a Florida corporation,  
its General Partner

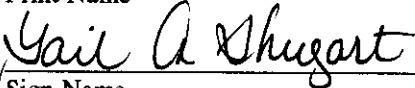
  
\_\_\_\_\_  
Sign Name **CANDICE MARIE PIERCE**

\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_  
Sign Name **Gail A. Shugart**  
\_\_\_\_\_  
Print Name

By:   
\_\_\_\_\_  
John R. Peshkin, President

Address: 7120 South Beneva Road  
Sarasota, Florida 34238

  
\_\_\_\_\_  
Sign Name **CANDICE MARIE PIERCE**

\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_  
Sign Name **Gail A. Shugart**  
\_\_\_\_\_  
Print Name

**By: Monarch Homes of Florida, Inc.,**  
a Florida corporation,  
its General Partner

By:   
\_\_\_\_\_  
John R. Peshkin, President

Address: 7120 South Beneva Road  
Sarasota, Florida 34238

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF SARASOTA )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2000, by John R. Peshkin, as President of Taylor Woodrow Homes Florida, Inc., a Florida corporation, General Partner of Taylor Woodrow Communities, a Florida general partnership, on behalf of said partnership. He is [] personally known to me or [] has produced \_\_\_\_\_ as identification.

My Commission Expires



Gail A. Shugart  
MY COMMISSION # CC587303 EXPIRES  
September 22, 2000  
BONDED THRU TROY FAIN INSURANCE, INC.

Gail A Shugart  
Notary Public State of Florida

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF SARASOTA )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2000, by John R. Peshkin, as President of Monarch Homes of Florida, Inc., a Florida corporation, General Partner of Taylor Woodrow Communities, a Florida general partnership, on behalf of said partnership. He is [] personally known to me or [] has produced \_\_\_\_\_ as identification.

My Commission Expires



Gail A. Shugart  
MY COMMISSION # CC587303 EXPIRES  
September 22, 2000  
BONDED THRU TROY FAIN INSURANCE, INC.

Gail A Shugart  
Notary Public State of Florida



AMENDED AND RESTATED  
BY-LAWS  
OF  
OCEAN CAY HOMEOWNERS ASSOCIATION, INC.

EXHIBIT "C"

OCEAN CAY HOMEOWNERS ASSOCIATION, INC.

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AMENDED AND RESTATED  
BY-LAWS  
OF  
OCEAN CAY HOMEOWNERS ASSOCIATION, INC.

ARTICLE I.

Identity

Section 1. Name. The name of the corporation is Ocean Cay Homeowners Association, Inc. (the "Association").

Section 2. Principal Office. The initial principal office of the Association is at 7120 South Beneva Road, Sarasota, Florida 34238.

Section 3. Adoption. These Amended and Restated By-Laws have been adopted as the By-Laws of the Association.

Section 4. Definitions. Terms used in these By-Laws which are defined in the Declaration of Covenants, Conditions, Restrictions and Easements for Ocean Cay (the "Declaration") shall have the same meaning in these By-Laws as in the Declaration.

ARTICLE II.

Powers and Duties of the Association  
and the Exercise Thereof

The Association shall have all powers granted to it by Florida law, the Declaration, the Articles of Incorporation, and these By-Laws, all of which shall be exercised by its Board of Directors unless the exercise thereof is otherwise restricted in the Declaration, the Articles, these By-Laws or by law.

ARTICLE III.

Membership

The Association shall have the following two (2) classes of membership: Class "A" Members and the Class "B" Members, as described in the Declaration. Owners of Lots shall be Class "A" Member of the Association. Members shall have the right to vote only on Association matters requiring a Membership vote pursuant to the Declaration, Articles of Incorporation, By-laws, or Florida law. The Class "B" Membership shall exist prior to Turnover and shall be, held by the Declarant, for Lots which it and Merchant Builders own.

ARTICLE IV.

Meetings of Members

Section 1. Date and Place of Meetings. Meetings of the Members shall be held on the date and at the place designated by the Board of Directors.

