

AMENDED AND RESTATED DECLARATION

*As approved by the members in meeting on September 30, 1993
and recorded in the Public Records of Lee County, Florida*

AMENDMENT TO AMENDED AND RESTATED DECLARATION

*As approved by the members in meeting on April 9, 1998
and recorded in the Public Records of Lee County, Florida*

AMENDED AND RESTATED ARTICLES OF INCORPORATION

*As approved by the members in meeting on April 15, 2004
and recorded in the Public Records of Lee County, Florida*

AMENDED AND RESTATED BY-LAWS

*As approved by the members in meeting on April 15, 2004
and recorded in the Public Records of Lee County, Florida*

of the
**CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.**

7.5. LIABILITY FOR ASSESSMENTS AND CHARGES - A member shall be liable for all assessments and charges coming due while an owner of a unit in any of the condominium units in Cross Creek in accordance with Section 718.116, Florida Statutes. Institutional mortgagees shall have those rights which exist as a matter of law.

7.6. LIENS FOR ASSESSMENTS - The unpaid portion of an assessment, including any accelerated assessment which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association in accordance with the requirements of Section 718.116, Florida Statutes.

7.7. UNPAID CHARGES - Unpaid charges which are due together with costs, interest and reasonable attorney's fees, including appeals for collection, shall be the basis for an action at law by the Association against the member.

7.8. COLLECTION - INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest lawful rate (currently 18% per annum) from the date due until paid. In addition to such interest the Association may charge an administrative late fee in an amount not to exceed the greater of \$25.00 or 5% of each installment of the assessment for which payment is late. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees and then to the assessment payment first due.

7.9. COLLECTION - FORMAL LEGAL ACTION - The Association, at its option, may enforce collection of delinquent assessments by suit at law, by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. The Association shall mail by certified mail to the member a written notice of its intention to foreclose the assessment lien thirty (30) days before commencing foreclosure, unless Notice of Contest of Lien has been filed.

7.10. ASSOCIATION DEPOSITORY - The depository of the Association shall be a bank or banks or state or federal savings and loan associations or a member firm of the New York Stock Exchange with offices in Florida or in the case of reserve funds, such depositories as may be permitted by law from time to time and as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

7. **FISCAL MANAGEMENT** - The Association fiscal management shall be in accordance with the following provisions:

7.1. **BUDGET** - A proposed annual budget of common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Association including insurance and management fees, if any, and which shall include reserves for capital expenditures and deferred maintenance which may later be waived by the owners. Reserve funds, and any accrued interest on the funds, shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the votes cast by the voting interests in person or by proxy at a duly called meeting of the Association. Reserve funds shall include but not be limited to such items as: golf course, greens, Clubhouse and its facilities, tennis courts, roadways, common areas, parking areas, roofing, sewage treatment plant, and painting of the Association property. The budget shall contain a reasonable allowance for contingencies and provide funds for all unpaid operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year upon proper notice to the members.

7.2. **MAILING** - A copy of the proposed annual budget shall be mailed to the members not less than fourteen (14) days prior to the meeting of the Directors at which the budget shall be adopted together with a notice of the meeting.

7.3. **ASSESSMENTS** - The members' shares of the common expenses shall be made payable in not less than monthly installments in advance. Payment shall be due on the first day of each calendar month and shall become delinquent ten (10) days thereafter. Collection of these assessments is made by each of the eighteen (18) local Cross Creek Associations and is remitted monthly to the Association. The Association shall have the right to accelerate assessments of an owner delinquent in the payment of common expenses. Accelerated assessments shall be due and payable on the date a claim of lien is recorded and may include the amounts due for the remainder of the fiscal year for which the claim of lien was recorded in the Public Records.

7.4. **SPECIAL ASSESSMENTS AND CHARGES** - Assessments and charges for unexpected expenses other than capital improvements which are not provided for and funded in the budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them, provided same are related to the Association.

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AMENDED AND RESTATED BYLAWS
OF
CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.

