

AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
SPINNAKER POINT
A CONDOMINIUM

Indian River County, Florida

Made this 23rd day of April, 1999, by SPINNAKER POINT ASSOCIATION, INC., a Florida corporation, hereinafter called "Association", to amend and restate the Spinnaker Point initial Declaration of Condominium of October 29, 1980.

WHEREIN the Association makes the following declarations:

I

PURPOSE

The purpose of this Declaration is to resubmit the land herein described and improvements thereon to the condominium form of ownership and use provided in Chapter 718, Florida Statutes, hereinafter called the "Condominium Act", and the Association does hereby resubmit the property to condominium ownership.

II

NAME AND ADDRESS

The name by which this condominium is to be identified is Spinnaker Point, a Condominium, and its address is 1855-1880 Bay Road, Vero Beach, Florida, 32963. It is hereinafter called "the condominium" or "the Association".

EXHIBIT I

III

THE LAND

The land upon which the condominium is constructed is located in Indian River County, Florida, and is described as follows:

Lot 121, THE MOORINGS, UNIT II, according to the plat thereof filed in the office of the Clerk of the Circuit Court of Indian River County, Florida, in Plat Book 8, Page 28C, LESS AND EXCEPT the North 28.0 feet of said Lot 121, said North 28.0 feet of Lot 121 being described as follows: Beginning at the northeast corner of said Lot 121 run South 68° 47' 26" West along the North line of said Lot 121 a distance of 191.79 feet and to the West line of said Lot 121; thence run South 21°12' 34" East along the West line of said Lot 121 a distance of 28.0 feet; thence run North 68° 47' 26" East a distance of 202.58 feet and to the intersection with the West right of way of Bay Road; thence run along a circular curve having a radius of 110.0 feet and concave to the right an arc distance of 30.10 feet and to the point of beginning.

IV

DEFINITIONS

The terms used in this Declaration and in its Exhibits, and in all amendments thereto, shall have the meanings stated in the Condominium Act and as follows unless the context otherwise requires,

- A. Apartment means units as defined by the Condominium Act.
- B. Apartment Owner means unit owner, as defined by the Condominium Act.
- C. Assessments means a share of the funds required for the payment of common expenses, which, from time to time, is assessed against the apartment owner.
- D. Association means SPINNAKER POINT ASSOCIATION, INC., a Florida corporation not for profit, and its successors and assigns, responsible for the operation of the condominium. The Association's Amended and Restated Articles of Incorporation are annexed hereto as Exhibit A.
- E. By-Laws means the Amended and Restated By-Laws of the Association and of the Condominium, a copy of which is annexed hereto as Exhibit B.

F. Common Elements means the portions of the condominium property not included in the apartment units and tangible personal property used for the operation and maintenance of the condominium.

G. Limited Common Elements means those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

H. Common Expenses means all expenses and assessments properly incurred by the Association for the condominium, including, but not limited to:

1. Expenses of administration, expense of insurance, maintenance, operation, repair, replacement and betterment of the common elements, limited common elements or additional facilities, if any, and of the portions of the apartments to be maintained by the Association.

2. Expenses declared common expenses by the provisions of this Declaration or the By-Laws of the Association.

3. Expenditures or amounts of assessments by the Association for payment of costs that are the responsibility of a unit owner, including but not limited to costs of repair of damage to a unit in excess of insurance upon a unit.

4. Any valid charge against the condominium property as a whole.

I. Common Surplus as the term is used herein, shall mean the excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over amount of the Common Expense.

J. Condominium means that form of ownership of real property pursuant to the provisions of Chapter 718 of the Florida Statutes, which is comprised of units that may be owned by persons and there is, appurtenant to each unit, an undivided share in the common elements.

K. Condominium Property means and includes the land of the condominium, all improvements thereon, and the common elements, limited common elements, and all easements and rights appurtenant thereto.

L. Institutional Mortgage means a mortgage held by a bank, savings and loan association, insurance company, or union pension fund authorized to do business in the State of Florida.

M. Unit means a part of the condominium property which is subject to exclusive ownership.

N. Utility Services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and By-Laws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning, garbage and sewage disposal and telephones.

O. Regulations means the reasonable regulations respecting the use of the condominium property that have been adopted by the Association from time to time in accordance with its Articles of Incorporation and By-Laws.

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

V

DEVELOPMENT PLAN

The condominium is described and established as follows:

A. Survey. A survey of the land showing the apartment buildings on it, common elements and limited common elements upon the land is attached as Exhibit B to the original Declaration filed with the Indian River County Public records; the original Declaration with Exhibit B is filed at Book 611, Page 338; amendments thereto are filed at Book 614, Page 936; Book 616, Page 2961; Book 621, Page 2117; Book 624, Page 1022; Book 641, Page 162; and Book 707, Page 603.

B. Graphic Description and Plot Plans. A plot plan and other documents showing a graphic description of the condominium property in sufficient detail to identify each apartment, the common elements and the limited common elements and which provide accurate representations of their locations and dimensions are attached as Exhibit C to the original Declaration as amended and filed with the Indian River County Public records as stated above. For the purpose of identification all apartments in the buildings located upon said land are given identifying numbers and no apartment bears the same identifying number as does any other apartment.

C. Certificate. A certificate of surveyor authorized to practice in the State of Florida, certifying that the construction of the improvements described is sufficiently complete so that, with the aforementioned survey, plot plans and graphic descriptions, together with the wording of the Declaration, such descriptions are an accurate representation of the location and dimensions of the improvements described, and further that with such material there can be determined therefrom the identification, location and dimensions of each apartment and the

common elements and limited common elements, is attached as Exhibit A to the original Declaration as amended and filed with the Indian River County public record as stated above.

D. Easements. Each of the following easements is a covenant running with the land of the Condominium, to wit:

1. Utilities. As may be required for utility services in order to adequately serve the Condominium; provided, however, easements through a unit shall be only according to the plans and specifications for the building containing the unit or as the building is actually constructed, unless approved, in writing, by the apartment owner. An easement shall exist throughout the common elements and limited common elements for the purpose of installation, maintenance, repair and replacement of all sewer, water, cablevision, power and telephone pipes, lines, mains, conduits, wires, poles, transformers and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility system.

2. Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, halls, lobbies, elevators, center cores, and other portions of the common elements as they may be from time to time intended and designated for such purpose and use and as may be necessary to provide reasonable access to public ways, and for vehicular and pedestrian traffic over, through and across such portions of the common elements as may be from time to time paved and intended for such purpose and as may be necessary to provide reasonable access to public ways; and such easements shall be for the use and benefit of the apartment owners, institutional mortgagees and/or tenants in the Condominium, or members of their respective families and their social guests; provided, however, nothing herein shall be construed to give or create in any person the right to park on any portion of the common elements of the condominium property except to the extent that space may be specifically designated and assigned for parking purposes.

3. Easement for Air Space. The owner of each unit shall have an exclusive easement for the use of air space occupied by said unit as it exists at any particular time and as said unit may be lawfully altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

4. Easement for Unintentional and Non-negligent Encroachments. In the event that any Unit shall encroach upon any Common Property for any reason not caused by the purposeful or negligent act of the Unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such Unit shall exist for the continuance of such encroachment onto the Common Property for so long as encroachment shall naturally

exist; and, in the event that any portion of the Common Property shall encroach upon any Unit, then an easement shall exist for the continuance of such encroachment of the Common Property into any Unit for so long as such encroachment shall naturally exist.

5. Easement for Access to the Docks, Bulkhead, Walkway and Waters. A perpetual, nonexclusive easement for access to the docks, bulkhead walkway and waters is reserved and excepted in favor of the Association together with all littoral and riparian rights in the waters appurtenant thereto. This easement shall be limited to a length and width sufficient to construct and service said docks, bulkhead, walkway and waters. Nothing contained herein shall be construed to restrict the use for all proper and purposes of owners of Units, their immediate families, guests and invitees of this property as a common element.

