



CFN 2006099745 04-05-2006 11:10 am
 OR Book/Page: 5626 / 8144

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Scott Ellis
 Clerk Of Courts, Brevard County
 #Pgs: 40 #Names: 2
 Trust: 20.50 Rec: 321.00 Serv: 0.00
 Mtg: 0.00 Excise: 0.00
 nt Tax: 0.00

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
 FOR
SEA HAWK OCEAN HOMES
SEA HAWK AT AQUARINA

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS is made this 28 day of March, 2006, by SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation, ("Association").

RECITALS AND DECLARATION

WHEREAS, the Association Members recognize that certain matters will be of unique or particular concern to the owners of SEA HAWK OCEAN HOMES dwellings, as opposed to the owners of other dwellings in the overall AQUARINA community, the Association wishes to submit certain of the dwellings (and appurtenant lots) to various covenants, conditions, restrictions, charges and liens at this time (separate and apart from those imposed by the Declaration of Covenants, Conditions and Restrictions for AQUARINA generally); and

WHEREAS, Association desires that all of the below-described property be subject to like restrictions for the mutual benefit and protection of themselves and all persons, both real and corporate, who hereafter may purchase or acquire said property or any part thereof, or any interest in or lien upon said property or any part thereof; and

WHEREAS, SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC. was created to perform certain functions of common concern to the lot and dwelling owners and to enforce the covenants, restrictions, charges and liens created by the Declaration recorded in Official Records Book 4419, Page 2216, Public Records of Brevard County, Florida

NOW, THEREFORE, the Association hereby declares that the real property described on Exhibit A attached hereto (including any and all improvements thereon), together with such additions thereto as are hereafter made pursuant to this Amended and Restated Declaration, shall be held, conveyed, leased, mortgaged, used, occupied

and improved subject to the easements, covenants, conditions, restrictions, servitudes, charges and liens created or provided for by this Amended and Restated Declaration and it shall supercede all the terms, conditions and provisions of the original Declaration recorded in Official Records Book 4419, Page 2216, Public Records of Brevard County, Florida.

ARTICLE I
DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used herein shall have the meanings hereinafter specified:

1. "Articles" shall mean the Articles of Incorporation of the Association (a copy of which is attached hereto as Exhibit B), including any amendments thereto.
2. "Association" shall mean SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a not-for-profit Florida corporation, and its successors and assigns.
3. "Board" shall mean the Board of Directors of the Association.
4. "By-Laws" shall mean the By-Laws of the Association which have been adopted by the Board (a copy of which is attached hereto as Exhibit C), including any amendments thereto.
5. "County" shall mean Brevard County, Florida.
6. "Covenants and Restrictions" shall mean the easements, covenants, conditions, restrictions, servitudes, charges and liens created or provided for by this Declaration.
7. "Declaration" and "this Declaration" shall mean (and, except as otherwise provided in Section 11 of this Article, "hereto," "hereof," "hereunder," "herein" and words of similar import) shall refer to this instrument as amended from time to time, together with all supplemental declarations thereto.
8. "Dwelling" shall mean the improvements (and the appurtenant garage) now or hereafter constructed on a lot (as defined in Section 16 of this Article) and designed and intended for use as a single family residence, for which a certificate of occupancy has been issued by Brevard County.
9. "Property" shall mean the property described in Exhibit A attached hereto, as amended as provided for in Article II.



10. "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption; or (b) a group of not more than four (4) persons not so related who maintain a common household in a dwelling.

11. "Amended and Restated Declaration" shall mean (and, when following a section, paragraph, page or exhibit designation, the word "hereto") shall refer to this Declaration recorded in the County's Public Records.

12. "Institutional Mortgage" shall mean a first mortgage on a dwelling held by an institutional mortgagee.

13. "Institutional Mortgagee" shall mean any bank, savings and loan association, insurance company, mortgage company, real estate investment trust, or agency of the United States Government; a lender generally recognized in the community as an institutional lender; and any assignee of a loan made by one of the foregoing to finance the purchase of a dwelling.

14. "Lot" shall mean one of the eleven (11) lots of land described in Exhibit A hereto, and which is not subsequently withdrawn from the provisions of the Declaration, or any lot subsequently added to the provisions of the Declaration, by a supplemental declaration.

15. "Master Association" shall mean AQUARINA COMMUNITY SERVICES ASSOCIATION, INC., and its successors and assigns; and "Master Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions for AQUARINA recorded in Official Records Book 2434, Page 1145, Public Records of Brevard County, Florida, and any supplemental declarations thereto.

16. "Member" shall mean any person or entity holding a membership in the Association.

17. "Owner" shall mean the person or persons or legal entity or entities holding fee simple interests of record to any lot or dwelling.

18. "ARC" shall mean and refer to the Architectural Review Committee so established under Article X hereof.



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ARTICLE II
THE ASSOCIATION

1. Membership. Every Owner of a lot shall be a member of the Association. No membership in the Association shall be assignable except to the successor-in-interest of an Owner, every membership being appurtenant to and inseparable from the member's dwelling. Ownership of a dwelling shall be the sole qualification for membership.

2. Merger or Consolidation. Upon a merger or consolidation of the Association with any other association organized to administer a residential community located within the AQUARINA LANDS, the Association's properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or the properties, rights and obligations of any such association may be transferred to the Association as a surviving association. The surviving or consolidated association (whether the Association or another association) may administer, as one scheme, the Covenants and Restrictions established by this Declaration, together with the other Covenants and Restrictions established with respect to the lots or with respect to other properties.

3. Management. The Board shall retain the services of a licensed CAM who is bonded and insured to handle the financial activities of the Association and any other ordinary or customary duties the Board may deem appropriate.

ARTICLE III
ASSESSMENTS

1. Covenant to Pay; Creation of Lien.
 - A. Covenant to Pay. The Owner of each dwelling now or hereafter owned, hereby covenants and agrees to pay the Association periodic and special assessments as hereinafter provided; and each person or entity who accepts a deed to a lot or dwelling, or who accepts title thereto as an heir or devisee, is hereby deemed to have covenanted and agreed to pay the Association periodic and special assessments as hereinafter provided (whether or not the covenant or agreement is expressly mentioned in the deed or other instrument by which title was acquired).

