

**REVITALIZED, CONSOLIDATED, AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
HIDDEN CREEK ESTATES**

**[Informal/Consolidated for Ease of Reference: with Amendments
Recorded 3/9/2020 at Book 3926, Page 1971 et. seq. Incorporated]**

WHEREAS, CAM CORPORATION, a Florida corporation (hereinafter referred to as the “Developer”) adopted this Declaration of Covenants and Restrictions for Hidden Creek Estates (hereinafter referred to as the “Original Declaration”) on May 31, 1988 and recorded said Original Declaration in the Official Records of Santa Rosa County, Florida in OR Book 950 at Page 195 et seq.; and

WHEREAS, the Developer was the Owner of certain real property described in Article II of this Declaration and desired to create thereon a general plan and scheme for development of the said Properties; and

WHEREAS, Developer desired to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for specified maintenance of the properties and improvements thereon, and to that end subjected the real property described in Article II of this Declaration to the covenants, restrictions, easements, charges and liens set forth in the Original Declaration and amendments thereto, each and all of which is and are for the benefit of said property and each Owner thereof; and

WHEREAS, Developer deemed it advisable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the owners and occupants of each Lot and Unit in the community; and

WHEREAS, Developer incorporated Hidden Creek Estates Property Owners Association, Inc. as a not for profit corporation under the laws of the State of Florida for the purpose of exercising the functions aforesaid; and

WHEREAS, the Developer further, and by the Declaration of Protective Property Rights and Restrictions of Holley By The Sea Improvement Association, Inc. (originally recorded in Official Record Book 246, Page 463, and amendments thereto hereinafter referred to as “Holley by the Sea Covenants”), and specifically, the Fifth Amendment thereto recorded on May 31, 1988 in the Public Records for Santa Rosa County, Florida, OR Book 960, Pages 559, et seq. and the Seventh Amendment thereto recorded on April 5, 1991 in the Public Records for Santa Rosa

County, Florida, OR Book 1161, Page 275-278, subjected Hidden Creek Estates to the Holley by the Sea Covenants; and

WHEREAS, pursuant to an amendment to the Original Declaration recorded on June 16, 2004 in the Public Records for Santa Rosa County, Florida at OR Book 2313, Page 7, et seq., Holley by the Sea Improvement Association, Inc. was substituted for Hidden Creek Estates Property Owners Association, Inc. to perform the maintenance, administrative and enforcement functions as set forth in the governing documents for Hidden Creek Estates; and

WHEREAS, Hidden Creek Estates Property Owners Association, Inc. was dissolved pursuant to Articles of Dissolution filed with the Florida Secretary of State, Division of Corporations on June 24, 2004; and

WHEREAS, the property owners within Hidden Creek Estates have approved this Revitalized, Consolidated, Amended and Restated Declaration of Covenants and Restrictions in accordance with the covenant revitalization procedures of Florida Statutes, § 720.404, *et. seq.*; and

WHEREAS, effective May 10, 2019, the Florida Department of Economic Opportunity approved this Amended Declaration as a revitalized declaration of covenants in accordance with Fla. Stat. §720.406.

NOW THEREFORE, the real property described in Article II below is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as “covenants and restrictions”) hereinafter set forth. This Declaration revitalizes, consolidates, amends and restates the Original Declaration and the following amendments thereto, agreements associated therewith and joinders thereto (with all references to “O.R.” being to Santa Rosa County, Florida Official Records):

O.R. Book 1161, Page 273, <i>et. seq.</i>	First Amendment to Declaration of Covenants and Restrictions for Hidden Creek Estates
O.R. Book 1702, Page 770, <i>et. seq.</i>	Second Amendment to Declaration of Covenants and Restrictions for Hidden Creek Estates
O.R. Book 2313, Page 7, <i>et. seq.</i>	Amendments to Declaration of Covenants and Restrictions of Hidden Creek Estates

ARTICLE I
DEFINITIONS:

Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the plural shall include the singular and the singular shall include the plural.

- 1.1 Architectural Control Committee means the Hidden Creek Estates Architectural Control Committee.
- 1.2 Articles means the Articles of Incorporation of the Association, as it may be amended from time to time.
- 1.3 Assessment means a share of the funds required for the payment of the common expenses which from time to time is assessed against all of the Owners.
- 1.4 Association means HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC., a Florida not for profit corporation, its successors and assigns.
- 1.5 Board of Directors or Board means the Board of Directors of the Association, unless the context would be read otherwise.
- 1.6 By-Laws means the By-Laws of the Association, as it may be amended from time to time.
- 1.7 Charge means any sum referred to in this Declaration or in the Articles or By-Laws to be a charge levied against one or more Owners, other than Assessment(s), which charge is collectible as provided for in this Declaration and in the Articles and By-Laws.
- 1.8 COUNTRY CLUB means and refers to the golf course and country club described as Tracts A through H, inclusive on the Subdivision Plat.
- 1.9 Declaration or Declaration of Covenants and Restrictions means this instrument, as it may be amended from time to time.
- 1.10 Developer means and refers to CAM CORPORATION, a Florida Corporation for profit, its successors and assigns, or to any successor assign so designated by the Developer to any and all of their interests in the development of HIDDEN CREEK ESTATES.
- 1.11 General Plan of Development means that plan as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of land in the Properties, as such may be amended from time to time subject to the Developer providing at least thirty (30) days notice to the Association and obtaining approval of the governmental agencies involved.
- 1.12 HIDDEN CREEK ESTATES means and refers to all such Properties as are now or hereafter made subject to this Declaration under Article II below.
- 1.13 Improvement Association means and refers to the HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC., a Florida not-for-profit corporation.

- 1.14 Improvement Association Documents means and refers to the Declaration of Protective Property Rights and Restrictions of Holley by the Sea Improvement Association, Inc. as recorded in Official Records Book 246, Page 463, as recorded in Official Records Book 246, Page 463, and as previously amended at Official Record Book 282, Page 687; Book 664, Page 343; Book 693, Page 234; Book 739, Page 15; Book 960, Page 559; “Book 1048, Page 369; Book 1161, Page 275; Book 1351, Page 404; and Book 1606, Page 1456 and any and all other amendments of record, Public Records of Santa Rosa County, Florida, as same are amended from time to time; and the Articles of Incorporation and By-Laws of the HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC.; as same are amended from time to time.
- 1.15 Living Unit or Unit means and refers to the structure situated upon a Lot designed and intended for use and occupancy as a residence by a single family. The term shall exclude the Lot, except in terms of the payment of Assessments and Charges and membership and voting rights in the Association, and/or where the context is meant to include the Lot.
- 1.16 Lot means any numbered plot of land shown upon the Subdivision Plat. The term shall include a Living Unit situated thereupon, unless the context means otherwise.
- 1.17 Member(s) means and refers to Owner(s) unless the context requires otherwise.
- 1.18 Occupant or Resident means and refers to the Owner, lessee or other individual(s) living in the Living Unit.
- 1.19 Owner or Unit Owner means and refers to the record Owners, whether one or more persons or entities, including the Developer, of the fee simple record title to any Lot or Lot and Unit, except that where a Lot is being sold by the Developer under an agreement for deed, then the contract vendee thereunder, and not the Developer, shall be deemed to be the Owner for purposes of this Declaration, and the Articles and By-Laws. In the event that some person or entity other than the Developer is selling a Lot or Lot and Unit under an agreement for deed, whether or not same is recorded, the contract vendor thereunder, and not the contract vendee thereunder, shall be deemed to be the Owner for purposes of this Declaration. Except as otherwise provided to the contrary in this Section 1.19, those having an interest merely as security for the performance of an obligation, shall not be deemed the Owners.
- 1.20 Properties mean and refer to all real property which now is or hereafter becomes subject to this Declaration under Article II below.
- 1.21 Rules and Regulations mean and refer to the rules and regulations and policies as may be adopted by the Board of Directors from time to time.