NOTE: SUBSTANTIAL REWORDING OF BYLAWS

SEE ORIGINAL BYLAWS FOR ORIGINAL TEXT

1. IDENTITY - These are the Amended and Restated Bylaws of Cross Creek of Fort Myers Community Association, Inc., a nonprofit Florida corporation formed for the purpose of being responsible for the operation, management, maintenance, and care of the real and personal property owned by the Corporation in the development known as CROSS CREEK, located in Lee County, Florida. The Corporation shall hereinafter be referred to as the "Association" and/or the "Community Association".

1.1. OFFICE - The office of the Association shall be at the Cross Creek Community Clubhouse 13050 Cross Creek Boulevard, Fort Myers, Florida 33912, or such other location within the County as may from time to time be determined by the Board of Directors.

1.2. FISCAL YEAR - The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

1.3. SEAL - The seal of the Association shall bear the name of the Association, the word "Florida" and "not for profit", and the year of establishment, 1984.

2. MEMBERS' MEETINGS

2.1. ANNUAL MEETINGS - Annual members' meetings shall be held at such convenient locations as may be determined by the Board of Directors, during the months of March or April each year, the exact date and time to be determined by the Board of Directors, for the purpose of electing Directors and transacting any business authorized to be transacted by the members.

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2.2. SPECIAL MEETINGS - Special members' meetings shall be held whenever called by the President, a Vice President, or a majority of the Board of Directors or when requested in writing by at least ten percent (10%) of the Association voting interests. Members' meetings to recall a member or members of the Board of Directors may be called when requested to the Board of Directors by at least ten percent (10%) of the Association's voting interests.

2.3. NOTICE OF MEMBERS' MEETINGS - Notice of members' meetings, including the annual meeting, shall be sent to each member by United States mail, unless waived in writing by the member, at least fourteen (14) days prior to the meeting, provided however, that any members' meeting at which one or more Directors are to be elected shall be noticed as provided for in Section 2.4.1 below. An officer of the Association shall execute an affidavit of mailing which shall be retained in the official records of the Association as proof of such mailing. Written notice of the meeting shall also be posted in a conspicuous place on the Cross Creek property at least fourteen (14) continuous days prior to the meeting. The Board, upon notice to members, shall by duly adopted rule designate a specific location on the Cross Creek property upon which all notices of members' meetings shall be posted.

2.4. BOARD ELECTION - NOTICE AND PROCEDURE - The regular election shall occur on the date of the annual meeting and the Board shall be elected by secret written ballot or voting machine.

2.4.1. Pursuant to the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes, and to the extent that such rules are applicable at the time, the Association shall, before a scheduled election, mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery, including regularly published newsletters, to each member entitled to vote, a first notice of the date of the election. Any member desiring to be a candidate for the Board of Directors shall give written notice of his/her candidacy to the Secretary of the Association. All other election procedures shall be in compliance with the adopted rules of the Division, if applicable.

2.4.2. In addition to voting in the election of Directors by written ballot a voting machine may also be used by those attending the meeting in person, and a member who needs assistance in voting due to blindness, disability or inability to read or write, may obtain assistance but no member shall permit another person to cast his ballot and any such ballots improperly cast shall be deemed invalid.

2.5. NOTICE - OWNERS' BUDGET MEETING - Notice of a special meeting called by the Board at the written request of at least ten percent (10%) of the members because of an operating budget exceeding 115% of that of the preceding year requires at least ten (10) days' written notice to each member.

2.6. NOTICES - ANNUAL AND SPECIAL - All notices of meetings shall state clearly and particularly the date, time, place, and purpose or purposes of the meeting and shall incorporate an identification of agenda items.

2.7. QUORUM - A quorum at members' meetings shall consist of 302 voting interests present either in person or by proxy. Decisions made by a majority of the votes cast by the voting interests represented at a meeting at which a quorum has been declared, in person or by proxy, shall be binding and sufficient for all purposes except such decisions as may, by Chapter 718, Florida Statutes, the documents, or other applicable law, require a larger percentage in which case the percentage required in Chapter 718, Florida Statutes, or the documents shall govern.