 - B. Creation of Lien. Each periodic and special assessment provided for in this Article, together with any related interest, penalties and costs of collection provided for in this Article, shall constitute a charge and continuing lien on the lot or dwelling.

 - C. Personal Liability. Each periodic and special assessment provided for in this Article, together with any related interest, penalties and costs of collection, shall



also constitute the personal obligation of the owner of the property against which the assessment is made, or on which the assessment constitutes or gives rise to a lien and, except as otherwise provided therein, the personal obligation of such owner's successors and assigns. If the owner consists of more than one person or entity, each such person or entity shall be jointly and severally liable for the aforesaid obligation.

2. Purpose. The Assessments imposed pursuant to this Article shall be used for the Association's operation and administration and the fulfillment of its duties hereunder.

3. Periodic Assessments. The Board shall fix the amount of the periodic assessments for each fiscal year of the Association (or part thereof if assessments commence on other than the first day of such fiscal year) to be levied against each Owner subject to assessment at least fifteen (15) days in advance of the period covered by the assessments, and written notice of any change in the amount of the periodic assessment during that period shall be given to each Owner at least fifteen (15) days in advance of the changes becoming effective. At least fifteen (15) days before the beginning of each fiscal year, the Board of Directors shall prepare and distribute to the members of the Association, a written, itemized statement (budget) of the expenses to be incurred by the Association during such year in performing its functions under this Declaration. The assessments shall be based on a budget that includes reasonable reserves for deferred maintenance of improvements the Association is responsible hereunder for maintaining and may (but need not) include reserves for other contingencies. The Board may provide in its absolute discretion that the periodic assessments be payable either quarterly or monthly. The Board of Directors shall cause to be prepared an annual balance sheet and operating statement for each fiscal year and shall cause to be distributed a copy of each such statement to each Member and to each Institutional Mortgagee who has filed a written request for copies of the same with the Board of Directors.

4. Special Assessments. Special (i.e., non-periodic) assessments may be levied by the Board (a) upon all Owners subject to periodic assessments to make up actual deficits or anticipated deficits in operating and maintenance accounts resulting from inadequate periodic assessments and (b) against any Owner individually to collect a liability of that Owner to the Association that is not common to all other Owners or a liability of that Owner provided for in Article VI, Section 3 hereof.

5. Share of Assessments. The periodic assessments provided for in Section 3 of this Article and the special assessments provided for in Section 4 of this Article shall be divided evenly among the dwellings and lots subject to assessment.



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6. Association's Remedies for Non-Payment.

A. Penalties for Delinquency. Any assessment that is unpaid for more than ten (10) days after the date it is due shall bear interest at the highest rate permitted by law from the date it is due until the date it is paid. In addition, the Owner of any dwelling with respect to which an assessment is overdue by more than thirty (30) days may be required by the Board to pay the Association a late charge equal to the amount of the delinquent installment.

B. Enforcement of Lien. The Association may bring an action in its name to foreclose any lien on a dwelling in the manner in which mortgages on real property are foreclosed in Florida and may also bring an action to recover a money judgment for unpaid periodic or special assessments with interest thereon (plus the costs and expenses mentioned in Subparagraph C below) without waiving any claim of lien, provided that in either case, the Association must give the delinquent Owner at least thirty (30) days written notice of its intentions and, in the case of a foreclosure, must file a claim of lien in the County's Public Records. Upon the timely curing of any default (including the payment of fees and costs secured by the Association's lien) for which a claim of lien was filed, the Owner curing the default is entitled to have a satisfaction of lien recorded upon payment to the Association of a fee to be determined by the Association, but not to exceed fifty (\$50.00) dollars.

C. Attorney Fees and Other Costs of Enforcement. Reasonable attorney's fees incurred by the Association or its agent incident to the collection of any unpaid periodic or special assessment or the enforcement of any lien provided for by Section 1 of this Article (including attorney fees in connection with any review of a judicial or administrative proceeding by appeal or otherwise), together with all sums advanced and paid by the Association or its agent for taxes and payments on account of superior liens or encumbrances that may be required to be advanced by the Association or its agent in order to preserve and protect its lien, shall be payable by the Owner liable for the assessment and be secured by the Association's lien.

D. Status of Transferees. No person or entity that acquired title to a dwelling as a result of a foreclosure of an Institutional Mortgage of record or that accepts a deed to a dwelling in lieu of foreclosing an Institutional Mortgage of record shall be liable for the share of periodic or special assessments pertaining to that dwelling or chargeable to the former Owner thereof which became due prior to its acquisition of title, unless such share is secured by a claim of lien for periodic or special assessments recorded prior to the recording of the mortgage in question. Any such shares of assessments for which the new Owner is not liable shall be collectible by periodic or special assessments from all the Owners, including the new Owner of the dwelling in question. Except as expressly provided hereinabove, every grantee in a voluntary conveyance of a dwelling shall be jointly and severally liable for all unpaid periodic or special assessments up to the time of conveyance. Nothing herein

contained to the contrary notwithstanding, each and every Owner, including purchasers at judicial sale, shall be liable for all periodic or special assessments coming due while he is the Owner of a dwelling, regardless of how his title was acquired.

E. Cumulative Remedies. The remedies provided in this Section 6 shall be cumulative and not mutually exclusive.

7. Association's Certificate. Each Owner of an assessable dwelling and every holder of a mortgage thereon shall have the right to require from the Association a certificate showing the amount of unpaid periodic or special assessments against the Owner with respect to his dwelling upon payment to the Association of a reasonable fee not exceeding fifteen (\$15.00) dollars. Any person other than the Owner of the Dwelling in question who relied upon such a certificate shall be protected thereby.

8. Subordination. The lien on each dwelling provided for in this Article shall be subordinate to the lien of any Institutional Mortgage on that dwelling recorded before a claim of lien is filed under this Article with respect to that dwelling.