- 1.22 Subdivision Plat means and refers to the recorded Subdivision Plat known as HOLLEY BY THE SEA FIRST ADDITION, A Subdivision of a Portion of Section 2 and 11, Township 2 South, Range 27 West, Santa Rosa County, Florida as recorded in Plat Book E, Page 15, Public Records of Santa Rosa County, Florida, together with all Holley Club Phase Plats described in Article II below.
- 1.23 Swale Area means and refers to that portion of the Properties situated between the Lot lines of the Lots and the paved roadway within HIDDEN CREEK ESTATES. An Owner's Swale Area shall be that portion of the Swale Area which is adjacent to the Lot line(s) of an Owner's Lot.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION;
ADDITIONAL RESTRICTIONS, AMENDMENTS AND SUPPLEMENTS

- 2.1 Legal Description. The real property which is and shall be initially transferred, sold, conveyed and occupied subject to this Declaration shall be that property described in and as that Plat of HOLLEY BY THE SEA FIRST ADDITION, less and except Tracts A, B, C, D, E, F G and H, according to the plat thereof, as recorded in Plat Book E, Page 15, Public Records of Santa Rosa County, Florida, and:

HOLLEY CLUB PHASE I, according to the plat thereof as recorded in Plat Book E, Page 90, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE II, according to the plat thereof as recorded in Plat Book E, Page 84, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE III, according to the plat thereof as recorded in Plat Book E, Page 85, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE IV, according to the plat thereof as recorded in Plat Book E, Page 91, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE V, according to the plat thereof as recorded in Plat Book E, Page 92, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE VI, according to the plat thereof as recorded in Plat Book E, Page 86, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE VII, according to the plat thereof as recorded in Plat Book E, Page 95, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE VIII, according to the plat thereof as recorded in Plat Book E, Page 87, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE IX, according to the plat thereof as recorded in Plat Book E, Page 93, of the Public Records of Santa Rosa County, Florida.

HOLLEY CLUB PHASE X, according to the plat thereof as recorded in Plat Book E, Page 94, of the Public Records of Santa Rosa County, Florida.

- 2.2 In accordance with Florida Statute Section 720.405(2), each parcel subject to this revived Declaration is listed on Exhibit "A" by its legal description, with the names of each parcel owner or the person(s) in whose name the parcel is assessed on the last completed tax assessment roll of Santa Rosa County, Florida at the time of submission of this Declaration for approval by the parcel owners.
- 2.3 COUNTRY CLUB Excluded. The COUNTRY CLUB shall be excluded from the Properties and shall not be subject to this Declaration.

ARTICLE III

COVENANTS FOR MAINTENANCE

Responsibility for the maintenance of the Properties at HIDDEN CREEK ESTATES shall be as follows:

3.1 Maintenance of the Living Units and Lots.

3.1.1 Living Unit Structure. Each Owner shall maintain and operate the entirety of the interior and exterior of his or her Living Unit structure, including the exterior walls and fixtures thereon in safe, neat, attractive and quality condition and repair.

3.1.2 The Lot. Each Owner shall maintain, repair and replace all portions of the Lot and landscaping, fences and other improvements thereon, in a safe, neat, attractive and quality condition and repair.

3.2 Swale Areas. The Owner shall be responsible to maintain, repair and replace the Owner's Swale Area as defined in Section 1.23 above. The aforesaid shall include but not be limited to sodding; landscaping as approved by the Architectural Control Committee; and driveway, culvert(s) and irrigation system as installed per approval of the Architectural Control Committee; and the costs of operating the irrigation system for said Swale Area.

3.3 Lands Dedicated to the Public on the Subdivision Plat. Notwithstanding anything contained in this Declaration to the contrary, the Association shall have the right, but not the obligation, from time to time, to maintain, repair and replace any lands dedicated to the Public on the Subdivision Plat and/or maintained, repaired and/or replaced by governmental authority or taxing district; expenditures for same by the Association shall be considered a common expense of the Association.

- 3.4 Neglect or Willful Misconduct. If maintenance, repair or construction is required or brought about by the neglect or the willful misconduct of particular Owner(s), any expense incidental thereto shall be borne by the Owner(s) either solely or proportionately, as the case may be.
- 3.5 Association Notice to Correct. In the event that any Owner shall fail to properly discharge his maintenance obligations as provided for in this Article III or as provided for in Article IV of this Declaration; or shall fail to make and pay for repair or replacement as provided for in this Article III or in Article V of this Declaration; or should the neglect or the willful misconduct of Owner(s) cause damage which then requires maintenance, repair or construction; and in the judgment of the Board of Directors, same shall result in a condition of unsightliness tending to adversely affect the value or enjoyment of neighboring owners or residents, or should constitute a hazard to person or property; then the Board may (but shall not be required to) provide notice of such condition(s) to the property Owner(s), demanding that such condition(s) be corrected within fifteen (15) days from the date the notice was sent. In the event the Owner(s) do(es) not rectify the condition at the end of such period, then the Association may: (1) Contract to have the necessary work performed, whereupon the cost of such work shall become a Charge against the Owner(s) and Lot(s) concerned (solely or proportionately as the Board shall determine) and collectible as Charges are collected hereunder and in the By-Laws of the Association; and/or (2) See injunctive relief against the Owner(s) to cause compliance with the Association's aforesaid notice. In connection therewith, the Association shall recover interest at the highest rate which the law then allows and all costs and paralegal and attorneys fees.
- 3.6 Access. For the purpose of performing the Association's obligations or rights to maintain, repair and replace as authorized by this Article III or by other provision of this Declaration, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner(s), to enter upon any Lot at reasonable hours of any day except Sunday or Legal Holidays as recognized by the Federal Government. The duly authorized agents or employees of the Association may enter a dwelling to rectify conditions that are deemed hazardous to people or property once it has been determined the Owner(s) are unable or unwilling to comply with Covenants. In the event repairs or reconstruction to the Lot or exterior of the Living Unit shall be necessary, all related entries, on Lots and in Units will be permitted and shall not be deemed trespass, and consent is hereby given to enter on Lots and in Units to effect necessary repairs and reconstruction. The aforesaid limitations are subject to and superseded by any provisions to the contrary contained in Section 8.3 of this Declaration.