2.8. MEMBER PARTICIPATION - Members shall have the right to participate in meetings of members with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of member participation. Any member may tape record or videotape a meeting of the members subject to reasonable rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

2.9. INDIVISIBLE VOTE - Each unit shall have one indivisible vote. If a unit is owned by one person his right to vote shall be established by the record title to his unit. If a unit is owned by more than one person the person entitled to cast the vote for the unit shall be designated by a voting certificate signed by all of the record owners of the unit and filed with the Secretary of the Association. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be designated by a voting certificate signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in ownership of the unit concerned. A certificate designating the person entitled to cast the vote of a unit may be revoked by any owner thereof. If a unit is owned by husband and wife jointly:

(i) They may, but they shall not be required to, designate a voting member.

(ii) If they do not designate a voting member and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose the right to vote on that subject at that meeting.

(iii) If they do not designate a voting member and only one is present at a meeting, the person present may cast the vote, just as though he or she owned the unit individually and without establishing the concurrence of the absent person.

(iv) If either or both are present at a meeting, the unit shall be counted as present for the purpose of determining a quorum.

2.10. PROXIES - Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than ninety (90) days, and must be filed with the Secretary before or at the time of voter registration immediately preceding the meeting. Except as specifically otherwise provided herein members may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Declaration; for votes taken to amend the Articles of Incorporation or Bylaws; and for any other matter which Chapter 718, Florida Statutes, or any other applicable law, requires or permits a vote of the members. No proxy, limited or general, shall be used in the election of Board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given.

2.11. NO QUORUM - If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may by majority vote recess the meeting from time to time until a quorum is present.

2.12. ORDER OF BUSINESS - The order of business at annual members' meetings and, as far as applicable at all other members' meetings, shall be:

- (a) Election of a Chairman of the meeting, unless the President or a Vice President of the Association is present when he/she shall preside.

- (b) Collection of ballots.
- (c) Checking of signatures and unit identifications on ballot outer envelopes against the qualified voter list.
- (d) Proof of notice of meeting or waiver of notice.
- (e) Calling of the roll and certifying of proxies.
- (f) Reading and disposal of any unapproved minutes.
- (g) Reports of Officers and Directors.
- (h) Reports of Committees.
- (i) Announcement of results of election of Directors.
- (j) Unfinished business.
- (k) New business.
- (l) Adjournment.

3. BOARD OF DIRECTORS

3.1. NUMBER, TERM, AND QUALIFICATIONS. The affairs of the Corporation shall be governed by the Board of Directors. The number of Directors which shall constitute the whole Board shall be not less than three (3) nor more than nine (9). The present Board consists of five (5), each of whom shall serve for a two (2) year period. Directors shall be unit owners of any one of the condominiums comprising Cross Creek. The Directors shall be elected at the annual meeting by written ballot or voting machine. At the 1993 annual election, two (2) Directors were elected with terms expiring in 1996. In 1994 two (2) Directors shall be elected, one with a term expiring in 1995 and the other in 1996. Thereafter, two (2) Directors terms shall be filled in odd-numbered years and three (3) Directors terms in even-numbered years. In the case of a vacancy the Director elected by the Board shall serve for a period specified by the rules of the Division. The term of each Director's service shall extend until his/her elected term is completed and thereafter until his/her successor is duly elected and qualified or until the Director is recalled by a majority of the voting interests in the manner provided in Chapter 718, Florida Statutes. The unexpired term of any Director who is absent at three (3) or more regularly scheduled meetings of the Board, without advance notice of a justified reason for such absence, shall be declared vacant by the remaining members of the Board and a successor shall be elected by the Board.

3.2. BOARD VACANCIES - In the event of a vacancy on the Board of Directors, the Board shall elect a replacement within thirty (30) days from the date of the vacancy, to serve for a period as specified by applicable law. Any seat held by a Director who ceases to be an owner in any of the condominiums in Cross Creek shall automatically become vacant. In the event that the Board cannot, by majority vote, agree upon a replacement for a vacancy, within the thirty (30) days permitted, the President of the Board shall appoint a replacement unless applicable law provides to the contrary.