9. Collection of Master Association Assessments. If requested by the Master Association, the Association shall collect from the Owners the assessments levied upon their dwelling by the Master Association and remit the assessments thus collected to the Master Association.

ARTICLE IV MAINTENANCE

1. By the Association.

A. All landscaping, common sitewall, common irrigation system and common electrical system.

B. Trash Collection. Each owner shall arrange and contract for the collection of trash from the dwellings.

2. By Owners.

A. Maintenance of Dwelling. Each Owner shall be responsible for keeping his lot and the interior and exterior of his dwelling in a clean, safe and orderly condition and good repair to the extent the Association is not responsible for doing so hereunder. Each Owner shall be responsible for and obligated to obtain a "treat and fully repair damage" termite bond upon the expiration of the original Developer five (5) year bond.



B. Failure to Perform. If an Owner fails to comply with the foregoing provisions of this Section 2, the Association may proceed in court to enjoin compliance with them. In addition, the Association shall be entitled (though not obligated) to restore the neglected dwelling to the condition required by this Section and to levy on the offending Owner a special assessment equal to the cost of the work that was the Owner's responsibility.

ARTICLE V INSURANCE

1. Purchase, Custody and Payment.

A. Authorization of Association. Each person who accepts title to a dwelling (or who accepts title thereto as an heir or devisee) is hereby deemed to irrevocably nominate the Association as its attorney in fact. The Association may, at its option, permit owners to obtain their own insurance.

B. Purchase. All insurance policies described in Section 2 of this Article shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida and which, in the case of hazard insurance, has either a financial rating in Best's Financial Insurance Reports of Class VI or better or a financial rating therein of Class V and a general policyholder's rating of at least "A".

C. Approval. Each insurance policy, the agency and company issuing the policy shall be subject to the approval of the Board.

D. Named Insured. The named insured of each hazard policy shall be the Association, individually, and as agent for the Owner of a dwelling covered by the policy and as agent for his mortgagees, if any, with the mortgagees as additional insureds.

E. Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses for each dwelling made by the insurer shall be paid to the Owner, and all policies and endorsements thereto shall be deposited with the Association.

F. Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional Mortgagee who holds a mortgage upon a dwelling covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.



G. Personal Property and Liability. The Members may obtain insurance coverage at their own expense and in their own discretion upon the property lying within the interiors of their dwellings, their personal property, and for their personal liability and living expense and for any other risks.

2. Coverage. The Association shall maintain insurance covering the following:

A. Casualty. Every dwelling (including all fixtures, installations or additions comprising that part of the dwelling outside the interior living space of the dwelling and initially installed in accordance with the original plans and specifications therefor, and replacements thereof of like kind or quality, and including all other alterations, capital improvements and betterments made by the Owner or his tenants (collectively the "Insured Property"), shall be insured in an amount not less than one hundred percent (100%) full replacement costs for dwelling. Any such policy may contain reasonable deductible provisions as determined by the Board. The coverage shall afford protection against:

- (1) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and
- (2) Such Other Risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief, and, if required by the Primary Institutional Mortgagee or the Association elects, flooding.

B. Worker's Compensation and other mandatory insurance when applicable.

C. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable (including but not limited to fidelity bonding of the Association's directors, officers, employees and managing agents and liability insurance for its officers and directors).

D. Specific Provisions

- (1) When appropriate and obtainable, each of the foregoing policies shall waive the insurer's standard right to: (a) subrogation against the Association and against the Owners individually and as a group, (b) pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (c) avoid liability for a loss that is





caused by an act of the Board, by a member of the Board or by one or more Owners.

- (2) All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the named insureds, including all mortgagees of dwellings. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be obtained pursuant to this Section.

3. Premiums. Premiums for the coverage described in Section 2 of this Article shall be part of the Association's common expenses payable out of periodic assessments or special assessments provided for in Section 5(a) of Article IV.

4. Insurance Trustee; Share of Proceeds. All insurance policies obtained by the Association shall be for the benefit of the Association, the Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Owners.

5. Mortgagees. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Owner and mortgagee pursuant to the provisions of this Declaration.

ARTICLE VI

RECONSTRUCTION OR REPAIR AFTER CASUALTY DAMAGE

1. General. Any part of the Insured Property that has been damaged by casualty shall be reconstructed in the manner provided in this Article VI.

2. Responsibility for Reconstruction and Repair. If the damage is only to parts of the Insured Property the responsibility of repairing and maintaining which is the Owners' under Article IV, each Owner shall be responsible for the reconstruction and restoration of his dwelling.

3. Plans for Reconstruction or Repair. Any reconstruction or repair after casualty damage shall substantially follow the plans and specifications for the original

improvements (including those for any authorized alterations and additions made after the Initial Declaration is recorded) unless an alternative set of plans and specifications are approved by the Architectural Review Committee.

4. Estimate of Cost. Immediately after determining to reconstruct or repair property damaged by casualty, the Board shall obtain detailed estimates of the cost of doing so from reliable contractors. This is only for that work which the Association is responsible for and the Board may select any responsible contractor available to do the work.

ARTICLE VII DRIVEWAYS AND BEACH CROSSOVERS

1. General. Each driveway and beach crossover shared by two dwellings, and placed on the dividing line between lots on which they are situated, and each owner of one of the lots shall own that portion of the driveway and beach crossover which stands on his own lot, together with a cross-easement of support in the other portion. The general rules of law regarding liability or property damage due to negligence or willful acts or omissions shall apply to all such driveways and beach crossovers. Any repair, maintenance and replacement shall be the financial responsibility of the adjoining owners

2. Easements. Easements are reserved in favor of all Lots for encroachments resulting from original construction or from restoration that conforms substantially to the original construction.

3. Arbitration. In the event of any dispute arising concerning a dispute under the provisions of this Article generally, each party shall choose one arbitrator those arbitrators shall choose one additional arbitrator, and the decision of a majority of the three arbitrators thus chosen shall be conclusively determinative of the question involved. If a panel cannot be designated in this way, the matter shall be arbitrated pursuant to the rules of the American Arbitration Association (or its successors in function) then prevailing. Any decision made pursuant to this Section 3 shall be conclusive and may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code.