ARTICLE IV
ALTERATIONS AND IMPROVEMENTS:
ARCHITECTURAL CONTROL COMMITTEE

- 4.1 Review by Committee. No structure, whether part of a residence, fences, walls, exterior lighting, or other improvements, shall be constructed or maintained upon any Lot; no alteration to the exterior of Living Unit or other structure shall be made; and no

landscaping or modification to the irrigation system shall be effected; and no improvements placed in an Owner's Swale Area as defined in Section 1.23 above; unless complete plans, specifications, and plot plans therefor, showing the exterior design, height, building material and color scheme thereof, the location of the structure plotted horizontally and vertically, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan and any other details of any alteration shall have been submitted to and first approved in writing by the Hidden Creek Estates Architectural Control Committee (Architectural Control Committee).

- 4.2 Submission of Plans to the Architectural Control Committee. Prior to any construction, alteration or improvement referred to in Section 4.1 above, two (2) sets of written plans and specifications shall be submitted thereof to the Architectural Control Committee for approval showing the nature, kind, design, shape, height, materials, colors and location of same., in a form which would be acceptable to obtain a County building permit or in the event a permit is not required in a form that would be required if a permit was in fact required.
- 4.3 Function of the Architectural Control Committee. The Architectural Control Committee shall administer and perform the architectural review and control functions of the Association for property in Hidden Creek Estates subject to the provisions hereof. The Architectural Control Committee shall exercise in its best judgment to see that all improvements, construction, landscaping and alterations conform to and harmonize with existing surroundings and structures. The Architectural Control Committee may also assist and advise the Board of Directors of the Association in enforcing the Declaration and in adopting rules, regulations and guidelines, and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors.
- 4.4 Composition of the Association's Architectural Control Committee. The Architectural Control Committee shall be composed of three (3) or more persons plus an alternate appointed by the Board of Directors. Each Architectural Control Committee member must be a Member of the Association and a resident owner of property in Hidden Creek Estates. All members of the Committee will serve on the Committee until such time as they resign or are removed, with or without cause, by the Board of Directors. A majority of the Architectural Control Committee shall constitute a quorum to transact business at any meeting, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the Architectural Control Committee. Any vacancy occurring on the Architectural Control Committee due to the death, resignation or removal of any member thereof shall be filled by the Board of Directors.
- 4.5 Powers of the Architectural Control Committee. The Architectural Control Committee shall have the following powers:
- 4.5.1 To require submission to the Architectural Control Committee of two (2) complete sets of all plans and specifications for any alteration, structure or other improvement proposed to be constructed or placed as described in Section 4.1 above. The Architectural Control Committee may require submission of samples of building

materials and colors proposed to be used and may also require such additional information as may be reasonably necessary to evaluate the proposed alteration or improvement.

- 4.5.2 To approve or disapprove all plans and specifications within sixty (60) days after the Owner/Builder submits all information which is reasonably necessary for the Architectural Control Committee to render its decision under this Article IV and fees (if any) to the Architectural Control Committee. In the event that the Architectural Control Committee fails to take any action within the aforesaid time period(s), approval will not be required, and this Article will be deemed to have been fully complied with as to the Architectural Control Committee. In the event the Architectural Control Committee fails to take any action within the aforesaid time period(s), approval will not be required, and this Article will be deemed to have been fully complied with as to the Architectural Control Committee. In the event the Architectural Control Committee disapproves any plans and specifications submitted to it, it shall so notify the applicant in writing, stating the grounds upon which such disapproval was based.
- 4.5.3 To promulgate rules and regulations of general application, governing the procedures to be followed by the Architectural Control Committee, including the form and content of applications, plans and specifications to be submitted for approval. The Architectural Control Committee may from time to time adopt architectural guidelines, imposing restrictions in furtherance of the General Plan of Development of HIDDEN CREEK ESTATES, that are not inconsistent with this Declaration.
- 4.5.4 To institute and require a reasonable filing fee to accompany the submission of plans and specifications, as a means of defraying its expenses.
- 4.5.5 To promulgate special restrictions and specifications regarding construction of improvements, including landscaping, of lots which are adjacent to the COUNTRY CLUB.
- 4.6 Review Criteria. The Architectural Control Committee may disapprove any plans submitted to it for any of the following reasons:
 - 4.6.1 Failure of such plans to comply with any of the protective covenants, conditions and restrictions contained in this Declaration;
 - 4.6.2 Failure to include information in such plans and/or as requested;
 - 4.6.3 Objection to the site plan, exterior design, appearance or materials of any proposed alteration or improvements, including without limitation, color or color scheme, finish, proportion, style or architecture, height, bulk or appropriateness of any proposed alteration or improvement;

- 4.6.4 Incompatibility of the proposed alteration or improvement with existing improvements;
- 4.6.5 Failure of the proposed alteration or improvement to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules or regulations.
- 4.6.6 Any other matter which in the judgment and sole discretion of the Architectural Control Committee would render the proposed alteration or improvement inharmonious or incompatible with the General Plan of Development of HIDDEN CREEK ESTATES.
- 4.7 Permits and Certificates of Occupancy. No person shall seek or apply for a building permit from any governmental authority unless or until the approval of the proposed improvements has been obtained from the Architectural Control Committee. Furthermore, no person shall seek or apply for a certificate of occupancy from any governmental authority unless and until the approval of the completed improvements shall have been first obtained from the Architectural Control Committee.
- 4.8 Records of Meetings. The Architectural Control Committee shall keep minutes and maintain records of all votes taken at meetings. Notices of all meetings shall be given in accordance with the provisions of Section 720.303(2) Florida Statutes (2018), as the same may be amended from time to time.
- 4.9 Liability for Actions of the Architectural Control Committee. Neither the Developer, the Directors or Officers of the Association, the members of the Architectural Control Committee, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by anyone submitting plans for approval, or any other party, due to any mistakes in judgment, negligence or nonfeasance of the Architectural Control Committee in connection with the approval or disapproval of plans. Neither the Developer, the Directors of Officers of the Association, the members of the Architectural Control Committee, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any alterations or improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.
- 4.10 Developer Exemption. The Developer is exempt from the provisions of this Article IV so long as the Developer owns legal title to any Lot in HIDDEN CREEK ESTATES.
- 4.11 Variances. On a case by case basis, the Board is authorized to grant variances from or exceptions to any of the rules, standards, regulations and procedures established by the Architectural Control Committee or the restrictions herein contained, when requested by the owners(s) due to existing or special conditions and circumstances, enforcement of the provisions thereof would result in hardship, provided said variance or exception does not adversely affect the uniform development and quality of HIDDEN CREEK ESTATES. Such variance requests must be submitted to the Architectural Control Committee for

review and an approval/disapproval recommendation to the Board of Directors. In creating any variance or exception, the Board may prescribe any conditions and safeguards which, when made a part of the terms under which such variances or exceptions are granted, shall not be deemed a violation of these restrictions.