Section 2. Annual Meetings of Members. An annual meeting of the Members shall be held each year in April. Subject to Article VI, at each annual meeting, the Members shall elect the Board of Directors of the Association and may conduct such other business as may be properly brought before the meeting.

Section 3. Special Meetings. The President of the Association may call special meetings of the Members. In addition, it shall be the duty of the President to call a special meeting of the Members if so directed by resolution of a majority of the Board of Directors or, if after the Turnover, upon a petition signed by at least ten percent (10%) of the total vote of the Membership. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally, or by mail or any other manner complying with law, to each Member, not more than fifty (50) nor less than twenty (20) days before the date of such meeting, by or at the direction of the President or the Secretary. In addition, such notice shall be posted in a conspicuous place within the Property on the date of its mailing to the Members.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Association.

Section 5. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of Members representing thirty percent (30%) of the total votes in the Association shall constitute a quorum at all meetings of the Association.

Section 6. Adjournment of Meetings. If any meeting of Members cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed in Section 4.

Section 7. Vote Required. When a quorum is present at any meeting, a majority of the vote represented by the Members represented (in person or by proxy) at such meeting shall decide any question brought before the meeting, unless the Declaration, the Articles of Incorporation, these By-Laws or any applicable law provides otherwise.

Section 8. Proxies. Members may vote by proxy; provided the form of proxy is subject to the reasonable approval by the Board of Directors. In lieu of proxies, sealed ballots may be utilized for election of directors.

Section 9. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 10. Budget Workshop. Each year subsequent to Turnover, the Board of Directors, in October, shall hold a budget workshop meeting which Members may attend and comment on the next fiscal year's proposed budget. Members shall be provided a minimum of twenty (20) day's notice of the budget workshop along with copies of the proposed budget. There shall be no requirement that a quorum of Members attend the budget workshop, and it shall not be necessary that Members vote to approve the budget. Any Members present at the budget workshop may require the President to call a vote of the Members present at such workshop. Such vote shall be for the sole purpose of determining whether the budget will be disapproved in accordance with the Declaration. No Budget Workshop or Member vote for approval or disapproval of a budget will be held prior to the Turnover.

ARTICLE V.

Election of Board of Directors

Section 1. Number of Directors. The governance and administration of the affairs of the Association shall be vested in a Board of Directors. The number of directors of the Association shall be not less than three (3) nor more than six (6). The initial Board shall consist of the three (3) persons named in the Articles of Incorporation.

Section 2. Election or Appointment of Directors. Until the first annual meeting of Members after the conveyance of ninety percent (90%) of the Lots, in all phases, to Owners (other than Merchant Builders), the Declarant shall have the right to appoint all of the Members of the Board of Directors (the "Turnover Date"). The Declarant shall initially appoint the three (3) persons who shall serve as the initial Board of Directors. At the first annual meeting of Members to occur after the conveyance of ninety percent (90%) of the Lots, in all phases, to Owners (other than Merchant Builders), or such earlier date, as determined by the Class "B" Member, in its sole and absolute discretion, the Board shall be established at an odd number equal to the number of directors to be elected by the Members, which number shall be no more than five (5). The Declarant shall call a meeting within sixty (60) days after the Turnover at which the following shall occur: (a) the existing directors shall resign; (b) the Members shall elect the directors as described in Section 4; and (c) the Class "B" Membership shall terminate and be converted to a Class "A" Membership. The Declarant may, in its sole and absolute discretion, permit the Members to elect a portion of the directors earlier than the Turnover.

Directors elected by the Members at the Turnover meeting and each annual meeting thereafter shall serve for annual terms and shall be elected by Members at large.

In addition to any directors elected by the Class A Members at and subsequent to Turnover, the Declarant shall have the right to appoint one (1) director until such time as all of the Lots in all phases of Ocean Cay are conveyed to Owners (other than Merchant Builders), or so long as permitted by law.

