



**RESOLUTION FAIRWAYS HOA 2023-007**  
**INITIATE A VOTE TO ADOPT AMENDED AND RESTATED FAIRWAYS DECLARATION**  
**OF PROTECTIVE COVENANTS AND RESTRICTIONS**

**Whereas** the affairs of Fairways Homeowners Association, Inc., shall be managed by a Board of Directors

**Whereas** the hierarchy of controlling documents presiding over the of the Association are Federal and Florida Statutes, the recorded plat, the Fairways Declaration of Protective Covenants, and Restrictions (the Declaration), the Articles of Incorporation of the Association (Articles), the Bylaws, Rules and Regulations, and Resolutions.

**Whereas** the Fairways Declaration authorizes its amendment in Article XIV, Section 6 stating, *“This Declaration may be amended by a vote of 2/3 of the Lot Owner's at a meeting of the Association which has the proposed amendment as a scheduled item upon the agenda.”*

**Whereas** the Board of Directors has the responsibility to act with the highest degree of good faith and to place the interests of the parcel owners above the personal interests of the directors.

**It Is Hereby Resolved,**

- 1) The Association acting through its current Board of Directors does hereby declare the preservation and protection of the owners investments and providing a common framework for neighbors throughout the community is in the owners best interest.
- 2) Therefore, the Board hereby resolves that the attached draft Amended and Restated Fairways Declaration of Protective Covenants and Restrictions shall be placed on the next Annual Owners Meeting agenda for a vote of the members with the Board’s recommendation that the owners’ adopt said amendment, and upon an affirmative vote by the requisite by the members for adoption; said amendment will be adopted and caused to be filed in the Official Records of Bay County.

**Be it Therefore Resolved** that the Board of Directors at a duly called meeting held on September 7, 2023, did pass this Resolution by affirmative vote of all Board members present.

Fairways Homeowners Association at Bay Point, Inc.



By: \_\_\_\_\_  
Robert A. Fletcher  
President

**AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS  
FOR  
THE FAIRWAYS**

**SUBSTANTIAL REWORDING OF DECLARATION -  
SEE CURRENT DECLARATION OF COVENANTS FOR PRESENT TEXT<sup>1</sup>**

For the purpose of enhancing and protecting the value, attractiveness and desirability of the Parcels, this Community was created by a Declaration of Covenants and Restrictions for The Fairways recorded on November 23, 1993, in O.R. Book 1467, Page 1742 *et seq.*, Public Records of Bay County, Florida, as amended from time to time. The Community is further described in the legal description contained in Exhibit "A." All real property in the Community shall be held, owned, sold, transferred, conveyed, and occupied subject to the covenants, conditions and restrictions hereinafter set forth, which shall be binding upon persons having any right, title, or interest in or to the subject real property, and their heirs, successors and assigns and shall constitute covenants running with the land.

No additional land is being added to the Community by this instrument and no land is being removed by this instrument. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners. The acquisition of title to a Lot or any other ownership interest in the Community, or the lease, occupancy, or use of any portion of a Lot in the Community, constitutes an acceptance and ratification of all provisions of this Declaration and the Governing Documents, as amended from time to time, and an agreement to be bound by their terms. No recorded easements to or from third parties or other binding agreements are intended to be impaired by the recording of this Declaration.

**ARTICLE I**  
**MUTUALITY OF BENEFIT AND OBLIGATION**

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors, and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and

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<sup>1</sup> FS 720.306 (1)(6)(e)

shall be entitled to its benefits and subject to its burdens.

## **ARTICLE II DEFINITIONS**

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Act or Homeowners' Association Act.** Means Chapter 720 Florida Statutes, as it now exists or as it may be amended from time to time including the definitions therein contained. However, except when specific incorporation of the Act or its procedures are set forth in the Governing Documents, it is the intention of this Declaration that the Community and Association be operated in conformance with the law as it existed when the Community was created to the extent necessary to avoid impairment contract rights or vested rights or the invalidity of any provision of this Declaration or future amendments thereto.

Section 2.2 **Annual Assessments.** Means the annual assessments levied by the Association against all Owners, used for the purposes of operational expenses, management and accounting fees, taxes, insurance, utility charges and other expenses relating to the Common Area, to fund the obligations of the Association to provide common services to the Owners, and for all other purposes reasonably contemplated by this Declaration, the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association is or may become a party.

Section 2.4 **ARC.** Means the Architectural Review Committee appointed by the Board for the purpose of reviewing proposed construction and improvements within the Community.

Section 2.5 **Articles.** Means the Articles of Incorporation of the Association, as the same are amended from time to time.

Section 2.6 **Association.** Means the Fairways Homeowners Association at Bay Point, Inc., a Florida Corporation not-for-profit and its successors and assigns.

Section 2.7 **Board.** Means the Board of Directors of the Association.

Section 2.8 **Bylaws.** Means the Bylaws of the Association, as the same are amended from time to time.

Section 2.9 **Charge.** means any legal or equitable indebtedness or monetary obligation of an Owner to the Association, or other sums owed to or due to the Association from an Owner, or any cost or expense incurred by the Association on behalf of or because of an Owner, other than Assessments for Common Expenses, which the Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Governing Documents.