- 4.12 Performance Bond. The Board shall require that a \$2,000.00 performance bond, or \$2,000.00 cash or certified check bond deposited with the Association (cash or certified check shall be deposited in an interest bearing account), naming the builder as the principal on the bond, and the Association as the beneficiary, be posted prior to the commencement of construction of any residential structure in Hidden Creek Estates, provided, however, that no builder shall be required to post bonds (cash or surety) in excess of \$10,000.00 at any given time. The bond shall include within its operative language the following condition:

“The condition of this bond shall be that the principal and surety bind themselves, jointly and severally, to build the structure within one year, to build the structure as shown in the plans and specifications approved by the Association or its designee, and to otherwise comply with all covenants, restrictions, rules and regulations of the Association, whether recorded or unrecorded, that are in force as of the date of issuance of the bond; otherwise, the bond’s penal sum shall be forfeited to the Association.”

Upon compliance with this condition, the obligation of the surety shall be at an end. In the event of a cash or cashier’s check bond, the bond sum shall be refunded.

The form of this performance bond shall be subject to review and approval by the Association and – in the event of a surety bond – the surety for such bond shall be licensed and in good standing with the Secretary of State of Florida, with the Commissioner of Insurance for the State of Florida, as well as any other applicable state and/or federal agencies regulating sureties. The Association shall be entitled to adopt reasonable rules and regulations to administer this requirement.

ARTICLE V

OCCUPANCY AND USE RESTRICTIONS

The occupancy and use of the Properties which constitutes HIDDEN CREEK ESTATES shall be in accordance with the following provisions:

- 5.1 Residential Use. No lot shall be used or occupied except for residential purposes. Short term rentals or sub-leases of less than six (6) months are not permitted. For all rentals of 6 months or longer, the Association shall be provided with a copy of the rental agreement at the start of the lease term.
- 5.2 Lot Restrictions. Except as may be otherwise permitted by the applicable governmental entity, one (1) Lot shall be the minimum and maximum land area upon which a Living Unit

may be constructed. However, the Owner of more than one contiguous Lot may apply to the Architectural Control Committee for permission to sue such Lots as a site of a single Unit; and, upon the written consent of the Architectural Control Committee, the contiguous Lots shall thereafter be treated as a single Lot, for purposes of this Article V of the Declaration. If required by the appropriate governmental entity, the Owner shall obtain a unity of title, as a condition to Architectural Control approval.

5.2.1 Proviso. Such combination of Lots and/or unity of title, and the provisions of this Section 5.2 shall not affect or change any reference to “Lot” or “Lots” contained elsewhere in this Declaration or on the Subdivision Plat.

5.3 Living Unit Floor Area. A single story or split level Living Unit which is not a full two stories shall have a minimum floor area of 2,200 square feet; provided, however, the Architectural Control Committee shall have the right to require a greater minimum floor area if the Architectural Control Committee disapproves the design of a Unit. A two story Unit shall have a minimum of 1,500 square feet on the first floor; the second floor element, whether fully walled or being of the balcony or loft type, shall contain not less than 700 square feet of living area. Square footages referred to in this Section 8.4 shall be exclusive of porches, terraces, porticos, patios, covered walks, pool area, utility rooms and garages. Square footage measurements shall be taken from the inside of the exterior walls of the Unit. There shall be no restriction on the maximum square footage of a Unit; provided, however, that no portion of a Unit (including appurtenances thereto and fencing) shall be constructed on any of the Properties except for the Owner’s Lot.

5.4 Garages.

5.4.1 Garage Requirements and Size. Each Unit shall have sufficient enclosed garage space for no less than two (2) full-sized vehicles. All garage doors shall be operated by electric door openers. Carports are expressly prohibited.

5.4.2 Garage Use. Garages may not be used as living space, with garage use to be limited to storage and/or the parking of vehicles, trailers or boats. Garage doors shall be kept closed at all times except when otherwise necessary for ingress, egress or when the resident is performing yard maintenance.

5.5 Clotheslines. Clotheslines shall be permitted on Lots, provided that same shall be located so as not to be visible from adjoining or adjacent Lots or Units. From any roadway within HIDDEN CREEK ESTATES, or from the COUNTRY CLUB.

5.6 Unit Graphics; Signs.

5.6.1 The size, design and placement of house numbering, exterior lighting, mailboxes, mailbox posts, and other such materials shall be as selected and approved by the Architectural Control Committee and shall display continuity and conformity through HIDDEN CREEK ESTATES. Exterior lighting as approved by the Architectural Control Committee shall be required.

- 5.6.2 No Signs. Except small name signs approved by the Architectural Control Committee, the sign policy of the Improvement Association, as amended from time to time, applies to all properties within Hidden Creek Estates.
- 5.7 Trash and Garbage. No Lot shall be used or maintained as a dumping ground for rubble, trash or other waste. Trash and garbage shall be placed either in receptacles or secured plastic bags. For sanitary reasons, should receptacles be used, all trash and garbage except newspapers, tree limbs and other such bulky items, shall be placed in plastic bags and tied securely before being placed in receptacles. Except during pickup, all trash, garbage and other waste shall be stored and/or maintained so as to not be visible from adjoining or adjacent Lots and Units; from any roadway within HIDDEN CREEK ESTATES or from the COUNTRY CLUB. For pickup, trash, garbage and recycling containers shall be placed out only in those areas designated by the Association for such purpose and in no event earlier than sundown on the evening prior to the day(s) on which trash, garbage or other waste is collected.
- 5.8 Removal of Trees. In reviewing building plans, the Architectural Control Committee shall take into account existing natural landscaping, such as trees and shrubs, and encourage the Owner to incorporate them into the landscaping plan for the Lot. No trees of four (4) or more inches in diameter at two (2) feet above natural grade shall be cut or removed without approval of the Architectural Control Committee.
- 5.9 Landscaping. All landscaping of Lots shall be pursuant to guidelines and specifications established from time to time by the Architectural Control Committee. A minimum landscaping expenditure, including automated irrigation system, on a Lot where a Unit is being constructed shall exceed \$5,000.00. The Architectural Control Committee shall have the right to increase the amount of the minimum landscaping expenditure, in its sole discretion. An automated irrigation system shall be required and installed at the time of construction of the Unit.
- 5.10 Antennae and Other Rooftop Accessories. No aerial, or satellite dish, except as permitted by Federal Law, which is visible from any roadway, Lot, Unit or the COUNTRY CLUB shall be placed upon any Lot, Unit or structure. Wind driven attic ventilators shall not be permitted. Plumbing and heating vents protruding from roofs shall be located, whenever possible, so as to not be seen from the front elevation of the Unit. Electrically powered ventilators may be used if the roof vents are of low profile, blend into the roofing materials and are not seen from any roadway. Solar devices may be installed, on the roof only, if they are of low profile, blend into the roofing materials and are not seen from any roadway, unless required for their proper functioning.
- 5.11 Accessory Buildings. Unless otherwise approved by the Architectural Control Committee, no accessory buildings of any kind will be permitted on any Lot, other than pool cabanas located not more than five (5) feet from the Unit and connected to the Unit at the roof level.