For purposes of this Section the total number of Lots to be developed shall be considered one hundred and eighty-six (186). This density is the anticipated maximum density permitted for the property currently anticipated to be developed as Ocean Cay. **NO REPRESENTATION OR WARRANTY IS MADE THAT, UPON BUILDOUT, THE PROPERTY WILL BE DEVELOPED WITH THIS NUMBER OF LOTS.** Density may be reduced or additional lands may be added increasing the number of Lots permitted.

Section 3. Qualifications for Election. Except with respect to appointed directors, all directors shall be Members.

Section 4. Directors Election. Prior to the Turnover, the Declarant shall appoint all directors.

After Turnover, all of the elected directors shall be elected by the Class A Members at-large.

Section 5. Nomination of Directors. Immediately prior to the Turnover meeting and each annual meeting thereafter, any Member can nominate another Member for election, or may nominate himself or herself for election, by providing written notice to the Board of Directors. The Board of Directors shall provide by written notice to the Members the names of candidates for election that year.

The names of any nominees, after having been certified by the Secretary or any other officer, that they are qualified for election shall be included in any proxy mailing to the Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Nominations, may also be made from the floor at the annual meeting of Members.

Section 6. Removal of Directors and Vacancies. Any director appointed may be removed, with or without cause, only by the party entitled to appoint the director. Any director elected by the Member may be removed, with or without cause, by the majority vote of the Members who were entitled to elect such director. Upon removal of a director, a successor shall be elected or appointed by the party entitled to elect or appoint the director so removed to fill the vacancy for the remainder of the term of such director.

Any elected director who has three (3) consecutive unexcused absences, as determined by the Board, from Board meetings or any elected director who is delinquent in the payment of any Assessment or other charges due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the remaining directors. In the event of the death, disability, or resignation of a director elected by the Members, the members of the Board may elect a successor to fill the vacancy for the remainder of the term of such director. The Declarant shall replace its appointed directors upon death, disability, removal or resignation.

Section 7. Compensation. No director shall receive a salary or any other compensation whatsoever from the Association for acting as such, but shall be entitled to be reimbursed for expenses reasonably incurred on behalf of the Association.

Section 8. Fiduciary Duty. The directors shall act in good faith in a manner they reasonably believe to be in the best interests of the development of The Property and the purpose of the Association.

## ARTICLE VI.

### Meetings of Board of Directors

Section 1. Organizational Meeting. The organizational meeting of the Board of Directors shall be held within ten (10) days after the annual meeting of the Members at such time and place as shall be fixed by the Board of Directors.

Section 2. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but commencing with the Turnover, at least four (4) regular meetings shall be held during each fiscal year with at least one (1) per quarter, provided, however, that the annual meeting shall constitute a regular meeting. Notice of the time and place of any meeting shall be posted in a conspicuous place within Ocean Cay at least forty-eight (48) hours prior to the time of the meeting, unless the meeting is an emergency special meeting. In the alternative, notice of the meeting may be mailed or delivered to all members at least seven (7) days in advance of the meeting. At such time as the Association has 100 or more members, notice of meetings of the Board of Directors may be published or in the alternative the Board may provide members with a pre-arranged schedule of meetings of the Board.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any three (3) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The giving of notice of any special meeting shall comply with the notice provisions set forth in Section 2 of this Article VI.

Section 4. Meetings Concerning Assessments. 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.

Section 5. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If any meeting of the Board of Directors cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted provided that notice of such reconvened meeting shall comply with the notice provisions set forth in Section 2 of this Article VI.

Section 6. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book containing written records of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings as well as a notation as to any Director who abstained from voting or voted contrary to the prevailing opinion. No votes at any Board of Directors meeting may be by proxy or secret ballot, except that secret ballots may be utilized in the election of officers.

Section 7. Open Meetings. All meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director and granted by the President. In such case, the President may limit the time any Member may speak.

Section 8. Telephone Meetings. Any regular or special meeting of the Board of Directors may be held by telephone conference, at which each participating director and any member in attendance can hear and be heard by all other participating directors.

## ARTICLE VII.

### Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer to be elected from among the members of the Board. The Board of Directors may appoint from such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary or President and Treasurer.