Section 2.10 **Committee.** Means a group of Board members, Owners, or Board members

and/or Owners and/or other persons appointed by the Board to make reports or recommendations to the Board, to take action on behalf of the Board, or to take such actions as the resolution creating the Committee may dictate.

Section 2.11 **Common Area**. All real property located within or adjacent to the Property, if any, which is owned by the Association, and which has designated for the common use of the Owners by recording a Supplementary Declaration pursuant to the terms of this Declaration.

Section 2.12 **Common Expenses**. Means the expenses incurred by the Association in the course of performing its duties under the Governing Documents and the law. Common Expenses of the Association include the costs of operating to the extent required, the costs of administration, maintenance, operation, repair and replacement of the Common Areas which are the responsibility of the Association, other expenses declared by the Governing Documents to be Common Expenses, and any other valid expenses or debts of the Association which are assessed against the Owners, including, but not limited to, the provision of services and personnel affiliated with same. The expenses of Communications Services are specifically considered a Common Expense, if so, designated by the Board. Common Expenses also include participating in governmental proceedings or otherwise contesting the development or use of property outside the Community, where the Board finds a nexus to the value of real property in the Community.

Section 2.13 **Declaration**. This instrument, and any exhibits annexed hereto, as amended, or supplemented from time to time in accordance with the provisions hereof. This is the Declaration to which the Articles and Bylaws make reference.

Section 2.14 **Golf Course**. Any golf course or related facility located on or adjacent to the Property and owned by other the BCPA or the Association.

Section 2.15 **Governing Documents**. means and includes this Declaration, the Articles, the Bylaws, Rules, and Regulations, as amended from time to time. Unless provided by the Act, there shall be no obligation to record the Rules and Regulations in the Public Records of Bay County, Florida.

Section 2.16 **Improvement**. Means any component built on, added to, or constructed on a Lot, whether or not permanently affixed to the land, including, but not limited to, swimming pools, spas, fences, and recreational equipment or apparatus.

Section 2.17 **Lien for Charges**. Means a claim of lien which is recorded upon real property located within the Community to secure a Charge.

Section 2.18 **Lot**. Means one (1) or more of the platted portions of land within the Community, upon each of which a single-family residence which has been constructed, or is intended to be constructed, as designated by the respective Plat. No Lot shall include any portion of the Common Area owned by the Association.

Section 2.19 **Maintenance**. shall mean, unless the context of a provision in the Governing Documents requires otherwise, the required cleaning, heavy cleaning, painting where applicable, routine maintenance, ongoing maintenance, preventative maintenance, as well as repair or replacement. Whenever an Owner is obligated by the Governing Documents or law to maintain, repair, or replace portions of the Community, the Association shall have the authority to establish reasonable standards for such maintenance, repair, or replacement.

Section 2.20 **Member**. A member of the Association.

Section 2.21 **Owner**. The record title owner or owners of any Lot or Building Site.

Section 2.22 **Plat**. Means all legal descriptions, site plans, surveys, and graphic depictions of record describing the Property. All Plats of record are incorporated by reference whether or not attached or separately described. The Plats may not reflect the actual configuration or use of the Property, as deviations from original as-built conditions or uses may have been made over time.

Section 2.23 **Private Amenities**. There are certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Property which are privately owned and operated by persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and may include without limitation, a Golf Course and related facilities, if any, which is so located and all related and supporting facilities and improvements.

Section 2.24 **Property or Community**. Means the real property described on the attached Exhibit "A" constituting The Fairways, and such additions thereto as may be made in accordance with the provisions of this Declaration.

Section 2.25 **Public Records**. The public records of Bay County, Florida, maintained by the Clerk of the Circuit Court in and for Bay County, Florida.

Section 2.26 **Rules and Regulations**. Mean the rules and regulations of the Association, adopted in accordance with this Declaration and the Bylaws.

Section 2.27 **Special Assessments**. A special assessment levied by the Association for only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair, or replacement of any capital improvement or repair upon or to the Common Areas or for the purpose of defraying known expenses which exceeded or when mature will exceed, the budget prepared and on which the Annual Assessments were based.

Section 2.28 **Specific Assessments**. An assessment against an Owner's Lot or Building Site for a violation of this Declaration, or the Rules and Regulations. A Charge can be a Specific Assessment if the Association incurs costs relating to the violation or remedying thereof.

Section 2.29 **Surface Water or Stormwater Management System**. A system which is designed and constructed or implemented within the Property to control discharges which are

necessitated by rainfall events, incorporating methods to collect, convey or reuse water to prevent or reduce flooding.

### **ARTICLE III - PROPERTY AND ADDITIONS**

The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration consists of that land situated in Bay County, Florida, as is more particularly described in Exhibit 'A' attached hereto, depicted in plat of the Fairways Subdivision, and any lawful addition(s) thereto.

### **ARTICLE IV - ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership. Every Lot Owner within the Property shall be a Member of the Association. Membership shall be mandatory, and all Members of the Association shall be governed and controlled by the Articles, By-Laws, and rules and regulations of the Association in addition to this Declaration.