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ARTICLE VIII
USE RESTRICTIONS

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1. Occupancy. Each dwelling shall be used as a residence only, except as otherwise expressly provided herein. A dwelling owned by an individual, corporation, partnership, trust or other fiduciary may be occupied only by the following persons, and such persons' families and guests: (a) an individual Owner, (b) an officer, director, stockholder or employee or a corporate Owner, (c) a partner or employee of a partnership Owner, (d) the fiduciary or beneficiary of a fiduciary Owner, or (e) permitted occupants under an approved lease or sublease of the dwelling (as described below), as the case may be. A dwelling may be occupied under an approved lease (all leases require board approval and must be for a minimum of 6 months) or sublease only by the following persons, and such persons' families and guests: (a) an individual lessee (no subleases allowed), (b) an officer, director, stockholder or employee of a corporate lessee or sublessee, (c) a partner or employee of a partnership lessee or sublessee, or (c) a fiduciary or beneficiary of a fiduciary lessee or sublessee. Under no circumstances may more than one Family reside in a dwelling at one time. "Family" and words of similar import used herein shall be deemed to include spouses, parents, parents-in-law, brothers, sisters and children and grandchildren. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom in a dwelling. The Board of Directors shall have the power to authorize occupancy of a dwelling by persons in addition to those set forth above for visits of temporary duration that do not exceed sixty (60) days in any calendar year.

2. Pets. With the exception of birds and fish housed in a cage or aquarium within the Owner's dwelling, no Owner may keep more than three (3) pets in a dwelling. No pet may be kept, bred or maintained for any commercial purpose or become a nuisance or annoyance to neighbors. Owners must pick up all solid wastes of their pets and dispose of them appropriately. All pets (including cats) must be leashed at all times when outside the dwelling. No dogs may be kept on a terrace, balcony, patio or lanai of a dwelling when the dwelling's Owners is absent from the dwelling. Violation of any provision of this Section shall entitle the Association to all of its usual rights and remedies (including, but not limited to, the right to fine Owners as provided herein, in the Association's By-Laws or in any applicable rules and regulations) and also to require any pet to be permanently removed from its Owner's dwelling upon three (3) days' notice.

3. Alterations. No Owner shall cause or allow improvements or changes to any exterior portion of his dwelling (including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery or air-conditioning units or in any manner changing the appearance of any portion of the dwelling) without first obtaining the written consent of the Board.



4. Nuisances. No use or practice shall be allowed in or around dwellings which is a source of annoyance to Owners or occupants of dwellings or which interferes with the peaceful possession or proper use of the dwellings.
5. No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of any dwelling.
6. Lease. All leases shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, of the Articles of Incorporation and By-Laws of the Association, of applicable rules and regulations, of the Master Declaration or of any other instrument, document or instrument governing the dwellings. The Owner of a leased dwelling shall be jointly and severally liable with his tenant to the Association to pay any claim of injury or damage caused by the negligence of the tenant. Every lease shall be subordinated to any lien filed by the Association or the Master Association whether before or after the lease was entered into. No dwelling may be leased more than two (2) times in any one calendar year.
7. Exterior Improvements: Landscaping. Without limiting the generality of Section 3 of this Article, no Owner shall, without first obtaining the written consent of the Board, cause anything to be affixed or attached to, displayed or placed on, or hung from the exterior walls, doors, windows, patios, courtyards or terraces of his dwelling (excluding storm shutters and screens) or make substantial changes to landscaping.
8. Setback Restrictions: Each lot shall have a side setback of at least twelve (12) feet (wall of structure to lot line), with the exception of Lot 11, Phase II which shall have a north side set back of ten (10) feet, and Lot 1, Phase I, which shall have a south side setback of ten (10) feet. Front setback shall be at least seventy (70) feet from the centerline of state Road A1A. The rear setback of the rear wall of the houses shall be two (2) feet (to allow for roof overhang so the roof does not project out over) from the 1981 Coastal Construction Control Line as shown on the SEA HAWK plat recorded in the Public Records of Brevard County, Florida. A modification is required to allow the homes to cantilever out up to three (3) feet (on the sides only) above the first floor and into the side set backs from lot lines.

Pool Decks, constructed at grade and with no fence other than an aluminum "picket type" of up to four (4) feet in height shall be set back at least seven and one-half (7 ½) feet from side lot lines (five (5) feet for Lots 1 and 11).
9. Size. All homes will be either two (2) or three (3) stories, with a minimum of 2,550 square feet of air conditioned living space, and have two (2) car garages
10. Dune Crossovers to Beach. The number of dune crossovers will be limited to six (6) for the eleven (11) homes of Sea Hawk Place. To avoid blocking of ocean



views from homes, the dune crossovers can be located on Lot #1, and the juncture of Lots 2 and 3, the juncture of Lots 4 and 5, the juncture of Lots 6 and 7, the juncture of Lots 8 and 9 and the juncture of Lots 10 and 11. Crossovers at the juncture of two lot lines will be shared by the two lots.

ARTICLE IX
ADDITIONAL RIGHTS OF INSTITUTIONAL FIRST MORTGAGEE

In addition to all other rights herein set forth, each holder of an Institutional Mortgage shall have the right, upon written request to the Association, to:

1. Inspect the Association's books and records during normal business hours;
2. Receive an unaudited financial statement of the Association within sixty (60) days after each of its fiscal years closes;
3. Receive from the Association written notice of any meeting of the Association's membership and to attend any such meeting;
4. Receive from the Association written notice of any default under the Declaration or the By-Laws by an Owner of a Lot or dwelling encumbered by a mortgage to the Institutional Mortgagee, if the default remains uncured for more than thirty (30) days;
5. Receive timely written notice of casualty damage to or condemnation of any part of any dwelling on which it has a mortgage.