Section 2. Election, Term of Office and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors during a fiscal year. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by a majority vote of the Board of Directors in the sole discretion of the Board and the removal of a director who also is an officer shall automatically act as a removal from such director's position as an officer.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified in the notice and unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

## ARTICLE VIII.

### Duties of Officers

The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as are from time to time specifically conferred or imposed by the Board of Directors.

Section 1. President. The President shall be the chief executive officer of the Association and shall:

- (a) Act as presiding officer at all meetings of the Members and the Board of Directors.
- (b) Call special meetings of the Members and the Board of Directors.

(c) Sign, with the Secretary or Treasurer if the Board of Directors so requires, all checks, contracts, promissory notes, leases, subleases and other instruments on behalf of the Association, except those which the Board of Directors specifies may be signed by other persons.

(d) Perform all acts and duties usually required of a chief executive to ensure that all orders and resolutions of the Board of Directors are carried out.

(e) Act as an ex-officio member of all committees and render an annual report at the annual meeting of Members.

Section 2. Vice President. The Vice President, in the absence or disability of the President, shall exercise the powers and perform the duties of the President. The Vice President also shall assist the President generally, and exercise other powers and perform other duties as shall be prescribed by the directors.

Section 3. Secretary. The Secretary shall have the following duties and responsibilities:

(a) Attend all regular and special meetings of the Members and the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.

(b) Have custody of the corporate seal, if any, and affix the same when necessary or required.

(c) Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings and keep membership books.

(d) Have custody of the minute book of the meetings of the Board of Directors and Members and act as agent for the transfer of the corporate books.

Section 4. Treasurer. The Treasurer shall:

(a) Receive monies as shall be paid into his hands for the account of the Association and disburse funds as may be ordered by the Board of Directors, taking proper vouchers for disbursements and be custodian of all contracts, leases and other important documents of the Association which he shall keep or cause to be kept safely deposited.

(b) Supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association and deliver the books to his successor. The Treasurer shall prepare and distribute to all of the members of the Board of Directors prior to each annual meeting, and whenever else required, a summary of the financial transactions and condition of the Association from the preceding year. The Treasurer shall make a full and accurate report on matters and business pertaining to his office to the Members at the annual meeting and make all reports required by law.

(c) The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Association. In the event the Association enters into a management agreement, it shall be proper to delegate any or all of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

## ARTICLE IX.

### Committees

Section 1. Standing Committees. Each year after the Turnover, the President, subject to the approval of the Board of Directors, shall designate the chairperson (who shall be a director) and members of each of the following committees:

(a) Grounds Committee. The Grounds Committee shall advise the Board of Directors on matters concerning maintenance of the Common Areas. No live trees shall be moved from the Common Areas nor shall any alteration or improvement be made to the Common Areas except with the approval of the Board of Directors.

(b) Newsletter Committee. The Newsletter Committee shall supervise and control the preparation of a periodic newsletter for distribution to all Members.

(c) Legal and By-Laws Committee. The Legal and By-Laws Committee shall be charged with the publication and interpretation of the rules and regulations, By-Laws, and Declaration and generally, with all matters of a legal nature pertaining to the Association.

(d) Architectural Review Committee. The ARC shall have the duties and powers set forth in the Declaration.

(e) Grievance and Enforcement Committee. The Grievance and Enforcement Committee shall be charged with hearing grievances of alleged violations of the governing documents and deciding whether to approve or disapprove the proposed fine or sanction set forth in the written notice to the alleged violator, all in accordance with the procedures set forth in Article X hereof.

Section 2. Ad Hoc Committees. The President, subject to the approval of the Board of Directors, may, from time to time, appoint such ad hoc committees, with such powers and composition as the President, with the approval of the Board of Directors shall determine.

Section 3. Powers of Committees. The several committees shall act only as committees and the individual members thereof shall have no power or authority to act on behalf of the Board of Directors or the Association. All committees shall be advisory only and shall report to and be under the supervision of the Board of Directors. Committee members may be removed, with or without cause, upon majority vote of the Board of Directors.