Section 2. Voting. Each Lot shall be entitled to cast only one vote for each Lot owned. When any owner(s) of record are the name of two (2) or more persons or entities(s), whether fiduciaries or in any other manner of joint or common ownership or interval ownership of a single Lot, one and only one of such persons who shall be designated by such joint owners or interval owners as they, among themselves, determine shall become the member entitled to cast said lot's vote. Under no circumstances shall the number of votes attributable to such property be increased. Where a partnership, corporation or their entity is a Member, such Member shall designate a representative of such partnership or corporation or other entity to be the member entitled to vote.

Section 3. Governance. The Association shall be governed by a Board of Directors consisting of members to be elected or appointed as provided in the Articles and By-Laws.

### **ARTICLE V - FUNCTIONS OF ASSOCIATION**

Section 1. Functions and Services of Association. The Association shall provide the following serves to its Members to the extent permitted by law:

- (a) Maintenance of all Common Property to include but not be limited to roadways (if owned by the Association), signage, entryways, medians, easements and storm water easements, and maintenance and care of any endangered species of plants which are on the Common Property;
- (b) Insuring that at all times that the Common Property remain available for use by Lot owners and is maintained in the manner required of all lots;
- (c) Garbage and trash collection and disposal;

(d) Administrative services, including legal, accounting, and financial services to the Association;

(e) Provision for liability and hazard insurance covering improvements and activities on the Common Properties;

(f) Payment of taxes assessed against Common Properties and, upon request of an Owner or institutional mortgagee, furnishing evidence of such payment.

Section 2. Delegation of Services of the Association. The Association acting through its Board of Directors shall be authorized to cause any of the services described in Section 1 of this Article to be provided by a private company, public agency, or publicly regulated authority or agency which in the opinion of the Board shall make such services available in a reasonable manner and for a reasonable cost to the Association and its Members.

Section 3. Acceptance of Property. The Association shall accept the conveyance of the Common Property (if any), excluding the roadways and right of way, and hold title thereto.

## **ARTICLE VI - ASSOCIATION ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Lot Owner shall be deemed to covenant and agree to all the terms and provisions of this Declaration and agrees to pay to the Association:

(a) Annual Assessments; and

(b) Special Assessments for the purposes set forth in this article, such Assessments to be fixed, established, and collected from time to time as herein provided.

The annual and special Assessments, together with such interest hereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the real property and improvements against which such Assessments are made. Each such Assessment, together with such interest and costs of collection, shall also be the personal obligation of the person who was the owner of such real property at the time when the Assessment first became due and payable. In the case of co-ownership of a Lot, all such co-owners shall be jointly and severally liable for the entire amount of the assessment, together with such interest and costs of collection.

Section 2. Purpose of Assessment. The annual Assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement, management, and operation of the Common Properties and to provide any of the functions or services of the Association.

Section 3. Basis for Assessment. The Board of Directors shall annually levy the annual Assessment. The Board of Directors, by majority vote, shall fix the annual Assessment in accordance with the provisions of this Section at such level as may be necessary to meet the

essential and allowable functions of the Association and the anticipated expenditures as reflected in the budget.

The annual Assessment shall be billed at such times as the Association shall direct. All Assessment bills shall be due and payable fifteen (15) days from the date of the mailing of same.

Section 4. Special Assessments for Improvements and Additions. In addition to the regular and annual Assessment authorized by Section 3 hereof, the Board of Directors may levy special assessments for the following purposes:

- (a) For construction or reconstruction, repair, or replacement of capital improvements upon the Common Properties including the necessary fixtures, landscaping and personal property related thereto;
- (b) For additions to the Common Properties;
- (c) To provide for the necessary facilities and equipment to offer the services authorized herein;
- (d) To repay any loan made by the Association to enable it to perform the duties and functions authorized herein whether such loan shall be made in the year of such Assessment or any prior.
- (e) For any other such legitimate purpose which is consistent with this Declaration or the Articles and By-Laws.

Section 5. Reserve Funds. The Board of Directors may establish reserve funds from the regular annual Assessments to be held as reserves for:

- (a) Major rehabilitation or major repairs;
- (b) Emergency and other repairs required resulting from storm, fire, natural disaster, or other casualty loss; and
- (c) Initial cost of any new service to be performed by the Association.

Section 6. Levy of Assessments. The Association has the power to and shall fix, determine, and levy the assessments necessary to provide funds for carrying out its responsibilities. Assessments shall be made against Lot Owners in the Property at such times and in such amounts as shall be determined by the Board of Directors. The Association has no control over the assessments made by the Master Association.

Section 7. Delinquent Assessments. Assessments that are unpaid for over ten days after the due date shall bear interest at the rate of eighteen percent (18%) per annum, or the highest allowed under the Act, until paid. In addition, in the sole discretion of the Board of Directors, the association may also charge an administrative late fee not to exceed the greater of twenty-five



dollars (\$25) or five percent (5%) (or the maximums allowed under the Act), of the amount of each installment that is paid past the due date.

