

# AMENDMENTS TO THE DECLARATION OF RESTRICTIVE COVENANTS OF BOCA ISLES SOUTH

## **1. Article II, Section 2, of the Declaration of Restrictive Covenants is amended to read as follows:**

Section 2. Amendment. This Declaration may be amended at any time, and from time to time, upon the recordation of an instrument executed by the Association upon vote or written consent of: (i) ~~Fifty (51%)~~ One percent a majority of the Board; and (ii) a majority of the voting interests ~~Sixty Six (66%) percent~~ or pursuant to the provisions of FS §720, which ever is the lesser of the number of votes required of Owners who are entitled to vote on the matter as set forth in the Articles and By-Laws. ~~No amendment shall alter the subordination provisions of this Declaration without the prior approval of any Lender enjoying the benefit of such provisions.~~

~~Notwithstanding anything contained herein to the contrary, if the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration then the prior written consent of such entity or agency must also be obtained.~~

## **2. Article V, Section 15, of the Declaration of Restrictive Covenants is amended to read as follows:**

~~Section 15. Jogging Path. — In the event that any governmental agency or utility company having an easement within the Properties must remove, or requires the Association to remove, any portion of the Jogging Path located on its easement, then the Association will be responsible for removing and replacing the jogging path. The Association shall indemnify and hold harmless such governmental agency and/or utility company from any damage to the jogging path as a result of such governmental agencies and/or utility company's activities.~~

## **3. Article VIII of the Declaration of Restrictive Covenants is amended to read as follows:**

Section 1. General. Each Owner and its tenants and the members of their respective families, invitees, servants, occupants and guests and other persons or entities shall observe, and comply with, all Rules and Regulations which now or may hereafter be promulgated, from time to time, for the use, care, safety and cleanliness of the Properties, for the preservation of good order therein, and for the comfort, quiet and convenience of all users of the Properties. The Rules and

Regulations as promulgated, from time to time, shall be effective from the date of adoption. The Association shall not be bound by the Rules and Regulations or liable to any Owner due to any violation of the Rules and Regulations as promulgated, from time to time. The Rules and Regulations promulgated from time to time shall be specifically enforceable by injunction or otherwise, and shall have the effect of covenants as if set forth herein verbatim.

Use. With the below exception, each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. Use of the Common Area is similarly restricted.

a. An owner resident may use the Home for telecommuting or operation of a Home based business, so long as use of the Home is strictly limited to operations as a Home Office. The Home cannot be used for customer activity requiring entrance to the community. The Home cannot be used for employees requiring entrance to the community. Any business holding a license at the Home must meet all County/State licensing and insurance requirements as well as necessary fire department inspections.

Residents and Guests. Guests are defined as anyone other than an Owner/Resident of the home. Owner/Residents are limited to immediate family members and immediate family members are defined as spouses/domestic partners, children, parents, grandparents or siblings of the Owner/Resident. All others are guests and the following restrictions apply:

a. Guests are not permitted to stay in the Home unless occupied by the Owner/Resident, with the following exceptions.

1. Guests are limited to a 30 day stay in the Home when unoccupied by the Owner/Resident and each Owner/Resident is limited to two (2) such guest stays during any 12 month period.

2. Any Guest that stays in a Home for a period greater than 30 days, occupied or unoccupied by the Owner/Resident, shall be considered a renter/lessee and all Leasing/Renting rules shall apply. Failure to comply will result in action by the Association to evict the renter/lessee for failure to have an approved and executed lease.

b. A request for an exception to Guest rules may be made in writing to the Board of Directors of BIS POA, which may be granted or denied in its sole discretion.

c. Residents and guests must carry photo identification with proof of age at all times within any of the common areas of BIS and this ID shall be presented on demand to representatives of the Association. For residents, the ID must show the address for proof of residency in Boca Isles South. Failure to display identification may result in guests being removed from the property and residents may be required to leave the common facilities until presenting a photo ID.

## Section 2. Leasing.

(a) No homeowner shall lease a home for a period of one (1) year from the date he took title to said home.

(b) A homeowner shall not receive approval to rent a home unless he is current on all Association assessments. Delinquent homeowners must pay all amounts due before renting a home. Any violations on the home must be corrected before renting the home.

(c) A homeowner shall not rent a portion of a home; only the entire home may be rented. No home, or portion thereof, shall be sublet.