Section 4. Committee Meetings. All meetings of any committee of the Association shall be open to all members. Notice of the time and place of any committee meeting shall be posted in a conspicuous place within Ocean Cay at least forty-eight (48) hours prior to the time of the meeting. In the alternative, notice of the meeting may be mailed or delivered to all members at least seven (7) days in advance of the meeting. At such time as the Association has 100 or more members, notice of committee meetings may be published or in the alternative the each committee may provide members with a pre-arranged schedule of meetings.

## ARTICLE X.

### Discipline

Section 1. Enforcement. The Board of Directors shall have the power to impose reasonable fines, not to exceed the maximum allowable under Florida law, which shall constitute an automatic and continuing lien upon the Lot of the violating Owner, to preclude contractors, subcontractors, and from performing the within services for violation of any duty imposed under the Declaration, these By-Laws or the Rules and Regulations; provided, however, nothing herein or in the Declaration shall authorize the Association or the Board of Directors to limit an Owner's or occupant's ingress and egress to or from the Owner's Lot. In the event that any occupant of a Lot violates the Declaration, these By-Laws or the Rules and Regulations, and a fine is imposed, the fine shall first be assessed against the occupant residing therein; provided, however, if the fine is not paid by the occupant within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association. Fines are considered Benefit Assessments. The failure of the Board of Directors to enforce any provision of the Declaration or By-Laws shall not be deemed a waiver of the right of the Board of Directors to do so thereafter.

Section 2. Notice. Prior to imposition of any sanction hereunder, the Board of Directors or its delegate shall serve the accused with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than fourteen (14) days within which the alleged violator may present a written request to the Board of Directors for a hearing; and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge has been requested within the fourteen (14) day notice.

Section 3. Hearing. If a hearing is requested within the allotted fourteen (14) day period, the sanction shall be stayed pending the hearing, which shall be held before a committee comprised of at least three (3) members appointed by the Board who are not officers, directors or employees of the association, or the spouse, parent, child, brother or sister of an officer, director or employee. The committee shall set the date and time of the hearing which shall be no sooner than ten (10) days after the receipt of the notice requesting a hearing. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the accused appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Section 4. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association may elect to enforce any provisions of the Declaration, these By-Laws or the Rules and Regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the violator shall pay all costs, including reasonable attorneys' and paralegals' fees actually incurred by the Association.

## ARTICLE XI.

### Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall commence upon the first day of January and conclude on the thirty-first day of December.

Section 2. Depositories. The funds of the Association shall be deposited in such accounts as may be selected by the Board of Directors, including without limitation checking and savings accounts in one (1) or more banks and/or savings and loan associations, Certificates of Deposit, U.S. Treasury Bills and money market accounts with an investment firm or firms, all in accordance with resolutions approved by the Board of Directors. The funds shall be used only for lawful purposes of the Association.

Section 3. Expenses. The receipts and expenditures of the Association may be credited and charged to accounts as the Board of Directors may determine, in accordance with good accounting practices as set forth in Section 7 below.

Section 4. Reserve Accounts. The Association may, but shall not be required to, establish and maintain an adequate reserve account for the periodic maintenance, repair and replacement of the Common Property.

Section 5. Budget. The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the expenses of the Association for the fiscal year and to provide and maintain funds for the accounts established by the Board of Directors, in accordance with good accounting practices as set forth in Section 7 below. The Association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member.

Section 6. Fidelity Bonds. The Association shall, if available at a reasonable cost, purchase blanket fidelity bonds for all directors, officers and employees of the Association and for any management agent who controls or disburses funds of the Association and any contractor handling or responsible for Association funds. The following provisions shall govern the Association's purchase of the bonds.

(a) Each fidelity bond purchased by the Association shall name the Association as an obligee of the bond.

(b) The premiums for bonds shall be paid by the Association.

(c) The fidelity bonds shall cover the maximum funds that will be in the custody of directors, officers or employees of the Association, or a management agent, at any time while the bonds are in force.

(d) Each bond shall include a provision requiring ten (10) days' written notice to the Association before the bond can be cancelled or substantially modified for any reason.