Section 8. Lien. The Association shall have a lien against each Lot for unpaid assessments and late charges together with interest thereon. Reasonable attorney's fees incurred by the Association in the collection of the assessment or the enforcement of the lien, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association to preserve and protect its lien, shall be payable by the Lot owner and secured by such lien. The Association shall have the right to file its lien in the Public Records of Bay County, Florida. Lot Owners shall be personally liable for unpaid assessments together with interest, fees, costs of collection and reasonable attorneys' fees at the time when the assessment first becomes due and payable. In the case of co-ownership of a lot, all co-owners shall be jointly and severally liable for the entire amount of the assessment with interest, fees, costs of collection and reasonable attorneys' fees at the time when the assessment first becomes due. The Association may take such action as it deems necessary to collect assessments either by personal action against the owner or by enforcing and foreclosing said lien, or by exercising both remedies.

The provisions of this apply to purchasers at foreclosure sale or to Mortgagees obtaining title by foreclosure sale or by acceptance of a deed in lieu of foreclosure. Such acquirers, their successors, and assigns, shall be liable for any assessments levied prior to their acquisition of title.

Section 9. Assignment. If the Association shall contract away its responsibilities and duties under this paragraph, then any such contractor, assignee, or successor to the Association shall succeed to the rights, duties, and obligations granted under this paragraph.

Section 10. Annual Statements. The Association shall annually, within ninety (90) days after the close of the fiscal year of the Association, prepare and execute a general itemized statement showing the actual assets and liabilities of the association at the close of such fiscal year, and a statement of revenues, costs, and expenses for such year. The Association shall furnish to each Member of the Association who may make a request a copy in writing a copy of such statement within thirty (30) days after receipt of such request electronically or via link to the community website. The relevant financial books and records of the Association shall be made available to a parcel owner for inspection or photocopying within forty-five miles of the community or within the county in which the association is located within 10 business days after receipt by the Board or its designee of a written request. Such inspection shall be conducted during normal business hours of the Association.

Section 11. Annual Budget. The Board of Directors shall prepare, adopt, and make available to all members, at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year.

Section 12. Allocation, Apportionment, and Investment. The Board of Directors shall not be required to allocate or apportion the funds collected or the expenditures therefrom, between or among owners of property then subject to this Declaration nor shall the Board of Directors be required to allocate or apportion the funds collected pursuant to this Declaration or expenditures therefrom between the various purposes specified in this Declaration and the judgment of the Board of Directors as to the expenditures of said funds shall be final.

**ARTICLE VII - Effect of Non-Payment of Assessment: Lien. Personal Obligation, and Remedies of Association.**

Section 1. Assessments for Common Expenses and Charges and installments thereof, with interest thereon and costs and expenses of collection, including reasonable attorneys' fees and costs incurred in attempting to collect said Assessments or Charges before suit or after the filing of suit, at the trial level, appellate level or otherwise, are hereby declared to be a continuing lien upon the real estate parcel against which such Assessments or Charges are made. Each Assessment or Charge against a real estate parcel, together with interest thereon at the highest rate allowed by law, late fees, and costs and expenses of collection thereof, including attorneys' fees, shall be the personal obligation of the Owner thereof assessed or charged and shall be the joint and several liability of all Owners thereof in accordance with the Act. Except as provided below, any person or entity which acquires title to real estate in the Community, including a purchaser at a judicial sale, shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his/her/its share of the Charges and Assessments, including attorneys' fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The lien shall set forth the assessments due to the Association as of the date the lien is signed and shall be acknowledged by an Officer or agent of the Association. The lien shall secure additional assessments that become due, as well as interest, late fees, attorney fees, and other costs and expenses of collection that are due and become due after recordation of the lien. Upon recordation in the Public Records of Bay County, Florida, the lien shall relate back to the date of recording the original Declaration, except as to the first mortgages of record. As to first mortgages of record, the Association's lien is only effective from and after recording of a claim of lien against the real estate described in the claim of lien. Upon full payment of all sums secured by the lien and costs and fees accrued, the party making payment shall be entitled to a recordable satisfaction of lien. If any first mortgagee or other Person, Persons or entity obtains title to a Lot as a result of a foreclosure of a first mortgage or a deed is given in lieu of foreclosure of a first mortgage of record, such acquirer of title, shall be liable for the share of Assessments or Charges pertaining to such Lot or Unit or chargeable to the former Owner, and which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu of foreclosure of said first mortgage of record as provided in the Act.

Section 2 Remedies for Delinquency. In the event any Owner fails to pay Assessments, or any installment thereof, charged to the Lot ten days after the same becomes due an administrative late charge as provided by law or twenty-five dollars (\$25) or five percent (5%) of the installment, whichever is more, shall become due along with interest at the maximum rate permitted by law, and the Association, through its Board, shall have, but not be limited to, the following remedies:

- 2.1 To accelerate the entire amount of any assessments for the remainder of the calendar year, notwithstanding any provisions for the payment thereof in installments.
- 2.2 To advance on behalf of said Owner funds to accomplish the needs of the Association. The amount or amounts of money so advanced, including attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said Owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.
- 2.3 To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property or as otherwise provided by law.
- 2.4 To file an action at law to collect said assessments, plus interest at the highest rate allowable by law plus court costs, without waiving any lien rights and/or rights of foreclosure by the Association.
- 2.5 The Association may apply to a court of competent jurisdiction, either in connection with the institution of a foreclosure suit, a personal suit, or otherwise to have rental proceeds of a Lot in default paid directly to the Association, the court registry, or a receiver, as the court may direct.
- 2.6 The Association may choose any of these courses of action, as the Board deems appropriate, without same constituting a waiver or election of remedies.
- 2.7 Payments received after the due date established by the Board shall be applied first to interest, late fees, costs, and attorney fees and then to the principal owed regardless of any restrictive endorsement included with the payment.