E. Improvements - General Description.

1. The condominium includes six (6) two and/or three story buildings, containing fifty-nine (59) condominium units. Each apartment is assigned a number which is indicated on the exhibits attached to the original Declaration as amended and filed as stated above. The first floor apartments in the northwest building (indicated as Building D on Plot Plan) are numbered consecutively from 101 to 103, the second floor apartments are numbered consecutively from 201 to 203, and the third floor from 301 to 303. The first floor apartments in the second building moving counterclockwise around the property (Building E) are numbered from 104 to 107, the second floor apartments are numbered 204 to 207 and the third floor apartments are numbered 304 to 306. The first floor apartments in the third building continuing counterclockwise (Building F) are numbered from 108 to 110, the second floor apartments are numbered from 208 to 210 and the third floor apartments are numbered 309 and 310. The first floor apartments of the fourth building continuing counterclockwise (Building G) are numbered from 111 to 114, the second floor apartments are numbered from 211 to 214, and the third floor apartments are numbered 311 to 313. The first floor of the fifth building continuing counterclockwise (Building H) are numbered from 115 to 117, the second floor apartments are numbered from 215 to 217, and the third floor apartments are numbered from 315 to 317. The first floor apartments of the sixth and final building (Building I) situated in the northeast corner of the property, are numbered from 118 to 121, the second floor apartments are numbered from 218 to 221 and the third floor apartments are numbered from 319 to 321. Following the numbers of each unit in each building are the letters, A, B, and C, which indicate the type of unit design. A manager's apartment is located above the covered garages designated for Units 102, 202 and 103, on the northwest portion of the property.

2. Other Improvements may include, but are not limited to, landscaping, docks, automobile parking area, walkways and entrance ways, all of which are part of the common elements, except as is stated otherwise herein.

F. Apartment boundaries. Each apartment will include that part of the building containing the apartment that lies within the boundaries of the apartment, which boundaries are as follows:

1. Upper and lower boundaries. The upper and lower boundaries of the apartment shall be the following boundaries, extended to an intersection with the perimetrical boundaries:

(a) Upper Boundary - the plane of the lowest surfaces of the unfinished ceiling slab, including the slab over a balcony, deck, loggia, terrace, porch, canopy, stairway or other portion of the building serving only the apartment being bounded. In a unit containing a room in which the ceiling is raised above the level of the ceiling in the rest of the unit, the ceiling slab shall include the vertical slab or wall connecting the raised ceiling with the ceiling of the remaining portion of the unit, and the upper boundary shall include the plane of the unfinished surface of the vertical slab or wall that joins the plane of the lowest surfaces of the unfinished horizontal portions of the ceiling slabs.

(b) Lower Boundary - the plane of the lowest surfaces of the unfinished floor slab, including the floor slab over a balcony, deck, loggia, terrace, porch, canopy, stairway or other portion of the building serving only the apartment being bounded. In a unit containing a room in which the floor is raised above the level of the floor in the rest of the unit, the floor slab shall include the vertical slab or wall connecting the raised floor with the floor of the remaining portion of the unit, and the lower shall include the plane of the unfinished horizontal portions of the floor slab.

2. Perimetrical boundaries. The perimetrical boundaries of the apartments will be the following boundaries extended to an intersection with the upper and lower boundaries:

(a) Exterior building walls - the intersecting vertical planes adjacent to and which include the exterior of the outside walls of the apartment building bounding an apartment and fixtures thereon; and when there is attached to the building a deck, balcony, loggia, terrace, porch, canopy, stairway or other portion of the building serving only the apartment being bounded, except and excluding, however, external access stairways, such boundaries will be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

(b) Interior building walls - the vertical planes of the center line of walls bounding an apartment extended to intersections with other perimetrical boundaries, with the following exceptions:

(i) If interior building walls separate apartments from common elements or limited common elements, the perimetrical boundaries as to such walls will be the intersecting vertical planes adjacent to and including the surface thereof facing the common elements or limited common elements.

(ii) If walls between apartments are of varying thickness or abut a column or shaft, the plane of the center line of a bounding wall will be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

(iii) If walls of different thickness abut with a flush side so that their center lines do not intersect, the plane of the center line of the thinner wall will be extended into the thicker wall to a distance which is one-half the thickness of the thinner wall, and the boundary will thence run at right angle to the plane of the center line of the thicker wall.

(iv) If exterior faces of apartment walls are diametrically opposite from each other, the perimetrical boundary of such apartments will proceed through the intersection of such walls at an angle of forty-five degrees from exterior face to exterior face.

G. Common Elements. "Common Elements", as that term is used in this document, shall mean and comprise all of the real property, improvement, and facilities of the condominium not within the Units as defined above, including the following:

1. easements through Units for all those means of conveying utility services, including pipes, ducts, plumbing and wiring to the Units and to those areas shared jointly, except that no easement shall exist where utility service to one Unit cannot be used by any other Unit or area;
2. easements for the support of all those portions of every Unit which contribute to the support of the improvements;
3. the apartment designated for the condominium manager;
4. all personal property held and maintained for the joint use and enjoyment of all Unit owners.

The fee title to each Unit shall include the Unit, its undivided interest in the Common Elements, its interest in the appurtenant Limited Common Elements, and its interest in any "Additional Limited Common Elements" appurtenant to the Unit. These interests are understood to be conveyed or encumbered with the Unit, even though a description of the fee title in instruments of conveyance or encumbrance may refer only to the Unit.

Any attempt to separate the fee title to a Unit from the Unit's undivided interest in the Common Elements shall be null and void.

H. Limited Common Elements. "Limited Common Elements" shall mean and comprise those garages and sixty (60) docks specifically identified and numbered on the site plan attached hereto as Exhibit C or as designated by the Developer in the deed conveying the Unit.

The right to exclusive use of Limited Common Elements is reserved to the owner of the Unit to which same is appurtenant.

I. Additional Limited Common Elements. "Additional Limited Common Elements" shall mean and comprise those thirty-six (36) boat slips shown on the site plan attached hereto as Exhibit C. These are in addition to any dock designated in the deed from the Developer.

VI

OWNERSHIP OF COMMON ELEMENTS

Each Unit owner shall have the right to use in common with all other Unit owners the Common Elements, of which each Unit shall have a 1/59 undivided share. The cost of maintenance and administration of the Common Elements, Limited Common Elements and Additional Limited Common Elements shall be included as a part of the common expense applicable to all of the condominium Units for purposes of assessments.

Neither the Association nor any other party shall change the Limited Common Elements, and the Unit owner shall have exclusive right to their use without the payment of a separate charge to the Association. Upon the conveyance or passing of title to the Condominium Unit, the right to the exclusive use of the Limited Common Elements and any Additional Limited Common Elements appurtenant to the Unit shall also be conveyed or passed. Limited Common Elements and Additional Limited Common Elements shall be encumbered by and subject to any mortgage then or thereafter encumbering the Unit. No assignment, grant or designation in any manner whatsoever to any to any right of exclusive use of the Limited Common Elements may be accomplished separate from the conveyance, encumbrance or passing of title to the Unit to which

it is appurtenant

A. Limited Common Elements. Each Unit owner shall have the exclusive use of one garage and one dock constituting Limited Common Elements as specifically identified in the site plan attached hereto as Exhibit C.