ARTICLE X
ARCHITECTURAL CONTROL

1. Necessity of Architectural Review and Approval. No improvement or structure of any kind, including without limitation, any grading, clearing, extensive interference with the landscape, building, fence, wall, swimming pool, screen enclosure, landscape device or object, or other improvement shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by, the Architectural Review Committee, hereinafter referred to as "ARC." All plans and specifications shall be evaluated as to environmental compatibility, harmony of external design, and location in relation to surrounding structures and topography.
2. Architectural Review Committee. The architectural and control review functions as provided for in this Article shall be administered and performed by an Architectural Review Committee, hereby created and hereafter referred to as ARC.



Said ARC shall consist of each member of the Board of Directors, who need to be members of the Association. They shall be appointed by and shall serve at the pleasure of the Board of Directors of the Association. A majority of the ARC shall constitute a quorum to transact business at any meeting of the ARC, and the action of a majority present at the meeting at which a quorum is present shall constitute the action of the ARC. Any vacancy occurring on the ARC because of death, resignation, or other termination of service of any member thereof, shall be filled by the Board of Directors.

3. Powers and Duties of the ARC. To recommend, from time to time, to the Board of Directors of the Association, modifications and /or amendments to the Architectural Planning Criteria. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed and at which a quorum is present and voting.

4. Purpose of the ARC. The ARC shall provide for a systematic and uniform review of all proposed improvements and construction of any type or nature whatsoever within SEA HAWK. The ARC shall review all plans for said improvements, it being the intent to provide for sound and aesthetically pleasing development of the subdivision. The ARC shall assure itself of the soundness of the proposed improvements in order to prevent, to the extent possible, rapid and early deterioration. In addition, the ARC shall evaluate the proposed improvements with emphasis upon their harmonious incorporation into the community as a whole and with specific emphasis on external design, location of the improvement in relation to surrounding structures and/or improvements, topography, and conformity to the restrictive covenants imposed hereunder.

5. Procedure Before the ARC. Prior to the commencement of any work on the premises contemplated for improvement, an applicant must submit to the ARC one (1) complete set of plans and specifications for any improvement or structure of any kind, together with such fully executed application form and fees as may then be required by the ARC, and such additional information as required by the Declaration. No later than fifteen (15) business days after receipt of said plans and specifications, the ARC shall respond to the application in writing by approving said application, or disapproving said application. In the event the ARC fails to respond within the fifteen (15) day period, the plans and specifications shall be deemed approved. In the event of disapproval of plans and/or specifications as submitted, no work or construction shall be commenced in furtherance of the proposed improvement. The address of the ARC shall be: c/o Vistar Properties or current property manager; 100 Vista Royal Blvd., Vero Beach, FL 32962



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ARTICLE XI
GENERAL PROVISIONS

1. Covenant Running with the Land. All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association, as well as the provisions of the Master Declaration and all applicable management contracts, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Lots and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Owner(s) of the dwellings or any part thereof, or interest therein, and their respective heirs, personal representative, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Owners and tenants and occupants of dwellings shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as well as the provisions of the Master Declaration as they may be amended from time to time. The acceptance of a deed or conveyance to a dwelling, or the entering into of a lease of, or occupancy of, any dwelling shall constitute an adoption and ratification by such Owner, tenant or occupant of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as well as the provisions of the Master Declaration and all applicable management contracts, as they may be amended from time to time, including, but not limited to a ratification of any attorneys-in-fact contained therein.

2. Duration. The Covenants and Restrictions shall be effective for a term of forty (40) years from the date the Initial Declaration is recorded. After that time they shall be automatically extended for successive periods of fifteen (15) years each unless an instrument has been recorded in which eighty percent (80%) of the then Owners and eighty percent (80%) of the holders of the then outstanding Institutional Mortgages agree by signing it to revoke the Covenants and Restrictions in whole or in part; provided, however, that no such agreement shall be effective unless it is made and recorded at least three (3) years before the effective date of the change provided for in it and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days before any action is taken.

3. Enforcement. This Declaration, the Articles of Incorporation and the By-Laws may be enforced by the Association as follows:

- A. The breach of any of the covenants contained in the Declaration or the By-Laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by the Association, the successors-in-interest of the Association or an Owner or Owners. Any judgment rendered in any action or proceeding pursuant hereto



shall include a sum for attorney's fees, in such amount as the court may deem reasonable, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

- B. The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity with respect to nuisances either public or private shall be applicable and may be exercised by the Association or its successors-in-interest.
- C. The remedies herein provided for breach of the covenants or restrictions contained in this Declaration or in the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.
- D. The failure of the Association to enforce any of the covenants or restrictions contained in this Declaration or in the By-Laws shall not constitute a waiver of the right to enforce the same thereafter.
- E. A breach of the covenants, conditions or restrictions contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any mortgage made in good faith and for value on any dwelling; provided, however, that any subsequent Owner of a dwelling shall be bound by those covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

4. Severability. The invalidation of any one of the Covenants and Restrictions by judgment or court order shall in no way affect any of the other Covenants and Restrictions, all of which shall remain in full force and effect.

5. Interpretation. The article and section headings herein have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. The singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the other.

6. Amendments. This Declaration may be amended by the Association (1) by the affirmative vote or written consent of the Owners holding not less than sixty-six and two-thirds percent (66-2/3%) of the voting power; provided, however, that no amendment shall be permitted which has a materially adverse affect upon substantial rights of any Owner or Institutional Mortgagee without the prior written consent of the Owner or Institutional Mortgagee so affected, as appropriate.

7. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right or title to a dwelling shall be conclusively deemed to have consented

and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such dwelling.


8. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Unit of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

IN WITNESS WHEREOF, the Association has executed this Declaration on the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

DEVELOPER:

SEA HAWK AT AQUARINA
HOMEOWNERS ASSOCIATION, INC.



Witness Signature

By: 

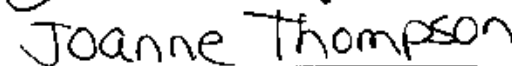
Its President



Print Witness Name



Witness Signature



Print Witness Name



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STATE OF FLORIDA)
) ss:
COUNTY OF BREVARD)

THE FOREGOING INSTRUMENT was acknowledged before me this 20th day of March, 2006, by John Corbett, as President of SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a Florida corporation, who is personally known to me, or who produced as identification.