(d) All leases, including those which are being renewed with the same tenant, must be submitted to the Board for approval in advance. A homeowner shall submit a lease for approval no less than thirty (30) business days prior to the date of intended occupancy by the tenant. No homeowner shall lease his home until the homeowner receives the written approval of the Association. Lease approval may be denied by the Association for reasons including, but not limited to, the homeowner or prior tenant violating any provision in the governing documents or Association rules or if the proposed lease does not comply with the requirements of these Rules & Regulations governing the leasing of homes. If lease approval is denied, then the rental of the home shall not occur.

(e) No lease can be for less than a six (6) month consecutive period nor more than a twelve (12) month consecutive period. No transient accommodations shall be provided. There shall be no assignment or sublease of any home or lease agreement.

(f) A home shall not be leased more than once in any twelve (12) month period.

(g) All leases shall be in writing and shall provide that: (a) the right of the tenant to use and occupy the home and the Association property shall be subject and subordinate to the governing documents of the Association and these

Rules and Regulations; (b) the Association shall have the right to terminate the lease upon the tenant's failure to comply with any of the provisions of the governing documents or these Rules and Regulations; and (c) the lease term is a minimum of six (6) months and a maximum of twelve (12) months. No lease shall provide for an early lease termination or have any other provision that would reduce the lease term to a period of less than six (6) consecutive months.

(h) All leases utilized by homeowners shall contain the following language, and if any such language does not contain said language, the lease shall not be approved and shall be considered void:

"The landlord appoints the Boca Isles South Property Owners Association Inc. as its irrevocable agent for purposes of eviction pursuant to Florida's Residential Landlord Tenant Act. Landlord and Tenant hereby expressly covenant and agree that the Boca Isles South Property Owners Association Inc. shall be entitled to immediately proceed, without notice, to evict Tenant in the event the Association forwards two (2) or more demand letters regarding a violation by said Tenant of the governing documents or these Rules and Regulations, as the same are amended from time to time.

Tenant expressly covenants and agrees to comply with all terms of the governing documents for Boca Isles South in addition to all rules and regulations adopted by the Association, and Tenant expressly recognizes and agrees that he has been provided with a complete copy of all covenants, conditions, restrictions, and rules and regulations for the Boca Isles South Property Owners Association prior to assuming occupancy of the home.

Tenant expressly covenants and agrees that Tenant is aware of all restrictions pertaining to rentals contained within the governing documents for Boca Isles South and the rules and regulations, and has knowledge that this lease is subject to and must be approved in advance by the Board of Directors of the Boca Isles South Property Owners Association Inc."

(i) Before entering into a lease, a homeowner shall provide the prospective tenant with a complete, legible copy of the Association's governing documents, including the Declaration, By-laws, and Rules and Regulations (and any amendments thereto). The homeowner shall certify to the Association, in writing, that legible copies of these documents have so been provided to the prospective tenant.

(j) In order to determine that the proposed tenants are familiar with the Association's governing documents, the proposed tenants must meet with Board of Directors, a committee designated by the Board of Directors, an individual

designated by the Board of Directors, or the property manager, if designated by the Board of Directors, for a personal orientation meeting prior to occupancy of the home by the tenants.

(k) The owner of a leased home shall be jointly and severally liable with his or her tenant for compliance with the governing documents and these Rules and Regulations. They shall be jointly and severally liable to the Association to pay all assessments and/or any open claims for injury or damage to persons or property caused by the acts or omissions of the tenant, his family members and/or guests. If during the lease term the homeowner becomes delinquent in the payment of any assessment, the Association shall have the authority to directly collect the rental payments from the tenant.

(l) Prior to leasing his home, an owner shall submit an application along with three checks made payable to the Boca Isles South Property Owners Association. The first check shall be in the amount of \$250, representing a non-refundable application fee to cover the cost of credit and criminal background checks on the tenants. The second shall be a check for \$1,500, representing a security deposit against any future damage to the common elements. A draft lease shall be attached to the application. The third check shall be payable in an amount equaling six (6) months worth of association dues. This third check shall remain in the Association's escrow account to ensure payment of the dues. If the homeowner fails to make a monthly payment, the money will be taken from this deposit. Upon completion of the lease term, the remainder shall be refunded to the homeowner within thirty (30) days. Owner and lessee acknowledge that per FL 720 statutes, should the owner become delinquent in any monetary obligation to the Association, and upon notice to the tenant by the Association, the Association may demand that the tenant pay to the association the subsequent rental payments and continue to make such payments until all the monetary obligations of the parcel owner related to the parcel have been paid in full to the Association.