- 5.12 Building Composition. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. Materials used in construction shall be subject to and regulated by the Architectural Control Committee. All exterior construction should be Brick or Stucco, except that ornamental accents above garages and within gables may be stone or shake. Other materials may be used if approved by the Architectural Control Committee. Front entrances will be attractive with transom and sidelights or double ornamental doors.
- 5.13 Screening. Screening or screen enclosures of any kind shall be of a complementing color to the residence and compatible with surrounding homes and approved by the Architectural Control Committee.
- 5.14 Roofs. No roof design having a minimum pitch of less than a 6:12 pitch shall be allowed. No asphalt and gravel built-up roofing on pitched surfaces, and no mansard roofs, shall be allowed. Roof materials shall be equal to or exceed dimensional type shingles (such as tile or metal shingles). Sheet metal roofs are not permitted.
- 5.15 Swimming Pools. Any swimming pool to be constructed on any Lot shall be subject to the requirements of the Architectural Control Committee, which include, but are not limited to the following:
- 5.15.1 Composition shall be of material thoroughly tested and accepted by the industry for such construction.
- 5.15.2 Landscape, pool, recreation and security lighting shall be designed so as to not be an annoyance to surrounding Units.
- 5.15.3 Subject to the provisions of Section 7.2 above: If one Owner elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be adequately screened by landscaping and/or walls or fences on both the front and side as required by the Architectural Control Committee. It shall be the intent of the Architectural Control Committee to screen any such use from the public view.
- 5.16 Fences and Walls. Privacy fences are permitted only when specifically approved by the Architectural Control Committee. Fences on properties bordering the golf course must be ornamental and shall not exceed 48 inches in height. The composition, location and height of any fence or wall to be constructed on any Lot shall be subject to approval of the Architectural Control Committee. The Architectural Control Committee shall require the composition of any fence or wall to be consistent with the material used in the surrounding homes and other fences and walls, if any. Chain link fencing is prohibited, except for green vinyl chord in connection with tennis court(s).
- 5.17 Garbage Disposal. All residences constructed on a Lot shall contain a garbage disposal.

- 5.18 Construction Phase. Construction of any improvements shall be prosecuted diligently without stopping, and shall be completed within a reasonable time not to exceed one (1) year from the start thereof. Site appearance during construction shall be kept in a neat and orderly condition. The Architectural Control Committee shall have the power to extend the period of construction beyond the one (1) year period set forth herein, provided that the Owner makes application therefor prior to the expiration of the one (1) year period, and the Architectural Control Committee determines the request is reasonable. Any extension hereunder shall be for a time certain as set at the discretion of the Architectural Control Committee, and under the guidelines and with such written documentation required of the Owner/Builder, as the Architectural Control Committee shall in its sole discretion determine.
- 5.19 Certain Structures.
- 5.19.1 Except as otherwise approved by the Architectural Control Committee, no structure of a temporary character, and no trailer, construction trailer, tent, shack, barn or outbuilding shall be constructed on any Lot at any time. Provisos. Notwithstanding the foregoing to the contrary, a temporary construction office may be constructed on a building site when approved by the Architectural Control Committee as to the appearance of the structure and its location on the site. Furthermore, this Section shall not be construed so as to prohibit the erection of a temporary storage building for materials and supplies to be used in connection with the construction of a Unit, provided the Architectural Control Committee approves the appearance of the structure and its location on the site. The architectural site plan shall indicate the location of such temporary construction office and/or temporary storage building, and drawings shall reflect the appearance of same.
- 5.19.2 No structure referred to in this Section 5.19 shall be used on any Lot at any time as a residence, unless otherwise approved by the Architectural Control Committee, and only in connection with the construction of a residence on the Lot.
- 5.20 Destruction or Removal of Unit. In the event that any Unit is destroyed or removed by or for any cause, if replaced, said Unit shall be replaced with a Unit of at least similar size and type.
- 5.21 No Business Activity. No business of any kind whatsoever shall be erected, maintained, operated, carried on, permitted or conducted on the Properties, or any part thereof. Without limiting the generality of the foregoing, no store, market, shop, mercantile establishment, trading or amusement establishment, quarry, pit, undertaking establishment, crematory, cemetery, radio tower, auto camp, trailer camp or haven, hospital, public baths, school, kindergarten, nursery school, sanitarium, asylum or institution shall be erected, maintained, operated, carried on, permitted or conducted on the Properties, or any part thereof.
- 5.21.1 Provisos.

- (1) The Association's conduct of Association business on the Properties shall not constitute a violation of this Section 5.21.
- (2) Any business which qualifies as a home occupation under the applicable zoning code, if any, shall be permitted, the foregoing to the contrary notwithstanding.

5.22 Animals and Pets.

- 5.22.1 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; except that dogs, cats, pet birds and other customary domestic household pets may be kept on any Lot in reasonable numbers as pets for the pleasure and use of the occupants, provided said pets are not kept, bred or maintained for any commercial purpose.
 - 5.22.2 When outside of the Unit, all dogs must be accompanied by an attendant who shall have such dog firmly held by collar and leash, which leash shall not exceed eight (8) feet in length. No cats shall be permitted to run at large outside of the Unit. The aforesaid is subject to the nuisance provision provided for this Section 5.22 and Section 5.23 of the Declaration.
 - 5.22.3 The owner/custodian of each animal and pet and/or the individual walking same, shall be required to clean up after the pet/animal.
 - 5.22.4 The owner/custodian of the animal or pet shall remove his or her animal or pet from the HIDDEN CREEK ESTATES community when such animal or pet admits excessive noise as same may be heard outside of the Unit.
 - 5.22.5 The pet/animal owner and the Owner of the Unit involved shall be strictly liable for damages caused to the Properties within HIDDEN CREEK ESTATES by the pet/animal.
 - 5.22.6 Any pet/animal owner's right to have a pet/animal reside or visit the HIDDEN CREEK ESTATES community shall be revoked if the pet/animal shall create a nuisance or shall become a nuisance as may be determined by the Board of Directors of the Association in its sole discretion.
- 5.23 Nuisances. No nuisances shall be allowed on any of the Properties within HIDDEN CREEK ESTATES nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper residential use of the Properties by its residents. All parts of the Properties shall be kept in a clean and sanitary condition, and no fire hazard shall be allowed to exist. No Owner shall permit any use of his Lot or Unit or any other Properties which will increase the rate of insurance which the Association is obligated to or may purchase.