Section 3. Estoppel Certificate. No Owner may sell or convey his interest in a Lot unless all sums due the Association and the Master Association are paid in full and an estoppel certificate in recordable form indicating such; has been received by the Owner. If all such sums have been paid, the Association shall deliver such certificate within ten (10) days of a written request thereof. The selling Owner requesting said certificate may be required by the Association to pay

to the Association a reasonable sum to cover the costs of examining records and preparing the certificate as provided by the Act.

### **ARTICLE VIII - MASTER ASSOCIATION**

Section 1. Each owner of any portion of the Property shall be a member of the Master Association, subject to the terms of the Master Association Articles of Incorporation, By-Laws, and rules in as much as said rules are not more restrictive than those cited in the act. The Master Association represents all the owners of parcels of property in the Overall Bay Point Project and its members are those persons designated in the Articles of Incorporation and By-Laws of the Master Association.

- (a) The Master Association is entitled to place a lien upon a Lot for any unpaid Master Association assessment.
- (b) Notwithstanding anything herein to the contrary, this Declaration shall not be amended in a manner to affect the rights of the Master Association as applicable under the "Homeowners' Association Act." without the written approval of the Board of Directors of the Master Association. Any such approval shall be evidenced by a recordable instrument executed by the President and attested by the Secretary of the Master Association.

### **ARTICLE IX - MASTER ASSOCIATION ASSESSMENTS**

Section 1. Levy of Assessment. The Master Association has the power to and shall fix, determine, and levy the assessments necessary to provide funds for carrying out its responsibilities. Assessments shall be made against Lot owners in the Property at such times and in such amounts as shall be determined by the Board of Directors of the Master Association.

Section 2. Delinquent Assessments. Assessments that are unpaid for over ten days after the due date shall bear interest at the rate of 18 percent per annum until paid. In addition, in the sole discretion of the Board of Directors of the Master Association, a late charge in an amount as set from time to time may be assessed for each payment delinquent over ten days.

Section 3. Lien. The Master Association shall have a lien against each Lot for unpaid assessments and late charges together with interest thereon, except that such lien shall be subordinate to prior recorded liens held by mortgage(s). Reasonable attorney's fees incurred by the Master Association in the collection of the assessment, or the enforcement of the lien shall be payable by the Lot owner and secured by such lien. The Master Association shall have the right to file its lien in the Public Records of Bay County, Florida. Lot Owners shall be personally liable for unpaid assessments together with interest and costs of collection at the time when the assessment first becomes due and payable. In the case of co-ownership of a lot, all co-owners

shall be jointly and severally liable for the entire amount of the assessment. The Master Application may take such action as it deems necessary to collect assessments either by personal action against the Owner or by enforcing and foreclosing said lien, or by exercising both remedies.

The provisions of this Section do not apply to purchasers at foreclosure sale or Mortgagees obtaining title by foreclosure sale or by acceptance of a deed in lieu of foreclosure. Such acquirers, their successors, and assigns, shall remain liable for any assessments levied prior to their acquisition of title.

Section 4. Assignment. If the Master Association shall contract away its responsibilities and duties under this paragraph, then any such contractor, assignee, or successor to the Master Association shall succeed to the rights, duties, and obligations granted under this paragraph.

#### **ARTICLE X - EASEMENTS**

Each of the following easements is hereby created and is declared to exist as a covenant running with the Property, and notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended use and purpose:

Section 1. Easement to Correct Stormwater Drainage. The Master Association hereby reserves a blanket easement and right on, over and under the ground within the Property to maintain and to correct drainage of surface water and other erosion controls to maintain reasonable standards of health, safety and appearance in the road right-of-way and drainage easement(s) as depicted in Exhibit "A" and any amendment thereto recorded in the official records of Bay County.

Section 3. Perpetual Non-exclusive Easement in Common Property and Roadway rights-of-way. Subject to the provisions of this Declaration, the rules and regulations of the Association, any fees or charges established by the Association, and any prior use of rights granted in the Common Property, the Common Properties shall be and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all the Lot Owners in the Property for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of the owners.

#### **ARTICLE XI - ARCHITECTURAL CONTROL**

Section 1. No building of any kind (including without limitation a dwelling, or any part thereof, whether such part be a porch, veranda, garage, carport, or other) shall be erected or placed on any lot such that said building, as defined herein, shall extend over the front side or rear building restriction lines established hereinafter; provided, however, that eaves and cornices may project not more than four (4) feet beyond any such building restriction line, equipment for air conditioning of any such building may project not more than five (5) feet over such side building restriction line, and entertainment areas may be no closer than ten (10) feet from the back of the Lot. The front, rear, and side building restriction lines are hereby established as follows: front and back - twenty (20) feet; each side - ten (10) feet. Any residence constructed upon any Lot shall contain the following minimum square footage: one-story residence - minimum 1800 square feet heated and cooled; two-story residence - first floor total minimum fifteen hundred (1500) square feet heated and cooled, second floor total minimum six hundred (600) square feet heated and cooled.