B. Additional Limited Common Elements. Additional Limited Common Elements, consisting of thirty-six (36) boat slips, as shown on Exhibit C attached hereto, were reserved to the Developer to be granted at its discretion and for consideration to any Unit owner for his exclusive use. All of such boat slips have been so conveyed by the Developer by irrevocable assignments which have been recorded in the Public Records of Indian River County. Copies of such assignments have been submitted to and retained by the Association. Owners of such boat slips may grant, assign or exchange these Additional Limited Common Elements, but such transactions may only be between Unit owners, and must be evidenced by irrevocable assignments in recordable form, a copy of which shall be submitted to and retained by the Association.

C. The Common Elements May be Enlarged by an amendment to this Declaration that includes a description of the land owned by the Association and by the Association's admitting that land to the terms of this Declaration as a Common Element. The amendment shall be approved and executed in the manner required by this Declaration and shall be executed by the Association. Such an amendment shall divest the Association of title to the land and shall vest the title in all the Unit owners, without naming them and without further conveyance, in the same undivided share in the Common Elements that are appurtenant to their Units.

VII

ADDITIONAL FACILITIES

The Association may own and hold fee simple title to lands, within reasonable proximity to the condominium property, upon which recreational facilities, entrance ways, walkways, automobile parking areas, and like facilities are or may be constructed. Such facilities are for the use and benefit of apartment owners, institutional mortgagees, and/or tenants in the condominium, or members of their respective families and their social guests. The Association shall assess each separate condominium apartment for its pro rata share of the cost and expense of operation and maintenance of such facilities based on each apartment's share of the common expenses as is set forth below, and such assessed expenses shall be considered common expenses of the condominium apartment.

VIII

COMMON EXPENSES AND COMMON SURPLUS

The common expenses of the condominium and any common surplus of the Association shall be shared and owned by the apartment owners in the same proportion as their interest in all of the common elements, as is set forth in Article VI. These ratios shall remain regardless of the purchase price of the apartment, their locations or the square footage included in each apartment, except as otherwise set forth herein.

IX

MAINTENANCE, ALTERATION AND IMPROVEMENT

Responsibility for the maintenance of the condominium property and restrictions upon its alteration and improvements shall be as follows:

A. Apartments.

1. By the Association. The Association will maintain, repair and replace:

(a) All portions of condominium property, except interior surfaces of apartments, which portions shall include but not be limited to the outside walls of the apartment buildings and all fixtures thereon, boundary walls of apartments, floors, load bearing columns and load bearing walls. Such will be done at the expense of the Association, unless made necessary by the negligence of any apartment owner, members of his family, or his, her or their guests, employees, agents or lessees. In the event of such negligence, it will be done by the Association at the expense of such apartment owner.

(b) All conduits, ducts, plumbing, wiring or other facilities for the furnishing of utility services contained in the portions of an apartment to be maintained by the Association; and all such facilities contained within an apartment that service part or parts of the condominium other than the apartment within which the same is contained. Such will be done at the expense of the Association unless made necessary by the negligence of an apartment owner, members of his family, or his, her, or their guests, employees, agents or lessees. In the event of such negligence, it will be done by the Association at the expense of said apartment owner.

(c) All incidental damage caused to apartments by such work will be promptly repaired by the Association, at the expense of the party responsible for the expense of such work.

2. By the apartment owners. The responsibility of the apartment owners will be as follows:

(a) To immediately maintain, repair and replace all portions of apartments and the fixtures and equipment contained within apartments, except the portions thereof to be maintained, repaired and replaced by the Association. Such will be done at the expense of the owner of the apartment where the work is done.

(b) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building or the surfaces of interior building walls facing common elements without the prior written approval of the Board of Directors of the Association.

(c) To promptly report to the Association any defect or need for repairs for which the Association is responsible.

3. Insurance Proceeds. The liability of the Association and apartment owners for maintenance, repair and replacement, as aforesaid, will be reduced by the extent to which such expenses are met by the proceeds of insurance carried by the Association.

4. Alteration and Improvement. No structural alterations will be made in the portions of any apartment to be maintained by the Association, without the prior written approval of the owners of apartments in which such work is to be done and of the Board of Directors of the Association. Plans for all such work shall be prepared by an architect licensed to practice in the State of Florida. A copy of such plans must be filed with, and approved by, said Board of Directors prior to the start of such work.

B. Common Elements.

1. By the Association. The maintenance, repair, replacement and operation of the common elements, limited common elements and additional facilities will be the responsibility of the Association and a common expense, unless made necessary by the negligence of any apartment owner, members of his family, or his, her or their guests, employees, agents or lessees. In the event of such negligence, it will be done by the Association at the expense of said apartment owner.

2. Alterations and Additions. There will be no alterations or additions to the common elements or limited common elements without prior approval in writing by the record owners of all apartments; Provided, however, that any alterations or additions to the common elements, or limited common elements, bearing the approval in writing of seventy-five percent (75%) of the record owners of the common elements and which do not interfere with the rights of any owners without their consent, may be done if the owners who do not approve are relieved from the initial cost of such alteration or addition. The share of any cost of such alteration or addition not so assessed will be assessed to the other apartment owners in the shares that their share in the common expenses bears to each other. There will be no change in the shares or rights of an apartment owner in the common elements altered or further improved, whether or not the apartment owner contributes to the cost of such alteration or addition.

X

ASSESSMENTS

The making and collection of assessments against apartment owners for common expenses will be pursuant to the By-Laws of the Association, as supplemented by the following provisions:

A. Share of Common Expense. Each apartment owner will be liable for a proportionate share of the common expenses, and will share in the common surplus, as provided for in Article VIII of this Declaration.

B. Special Assessments. Special assessments may be made by the Board of Directors from time to time to meet other needs or requirements of the Association in the operation and management of the Condominium and to provide for emergencies, repair or replacements, and infrequently recurring items of maintenance, or to perform any other function or act authorized expressly or implied by this Declaration, the Articles of Incorporation of the Association or its By-Laws.

C. Interest; Application of Payments. Assessments and installments of such assessments, which are paid on or before thirty days after date when due will not bear interest, but all sums not paid on or before thirty days after the date when due will bear interest at the rate of one and one-half percent (1 ½ %) per month from the date when due until paid fully, together with accrued interest. All payments upon account will be first applied to interest and then to the assessment payment first due. If such delinquency is not alleviated within sixty (60) days from the date the same occurred, the balance of the annual assessment remaining unpaid shall become immediately due and payable, and the Association may proceed to collect the same in any manner provided by law, including without limitation, the foreclosure of its lien, as provided in the

Condominium Act.

D. **Lien for Assessments.** The Association will have a lien upon each apartment and upon all tangible personal property located within each apartment for any unpaid assessments as provided by F.S. 718.116, together with interest, except that such liens shall be subordinated to bona fide liens recorded in the Public Records of Indian River County, Florida, prior to the recording therein of claims of liens for such unpaid assessments. Reasonable attorney's fees incurred by the Association incident to the collection of such assessments for the enforcement of such liens, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien will be payable by the apartment owner and secured by such liens.

E. **Collections and Foreclosure.** The Association may take such action as it deems necessary to collect assessments by personal action against the apartment owner or by enforcing and foreclosing said liens, and may settle and compromise the same, if in the best interest of the Association. The Association, through its Board of Directors, will be entitled to bid at any sale held pursuant to a suit to foreclose any lien; and at any sale held pursuant to a suit to foreclose an assessment lien, it may apply as a cash credit against its bid all sums due the Association covered by the lien enforced. In case of the foreclosure of an assessment lien, the owner of a unit apartment subject to the lien shall be required to pay a reasonable rental for the unit apartment to the Association from the date the foreclosure action is commenced, and the Association shall be entitled to the appointment of a receiver to collect the same.