5.24 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Properties within HIDDEN CREEK ESTATES; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

5.25 Unightly Lots. No unsightly growth shall be permitted to grow upon any Lot, and no rubbish, refuse, garbage or other unsightly objects shall be allowed to remain thereon. In addition to any other provision contained in this Declaration, in particular, the rights of the Association pursuant to Section 3.5 and Section 8.3 of this Declaration, shall control. The Association shall, at the election of the Owner and for an agreed charge to the Owner, maintain any undeveloped Lot as agreed to so as to prevent the undeveloped Lots from becoming unsightly. Any such charge which may be agreed upon hereunder shall be deemed a Charge pursuant to Article III of this Declaration.

5.26 Boats, Trailers and Vehicles; Parking.

5.26.1 Except as allowed in Section 5.26.2 below, no truck; boat; recreational vehicle; motor home; camper; trailer; bus; all-terrain vehicle; off-road vehicle; motorcycle; moped; dirt bike; go cart; three-wheeled motorized vehicle; or any commercial vehicle of any type; and any other such motor vehicles; shall be parked or stored within the confines of HIDDEN CREEK ESTATES unless it is kept inside a Unit's garage with the Unit's garage door closed. Passenger vehicles shall only be parked on driveways and not on landscaped or non-landscaped areas of the Properties. Long term storage of unused or inoperable vehicles, outside of a garage is prohibited.

5.26.2 Exceptions to Section 5.26.1 above. The following vehicles shall not be subject to the parking restrictions contained in Section 5.26.1 above, and shall be entitled to park within HIDDEN CREEK ESTATES subject to restrictions contained in Sections 5.26.3 through 5.26.8 below:

(1) Vehicles, regardless of classification, necessary for the maintenance, care or protection of the HIDDEN CREEK ESTATES Properties, during regular business hours, and only for the time period during which the maintenance, care or protection is being provided.

(2) Service or delivery vehicles, regardless of classification, during regular business hours and only for that period of time necessary to render the service or delivery in question.

5.26.3 Classifications and Definitions.

(1) A "Passenger Vehicle" shall mean any motorized 4-wheel passenger automobiles, pickup trucks, vans and SUVs used for noncommercial purposes. All such vehicles must seat 8 or fewer passengers not including the driver.

(2) A “Commercial Vehicle” shall mean any motor vehicle or truck which has an outward appearance of being used in connection with business, such as: it displays work equipment within view and/or is commercially lettered or contains a commercial or business logo.

- 5.26.4 All motor vehicles must be maintained so as to not create an eyesore in the community.
- 5.26.5 Except in the case of safety concerns, horns shall not be used or blown while a vehicle is parked, standing in or driving through the driveways, road and/or parking areas at HIDDEN CREEK ESTATES. Racing engines and loud exhausts shall be prohibited.
- 5.26.6 Except within the Unit’s garage with the Unit’s garage door closed; no self-powered vehicle which appears to be unable to operate on its own power shall remain within HIDDEN CREEK ESTATES for more than twenty-four (24) hours, and no repair (including changing of oil) of a vehicle shall be made within HIDDEN CREEK ESTATES except for minor repairs necessary to permit removal of a vehicle.
- 5.26.7 Remedy of Towing. If upon receipt of a notification from the Association as required by Section 715.07, Florida Statutes, as amended from time to time (the vehicle towing statute in Florida), an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the HIDDEN CREEK ESTATES Properties, the Association shall have the option and right to have the vehicle towed away at the vehicle owner’s expense. By this provision, each Owner and vehicle owner provides the Association with the necessary consent to e~~a~~ffect the tow. In the event the vehicle owner refuses to pay any such costs which the Association may incur, upon demand, the Association shall have the right to levy a Charge therefor against the Lot and Owner in question, that is, the Owner for himself/herself as the owner of the vehicle or for his/her family, lessees, guests, employees, visitors, etc. as owner(s) of the vehicle (as such, the Owner is liable for the vehicles violations of his/her family, lessees, guests, employees, visitors, etc.); thereupon said Charge shall be collectible like any other Charge provided for in this Declaration and By-Laws of the Association.
- 5.26.8 Alternative/Concurrent Remedies. Whether or not the Association exercises its right to have a vehicle towed, the Association shall nonetheless have the right to seek compliance with this Section 5.26 by injunctive or other relief through the Courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation or By-Laws. The Association’s right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 5.26.
- 5.27 Subdivision of Lots. Except as may be reserved to the Developer, no Lot may be divided or subdivided into a smaller Lot, nor any portion thereof sold or otherwise transferred.

- 5.28 Energy Devices Based on Renewable Resources. To the extent that Section 163.04, Florida Statutes (in force this date), entitled “Energy Devices Based on Renewable Sources is applicable to HIDDEN CREEK ESTATES, any covenant or restriction in this Declaration which is in conflict with said Statute shall be modified to be in complete conformity with and shall yield to the provisions of said Statute, such that the conflict is removed.
- 5.29 Rules and Regulations. Reasonable regulations concerning the use of the Properties, including the Lots and Living Units, may be made and amended from time to time by the Board of Directors. Copies of such regulations and amendments thereto shall be furnished by the Board of Directors to the Owners of HIDDEN CREEK ESTATES; however, the failure of any Owner to receive same shall not affect the enforceability of same.
- 5.30 Compliance. All owners and lessees; and family members, guests and visitors of same; shall abide by each and every provision of this Declaration, the Articles and By-Laws, and every Rule and Regulation of the Association; as the aforesaid may be amended from time to time.
- 5.31 Improvement Association Documents.
- 5.31.1 The Association and each Owner shall be entitled to enforce the covenants contained herein and the Articles, By-Laws and Rules and Regulations of the Association. In connection therewith, the prevailing party shall recover all costs and paralegal and attorneys fees against the non-prevailing party. In addition hereto, the provisions of Section 3.5 shall apply.
- 5.32 Unit Height. The height of any Unit shall not be more than the lesser of two stories or thirty (30) feet in height, which is measured from the finished first floor grade to the highest point of the roof of the Unit. Chimney heights may exceed said limitation, if approved by the Architectural Control Committee.
- 5.33 Setbacks. Minimum setback requirements are as follows:
- (1) There shall be a twenty-five (25) feet front yard setback from the front property line of the Lot. In the case of corner Lots, the intersecting setback shall also be twenty-five (25) feet from the property line along the intersecting street.
 - (2) The rear yard setback shall be fifteen (15) feet and shall be directly opposite the front yard. No Lot shall be required to have more than one rear yard setback. The rear yard setback for open swimming pools for screened pool enclosures shall be ten and one-half (10 ½) feet. The rear yard setback for patio and terrace slabs and wooden pool decks shall be five and one-half (5 ½) feet.
 - (3) The remaining setbacks (other than front yard or rear yard setbacks) shall not be less than ten (10) feet each.