3.3. ORGANIZATIONAL MEETING - The organizational meeting of each newly elected Board of Directors to elect officers shall be held immediately following the annual meeting at which the newly elected Directors took office.

3.4. REGULAR MEETINGS - Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless noticed previously, shall be given to each Director personally or by mail, telephone or telecopier/facsimile at least three (3) days prior to the day named for such meeting.

3.5. SPECIAL MEETINGS - Special meetings of the Directors may be called by the President and shall be called by the Secretary at the written request of any two (2) Directors. Not less than three (3) days notice of the meeting (except in an emergency) shall be given personally or by mail, telephone or telecopier/facsimile, which notice shall state the date, time, place and purpose of the meeting.

3.6. WAIVER OF NOTICE - Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

3.7. NOTICE TO MEMBERS - Notice of meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Cross Creek property at least forty eight (48) continuous hours in advance for the attention of members, except in an emergency. Meetings at which a regular assessment is to be considered shall contain a statement that assessments will be considered and the nature of such assessments. However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules will be proposed, discussed, or approved, shall be mailed or delivered to the members and posted conspicuously on the Cross Creek property not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be by an affidavit executed by the Secretary and filed in the official records of the Association. Upon notice to the members, the Board shall by duly adopted rule designate a specific location on the Cross Creek property upon which all notices of Board meetings shall be posted.

3.8. OWNER PARTICIPATION - Meetings of the Board of Directors, and any committee thereof at which a quorum of the members of that Board or committee has been established, shall be open to all members. The right to attend such meetings includes the right to speak with reference to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of member statements. Members shall have the right to tape record or videotape the meetings of the Board of Directors and Board committees, subject to reasonable rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

3.9. BOARD MEETINGS, QUORUM AND VOTING - A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings and a vote or abstention for each member present shall be recorded in the minutes. If at any meeting of the Board there is less than a quorum present, the Director(s) present may recess the meeting from time to time until a quorum is present. At any reconvened meeting any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

3.10. PRESIDING OFFICER - The presiding officer at Directors' meetings shall be the President if such an officer has been elected; and, if none, then a Vice President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

3.11. DIRECTOR COMPENSATION - Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Florida Corporation Statutes, the Condominium Act, the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by members when such is specifically required. Such powers and duties of the Directors shall include, but not be limited to, the following:

4.1. To adopt budgets and make and collect assessments against members to defray the costs of the Association.

4.2. To use the proceeds of assessments in the exercise of its powers and duties.

4.3. To maintain, repair, replace, and operate the Association property and including, but not limited to, the drainage and surface water management system.

4.4. To enact rules and regulations concerning the use of the Association property and common areas, subject to any limitations contained in the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions.

4.5. To reconstruct and repair the Association property after casualty.

4.6. To enforce by legal means the provisions of applicable laws and the constituent documents.

4.7. To contract for management of the Association including management services, leases, license for services, and/or independent contractors as deemed necessary, and to prescribe their duties.

4.8. To carry insurance for the protection of the members and the Association.

4.9. To employ personnel and designate other officers for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

4.10. To bring and defend suits, make and execute contracts, leases, and other instruments by its officers and to purchase or lease personal property. To grant easements and licenses over the Cross Creek property necessary or desirable for proper operation of the Association.

4.11. CONTRACTS FOR PRODUCTS AND SERVICES - All contracts for the purchase, lease or renting of materials or equipment or for services, or any contract that is not to be fully performed within one year, shall be in writing. As to any such contract which requires payment exceeding \$5,000.00; except for contracts with employees of the Association, attorneys, and accountants, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency or unless the desired supplier is the only source of supply within Lee County. The Association need not accept the lowest bid.