F. **Additional Assessments.** Should the Association take action to collect delinquent assessments by personal action or by enforcing and foreclosing its lien, if during such action against a delinquent apartment owner additional or future assessments become due on the delinquent apartment owner's apartment and are not promptly paid, then, in such event, such additional or future assessments shall be covered by the Association's lien and claim of lien recorded pursuant to Florida law for the initial unpaid assessment, without the necessity of any further action on the part of the Association, and, likewise, in its initial action as if said additional or future assessments were initially made a part thereof.

proportions as set forth in Article III of this Declaration.

Any person who acquires an interest in an apartment, except as herein above described, shall not be entitled to its occupancy, or to the enjoyment of its common elements until all unpaid assessments due and owing by the former owner have been paid. The continuance of ownership of said unit is subject to the approval of the Board of Directors of the Association.

H. Assignment of Claim and Lien Rights. The Association will have the right to assign its claim and lien rights for the recovery of any unpaid assessment to any apartment owner or group of apartment owners, or to any third party.

XI

ASSOCIATION

The operation of the condominium will be by the Association which will fulfill its functions pursuant to the following provisions:

A. Articles of Incorporation. The Articles of Incorporation of the Association are attached as Exhibit A and are filed in the Public Records of Indian River County in Book 611, Pages 373 to 379, and are amended in Book 611, Pages 390-391.

B. By-Laws. The By-Laws of the Association are the By-Laws of the Condominium, which are attached as Exhibit B and filed in the Public Records of Indian River County in Book 611, beginning at Page 382, and are amended in Book 614, pages 936-943; Book 616, Pages 2961-2969; Book 621, Pages 2117-2128; Book 624, Pages 1022-1025; Book 641, Pages 162-163, and Book 707, Page 603.

C. Modification or Amendment of By-Laws. No modification or amendment of the By-Laws of the Association shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration. The By-Laws may be amended in the manner provided for therein, but no such amendment shall be adopted, which would affect or impair the validity or priority of the record owner of any mortgage covering any apartment, unless said mortgagee shall join in the execution of the amendment.

D. Limitation Upon Liability of the Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to apartment owners for injury or 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 other owners or persons.

E. Restraint Upon Assignment of Shares in Assets. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as appurtenant to his apartment.

F. Voting Rights of Apartment Owner. Each apartment owner shall be entitled to one vote as a member of the Association, pursuant to the terms of the Articles of Incorporation and By-Laws of the Association.

XII

INSURANCE

The insurance, other than title insurance, that shall be carried upon the condominium property and the property of the apartment owners will be governed by the following provisions:

A. Authority to Purchase; Named Insured. All insurance policies upon the condominium property will be purchased by the Association. The named insured will be the Association individually and as agent for the apartment owners, without naming them. Provision will be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of apartment owners. Such policies will provide that payments by the insurer for losses will be made to the Insurance Trustee designated below, and all policies and their endorsements will be deposited with the Insurance Trustee. Apartment owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expenses.

B. Coverage.

1. Casualty. All buildings and improvements upon the land, and additional facilities as defined in Article VII, shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the common elements will be insured for its value, as determined by the Association. Such coverage will afford protection against:

(a) Loss or damage by fire and other hazards covered by standard extended coverage endorsement; and,

(b) Such other risks as from time to time will be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

2. Public Liability in such amounts and with such coverage as shall be required by the Association, including but not limited to hired automobile and non-owned automobile coverage and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

3. Workmen's Compensation policy to meet the requirements of law.

4. Such other insurance as the Association shall determine from time to time to be necessary or desirable.

C. Premiums. Premiums upon insurance policies purchased by the Association will be paid by the Association as a common expense.

D. Insurance Trustee; Share of Proceeds. All insurance policies purchased by the Association will be for the benefit of the Association and the apartment owners and their mortgagees as their interest may appear, and will provide that all proceeds covering property losses will be paid to such bank in Florida with trust powers as may be designated as Insurance Trustee by the Board of Directors of the Association, which Trustee is referred to in this instrument as the Insurance Trustee. The Insurance Trustee will not be liable for payment of premiums nor for the renewal or the sufficiencies of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee will be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the apartment owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

1. Common Elements. Proceeds on account of damage to common elements or additional facilities as defined in Article VII, an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

2. Apartments and Limited Common Elements. Proceeds on account of damage to apartments and limited common elements will be held in the following undivided shares:

(a) When the building is to be restored - for the owners of damaged apartments and limited common elements in proportion to the cost of repairing the damage suffered by each apartment owner, which cost will be determined by the Association.

(b) When the building is not to be restored - an undivided share for each apartment owner, such share being the same as the undivided share in the common elements, appurtenant to his apartment.

3. Mortgagees. In the event a mortgage endorsement has been issued as to an apartment, the share of the apartment owner will be held in trust for the mortgagee and the apartment owner as their interests may appear; provided, however that no mortgagee will have any right to determine or participate in the determination as to whether or not any damaged property will be reconstructed or repaired, and no mortgagee will have any right to apply or have applied to the reduction of a mortgage any insurance proceeds except distribution of such proceeds made to the apartment owner and mortgagee pursuant to the provisions of this Declaration.

E. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee will be distributed to or for the benefit of the beneficial owners in the following manner:

1. Expense of the Trust. All expenses of the Insurance Trustee will be paid first, or provisions made for such payment.

2. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds will be paid to defray the cost of such as elsewhere provided. Any proceeds left after defraying such costs will be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

3. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid will not be reconstructed or repaired, the remaining proceeds will be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.

4. Certificate. In making distribution to apartment owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association as to the names of the apartment owners and their respective shares of the distribution.

F. Association as Agent. The Association is irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

XIII

RECONSTRUCTION OR REPAIR AFTER CASUALTY

A. Determination to Reconstruct or Repair . If any part of the condominium property shall be damaged by casualty, whether or not it will be reconstructed or repaired will be determined in the following manner:

1. Common Elements, etc. If the damaged improvement is a common element, limited common element, or additional facilities as defined in Article VII, the damaged property will be reconstructed or repaired unless it is determined in the manner elsewhere provided that the condominium will be terminated.

2. Apartments.

(a) Lesser Damage. If the damaged improvement is an apartment or apartments and if apartments to which fifty percent (50%) of the common elements are appurtenant are found by the Association to be tenantable, the damaged property will be reconstructed or repaired unless within sixty (60) days after the casualty the owners of seventy-five percent (75%) of the common elements agree in writing that the condominium will be terminated.

(b) Major Damage. If the damaged improvement is an apartment or apartments and if apartments to which more than fifty percent (50%) of the common elements are appurtenant are found by the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated without agreement as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy-five percent (75%) of the common elements agree in writing to such reconstruction or repair.

3. Certificate. The Insurance Trustee may rely upon a certificate of the Association to determine whether or not the damaged property is to be reconstructed or repaired.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building; or if not, then according to plans and specifications approved by the Board of Directors of the Association; and if the damaged property is an apartment or apartments, by the owners of not less than seventy-five percent (75%) of the common elements, including the owners of all damaged apartments, which

approval will not be unreasonably withheld.

C. Responsibility. If the damage is only to those parts of an apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner will be responsible for reconstruction and repair after casualty. In all other instances, the responsibility for reconstruction and repair after casualty will be that of the Association.

D. Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility for reconstruction and repair, the Association will obtain reliable and detailed estimates of the cost to rebuild or repair.

E. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessments will be made against the apartment owners in the case of damage to common elements, limited common elements or additional facilities, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments will be in proportion to the cost of reconstruction and repair of their respective apartments; and such assessments on account of damage to common elements, limited common elements and additional facilities will be in proportion to the owner's share in the common elements.

F. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which will consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against apartment owners, will be disbursed in payment of such costs in the following manner:

1. Association. If the total of the assessments made by the Association in order to provide funds for the costs of reconstruction and repair that is the responsibility of the Association is more than \$10,000, then the sums paid will be deposited with the Insurance Trustee. In all other cases, the Association will hold the sums paid and disburse them in payment of the costs of reconstruction and repair.

2. Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(a) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$50,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the

Insurance Trustee by a mortgagee that is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided for the reconstruction and repair of major damage.

(b) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than \$50,000, then the construction fund shall be disbursed in payment of such costs in the manner required by the Association and upon approval of an architect qualified to practice in the State of Florida and employed by the Association to supervise the work.

(c) Apartment Owner. The portion of insurance proceeds representing damage for which the responsibility for reconstruction and repair lies with an apartment owner shall be paid by the Insurance Trustee to the apartment owner, or if there is a mortgagee endorsement as to the apartment, then to the apartment owner and the mortgagee jointly, who shall use such proceeds, as they may be advised, for said reconstruction and repair.

(d) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair will be from insurance proceeds. If there is a balance in a construction fund after the payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated, except, however, that the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner into the construction fund will not be made payable to any mortgagee.

(e) Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not sums paid will be deposited with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association as to any and all of such matters and stating the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the Insurance Trustee shall also name the mortgagee as payee of any distribution of insurance proceeds to an apartment owner; and further provided that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund so requires,

the approval of an architect named by the Association shall be first obtained by the Association upon disbursement in payment of costs of reconstruction and repair.

G. Right of Entry for Maintenance of Common Elements. Whenever it is necessary to enter any apartment for the purpose of performing any maintenance, alteration or repair to any portion of the common elements, or to go upon any limited common elements for such purpose, the owner of each apartment shall permit other owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such apartment, or to go upon the limited common elements constituting an appurtenance to any such apartment, for such purposes, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

H. Right of Entry into Apartments in Emergencies. In case of any emergency originating in or threatening any apartment, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the Building Superintendent or Managing Agent, shall have the right to enter such apartment for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of such emergency, the owner of each apartment, if required by the Association, shall deposit under the control of the Association a key to such apartment. Any other means of entry, which is warranted by such emergency, may be utilized.

XIV

USE RESTRICTIONS

The use of the condominium property shall be in accordance with the condominium documents and following provisions, as long as the condominium exists and the apartment buildings in useful condition exists upon the land:

A. Apartments. Each of the apartments shall be occupied as a single family private dwelling by the owner, the members of his family, and his social guests, and for no other purpose and, no apartment may be divided or subdivided into a smaller unit or otherwise transformed without first amending this Declaration to show the changes in the apartments to be affected.

No animals or pets of any kind shall be kept in any apartment, or on any property of the condominium, except with the written consent of the Board of Directors of the Association and thereafter under the rules and regulations adopted by such Board; provided that they will not be kept, bred or maintained for any commercial purpose and further provided that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days' written notice from said Board.

The apartment owners shall not cause anything to be hung, displayed or placed on the exterior walls, doors or windows of the apartment building and shall not otherwise change the appearance of any portion of the exterior of the apartment building, and common element or limited common element, or the surfaces of interior building walls facing common elements or limited common elements, without the prior written consent of the Board of Directors of the Association. The Board may not approve the alteration of the exterior which causes that portion to substantially differ from the exterior of other apartments within the building, as set forth in the plans for Spinnaker Point.

The Board of Directors of the Association shall determine the exterior color scheme of the buildings and all exteriors, and no owner(s) shall paint an exterior wall, door, window or exterior surface, or replace anything thereon or affixed thereto, without the written consent of the Board. Said color scheme shall be in keeping with the color schemes of similar condominiums within The Moorings.

No change will be made in the appearance of the exterior without the written consent of the Board of Directors of the Association.

No sign of any kind shall be displayed to the public view on or around the condominium property except a sign displaying the owner's name(s), then only upon application to and permission from the Board of Directors.

Automobiles may be parked in the parking areas of the condominium property adjacent to or near the apartment building but only in accordance with the regulations of the Board of Directors of the Association. No other vehicles and objects, including but not limited to trucks, motorcycles, trailers and boats, will be parked or placed upon such portions of the condominium property unless permitted by said Board.

B. Common Elements. The common elements shall be used only for the purpose for which they are intended.

C. Nuisances. No nuisance shall be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuses or garbage shall be allowed to accumulate, nor any fire hazard allowed to exist. No apartment owner shall permit any use of his apartment or make any use of the common elements, limited common elements, or additional facilities that will increase the cost of insurance upon said property.

D. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part of it; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The individual or entity responsible

for meeting the requirements of governmental bodies for maintenance, modification or repair of the condominium property shall be the same as the individual or entity responsible for the maintenance and repair of the property concerned.

E. Leasing. After approval by the Board of Directors of the Association elsewhere required, entire apartments may be rented, provided the occupancy is only by the Lessee, members of his family, and his social guests. No rooms may be rented and no transient tenants may be accommodated. All leases must be for a minimum term of thirty (30) days.

F. Rules and Regulations. Reasonable rules and regulations concerning other use of the condominium property may be made and amended from time to time by the Board of Directors of the Association. Copies of such rules and regulations will be furnished by said Board to all apartment owners and residents of the condominium, upon request.

G. Use of or Acquisition of Interest in the Condominium to Render User or Acquirer Subject to Provisions of Declaration of Condominium, Rules and Regulations. All present or future owners, tenants or any other person who might use the facilities of the Condominium in any manner are subject to the provisions of this Declaration of Condominium, and the mere acquisition or rental of any apartment, or the mere act of occupancy of any apartment, shall signify that the provisions of the Declaration of Condominium are accepted and ratified in all respects.

XV

MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the apartments, the transfer of apartments by any owner will be subject to the following provisions as long as the condominium exists and the apartment buildings in useful condition exist upon the land, which provisions each apartment owner covenants to observe:

A. Transfer Subject to Approval.

1. Sale. No apartment owner may dispose of an apartment or any interest in an apartment by sale without notification to and approval of the Board of Directors of the Association.

2. Lease. No apartment owner may dispose of an apartment or any interest in an apartment by lease without notification to and approval of the Board of Directors of the

Association.

3. Gift, Devise or Inheritance. If any apartment owner shall acquire his title by gift, devise or inheritance, the continuance of his ownership of his apartment will be subject to the approval of the Board of Directors of the Association.

4. Other Transfers. If any apartment owner shall acquire his title by any manner not considered by the foregoing subsections, the continuance of the ownership of his apartment will be subject to the approval of the Board of Directors of the Association.

5. Unlawful Denials. No person shall be denied the right to purchase, lease or own an apartment because of his race, religion, sex or national origin.

B. Approval by Association. The approval of the Board of Directors of the Association that is required for the transfer of ownership of apartments will be obtained in the following manner:

1. Notice to Association.

(a) Sale. An apartment owner intending to make a bona fide sale of his interest or any interest in it shall give to the Board of Directors of the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as said Board may reasonably require. Such notice, at the apartment owner's option, may include a demand by the apartment owner that said Board furnish a purchaser of the apartment if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

(b) Lease. An apartment owner intending to make a bona fide lease of his apartment or any interest in it shall give to the Board of Directors of the Association, notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as said Board may reasonably require and an executed copy of the proposed lease.

(c) Gift, Devise or Inheritance; Other Transfers. An apartment owner who has acquired his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Board of Directors of the Association notice of the acquiring of his title, together with such information concerning the apartment owner as said Board may reasonably require and a certified copy of the instrument evidencing the owner's title.

(d) Failure to Give Notice. If the above required notice to the Board of Directors of the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of an apartment said Board at its election and without notice may approve or disapprove the possession or ownership. If said Board disapproves the possession or ownership, it will proceed as if it had received the required notice on the date of such disapproval.

(e) Fee. Notice of an apartment owner's intent to sell or lease his apartment shall be accompanied by a processing fee in an amount not to exceed the maximum permitted by law.