Section 7. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting (exclusive of depreciation and amortization), as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by a manager from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise;

(e) any financial or other interest which a manager may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Lot is sold, financial reports shall be prepared for the Association at least annually containing:

(i) statement of operations reflecting all income and expense activity for the preceding period on an accrual basis (excluding depreciation and amortization);

(ii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iii) a balance sheet as of the last day of the preceding period; and

(iv) a delinquency report listing all Owners who are delinquent in paying any Assessments at the time of the report and describing the status of any action to collect such Assessments which remain delinquent (An Assessment shall be considered delinquent fifteen (15) days after the date due unless otherwise determined by the Board of Directors);

(g) an annual report consisting of at least the following shall be distributed to all Members within sixty (60) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall not be required to be audited by a Certified Public Accountant, provided however the Board may authorize an audit as a Common Expense;

(h) Accounting records of the Association shall be maintained for at least seven (7) years after the date of the records.

Section 8. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by the President and Secretary or by such other members of the Board or officers of the Association as may be designated by resolution of the Board of Directors.

Section 9. Books and Records.

(a) Inspection by Owners and Mortgagees. The Declaration; Articles of Incorporation; By-Laws; Rules and Regulations; Supplements; Amendments to the Declaration, Articles of Incorporation, By-Laws; membership register; financial and accounting records; minutes of meetings of the Members, the Board, and committees; current insurance policies; association contracts; and copies of plans, permits, warranties, and other items provided by the Declarant, shall be made available for inspection and copying by any Mortgagee, Owner or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Owner at the office of the Association. Such records shall include a record of receipts and expenditures and accounts for each Owner, which accounts shall designate the names and addresses of the Owners, the due dates and amount of each Assessment, the amounts paid upon the account and the balance due. Accounts of Owners shall only be available for inspection by the Board, the officers and the Owner or such Owner's Mortgagee, unless otherwise required by law. Minutes of grievance hearings will not be released to any Person other than the Person subject to the disciplinary action. Books and records of the Association may be kept at the Association office at the Properties or off-site at the office designated by the Declarant. Books and records of the Association shall be maintained for a period of at least seven (7) years after the date of the books and records.

(b) Rules for Inspection. The Association shall make the foregoing records available for inspection and/or copying within ten (10) business days after written request for inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 10. Insurance. The Association shall procure, maintain and keep in full force and effect insurance as may be required by the Declaration to protect the interests of the Association and the Owners.

ARTICLE XII.

Miscellaneous

Section 1. Parliamentary Rules. Robert's Rules of Order (then current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 2. Construction. If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration and/or these By-Laws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 3. Validity. If any By-Law or Rule or Regulation is adjudicated to be invalid, such fact shall not affect the validity of any other By-Law or Rule or Regulation.

Section 4. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to an Owner or Member, at the address which the Owner or Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of the Owner or Member; or

(b) if to the Association, the Board of Directors, or the Manager, at the principal office of the Association or the manager, if any, or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

Section 5. Amendments. Until the Turnover, the Declarant may amend these By-Laws in its sole and absolute discretion. The Class "A" Members shall have no right to amend these By-laws. After the Turnover, Amendments to these By-laws shall require the affirmative vote of a majority of the Board of Directors. Amendments to the By-laws shall be recorded in the Public Records of Duval County, Florida.

Section 6. Rules and Regulations. The Association, through the Board of Directors shall adopt Rules and Regulations consistent with the rights and duties established by the Declaration. The Rules and Regulations as amended, duly adopted by the Board, shall by reference be incorporated herein.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

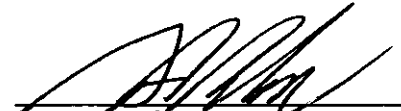
CERTIFICATION

I, the undersigned, do hereby certify:

That I am duly elected and acting Secretary of the Ocean Cay Homeowners Association, Inc., a Florida not-for-profit corporation;

That the foregoing Amended and Restated By-Laws constitute the By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 8<sup>TH</sup> day of February, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the corporate seal this 9<sup>TH</sup> day of February, 2000.

  
Steven A. Bakan, Secretary

(Seal)