Section 2. All landscape plans, all plans, and specifications for all buildings, and for all walls, fences, hedges, i.e., all structures of whatever kind or nature and all landscaping, and for any replacement or major repair of existing structures and landscaping, must be presented to and approved by the Architectural Review Committee and/or Board prior to the commencement of any construction. All construction must be accomplished by a contractor licensed to build in the State of Florida and the County of Bay. Plans, specifications, and drawings which must be submitted for approval shall be those that shall be designated by the Architectural Review Committee and/or Board from time to time and shall include but not be limited to the following: (a) an accurately drawn and dimensional plot plan showing all structures, easements, drives, and walks in relation to setback lines; (b) foundation plans, floor plans, exterior elevations of structures as they will actually appear after all back filling and landscaping is completed; (c) samples of all materials such as brick, siding, as well as all exterior color schemes; (d) landscape schematic.

After approval, and prior to the commencement of construction, all structures and driveways must be staked out on the lot and such site location must be approved by the Architectural Review Committee and/or Board prior to grading and removal of existing natural foliage and vegetation.

Section 3. Construction may not begin before a letter of approval is issued to the lot owner by the Architectural Review Committee and/or Board. Normally there will be action taken on the requested submittal by the Architectural Review Committee and/or Board to approve or disapprove within a forty-five (45) day period. It remains the Lot owners responsibility to obtain approval regardless of the amount of time passed since submittal.

## **ARTICLE XI - USE OF PROPERTY**

Section 1. Each Lot within the Property shall be used, improved, and devoted exclusively to residential use.

Section 2. No residential structure shall be erected or permitted to remain on any lot on the Property other than one single-family dwelling not to exceed forty (40) feet in height. Without the prior approval of the Architectural Review Committee and/or Board, no outbuildings or other buildings detached from the dwelling shall be permitted on the Property. All garages or carports on the Property shall be attached to the dwelling.

Section 3. No drives, walks, fences, or walls shall be placed, erected, constructed, or moved onto any lot on the Property prior to the erection or construction of a permanent residence dwelling thereon, provided, however, that such drives, walks, fences, or walls may be erected and constructed on any such lot or plot simultaneously and in conjunction with the erection of a permanent residence thereon.

Section 4. Signs. No signs of any type whatsoever shall be permitted upon a Lot, including without limitation signs advertising the Lot and/or Residential Dwelling Unit for sale, except a sign of material and size approved by the Association containing the address and/or the Owners' name. All signs of whatever nature, whether temporary or permanent, proposed to be placed upon the Lot, shall first be approved by the Architectural Review Committee and/or Board as to size, design, content, and point of placement. The Association is not required to approve any sign except as provided in the Act.

Section 5. Mailboxes. No mailbox or paper box or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected or located on any Lot.

Section 6. Antennas or Satellite Dishes. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Lot or improvement thereon, except to the extent such a restriction is prohibited by law. The Association may establish rules that are as stringent as allowed under 47 CFR § 1.4000, or other similar provisions of law limiting the authority of the Association to restrict the installation, maintenance, or use of antennas, satellite dishes, or similar equipment. The Association may adopt rules requiring that an Owner demonstrate that a restriction on the use of such equipment precludes the reception or transmission of an acceptable quality signal, and may charge such fees as are allowed by law.

Section 7. Solar Panels. Solar collection panels shall be permitted upon Lots, and improvements thereon, provided that they be installed by licensed contractors in accordance with applicable building code requirements and approved by the ARC and Board.

Section 8. Construction. During construction, all vehicles involved, including those delivering supplies, must enter the Lot on the driveway only so as not to unnecessarily damage street paving and curbs. During construction builders must keep the homes, garages, and building sites clean. All building debris must be removed from each building lot by the builder as often as necessary to keep the house and lot attractive. Such debris will not be dumped in any area other than the construction receptacle(s) provided for said construction.

Section 8. Yards. All turfgrass areas on any Lot in the Property must be sodded and must be equipped with an underground sprinkling system for watering purposed, all of which shall be completed prior to 12 months from issuance of Letter of Approval by the Architectural Review Committee and/or Board referenced herein. Once in place, the owner must maintain all landscaping, including watering, cutting, edging, weed control, clipping, and trimming. Should Owner fail to so maintain the yard, the Association may do so, and the reasonable expenses thereof shall be paid by such Owner to the Association within thirty (30) days after the date on the bill provided. Failure to pay said costs will result in the amounts becoming an assessment against the lot and subject to the applicable action(s).

Section 9. Completion of Construction. Upon breaking ground for the construction of any building has begun, work thereon must be prosecuted diligently and continuously and must be completed within twelve (12) months of issuance of Letter of Approval by the Architectural Review Committee and/or Board referenced herein.

Section 10. Clotheslines. Clotheslines must be retractable, extended only when in use and at the rear of the home screened from street view.

