

Declaration changes

4.12 *Restrictions on Signs and Advertising.* No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Property so as to be evident to public view, except signs, posters, billboards or any other type of advertising device or display erected by Declarant incidental to the development, construction, promotion, marketing, or sales of the Lots. Notwithstanding the foregoing, a sign advertising a house for sale or for lease may be placed within the Property provided that such sign is not larger than three feet by three feet in size. The Executive Board may by resolution specify how any such signs shall be prepared and displayed and may require a uniform sign for any and all real estate sales within the Property.

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5.4 *Declarant Control.* Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association during the term of Declarant Control. "Declarant Control" begins with the appointment of the initial Executive Board and continues until the earlier of (a) five (5) years from the date of recording the Declaration, or (b) sixty (60) days after Declarant conveys seventy-five percent (75%) of the Lots to Owners other than Declarant. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded with the Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective.

5.4 *Declarant Control.* No longer applicable.

8.2 *Declarant's Rights Incident to Construction.* Declarant, for itself and its successors and assigns, the Association and/or for Owners in all future phases of The Preserve At Deerfield, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any construction of improvements on the Property or other real property owned by Declarant, or other properties abutting and contiguous to the Property; provided, however, that no such rights shall be exercised by Declarant in a way that unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

8.2 *Declarant's Rights Incident to Construction.* No longer applicable.

9.3 *Maintenance by Association.* The Association shall be responsible for the maintenance and repair of the Common Elements (except as set forth in Section 9.1 above and unless necessitated by damage caused by the negligence, misuse or tortious act of an Owner or Owner's Agent as set forth in Section 9.4 below), which shall be the Common Expense of all Owners. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all open space, roads and shoulders, landscaping, walls, drives and paths, gates, signage, irrigation systems, drainage facilities, sidewalks, and improvements, if any (which shall include without limitation snow removal services unless performed by another private or public organization formed for such purposes), located in the Common Elements. **If the Association does not maintain or repair the Common Elements, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.**

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11.1 *Obligation.* Each Owner, including Declarant while an Owner of any Lot, is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments; **provided how-ever, that Declarant is not obligated to pay any Association assessment during the period of Declarant Control.**

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11.11 *Capitalization of the Association.* The Declarant shall establish a working capital fund equal to two-twelfths (2/12) of the estimated Annual Assessments for Common Expenses for each Lot subject to the terms of this Declaration. Such sums shall be collected upon closing on the initial sale of each lot subject to this provision, and reimbursed to the Declarant upon the transfer of title to a Lot when that Lot's Owner makes the required work-ing capital contribution set forth in this section. The working capital fund may be used by the Association for emer-gencies, insurance deductibles in the event of casualty or other loss, capital expenditures for repair or replacement of Common Elements, and such other expenses which do not occur on a regular and on-going basis, as may be deter-mined by a majority of the Executive Board: The initial capital account shall be established and Annual Assessments shall commence for the first phase submitted to the terms of this Declaration upon the conveyance of the first Lot in the Project by Declarant to a third-party purchaser. Upon acquisition of record title to a Lot from Declarant or any seller after Declarant, each Owner shall contribute to the working capital and reserves of the Association an amount equal to two-twelfths (2/12) of the then-current Annual Assessment determined by the Executive Board for that Lot for the year in which the Owner acquired title. Such payments shall not be considered advance payments of Annual Assessments or \$750, whichever is greater. The working capital deposit made by an Owner shall be returned to each Owner (including the Declarant) upon the sale of his or her Lot, provided that the new purchaser of the Lot has de-posit-ed the required working capital deposit with the Association. The working capital fund must be maintained by the Association in a segregated account, and may not be used by the Declarant to defray any of its expenses, reserve contributions, or construction costs, nor to make up any budget deficits during the period of Declarant control.

11.11 *Capitalization of the Association*. No longer applicable.

13.2 *Partial Condemnation; Distribution of Award; Reconstruction*. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees and, unless otherwise required under the Act, the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Owners who represent at least sixty-seven percent (67%) of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions in Article 12 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Owners in accordance with each Lot's Allocated Interests of Percentage Share of Common Elements, first to the Mortgagees and then to the Owners, as their interests appear.

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16.3 *Membership.* The Committee shall consist of individuals appointed by and responsible to the Executive Board. During the period of Declarant Control set forth in Section 5.4 of this Declaration, the number of members shall be determined by the Executive Board and such members need not be Owners. After the period of Declarant Control has passed, the Committee shall consist of three (3) members at least one (1) of whom shall be an Owner. Members of the Committee shall be appointed to serve for a period of time established by the Executive Board, but in no event for a period of less than one (1) year. The Committee is authorized, upon approval of the Executive Board, to seek the advice of design professionals or other professionals if the need should arise. Should a Committee member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed by the Executive Board.

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18.2 *Amendment.* This Declaration, or any provision of it, may be amended at any time by Owners holding not less than two-thirds (2/3) of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose and signed by the Declarant (during the period of Declarant Control) and at least two-thirds (2/3) of the Mortgagees holding First Mortgages against any portion of the Property (based on one (1) vote for each Mortgage owned). Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association.

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18.3 *When Modification Permitted.* Notwithstanding the provisions of Sections 18.1, 18.2, 18.3 and 19.1, no termination, amendment, extension or modification of this Declaration made prior to the termination of Declarant Control shall be effective unless prior written consent of Declarant is first obtained.

18.3 *No longer Applicable.*