(m) After the lease has been approved by the Board and executed by the parties thereto, the owner shall submit a fully-executed copy to the Association.

(n) A home shall only be occupied as a single-family residence, and all occupants must live as a single economic unit. For purposes of this section, the term "family" shall be defined as a single individual and that person's parents, siblings, children, grandparents, and spouse. If the person is not married, then the term "spouse" may also mean a person who is otherwise the equivalent of a spouse who is part of a single economic unit with the tenant. The Association may require tenants to provide proof of their familial relationship.

(o) Notwithstanding anything contained in these Rules and Regulations to the contrary, in order to avoid undue hardship, the Association's Board of Directors may, in its sole discretion, grant a hardship approval to a homeowner not otherwise entitled to approval of a lease, except that: (a) a hardship may not be granted for a lease whose term is less than six months, and (b) the Association's Board of Directors may require certain conditions to any such approval, which conditions must be complied with or the hardship approval shall be revoked and the transaction unauthorized. A hardship approval is a privilege and not a right.

(p) If the notice herein required is not given or the fully completed application is not submitted by the owner, then at any time after receiving knowledge of the lease, the Association -- at its election and without notice -- may require the lessee to vacate the premises. The owner shall be fined at the rate of \$25/day from the date the lessee moved in and the lessee and the owner shall be denied all clubhouse and gate access privileges until the fine is paid.

(q) In the event the Association determines that an Owner has failed to comply with any provisions contained herein, the Association shall have the right to pursue all legal remedies against the Owner, including without limitation injunctive relief and/or to remove any occupant. In the event attorney fees are incurred by the Association to enforce compliance with this Section 2, whether against an Owner, tenant or an occupant, the Owner shall be responsible to pay same, whether or not a lawsuit is filed.

(r) Notwithstanding anything to the contrary, not more than forty (40) homes can be leased at any time and leasing is prohibited, if the lease or proposed lease would result in the total number of homes being leased to exceed forty (40); provided, however, this limitation does not apply to the Association or to any homes under the Association's receivership.

**4. Article XI, Sections 10 and 11, of the Declaration of Restrictive Covenants are amended to read as follows:**

Section 10. Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Homesite, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' (and paralegals') fees (at all levels of proceedings, collection and bankruptcy), shall be a charge and continuing lien in favor of the Association encumbering the Homesite and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and relates back to the date this Declaration was recorded, except as

otherwise provided in Section 11 below. ~~after recording a~~ The Claim of Lien must state in the Public Records, stating the description of the Homesite, name of the Owner, and the amounts due as of that date. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, charge, fee, together with the interest, late fees, costs and reasonable attorneys' fees, etc. shall be the personal obligation of the person who was the Owner of the Homesite at the time when the Assessment became due, as well as that person's grantees, heirs, devisees, personal representatives, successors or assigns.

Section 11. No Subordination of the Lien to Mortgages. ~~The lien for Assessments shall be subordinate to bona fide first mortgages on any Homesite, if the mortgage is recorded in the public records prior to the Claim of Lien and to the lien of the Club Owner set forth in this Declaration. The lien shall not be affected by any sale or transfer of a Homesite, except in the event of a sale or transfer of a Homesite pursuant to a foreclosure of a bona fide first mortgage, or the lien of the Club Owner, in which event, the acquirer of title, its successors and assigns, shall not be liable for Assessments encumbering the Homesite or chargeable to the former owner of the Homesite which became due prior to such sale or transfer. However, any such unpaid Assessments for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of the Operating Costs. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner from liability for, nor the Homesite from the lien of, any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessment from the payment thereof, or the enforcement of collection by means other than foreclosure.~~

The liability of a first mortgagee that acquires title to a Homesite by foreclosure or by deed in lieu of foreclosure for the unpaid assessments, fines, and other charges that became due prior to the first mortgagee's acquisition of title is limited to the maximum extent permitted by Florida Statutes, Section 720.3085, as same is amended or renumbered from time to time, but if no such limitation exists, then to the same extent as any other Homesite Owner. The limitations on first mortgagee liability provided by this paragraph apply only if the first mortgagee strictly complies with all conditions required by Florida Statutes, Section 720.3085, as same is amended or renumbered from time to time. The Association's lien for assessments, fines, and other charges is superior to and has priority over all mortgages, liens and encumbrances, except as provided above.

**NOTE: NEW WORDS INSERTED IN THE TEXT ARE UNDERLINED AND WORDS DELETED ARE LINED THROUGH WITH HYPHENS.**