Odessa Brown

Notary Public Signature

My commission expires:

Odessa Brown

Print Notary Public Name



Odessa Brown
My Commission DD206063
Expires November 13, 2007



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EXHIBIT A

STAGE 4, TRACTS VII AND TRACT VII, UNIT 1, AQUARINA PUD, consisting of
4.25 acres.

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RETURN TO:
JAMES BATES
Petrus Group, L.P.
285 Hammock Shore Dr.
Melbourne BEACH, FL. 32951

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OR Book/Page: 4149 / 2245

ARTICLES OF INCORPORATION
OF

Sandy Crawford
Clerk Of Courts, Brevard County
#Pgs: 9 #Names: 2
Trust: 5.00 Rec: 37.00 Serv: 0.00
Deed: 0.00 Excise: 0.00
Mtg: 0.00 Int Tax: 0.00

SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC.
(a corporation not for profit)

In order to form a corporation under and in accordance with the provisions of the laws of the State of Florida for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purpose and with the powers hereinafter mentioned; and to that end we do, by these Articles of Incorporation, set forth:

ARTICLE I - NAME

The name of the corporation shall be SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC.

ARTICLE II - PURPOSE

The purposes and objects of the corporation shall be to administer the operation and management of SEA HAWK OCEAN VILLAS, to be established by PETRUS GROUP, L.P., a Kansas limited partnership, hereinafter called Developer, upon the following described property, hereinafter referred to as the "Property," situate, lying and being in Brevard County, Florida, to wit:

See Exhibit A attached hereto and made a part hereof.

and to undertake the performance of the acts and duties incident to the administration of the operation and maintenance of said Property and in accordance with the terms, provisions, conditions and authorizations contained in these articles and which may be contained in the Declaration of Restrictions, which will be or which has been recorded in the Public Records of Brevard County, Florida, at the time said property, and the improvements now or hereafter situate thereon are submitted for platting; and to deal with such Property as may be necessary or convenient in the administration of said Property. The corporation shall be conducted as a non-profit organization for the benefit of its members.

ARTICLE III - POWERS

The corporation shall have the following powers:

- A. All of the powers and privileges granted to corporations not for profit under the law pursuant to which this corporation as chartered, and all of the powers and privileges which may be granted unto said corporation or exercised by it under any other applicable laws of the State of Florida.

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TALLAHASSEE, FLORIDA

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- B.** All of the powers reasonably necessary to implement and effectuate the purposes of the corporation, including, but not limited to:
1. Making and establishing reasonable rules and regulations governing the use of the Property in accordance with the terms as may be defined in the Declaration of Restrictions.
 2. Levying and collecting assessments against members of the corporation to defray the common expenses of the maintenance and operation of the common areas as may be provided in the Declaration of Restrictions and in the By-Laws of this corporation which may be hereafter adopted, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, which may be necessary or convenient in the operation and maintenance of the common areas and in accomplishing the purposes set forth in the Declaration of Restrictions.
 3. Maintaining, repairing, replacing, operating and managing the exterior walls, roofs, landscaping, and driveways of these homes, including the right to reconstruct improvements after casualty and to make further improvement of said property.
 4. Enforcing the provisions of the Declaration of Restrictions and these Articles of Incorporation, the By-Laws of the corporation which may be hereafter adopted, and the rules and regulations governing the use of the common areas as the same may be hereafter established.
 5. To now or hereafter acquire and enter into leases and agreements of every nature, whereby the corporation acquires leaseholds, memberships and other possessory or use interests in land or facilities, including recreational facilities, whether or not contiguous to lands of this subdivision, to provide enjoyment, recreation, or other use of benefit to the owners of the property within this subdivision, all as may be deemed by the Board of Directors to be in the best interests of the corporation.
 6. To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the corporation pursuant to the Declaration of Restrictions.

ARTICLE IV - MEMBERS

The qualification of the members, the manner of their admission to membership, termination of such membership, and voting by members shall be as follows:



- A. The owners of all lots or dwellings in the Property shall be members of the corporation, and no other persons or entities shall be entitled to membership.
- B. Membership shall be established by the acquisition of fee title to a lot or dwelling in the Property or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise and the membership of a party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in any lot or dwelling.
- C. The interest of a member in the funds and assets of the corporation cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his dwelling. The funds and assets of the corporation shall belong solely to the corporation, subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein in the Declaration of Restrictions and in the said By-Laws.
- D. That Association shall have two classes of voting membership:
1. CLASS A. Class A members shall be all owners, with the exception of the declarant, and shall be entitled to one vote for each dwelling owned. When more than one person holds an interest in any dwelling, all such persons shall be members. The vote for such dwelling shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any dwelling.
 2. CLASS B. Class B members shall be the declarant and shall be entitled to eight (8) votes for each dwelling owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
 - (b) On August 31st, 2005.

ARTICLE V - TERM

Existence of the corporation shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The corporation shall have perpetual existence.



ARTICLE VI - LOCATION

The principal office of the corporation shall be located at 235 Hammock Shore Drive, Melbourne Beach, Florida 32951, but the corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

ARTICLE VII - DIRECTORS

The affairs of the corporation shall be managed by the Board of Directors. The number of members of the first Board of Directors of the corporation shall be three (3). The number of members of succeeding boards of directors shall be three (3) except as changed from time to time by the By-Laws of the corporation. The members of the Board of Directors shall be elected as provided by the By-Laws of the corporation, which provide for election of directors at the annual meeting to be held on the second Tuesday of December each year. The Board of Directors shall be members of the corporation or shall be authorized representatives, officers or employees of a corporate member of this corporation.

Any vacancies in the Board of Directors occurring before the first election will be filled by the remaining directors.