2. Certificate of Approval.

(a) Sale. If the proposed transaction is a sale, then within sixty (60) days after receipt of such notice and information, the Board of Directors of the Association must either approve or disapprove the proposed transaction. If approved, the approval will be stated in a certificate executed by the President and Secretary of the Association, and shall be recorded in the public records of Indian River County, Florida.

(b) Lease. If the proposed transaction is a lease, then within thirty (30) days after receipt of such notice and information, the Board of Directors of the Association must either approve or disapprove the proposed transaction. If approved, the approval will be stated in a certificate executed by the President and Secretary of the Association, and shall be recorded in the public records of Indian River County, Florida.

(c) Gift, Devise or Inheritance; Other Transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within sixty (60) days after receipt of such notice and information the Board of Directors of the Association must either approve or disapprove the continuance of the apartment owner's ownership of his apartment. If approved, the approval will be stated in a certificate executed by the President and Secretary of the Association, and shall be recorded in the public records of Indian River County, Florida.

3. Approval of Corporate Owner or Purchaser. Inasmuch as the condominium may be used only for residential purposes and a corporation cannot occupy an apartment for such use, if the apartment owner or purchaser is a corporation, the approval of ownership by the corporation may be conditioned by requiring that all persons occupying the apartments be approved by the Board of Directors of the Association.

C. Disapproval by Association. If the Board of Directors of the Association shall disapprove a transfer of ownership or possession of an apartment, the matter shall be treated in the following manner:

1. Sale. If the proposed transaction is a sale and if the notice of sale given by the apartment owner shall so demand, then within sixty (60) days after receipt of such notice and information the Board of Directors of the Association will deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by it who will purchase and to whom and to whom the apartment owner must sell the apartment upon the following terms:

(a) At the option of the purchaser to be stated in the agreement, the price to be paid shall be stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(b) The purchase price shall be paid in cash.

(c) The sale shall be closed within forty-five (45) days after delivery or mailing of the agreement to purchase or within fifteen (15) days after determination of the sale price if such is by arbitration, whichever is the later.

(d) If the Board of Directors of the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by it shall default in his agreement to purchase, then, notwithstanding the disapproval, such ownership will be deemed to have been approved; and said Board shall furnish a certificate of approval as elsewhere provided and shall have the same recorded in the public records of Indian River County, Florida.

2. Lease. If the proposed transaction is a lease, the apartment owner shall be advised of the disapproval in writing, and the lease shall not be made.

3. Gift, Devise or Inheritance; Other Transfers. If the apartment owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within sixty (60) days after receipt from the apartment owner of the notice and information required to be furnished, the Board of Directors of the Association will deliver or mail by registered mail to the apartment owner an agreement to purchase the apartment concerned by a purchaser approved by it, who shall purchase and to whom the

apartment owner must sell the apartment under the following terms:

(a) The sale price shall be the fair market value determined by agreement between the seller and purchaser within forty-five (45) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(b) The purchase price shall be paid in cash.

(c) The sale shall be closed within thirty (30) days following determination of the sale price.

(d) A certificate approving the purchaser will be executed by the President and Secretary of the Association and shall be recorded in the public records of Indian River County, Florida

(e) If the Board of Directors of the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then, notwithstanding the disapproval, such ownership will be deemed to have been approved, and said Board shall have the same recorded in the public records of Indian River County, Florida.

D. Mortgage. No apartment owner may mortgage his apartment nor any interest in it without the approval of the Board of Directors of the Association, unless it is an institutional mortgage. The approval of any mortgage may be upon conditions determined by said Board or may be arbitrarily withheld. VA and FHA mortgages are expressly prohibited.

E. Exceptions . The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or a purchase by the holder of an institutional mortgage that acquires its title as the result of owning such mortgage or lien upon the apartment concerned; and this shall be so whether the title is acquired by deed from the apartment owner, his successors or assigns, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by the holder of an institutional mortgage that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to an apartment at a duly advertised public sale with open bidding provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

F. Unauthorized Transactions. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void and invalid unless subsequently approved by the Board of Directors of the Association.

XVI

COMPLIANCE AND DEFAULT

Each apartment owner, every member of his family, or his, her or their guests, employees, agents and lessees, shall be governed by and will comply with the terms and provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and the rules and regulations adopted pursuant to those documents. The Association, its Board of Directors or apartment owners shall be entitled to the following relief, in addition to the remedies provided by the Condominium Act or otherwise in order to enforce compliance:

A. Relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association or, if appropriate, by an aggrieved owner of an apartment, in addition to the remedies provided by the Condominium Act.

B. Negligence. An apartment owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his, her guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. An apartment owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of an apartment or its appurtenances, or of the common elements, limited common elements or additional facilities, by the apartment owner, or any member of his family, or his, her or their guests, employees, agents or lessees.

C. Costs and Attorney's Fees. In any proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the rules and regulations adopted pursuant to those documents, as they may be amended from time to time, the prevailing party will be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

D. No Waiver of Rights. The failure of the Association or its Board of Directors, or of any apartment owner to enforce any covenant, restriction or other provision of the Condominium Act, the Articles of Incorporation and By-Laws of the Association and the rules and regulations adopted pursuant to those documents will not constitute a waiver of the right to do so thereafter.

E. Failure to Maintain Apartment and Unlawful Alterations. In the event an apartment owner fails to maintain his apartment as required herein, or makes any alteration without the required written consent, or otherwise violates or threatens to violate any provisions hereof, the Association shall have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof. In lieu thereof and in addition thereto, the Association shall have the right to levy an assessment against the apartment owner of an apartment and the apartment, for such necessary sums to remove any unauthorized addition or alteration and to restore the property to good condition and repair. Said assessments shall have the same force effect as all other assessments. The Association shall have the further right to have its employees or agents, or any subcontractors appointed by it, enter an apartment at any reasonable time to do such work as is deemed necessary by the Board of Directors of the Association to enforce compliance with this provision.

F. Remedies. All rights, remedies and privileges granted to the Association or the owner or owners of an apartment pursuant to any terms, provisions, covenants or conditions of this Declaration of Condominium or other above-mentioned documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

XVII

NOTICE OF LIEN OR SUIT

A. Notice of Lien. An apartment owner shall give notice to the Association of every lien upon his apartment other than for permitted mortgages, taxes and special assessments within five (5) days after the owner's receipt of notice thereof.

B. Notice of Suit. An apartment owner shall give notice to the Association of every suit or other proceedings which may affect the title to his apartment, such notice to be given within five (5) days after the apartment owner receives knowledge thereof.

C. Notice of Action. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the apartment owners, the Association shall give notice of the exposure within a reasonable time to all apartment owners who may be exposed to the liability and they shall have the right to intervene and defend the said action.

D. Compliance. Failure to comply with this subsection concerning liens and suits shall not affect the validity of any sale.

XVIII

PROPORTIONATE CHANGES IN COMMON EXPENSES AND COMMON SURPLUS

In the event that any one or more of the apartments are not rebuilt by reason of the loss of lands as a result of destruction, condemnation or otherwise, and, therefore, the number of apartments are reduced, or in the event the Association becomes the owner of an apartment, then the proportionate share of the common expenses and the common surplus of each apartment remaining which is not owned by the Association shall be increased from one fifty-ninth (1/59th) per apartment

XIX

AMENDMENTS

A. Amendments; Notice. This Declaration of Condominium may be amended by the vote of not less than sixty-seven percent (67%) of the entire membership at a duly noticed meeting of the members. A proposal to amend the Declaration may be made by a majority of the Board of Directors or, in writing addressed to the Board of Directors, by five or more members. The notice of the membership meeting at which the proposal is to be considered must include the specific language of the proposed amendment.

B. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged signed and recorded by all of the record owners of apartments in the condominium in the manner required for the execution of a deed.

C. Recording. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be recorded in the public records of Indian River County, Florida.

D. Proviso. Provided, however, that no amendment will discriminate against any apartment owner nor against any apartment or class or group of apartments, unless the apartment owners so affected shall consent; and no amendment will change any apartment nor decrease its share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the apartment concerned and all record owners of mortgages on such apartment shall join in the execution of the amendment; and no amendment will affect or impair the validity or priority of any mortgage covering any apartment, unless said mortgagee shall join in the execution of the amendment. Neither shall any amendment make any change in the sections hereof entitled "Insurance", "Reconstruction or Repair After Casualty", or "Amendments", or in Paragraph XV (E) of the section entitled "Maintenance of Community

Interests”, unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

XX

TERMINATION

This condominium may be voluntarily terminated in the manner provided for in the Condominium Act at any time. In addition thereto, if it is determined in the manner elsewhere provided that the apartments will not be reconstructed because of major damage, the condominium plan of ownership shall be terminated without agreement

XXI

SEVERABILITY

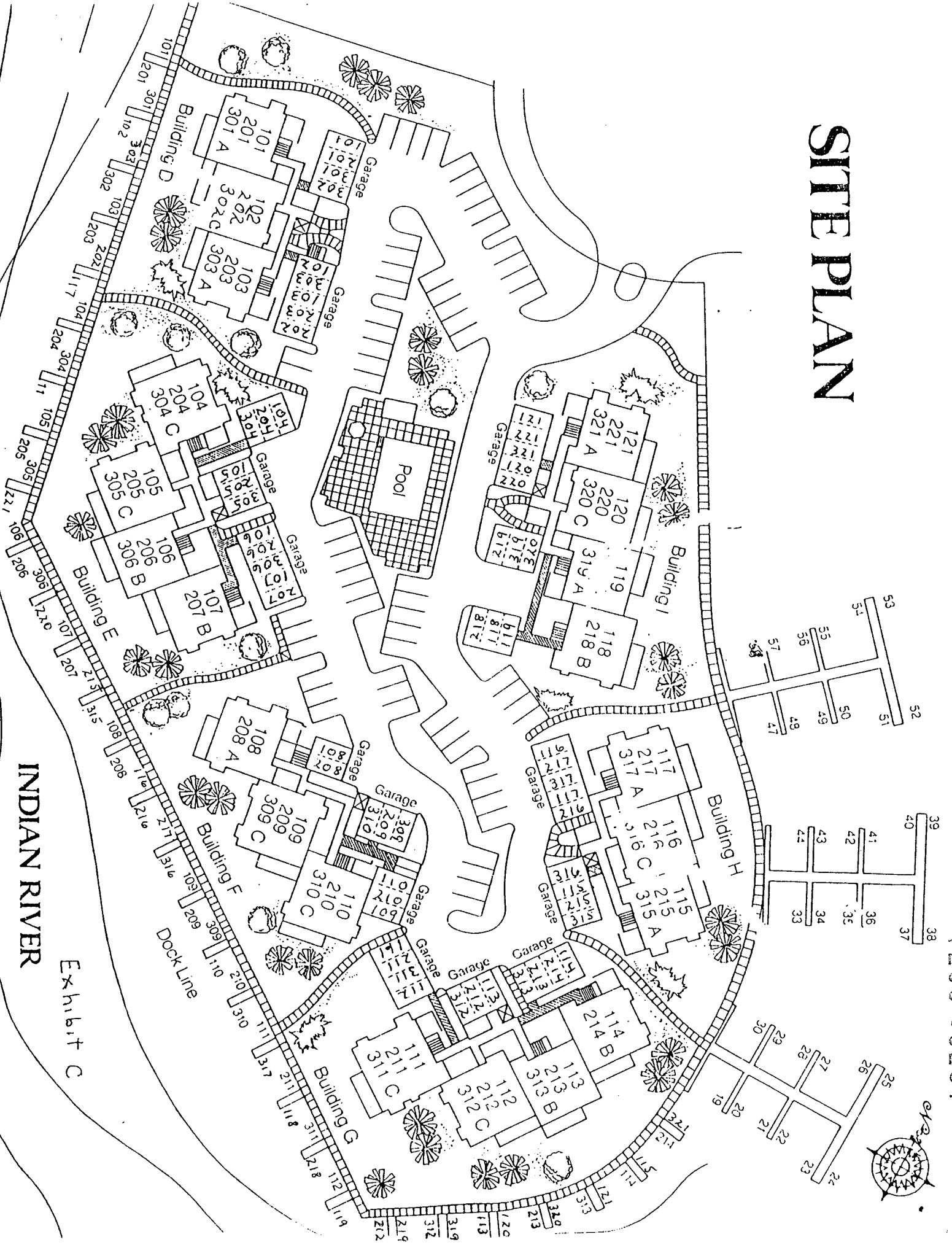
The invalidity in whole or in part of any covenant or restriction, or any section, subsection, clause, phrase or word, or any other provision of this Declaration of Condominium, the Articles of Incorporation and By-Laws of the Association, or the regulations of the Association, shall not affect the validity of the remaining portions.

XXII

CAPTIONS

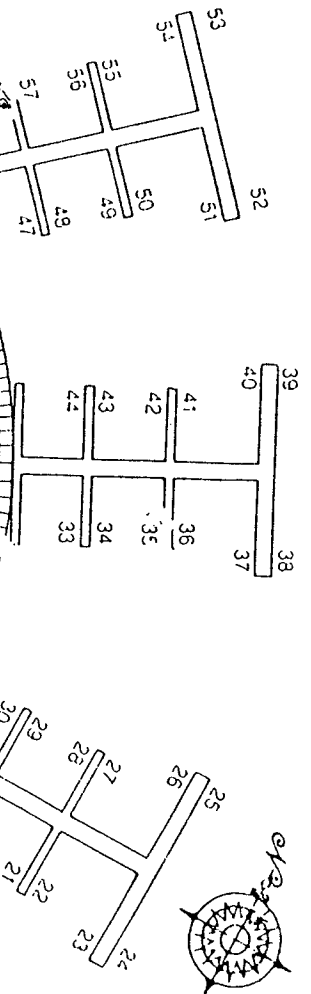
The paragraphs contained herein are for convenience only and do not define, limit or construe the contents of such paragraphs and are in no way to be construed as a part of this Declaration.

SITE PLAN



INDIAN RIVER

Exhibit C



DR 1280PG0261

State of Florida



Department of State

IN THE RECORDS OF
THE DEPARTMENT OF
STATE

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on May 28, 1999, for SPINNAKER POINT ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is 747816.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Eighth day of June, 1999



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

OR 1280 PG 0273

10.50

CERTIFICATE OF AMENDMENT
OF

IN THE RECORDS OF
JEFFREY K. BARTON
CLERK CIRCUIT COURT
INDIAN RIVER CO., FLA.

DECLARATION OF CONDOMINIUM OF SPINNAKER POINT ASSOCIATION, INC.
A FLORIDA NOT-FOR-PROFIT CORPORATION

The undersigned hereby certify that Article XIV- E of the Declaration of Condominium of Spinnaker Point Association, Inc., a Florida not-for-profit corporation, filed with the Indian River County Public Records at Book 1280, Page 0227 et seq., was amended following approval by the unanimous vote of the Board of Directors at a meeting held on February 16, 2000, and by more than sixty-seven percent (67%) of the members of the Association at the Annual Meeting of the members held March 23, 2000. The amendment added at the end of existing Article XIV-E, the words: "and no apartment may be rented more than one time in any calendar year." As amended, Article XIV-E reads as follows:

E. Leasing. After approval by the Board of Directors of the Association elsewhere required, entire apartments may be rented, provided the occupancy is only by the Lessee, members of his family, and his social guests. No rooms may be rented and no transient tenants may be accommodated. All leases must be for a minimum term of thirty (30) days and no apartment may be rented more than one time in any calendar year.