4.12. FINES - The Directors may, pursuant to Section 718.303, Florida Statutes, impose fines not to exceed \$100.00 and/or suspend the recreational privileges, for failure to comply with the provisions of the constituent documents, including the rules and regulations, by owners, occupants, licensees, tenants and invitees. A fine may be imposed for each day of continuing violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed \$1,000.00.

4.13. The party against whom the fine or restriction is sought to be levied shall be afforded an opportunity for a hearing before the Directors after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of the hearing;
2. A statement of the provisions of the Master Declaration, Articles of Incorporation, Bylaws, or rules and regulations which have allegedly been violated; and
3. A short and plain statement of the matters asserted by the association.

4.14. The party against whom the fine or restriction may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

4.15. **COMMITTEES** - The Directors may appoint committees. All committees and committee members shall serve at the pleasure of the Board. Meetings of Committees, as designated by law, shall comply with the same notice requirements as is applicable to meetings of the Board of Directors.

5. OFFICERS

5.1. **EXECUTIVE OFFICERS** - The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be desired, all of whom shall be elected annually immediately following the annual meeting of the members by the Board of Directors and who may be removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that of the President.

5.2. **PRESIDENT** - The President shall be the chief executive officer of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

5.3. **VICE PRESIDENT** - A Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. A Vice President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

5.4. SECRETARY - The Secretary, or designee, shall keep the minutes of all proceedings of the Directors and the members; shall attend to the giving and serving of all notices to the members and Directors and other notices required by law; shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; shall keep and have custody of the records of the Association, except those of the Treasurer; and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

5.5. TREASURER - The Treasurer, or designee, shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the assessment rolls and accounts of the members; shall keep the books of the Association in accordance with good accounting practices; and shall perform all other duties incident to the office of the Treasurer of a corporation.

5.6. EMPLOYEES' COMPENSATION - The compensation of all employees of the Association shall be fixed by the Directors.

5.7. INDEMNIFICATION - Every Director and every officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, mediation, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, officer, or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. In instances where the Director, officer, or committee member admits or is adjudged guilty of gross negligence, willful malfeasance, misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to, and not exclusive of, any and all rights of indemnification to which such Director, officer or committee member may be entitled by common law or statute.

5.8. DELEGATION - To the extent permitted by law, the powers and duties of the Directors and officers may be delegated for the purpose of management.

6. MINUTES AND INSPECTION OF RECORDS - Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and shall be reduced to written form within thirty (30) days. All Association official records, as defined in Section 718.111(12), Florida Statutes, shall be available for inspection by members and Board members at all reasonable times. Provided, however, that the Directors may adopt reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying.

7. FISCAL MANAGEMENT - The Association fiscal management shall be in accordance with the following provisions:

7.1. BUDGET - A proposed annual budget of common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Association including insurance and management fees, if any, and which shall include reserves for capital expenditures and deferred maintenance which may later be waived by the owners. Reserve funds, and any accrued interest on the funds, shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the votes cast by the voting interests in person or by proxy at a duly called meeting of the Association. Reserve funds shall include but not be limited to such items as: golf course, greens, Clubhouse and its facilities, tennis courts, roadways, common areas, parking areas, roofing, sewage treatment plant, and painting of the Association property. The budget shall contain a reasonable allowance for contingencies and provide funds for all unpaid operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year upon proper notice to the members.

7.2. MAILING - A copy of the proposed annual budget shall be mailed to the members not less than fourteen (14) days prior to the meeting of the Directors at which the budget shall be adopted together with a notice of the meeting.

7.3. ASSESSMENTS - The members' shares of the common expenses shall be made payable in not less than monthly installments in advance. Payment shall be due on the first day of each calendar month and shall become delinquent ten (10) days thereafter. Collection of these assessments is made by each of the eighteen (18) local Cross Creek Associations and is remitted monthly to the Association. The Association shall have the right to accelerate assessments of an owner delinquent in the payment of common expenses. Accelerated assessments shall be due and payable on the date a claim of lien is recorded and may include the amounts due for the remainder of the fiscal year for which the claim of lien was recorded in the Public Records.