The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

JAMES H. BATES
235 Hammock Shore Drive
Melbourne Beach, Florida 32951

MONRIE MC DANIEL
235 Hammock Shore Drive
Melbourne Beach, Florida 32951

GEORGIA A. KAUFFMAN
235 Hammock Shore Drive
Melbourne Beach, Florida 32951

ARTICLE VIII - OFFICERS

The Board of Directors shall elect a President, Vice President and Secretary/Treasurer. The President shall be elected from among the membership of the Board of Directors but no other officer needs to be a director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, that the office of the President and Vice President shall not



be held by the same person, nor shall the office of President and Secretary/Treasurer or Assistant Secretary/Treasurer be held by the same person.

The affairs of the corporation shall be administered by the officers designated in the By-Laws of this corporation. Said officers will be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and, with the approval of the Board of Directors, may employ a managing agent and/or such other managerial and supervisory personnel or entities to administer or assist in the administration of the operation and management of the common areas and the affairs of the corporation, and any such person or entity may be so employed without regard to whether such person or entity is a member of the corporation or a director of the corporation.

The names and addresses of the officers who will serve until their successors are designated are as follows:

JAMES H. BATES 235 Hammock Shore Drive Melbourne Beach, Florida 32951	President
GEORGIA A. KAUFFMAN 235 Hammock Shore Drive Melbourne Beach, Florida 32951	Vice-President
MONRIE MC DANIEL 235 Hammock Shore Drive Melbourne Beach, Florida 32951	Secretary/Treasurer

ARTICLE IX - SUBSCRIBERS

The subscribers to these Articles of Incorporation are the three (3) persons herein named to act and serve as members of the first Board of Directors of the corporation, the names of which subscribers and their respective addresses are more particularly set forth in Article VII above.

ARTICLE X - BY-LAWS

The original By-Laws of the corporation shall be adopted by the Board of Directors and thereafter, such By-Laws may be altered or rescinded by the Board in such manner as said By-Laws may provide.

ARTICLE XI - INDEMNIFICATION

Every director and every officer of the corporation shall be indemnified by the corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon



him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement of indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

ARTICLE XII - AMENDMENTS

Any amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the corporation acting upon a vote of the majority of the directors, or by the members of the corporation owning a majority of the lots or dwellings, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these articles being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the corporation or other officer of the corporation in the absence of the President, who shall thereupon call a special meeting of the members of the corporation for a date not sooner than twenty (20) days not later than sixty (60) days from the receipt by him of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting, stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. If mailed, the notice of the membership meeting shall be sent by certified mail, return receipt requested, which mailing shall be deemed notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the corporation, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members owning not less than two-thirds (2/3) of the dwellings in the subdivision in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these articles shall be transcribed and certified in such form as may be necessary to register the same in the office of the Secretary of State of Florida; and upon the registration of such amendment or amendments with said Secretary of State, a certified copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which the same are so registered. At any meeting held to consider such amendment or amendments of these articles, the written vote of any member of the corporation shall be recognized, if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the corporation at or prior to such meeting.



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CERTIFICATE OF REGISTERED AGENT

Pursuant to Chapter 48.091, Florida Statutes, the following is submitted in compliance with said act:

SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a corporation not for profit, desiring to organize under the laws of the State of Florida, with its principal office as indicated in the Articles of Incorporation, in the City of Melbourne Beach, County of Brevard, State of Florida, has named ROBERT L. BEALS, ESQ., located at 1900 South Hickory Street, Suite A, Melbourne, Florida 32902-1870, as its agent to accept service of process for the above-stated corporation, at the place designated in this certificate, who hereby accepts to act in this capacity, and agrees to comply with the provisions of the act relative to keeping open said office.



ROBERT L. BEALS, Registered Agent

11/05/01 09:00:00 AM 30-AKTPL23202



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TALLAHASSEE, FLORIDA

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EXHIBIT A

STAGE 4, TRACTS VII AND TRACT VII, UNIT 1, AQUARINA PUD, consisting of 4.25 acres.



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~~CONFIDENTIAL~~

RETURN TO:
JAMES BATES
Petrus Group, L.P.
235 Hammock Shore Dr.
Melbourne BEACH, FL 32951

Bates Copy



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Sandy Crawford

Clerk Of Courts, Brevard County

#Pgs: 11	#Names: 2	
Trust: 8.00	Rec: 45.00	Serv: 0.00
Dec: 0.00	Excise: 0.00	
Mig: 0.00	Int Tax: 0.00	

BY-LAWS OF

SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC.

ARTICLE I - NAME AND LOCATION

The name of the corporation is SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association." The initial principal office of the corporation shall be located at 235 Hammock Shore Drive, Melbourne Beach, Florida 32951, but the meeting of members and directors may be held at such places within the State of Florida, County of Brevard, as may be designated by the Board of Directors.

ARTICLE II - DEFINITIONS

All terms and definitions used herein are to be further defined and clarified as set forth in and according to SEA HAWK DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, as recorded in the Public Records of Brevard County, Florida.

SECTION 1. "Association" shall mean and refer to SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

SECTION 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any dwelling, tract or parcel which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "Property" shall mean and refer to that certain real property described in Exhibit A attached hereto and incorporated herein, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Dwelling" shall mean and refer to any improvements for which a certificate of occupancy has been issued by Brevard County in the overall SEA HAWK Property on file with Brevard County. Each dwelling or lot is subject to assessment and entitles each owner to voting rights as hereinafter defined.

SECTION 5. "Declarant" shall mean and refer to PETRUS GROUP, L.P., a Kansas limited partnership, its predecessors in title, successors and assigns if such successors or assigns should acquire more than one dwelling from the Declarant for the purpose of development.



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SECTION 6. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration and Articles of Incorporation of the Association.

SECTION 7. "Declaration" shall mean and refer to that set of Declaration of Restrictions as applicable to SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC.

SECTION 8. "SEA HAWK AT AQUARINA" shall mean the overall SEA HAWK OCEAN HOMES, as identified in Section 3. above.

ARTICLE III - MEETING OF MEMBERS

SECTION 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date turnover is completed to the Association, as provided for in the Articles of Incorporation, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 1:00 p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

SECTION 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the vote.

SECTION 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purposes of notice. Such notices shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

SECTION 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting, until a quorum as aforesaid shall be present or represented.