- (4) Except as otherwise provided for in this Declaration, and except for fences or walls which may be approved by the Architectural Control Committee, no structure of any kind shall be permitted in any building setback area, or on a property line, except that air conditioning equipment, water softeners, sprinkler controls and other similar utilitarian devices are permitted provided that they do not extend more than four (4) feet into the setback area as measured from the setback line, and provided that they are properly screened or hidden from view in a manner approved by the Architectural Control Committee. Additionally, circular and/or side-entry garage driveways are permitted in the setback area to within one (1) foot of the property line as long as permission for such is submitted and approved by the Architectural Control Committee PRIOR to installation.
- 5.34 No radio towers, satellite receivers, aircraft, recreational vehicles, boats, jet skis, engine hoists or other object that, in the good faith judgment of the Association or Improvement Association are incompatible with the Hidden Creek development, shall be located in the front or side yards, or otherwise located so that they are visible from any street within the development.

ARTICLE VI **INSURANCE**

The insurance other than title insurance which shall be carried upon the Properties of HIDDEN CREEK ESTATES and the property of the Owners shall be governed by the following provisions:

- 6.1 Association Purchase and Payment. The Association shall purchase such insurance policies with respect to the Properties, other than the Lots, as the Board of Directors of the Association shall determine from time to time to be desirable, or which shall be required by law. All such policies shall be purchased for the benefit of the Association.
- 6.2 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Article is a common expense of the Association. Notwithstanding the foregoing, any increase in the premium occasioned by misuse, occupancy, or abandonment of any Lot or Living Unit or any other Properties shall be levied against and paid by such Owner(s) as a Charge; and collectible as a Charge is collected pursuant to this Declaration and the By-Laws. Premiums may be financed in such manner as the Board of Directors deem appropriate.
- 6.3 Deductibles. The Association is hereby permitted to purchase insurance policies which contain deductibles.
- 6.4 Share of Proceeds. All insurance policies obtained by the Association shall provide that all proceeds covering property losses shall be paid to the Association. The duty of the

Association shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein.

- 6.5 Owners Covenants. Each Owner hereby covenants to maintain full casualty insurance coverage on his/her Living Unit, and (provided there is a Living Unit on the Lot) the Owner's Swale Area if obtainable. Said coverage shall include loss or damage by fire and all other hazards covered by a standard extended coverage endorsement; all perils covered by the standard "all risk" endorsement; and an inflation Guard Endorsement where obtainable. Owners may, but shall not be required, to procure insurance upon their personal property and for their personal liability and living expense and for any other risks not otherwise insured by the Association in accordance with this Article VI, and not otherwise required of the Owners by this Section 6.5; such insurance purchased at the Owners' option shall be so purchased at their own expense.

ARTICLE VII
HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC.
("IMPROVEMENT ASSOCIATION")

- 7.1 Membership; Voting Rights. Every person or entity who is a record Owner of an undivided fee interest in any Lot or who is otherwise an Owner as defined in Section 1.19 above, shall be a mandatory member of the Improvement Association, and entitled to those voting rights and other rights and obligations incident to membership in the Improvement Association, as provided for in the Improvement Association Documents.
- 7.2 Improvement Association Documents. Each Owner of a Lot (whether or not a Living Unit is constructed thereon) shall be governed and bound by the Improvement Association Documents, and valid and reasonable Rules and Regulations adopted by the Improvement Association; as same are amended from time to time.
- 7.3 Easement of Enjoyment in Common Properties. Every Owner shall have a right and easement of enjoyment in and to the Common Properties referred to in the Improvement Association Documents, subject to, including but not limited to the following:
- 7.3.1 The provisions of the Improvement Association Documents and valid and reasonable Rules and Regulations adopted by the Improvement Association; as same are amended from time to time.
- 7.3.2 The power of the Improvement Association to levy Annual Maintenance and Special Assessments against the Owners for expenses incurred by the Improvement Association in the performance of its functions and duties; pursuant to the Improvement Association Documents. Failure of an Owner to pay such Assessments shall entitle the Improvement Association to file a Claim of Lien and foreclosure proceedings against the Lot (including any Unit thereon) in HIDDEN CREEK ESTATES.
- 7.3.3 There are certain powers of the Improvement Association which apply with respect to Holley by the Sea, but which do not apply with respect to HIDDEN CREEK ESTATES: the aforesaid is covered in the Improvement Association Documents.
- 7.3.4. These Hidden Creek Covenants are intended to be read in conjunction with the Declaration of Protective Property Rights and Restrictions of Holley By The Sea and Holley By The Sea Improvement Association, Inc., as originally recorded in Official Records Book 246, Page 463, and all amendments thereto. In the event of a direct conflict between these documents that prevents giving full force and effect to both, the provision of the Hidden Creek Covenants shall apply as to architectural restrictions on design, lot size and other restrictions regarding use of the properties. As to any other conflicts, the Improvement Association Documents (as defined in Article I, Section 1.14 of these Hidden Creek Covenants) shall prevail.

ARTICLE VIII
COMPLIANCE AND DEFAULT

- 8.1 Compliance. Each present and future Owner, occupant of and visitor to a Lot and Unit, and the Association shall be governed by and shall comply with the terms of this Declaration, the Articles and By-Laws of the Association, and Rules and Regulations promulgated by the Board of Directors of the Association; as the same may be amended from time to time; and by the Statutes which apply. The Association, Developer and Owners shall be entitled to the relief specified in this Article VIII in addition to the remedies provided by Law and the Articles and By-Laws.
- 8.2 Liability. Each Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or other action or inaction or by that of any members of his family, employees, agents, lessees, service providers, sub-lessees, invitees, etc., but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association in respect of such negligence, action or inaction. Such liability shall include any increase in insurance rate(s) occasioned by the use, misuse, occupancy or abandonment of any Lot and/or Unit, or appurtenances thereto. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of right of subrogation. The expense for any maintenance, repair or replacement requirement as provided in this Section 8.2 shall be charged to said Owner and Lot as a Charge and collectible as a Charge pursuant to this Declaration and the By-Laws.
- 8.3 Enforcement.
- 8.3.1 In the event an Owner, lessee, sub-lessee, invitee, guest, service provider, etc. fails to maintain a Lot and/or Unit and/or Owner's Swale Area, or fails to cause such Lot and/or Unit and/or Owner's Swale Area to be properly maintained, or fails to observe and perform any of the provisions of this Declaration, the Articles and By-Laws of the Association, applicable Rules and Regulations, as amended from time to time, or any other agreement, document or instrument affecting the Properties within HIDDEN CREEK ESTATES or administered by the Association, in the manner required, the Association and/or Developer and/or Owner shall have the right to proceed in a court of equity to require performance and/or compliance; to sue in a court of law for damages; with the Association having the right to Charge the Owner and the Lot/Unit for the sums necessary to do whatever work is required to put the Owner or Lot/Unit/Swale Area in compliance and to collect such Charges and have a lien therefore as elsewhere provided for in this Declaration. In addition, the Association shall have the right, for itself and its employees and agents, to enter the Lot/Unit and perform the necessary work to enforce compliance with the above provisions (by force, if necessary), without having committed a trespass or incurred any other liability to the Owner. Any violations which are deemed by the Board of Directors to be a hazard to the public health may be corrected immediately as an emergency matter, (without notice and without limitation as to the particular day), by the Association, with a Charge created therefore pursuant to this Declaration and the By-Laws.