7.4. SPECIAL ASSESSMENTS AND CHARGES - Assessments and charges for unexpected expenses other than capital improvements which are not provided for and funded in the budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them, provided same are related to the Association.

7.5. LIABILITY FOR ASSESSMENTS AND CHARGES - A member shall be liable for all assessments and charges coming due while an owner of a unit in any of the condominium units in Cross Creek in accordance with Section 718.116, Florida Statutes. Institutional mortgagees shall have those rights which exist as a matter of law.

7.6. LIENS FOR ASSESSMENTS - The unpaid portion of an assessment, including any accelerated assessment which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association in accordance with the requirements of Section 718.116, Florida Statutes.

7.7. UNPAID CHARGES - Unpaid charges which are due together with costs, interest and reasonable attorney's fees, including appeals for collection, shall be the basis for an action at law by the Association against the member.

7.8. COLLECTION - INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest lawful rate (currently 18% per annum) from the date due until paid. In addition to such interest the Association may charge an administrative late fee in an amount not to exceed the greater of \$25.00 or 5% of each installment of the assessment for which payment is late. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees and then to the assessment payment first due.

7.9. COLLECTION - FORMAL LEGAL ACTION - The Association, at its option, may enforce collection of delinquent assessments by suit at law, by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. The Association shall mail by certified mail to the member a written notice of its intention to foreclose the assessment lien thirty (30) days before commencing foreclosure, unless Notice of Contest of Lien has been filed.

7.10. ASSOCIATION DEPOSITORY - The depository of the Association shall be a bank or banks or state or federal savings and loan associations or a member firm of the New York Stock Exchange with offices in Florida or in the case of reserve funds, such depositories as may be permitted by law from time to time and as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

7.11. COMMINGLING OF FUNDS PROHIBITED - All funds shall be maintained separately in the Association's name. In addition, reserve funds shall be maintained separately from operating funds in separate accounts. No manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, and no agent, employee, officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Section 468.431, Florida Statutes.

7.12. FINANCIAL REPORTS - A complete financial report of actual receipts and expenditures of the Association shall be made annually. A copy of the report shall be furnished to each member no later than the Annual Meeting, unless the law requires an earlier date.

7.13. FIDELITY BONDING - The Association shall obtain and maintain fidelity bonding as provided in the constituent documents. The Association shall bear the cost of bonding. However, in the case of a person providing management services to the Association and required to be licensed pursuant to Section 468.432, Florida Statutes, the cost of bonding may be reimbursed by the Association; all such persons providing management services to an Association shall provide the Association with a certificate of insurance evidencing compliance with this paragraph.

8. PARLIAMENTARY RULES - Robert's Rules of Order shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation or Bylaws of the Association or with the laws of the State of Florida.

9. BYLAW AMENDMENTS - Amendments to the Bylaws shall be adopted in the following manner:

9.1. NOTICE of the subject matter of a proposed amendment shall be included in the notice of any meeting or the text of any written agreement at which or by which a proposed amendment is considered.

9.2. PROPOSAL OF AMENDMENTS - An amendment to the Bylaws may be proposed by either a majority of the Directors or by ten percent (10%) of the voting interests.

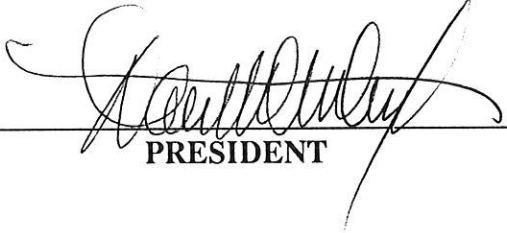
9.3. ADOPTION OF AMENDMENTS - A resolution or written agreement adopting a proposed amendment must receive approval of not less than a majority of the total votes cast of the members voting in person or by proxy at an annual or special meeting.

9.4. EFFECTIVE DATE - An amendment when adopted shall become effective only after being recorded in the Public Records.

9.5. PROPOSED AMENDMENT FORMAT - Proposal to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BYLAWS. SEE BYLAW NUMBER _____ FOR PRESENT TEXT."