SECTION 5. Proxies. At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his dwelling.





ARTICLE IV - BOARD OF DIRECTORS:
SELECTION: TERM OF OFFICE

SECTION 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

SECTION 2. Term of Office. At the first annual meeting, the members shall elect three (3) directors for a term of one (1) year, and at each annual meeting thereafter the members shall elect three directors for a term of one (1) year.

SECTION 3. Removal. Subsequent to the Developer's turnover, any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

SECTION 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the directors or by obtaining verbal approval by telephone. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V - NOMINATION AND ELECTION OF DIRECTORS

SECTION 1. Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

SECTION 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.





ARTICLE VI - MEETING OF DIRECTORS

SECTION 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice at such place and hour as may be fixed from time to time by resolution of the board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

SECTION 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

SECTION 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII - POWERS AND DUTIES OF THE BOARD OF DIRECTORS

SECTION 1. Powers. The Board of Directors shall have power to:

- A. adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- B. exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;
- C. declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- D. employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;
- E. mortgage and encumber Common Areas as set forth in the Declaration and assign such assessments or portions thereof to owners;
- F. to contract for the management of the Association and common areas and to delegate to such contractor all of the powers and duties of the Association, if so approved by the Board of Directors;





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- G. to employ personnel to perform the services required for proper administration of the Association; and
- H. the undertakings and contracts authorized by said first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership.

SECTION 2. Duties. It shall be the duty of the Board of Directors to:

- A. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of all the members who are entitled to vote;
- B. supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- C. as more fully provided in the Declaration to:
 - (1) fix the amount of the annual assessment against each unit or projected unit at least fifteen (15) days in advance of each annual assessment period;
 - (2) send written notice of each assessment to every owner subject thereto at least fifteen (15) days in advance of each annual assessment period; and
 - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- D. issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- E. procure and maintain adequate liability and hazard insurance on property owned by the Association;
- F. cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate;
- G. cause the Common Area to be maintained;



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- H. protect all property rights, interests, easements or rights-of-way, or otherwise, which are acquired by or conveyed to this Association, now or hereafter; and
- I. mortgage or encumber common areas as set forth in the Declaration, and assign such assessments or portions thereof to owners.

ARTICLE VIII - OFFICERS AND THEIR DUTIES

SECTION 1. Enumeration of Offices. The officers of this Association shall be president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

SECTION 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

SECTION 3. Term. The officers of this Association shall be elected annually by the board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the board may, from time to time, determine.

SECTION 5. Resignation and Removal. Any officer may be removed from office with or without cause by the board. Any officer may resign at any time giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. After the sale of all dwellings, no person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this article.

SECTION 8. Duties. The duties of the officers are as follows:

- A. **PRESIDENT:** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the board are carried out; shall



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sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

- B. VICE PRESIDENT: The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.
- C. SECRETARY: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the board.
- D. TREASURER: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX - COMMITTEES

The Association shall appoint an Architectural Review Committee as provided in the Declaration, and a nominating committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X - BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI - ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent and the assessment shall bear interest from the date of delinquency at the rate of eighteen (18%) percent per annum, and the Association may bring an action at law against the



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owner or owners personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added. The assessment shall be used for the maintenance and repair of the surface water or stormwater management systems, including but not limited to, work within retention areas, drainage structures and drainage easements.

ARTICLE XII - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a corporation not for profit.

ARTICLE XIII - AMENDMENTS

SECTION 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

SECTION 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV - MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XV - FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

- A. The Association shall maintain accounting records for each property it maintains in the county where the property is located, according to good accounting practices. The records shall be open for inspection by owners or their authorized representatives between the hours of 9:00 a.m. and 5:00 p.m. The records shall include, but are not limited to:

- (1) A record of all receipts and expenditures.





- (2) An account for each dwelling and unit designating the name and current address of the dwelling and unit owner, the amount of each assessment, the date on which the assessments come due, the amount paid upon the account and the balance due.
- B. The Board of Directors shall adopt a budget for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance, and operation of common areas, landscaping, streets and walkways, office expense, utility services, replacements and operating reserve, casualty insurance, liability insurance, administration and salaries. The Board of Directors shall also establish the proposed assessments against each member as more fully provided in the Declaration. Delivery of a copy of any budget to each member shall not affect the liability of any member for any such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget as originally adopted.
- C. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by check signed by such person or persons as authorized by the directors.
- D. Fidelity bonds may be required by the Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

ARTICLE XVI - PARLIAMENTARY RULES

Robert's Rules of Order (latest edition) shall govern the conduct of the corporate meetings when not in conflict with the Articles of Incorporation and these By-Laws or with statutes of the State of Florida.

IN WITNESS WHEREOF, we, being all of the directors of SEA HAWK AT





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AQUARINA HOMEOWNERS ASSOCIATION, INC., have hereunto set our hands this 6th day of April, 2000.

Monrie McDaniel
MONRIE MC DANIEL

Georgia A. Kauffman
GEORGIA A. KAUFFMAN

J. H. Bates
JAMES H. BATES

STATE OF FLORIDA)
) ss:
COUNTY OF BREVARD)

THE FOREGOING INSTRUMENT was acknowledged before me this 7th day of April, 2000, by MONRIE MC DANIEL, GEORGIA A. KAUFFMAN and JAMES H. BATES, who are personally known to me, or who produced _____ as identification, and who did take an oath.

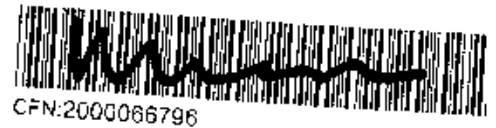
Karen S. Solomon
Notary Public Signature

My commission expires:

KAREN S. SOLOMON
Print Notary Public Name



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CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly-elected President of SEA HAWK AT AQUARINA HOMEOWNERS ASSOCIATION, INC., a Florida corporation; and

THAT the foregoing By-Laws constitute the original By-Laws of the said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 6th day of April, 2000.

JAMES H. BATES, President

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