IN WITNESS WHEREOF Spinnaker Point Association, Inc., has caused this certificate to be executed in its name by its President and its Acting Secretary and its corporate seal hereto affixed, by due authority, this day of April 2000.

SPINNAKER POINT ASSOCIATION, INC.

By Kenneth H. Larson
Kenneth H. Larson, President

Attest:
Philip H. Wright
Philip H. Wright, Acting Secretary

(CORPORATE SEAL)



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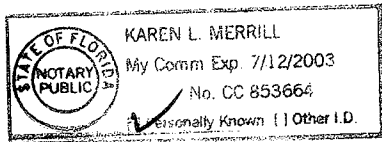
STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Kenneth H. Larson and Philip H. Wright, well known to me to be the President and Acting Secretary, respectively, of Spinnaker Point Association, Inc., and they severally acknowledged executing the foregoing Certificate of Amendment freely and voluntarily under authority duly vested by said Association and that the seal affixed thereto is the true corporate seal of said Association.

WITNESS my hand and official seal in the State and County aforesaid this 13 day of April, 2000.

(NOTARY SEAL)

Karen L Merrill
Notary Public, State of Florida at Large



M- c/o Elliott Merrill Community Management
1105 12th St.
Vero Beach FL 32960

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OMITTED ITEM TO AMENDED DECLARATION OF CONDOMINIUM OF SPINNAKER
POINT, a Condominium

The following was omitted from page 14, Item G., This item has not been changed or amended,
but omitted from the amended recorded conv dated June 28, 1999.

Liability of Mortgagee, Leinor or Judicial Sale Purchaser for Assessments. Where the
mortgagee of an institutional first mortgage of record acquires title to an apartment as a result of
such foreclosure, or where such mortgagee accepts a deed to an apartment in lieu of foreclosure,
such acquirer of title, his heirs, executors, legal representatives, successors and assigns, will not be
liable for the share of common expenses or assessments by the Association pertaining to such
apartment or chargeable to the former owner of such apartment which became due prior to such
acquisition of title. Such unpaid share of common expenses or assessments will be deemed to be
common expenses, collectible from all of the apartment owners, including such acquire of title, his
heirs, executors, legal representatives, successors and assigns, in such proportions as set forth in
Article III of this Declaration.

Item G then continues on page 15 with no additions or corrections to this page.

SPINNAKER POINT ASSOCIATION, INC.

By *Kenneth Larson*
Kenneth Larson, President



Attest

Barbara Lampert
Barbara Lampert, Secretary

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

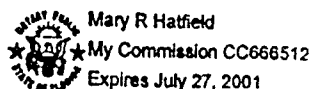
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and
County aforesaid to take acknowledgements, personally appeared Kenneth Larson and Barbara
Lampert, well know to me to be the President and Secretary, respectively, of Spinnaker Point
Association, Inc. and that they severally acknowledged executing the foregoing Certificate of
Amendment and Restatement freely and voluntarily under authority duly vested by said
association and the seal affixed thereto is the true corporate seal of said Association

WITNESS my hand and official seal in the State and County aforesaid this 29 day of
June, 2000.

(NOTARY SEAL)

Mary R. Hatfield
Notary Public, State of Florida at Large

Mary
12th St
FL 32960
1105
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Condominium Act.

D. **Lien for Assessments.** The Association will have a lien upon each apartment and upon all tangible personal property located within each apartment for any unpaid assessments as provided by F.S. 718.116, together with interest, except that such liens shall be subordinated to bona fide liens recorded in the Public Records of Indian River County, Florida, prior to the recording therein of claims of liens for such unpaid assessments. Reasonable attorney's fees incurred by the Association incident to the collection of such assessments for the enforcement of such liens, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien will be payable by the apartment owner and secured by such liens.

E. **Collections and Foreclosure.** The Association may take such action as it deems necessary to collect assessments by personal action against the apartment owner or by enforcing and foreclosing said liens, and may settle and compromise the same, if in the best interest of the Association. The Association, through its Board of Directors, will be entitled to bid at any sale held pursuant to a suit to foreclose any lien; and at any sale held pursuant to a suit to foreclose an assessment lien, it may apply as a cash credit against its bid all sums due the Association covered by the lien enforced. In case of the foreclosure of an assessment lien, the owner of a unit apartment subject to the lien shall be required to pay a reasonable rental for the unit apartment to the Association from the date the foreclosure action is commenced, and the Association shall be entitled to the appointment of a receiver to collect the same.

F. **Additional Assessments.** Should the Association take action to collect delinquent assessments by personal action or by enforcing and foreclosing its lien, if during such action against a delinquent apartment owner additional or future assessments become due on the delinquent apartment owner's apartment and are not promptly paid, then, in such event, such additional or future assessments shall be covered by the Association's lien and claim of lien recorded pursuant to Florida law for the initial unpaid assessment, without the necessity of any further action on the part of the Association, and, likewise, in its initial action as if said additional or future assessments were initially made a part thereof.

G. Liability of Mortgagee, Lienor or Judicial Sale Purchaser for Assessments. Where the mortgagee of an institutional first mortgage of record acquires title to an apartment as a result of such foreclosure, or where such mortgagee accepts a deed to an apartment in lieu of foreclosure, such acquirer of title, his heirs, executors, legal representatives, successors and assigns, will not be liable for the share of common expenses or assessments by the Association pertaining to such apartment or chargeable to the former owner of such apartment which became due prior to such acquisition of title. Such unpaid share of common expenses or assessments will be deemed to be common expenses, collectible from all of the apartment owners, including such acquirer of title, his heirs, executors, legal representatives, successors and assigns, in such proportions as set forth in Article III of this Declaration.

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CERTIFICATE OF AMENDMENT AND RESTATEMENT OF:

- (1) DECLARATION OF CONDOMINIUM OF SPINNAKER POINT, A CONDOMINIUM, AND
- (2) ARTICLES OF INCORPORATION OF SPINNAKER POINT ASSOCIATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, AND
- (3) BY-LAWS OF SPINNAKER POINT ASSOCIATION, INC.

The undersigned hereby certify that the amendment and restatement of the Declaration of Condominium of Spinnaker Point Association, Inc., a Florida not-for-profit corporation, together with the amendment and restatement of its Articles of Incorporation and its By-Laws, all in the form attached hereto as Exhibit I, were approved by a unanimous vote of the Board of Directors at a meeting held on March 17, 1999, and by more than seventy-five percent (75%) of the members of the Association at a duly called Special Meeting of the members of the Association held on April 23, 1999.

(1) The amendments to the Declaration of Condominium changed the provision for future amendments thereof from seventy-five percent (75%) of the members to sixty-seven percent (67%) of the members, included a site plan (Exhibit C to the Declaration) showing the location and assignment of Limited Common Elements and the location of Additional Limited Common Elements, eliminated historical references which are no longer pertinent and corrected grammatical and typographical errors.

(2) The amendments to the Articles of Incorporation (which are attached as Exhibit A to the Declaration of Condominium) changed the provision for future amendments thereof from seventy-five percent (75%) of the members to sixty-seven percent (67%) of the members, and eliminated historical references which are no longer pertinent.

(3) The amendments to the By-Laws (which are attached as Exhibit B to the Declaration of Condominium) changed the provision for future amendments thereof from seventy-five percent (75%) of the members to sixty-seven percent (67%) of the members, eliminated historical references which are no longer pertinent and corrected grammatical and typographical errors.

C McKinnon & McKinnon