- 8.3.2 Owners are strictly responsible to ensure that their family members, agents, lessees, sub-lessees, invitees, service providers, etc. or any occupants of their Units (and Lots where applicable) comply with this Declaration, Articles and By-Laws and Rules and Regulations of the Association; as amended from time to time; and the Statutes which apply; and as such, are responsible and liable to the Association for violations of same by their family, members, agents, lessees, sub-lessees, invitees, service providers, etc. or any occupants of their Units (and Lots where applicable).
- 8.4 Costs and Paralegal/Attorney's Fees. In any proceeding arising because of an alleged failure of an Owner (for himself/herself or for his/her family members, agents, lessees, sub-lessees, invitees, service providers, etc. or any occupants of the Unit and Lot, where applicable), or the Association to comply with this Declaration, Articles or By-Laws, or the Rules and Regulations adopted pursuant to said documents, as the same may be amended from time to time, or Law, the prevailing party shall be entitled to recover the costs of the proceedings and paralegal and attorneys' fee (including appellate paralegal and attorneys' fees).
- 8.5 No Waiver of Rights. The failure of the Developer, Association or any Owner to enforce any covenant, restriction or other provision of this Declaration, or the Articles or By-Laws, or the Rules and Regulations adopted pursuant to said documents, as the same may be amended from time to time, or the Law, or the Improvement Association Documents shall not constitute a waiver of their or his or her right to do so thereafter.

ARTICLE IX

AMENDMENT OF THE DECLARATION

Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

- 9.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of the Owners' meeting at which a proposed amendment is considered by the Owners.
- 9.2 Resolution of Adoption. A resolution adopting a proposed amendment must be approved by not less than a majority of the entire membership of the Board of Directors and by not less than a majority of the voting interests of the Hidden Creek Estates lots owned by members of the Association. Hidden Creek lot owners not present in person or by proxy at the meeting considering the Amendment may express their approval in writing, providing such approval is delivered to the Secretary within the time required by the By-Laws for the delivery of a Proxy for Owners' Meetings. Directors not present at the Board meeting at which the Amendment is considered may express their approval in writing, providing such approval is delivered to the Secretary within the time required by the By-Laws for the delivery of a Proxy for Owners' Meetings.

- 9.3 Execution and Recording. A copy of each Amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the President (or Vice-President) and Secretary (or Assistant Secretary) of the Association with the formalities of a deed. The Amendment shall be effective when such certificate and a copy of the Amendment, together with joinder of any consents required in this Declaration, are recorded in the Public Records of Santa Rosa County, Florida.
- 9.4 Amendment Concerning Termination. Article X and this Article 9.4 of this Declaration shall not be amended without the consent of seventy-five (75%) percent of the voting interests of the Members of the Association.

ARTICLE X

TERMINATION OF THE DECLARATION

This Declaration may be terminated at any time within a six (6) month period of time prior to the end of any renewal date as referred to in Section 12.1 below, by a written instrument signed by the owners of not less than seventy-five (75%) percent of the Lots indicating intention to terminate this Declaration. Such instrument together with all signatures and consents must be recorded in the Public Records of Santa Rosa County, Florida to be effective and binding. In the event there is any inconsistency between this Article X and any provisions contained in this Declaration regarding amendment of same, the procedures contained in this Article X with regard to termination of this Declaration shall control over the procedures contained in any amendment provisions in this Declaration.

ARTICLE XI

COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration, the Articles, By-Laws and applicable Rules and Regulations of the Association 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 HIDDEN CREEK ESTATES Properties 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 Developer and subsequent Owner(s) of Properties within HIDDEN CREEK ESTATES or any part thereof, or interest therein, and their respective heirs, personal representatives, 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. The acceptance of a deed or conveyance, or agreement for deed, or the entering into of a lease, or the entering into occupancy of or visitation to any Lot/Unit, shall constitute an adoption and ratification by each present and future Unit Owner, lessee, sublessee, occupant or visitor of the provisions of this Declaration, and the Articles, By-Laws and applicable Rules and Regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained therein.

ARTICLE XII
MISCELLANEOUS PROVISIONS

- 12.1 Duration. This Declaration of Covenants and Restrictions and any duly adopted and recorded amendment shall run with and bind the Properties for a period of not less than thirty (30) years from the date hereof, at which time said Declaration, as it may be amended, shall be renewed for successive periods in accordance with Florida Statutes, Chapters 720 and 712, as amended from time to time.
- 12.2 Notices. All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by overnight mail service or certified mail (return receipt requested) to the Association, 6845 Navarre Parkway, Navarre, Florida 32566 or to such address as the Association may hereafter designate from time to time by notice in writing to the Owners. Unless otherwise provided by this Declaration or the By-Laws, all notices to any Owner shall be sent by first class mail or hand delivery to the address of the Lot, unless such other address shall have been designated by him from time to time, in writing, to the Association, or by another means approved by Florida Statute, Chapter 720, as amended from time to time. All notices to mortgagees of Lots shall be sent by first class mail, overnight mail service or by hand delivery to their respective addresses, or such other address as may be designated by them from time to time in writing to the Association.
- 12.3 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of the Declaration and Articles and By-Laws. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 12.4 Taxes, Assessments and Charges. All taxes; assessments and charges which may become liens prior to a mortgage encumbering a Lot shall relate only to the Lot and not to HIDDEN CREEK ESTATES as a whole.
- 12.5 Mortgagees. Anything to the contrary herein notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Lot under any of the provisions hereof, and may assume the Lot is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.
- 12.6 Priorities in case of conflict. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:
- 12.6.1 Florida Statutes which apply
- 12.6.2 This Declaration
- 12.6.3 Declaration of Protective Property Rights and Restrictions of Holley By the Sea and Holley By the Sea Improvement Association, Inc.

12.6.4 The Articles

12.6.5 The By-Laws

12.6.6 The Rules and Regulations of the Association

12.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Articles, By-Laws and/or Rules and Regulations of the Association, as the same may be amended from time to time, shall not affect the validity of the remaining portions hereof or thereof, all of which shall remain in full force and effect.

12.8 Invalidity. In the event any court shall hereafter determine that any provisions of this Declaration as originally drafted, or as amended, violates the rule against perpetuities or any other rules of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law, and for such purpose measuring life shall be that of the incorporator of the Association.

12.9 Ratification. Each Owner; by reason of having acquired ownership (whether by purchase, agreement for deed from the Developer, gift, operation of law or otherwise), and each occupant of a Lot and Unit, by reason of his occupancy and each visitor to a Unit, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable Rules and Regulations, are fair and reasonable in all material respects.

12.10 Captions. The captions in this Declaration are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of this Declaration.

12.11 Notice of Lien or Suit.

12.11.1 Notice of Lien. An Owner shall give notice to the Association of every lien upon his Lot other than for permitted taxes and special assessments within five (5) days after the attaching of the lien.

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

12.11.3 Failure to comply with this Section 12.11 will not affect the validity of any judicial sale.