Section 11. Trash Receptacles. Garbage and recycling receptacles shall be in complete conformity with all applicable sanitary regulations. Trash and recycle bins must stay out of street view. They may be stored on the side of your home if they are screened from street view and golf course view of the lot lines behind the property if extended as a continuation of said side lot line on to the golf course. The trash and recycle bins may not be put at the curb any earlier than 6 pm, the evening prior to pick up and must be put back, out of view, no later than 6 pm the day of pick up.

Section 12. Trailers, RV's, and Boats. No trailers or habitable motor vehicles of any nature shall be kept on or stored on any Lot or any part of the Property, no commercial trucks of any nature shall be parked overnight on any Lot, no boats, canoes and or other watercraft whether on or off trailers may be parked on any part of the Property unless inside an enclosed garage. (Note, for loading and preparation for use of a boat of habitable RV this may be allowed not to exceed three days.)



Section 13. Water Pumps. No individual potable water supply system shall be permitted anywhere upon the Property, all potable water shall be supplied by the city of Panama City Beach. Wells for irrigation must be approved by the Architectural Review Committee and/or Board.

Section 14. Mining. No oil drilling, oil-development operations, oil refining, quarrying, or mining operations of any kind, nor oil, gas, or mineral exploration activity, shall be permitted anywhere upon the Property.

Section 15. Pets. Pets may be kept by an owner of a Lot but only if such pets do not cause a disturbance or annoyance to other Owners. All dogs must be held, kenneled, or kept leashed when outside unless contained by the owners approved fencing on their lot. All owners of pets shall be held strictly responsible to immediately collect and properly dispose of the waste and litter of his or her pets. The Association reserves the right to remove from the Property any pets which create disturbances and annoyances which are to the reasonable displeasure of neighbors or other Owners.

Section 16. Nuisance. No Owner will do or permit to be done any act upon his Lot which may be or is or may become a nuisance to any Owner of resident. There shall be no discharging of firearms, guns, or pistols, of any kind, caliber, type, or any method of propulsion, and no hunting of any type shall be permitted on the Property.

Section 17. Additional Covenants and Restrictions. The Association may include in any deed hereafter made to any portion of the Property, any additional covenants and restrictions that are consistent with the Homeowners' Association Act and which do not lower the standards of the Covenants and Restrictions set forth herein.

Section 18. Unimproved Lots. The Owner, from time to time, of each lot, prior to commencement of the erection of any residence on such lot, shall cut, or cause to be cut, and keep cut or cause to be kept cut, all weeds and brush on such lot and shall remove any resulting debris. The owner shall remove weeds or cause to be removed all weeds growing in the curbing defining the lot. Should such Owner fail to do so, the Association may do so, and the reasonable expenses thereof shall be paid by such Owner to the Association within thirty (30) days after the date on the bill provided. Failure to pay said costs will result in the amounts becoming an assessment against the lot and subject to the applicable action(s).

## **ARTICLE XII – LOT OWNER'S RESPONSIBILITIES**

Section 1. Maintenance. Each Lot owner shall be responsible for the maintaining his/her/their residence in good condition so as to retain the high-quality standards of the Property and to assure the continued consistent and harmony of design and appearance of all Lots within the Property.

Section 2. Repair or Replacement. In the event of damage or destruction, in whole or part, of any residence, the Lot Owner shall promptly cause the damage to be repaired or the residence reconstructed.

Section 3. Rights of Association. In the event that a Lot Owner shall fail or refuse to perform any obligation imposed under sections 1 and 2 of this Article, the Association shall have the right, but not the obligation, to carry out such maintenance, repair, or replacement as it deems reasonably necessary and shall be entitled to reimbursement for all costs thereby incurred.

### **ARTICLE XIII - CONVEYANCE, SALE, RENTAL, LEASE AND TRANSFER**

Section 1. Rental or Lease. No lease for a period of less than one (1) year shall be valid. Any lease exceeding three hundred sixty-five (365) days must be approved by the Association. Owners shall obtain from all lessees a written acknowledgement of said lessees agreement to be bound by the terms of the Association's governing documents during their tenancy and provide a copy of the lessees a written acknowledgement to the Association within ten (10) calendar days of executing any lease agreement. The Association shall have the right to request that a standard uniform lease form be used. Such a lease shall not release the Lot Owner from any obligation under this Declaration or other governing documents of the Association.

Section 2. Sale or Transfer. Owners shall provide copies of the Association's governing documents to the receiving party during any conveyance, sale, or transfer of a Lot to a newly named owner. Part of any conveyance, sale, or transfer of a Lot shall require the newly named owner of record to provide the Association the new owners name, address, and phone number within ten (10) calendar days of executing any said transaction.

Section 3. Voidability. Any purported sale or lease of a Lot where the Lot owner has failed to comply with the provisions of this section, shall be voidable at the election of the Association, provided, however, that such voidability shall exist for a period no longer than ninety (90) days from the consummation of such transaction, such consummation to be evidenced by occupancy of the Lot or by furnishing the Association with a true copy of a recorded deed of conveyance thereto or lease thereof; and, provided further, that the Association commence an action within such ninety (90) day period to have the same declared void.