10. MANDATORY ARBITRATION OF DISPUTES - If unresolved, disputes between the Board and members as defined in Section 718.1255(1), Florida Statutes, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation. The prevailing party in any such arbitration shall be entitled to an award of costs and reasonable attorneys' fees.

The foregoing were adopted as the Amended and Restated Bylaws of **CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.** on this 30th day of September, 1993.



PRESIDENT

OR2451 P60335

CHARLIE GREEN LEE CTY, FL
93 DEC -8 PM 4:52

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.**

NOTE: SUBSTANTIAL REWORDING OF ARTICLES OF INCORPORATION

SEE ORIGINAL ARTICLES OF INCORPORATION FOR ORIGINAL TEXT

Pursuant to Section 617.1007, Florida Statutes, the Articles of Incorporation of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, originally filed on April 9, 1984, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1007, Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles of Incorporation other than the inclusion of amendments adopted pursuant to Section 617.1007, Florida Statutes, and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of Cross Creek of Fort Myers Community Association, Inc., shall henceforth be as follows:

ARTICLE I

NAME:

The name of this corporation shall be: **CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.**, and its principal address is 13050 Cross Creek Boulevard, Fort Myers, Florida 33912.

ARTICLE II

PURPOSES:

This Corporation does not contemplate pecuniary gain or profit to its members. The purpose for which this corporation is organized is to provide an entity for the acquisition, ownership and disposition of real and personal property and for the operation, management, maintenance, and care of the real and personal property owned by the Corporation in the development known as Cross Creek, located in Lee County, Florida, pursuant to the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers and to contract for the maintenance and management of the common areas and to authorize a management agent or independent contractor to assist the Corporation in carrying out its powers and duties under the Declaration.



INST # 6281571 OR BK 04304 Pgs 0371 - 388; (18pgs) RECORDED 05/20/2004 11:39:38 AM
 CHARLIE GREEN, CLERK OF COURT, LEE COUNTY, FLORIDA
 REC FEE 82.50
 DEPUTY CLERK G Shepherd

CERTIFICATE OF RECORDATION

AMENDED AND RESTATED ARTICLES OF INCORPORATION AMENDED AND RESTATED BY-LAWS CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.

I HEREBY CERTIFY that the attached Amended and Restated Articles of Incorporation and Amended and Restated By-Laws were duly adopted by the Association membership at the duly noticed annual members' meeting of the Association on the 15th day of April, 2004. The original Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers is recorded at O.R. Book 1760, at Pages 2417 et. seq. of the Lee County Public Records. The Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers is recorded at O.R. Book 2451, at Pages 0302 et. seq. of the Lee County Public Records.

The Amended and Restated Articles of Incorporation of Cross Creek of Fort Myers Community Association, Inc. are attached. The Amended and Restated By-Laws of Cross Creek of Fort Myers Community Association, Inc. are also attached.

WITNESSES:
 (TWO)

John M. McIlwaine
 Signature
JOHN MCILWAINE
 Printed Name

Michael P. Kell
 Signature
Michael P. Kell
 Printed Name

CROSS CREEK OF FORT MYERS COMMUNITY
 ASSOCIATION, INC.

BY: Earl Douglas Ison
 Earl Douglas Ison, President

Date: 4/23/2004
 (CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
 COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 23rd day of April, 2004 by Earl Douglas Ison as President of Cross Creek of Fort Myers Community Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) personally known as identification and did take an oath.



Gale L. Mulloy
 Commission # CC 951792
 Expires Aug. 13, 2004
 Bonded Thru
 Atlantic Bonding Co., Inc.

Gale L. Mulloy
 Notary Public
GALE L. MULLOY
 Printed Name

My commission expires: 8/13/2004
 235112_1.DOC

**ARTICLES OF AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

Pursuant to the provision of Section 617, Florida Statutes, the undersigned corporation adopts the following Articles of Amended and Restated Articles of Incorporation.

FIRST: The name of the corporation is Cross Creek of Fort Myers Community Association, Inc.