### **ARTICLE XIV - CENTRAL PROVISIONS**

Section 1. Duration. The Protective Covenants and Restrictions of this Declaration shall run with and bind the Property, and shall ensure to the benefit of and be enforceable be the Association, or the owner of any Lot, their respective legal representatives, heirs, successors, and assigns for a period of thirty (30) years from the date this Declaration is recorded. Prior to the expiration of said thirty (30) year period, this Declaration may be extended for successive

additional thirty (30) year periods by a vote of the Association's Board of Directors in accordance with the Homeowners' Association Act; as of the date this Declaration. A summary notice of preservation of the Declaration of Covenants, Conditions, and Restrictions for Fairways shall be recorded in the Public Records of Bay County, Florida as soon as practical after adoption of said extension by the Association's Board of Directors.

Section 2. Notices. Any notice required to be sent to any member under the provisions of the Declaration shall be deemed to have been properly sent and notice thereby given when either electronically transmitted via the Association's website, emailed to address of consent, or mailed with the proper postage affixed to the last address appearing on the Association's membership list. Notice to one (1) of to (2) or more co-owners of any Lot shall constitute notice to all co-owners. It shall be the obligation of every member to immediately notify the Secretary of the Association in writing of any change in address. Any person who becomes a member following the first day of any said notice shall be deemed to have been given notice if notice was given to his/her/their predecessor in the title.

Section 3. Enforcement. Enforcement of this Declaration shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any provision either to restrain violation or to recover damages, and against the land to enforce any lien created hereby. These Protective covenants and Restrictions may be enforced by the Association or any lot owner, or where applicable, any party which may have standing under applicable Florida law (Enforcing Party). Failure by the Enforcing Party to enforce any covenant or restriction herein contained for any period shall in no event be deemed a waiver or estoppel of the right to enforce the same thereafter. An Enforcing Party shall be entitled to the recovery of reasonable attorneys' fees and costs incurred in any action instituted to enforce the terms and conditions of these Protective Covenants and Restrictions.

Section 4. Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 5. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents, or required approvals by or from the Association contemplated under this Declaration, the Association shall not be liable to an owner or to any other person on account of an claim, liability, damage, or expense suffered or incurred by or threatened against an owner or such other person arising out of or in any way relating to the subject matter of an such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.

Section 6. Amendment. This Declaration may be amended by a vote of 2/3 of the Lot Owner's at a meeting of the Association which has the proposed amendment as a scheduled item upon the agenda.

## **ARTICLE XV - DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

Section 1. Resolution of Disputes without Resolution. The Association, its officers, directors, and committee members, and all persons bound by this Declaration (individually a "Bound Party") shall not file any claim in any court with respect to a Claim described in Section 2, hereof, unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 3, in a good faith effort to resolve such Claim.

Section 2. As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to (i) the interpretation, application, or enforcement of this Declaration, the Articles, the By-Laws, or the Rules and Regulations (collectively the "Governing Documents"); or (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents. Unless all parties to the matter otherwise agree to submit the matter to the procedure set forth in Section 3, the following shall not be considered "Claims": (a) any suit by the Association to collect assessments or other amounts due from any Owner; (b) any suit by the Association to obtain a temporary restraining order ( or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration; (c) any suit between Owners, which does not include the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; (d) any suit in which any indispensable party is not a Bound Party; (e) any suit as to which any applicable statute of limitations would expire within one hundred eighty (180) days of giving Notice required by Section 3, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may be reasonably necessary to comply with this Article.

### **Section 3. Dispute Resolution Procedures.**

A. Notice. The Bound Party asserting a Claim (the "Claimant") against another Bound Party (the "Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely: (i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim; (ii) the legal basis of the Claim; (iii) the Claimant's proposed resolution or remedy; and (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

B. Negotiation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as the parties may agree upon), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an

entity designated by the Association (if the Association is not a party to the Claim) or to an independent dispute resolution service in the Bay County, Florida, area. If the Claimant does not submit the Claim within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of all liability to the Claimant (but not third parties) on account of such Claim.

C. Impasse. The parties do not settle the Claim within thirty (30) days after submission of the matter to mediation or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date the mediation was terminated. The Claimant shall thereafter be entitled to file a suit or to initiate other proceedings on the Claim, as appropriate. Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally in all fees charged by the mediator.

D. Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then the other party may file suit or initiate other proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions), all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees, and court costs.

Section 4. Initiation of Litigation by the Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of 2/3's of the votes allocated to the Members. This Section shall not apply however to (a) actions brought by the Association to enforce the provisions of Articles VI, VII, XI, XII, XIII and XIV of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VI; (c) actions or proceedings initiated against a contractor, vendor, or supplier of goods or services arising out of an express contract for services or supplies; or (f) counterclaims brought by the Association in proceedings instituted against it.

## **CERTIFICATION**

**This amended declaration was approved by the affirmative vote of the members equal or greater than the number required to be cast for the amendment to be valid; at a duly noticed and called meeting at which a quorum was present in person or by proxy on November 28, 2023.**

**Dated**

Fairways Homeowners Association at Bay Point, Inc.

By: \_\_\_\_\_  
Robert A. Fletcher, President

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