SECOND: The attached Amended and Restated Articles of Incorporation were adopted by the membership.

THIRD: The attached Amended and Restated Articles of Incorporation were adopted by the required vote of the members on the 15th day of April, 2004.

FOURTH: The number of votes cast were sufficient for approval.

WITNESSES:
(TWO)

CROSS CREEK OF FORT MYERS COMMUNITY
ASSOCIATION, INC.

John McIlvaine
Signature
JOHN MCILVAINE
Printed Name

BY: Earl Douglas Ison
Earl Douglas Ison, President
Date: 4/23/04

Michael P. Kell
Signature
Michael P. Kell
Printed Name

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 23rd day of April, 2004 by Earl Douglas Ison as President of Cross Creek of Fort Myers Community Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) personally known as identification and did take an oath.



Gale L. Mulloy
Commission # CC 951792
Expires Aug. 13, 2004
Bonded Through
Atlantic Bonding Co., Inc.

Gale L. Mulloy
Notary Public
GALE L. MULLOY
Printed Name

My commission expires: 8/13/2004

ARTICLE III

QUALIFICATION OF MEMBERS, MANNER OF ADMISSION, AND

VOTING RIGHTS:

The qualification of members, the manner of their admission, and their membership rights and privileges shall be as follows:

(a) Any person or persons who hold title of record to a condominium unit in any one of the condominiums comprising Cross Creek shall, by virtue of such ownership, be a member of this Corporation. No other persons shall be members.

(b) Voting rights in the Corporation are limited to one vote per unit. When more than one person holds title to a condominium unit their one vote per unit shall be determined as set forth in the Bylaws.

(c) Members and their guests are entitled to use the recreational facilities of Cross Creek, and rules and regulations relating to such use shall be established by the Board of Directors.

ARTICLE IV

TERM OF EXISTENCE:

The term for which this Corporation is to exist shall be perpetual, unless sooner dissolved pursuant to the provisions of Chapter 617, Florida Statutes.

ARTICLE V

DIRECTORS AND OFFICERS:

The affairs of this Corporation shall be managed by a governing Board of not less than three (3) nor more than nine (9) Directors, the exact number to be determined in the manner provided in the Bylaws, each of whom shall be unit owners, or the spouse of the unit owner, in any one of the condominiums comprising Cross Creek and who shall be elected on the date of the Annual Meeting of the Corporation. The officers shall be: a President, one or more Vice Presidents, a Secretary, and a Treasurer, and such other assistant officers as the Directors shall decide. Such officers shall be elected by the Board of Directors. The officers and members of the Board shall perform such duties, hold office for such terms, and take office at such times as shall be provided by the Bylaws of the Corporation. The President, Vice Presidents, Secretary, and Treasurer shall each be elected members of the Board of Directors.

ARTICLE VI

BYLAWS:

The Bylaws of this Corporation may be made, altered, amended or repealed as provided for in the bylaws.

ARTICLE VII

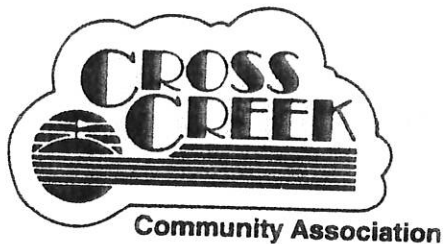
AMENDMENT OF ARTICLES OF INCORPORATION:

Amendments to these Articles of Incorporation may be proposed and adopted as follows: An amendment may be proposed by either the Board of Directors or by ten percent (10%) of the voting interests.

The Amendment must be approved by not less than two-thirds (2/3rds) of the total votes cast by the members voting in person or by proxy at an annual or special meeting at which a quorum has been established, and such amendment is recorded and filed as provided by law.

These Amended and Restated Articles of Incorporation were duly adopted by the required percentage of the voting interests on April 15, 2004, which was a sufficient number for approval.

234950_1.DOC



AMENDED AND RESTATED DECLARATION

*As approved by the members in meeting on September 30, 1993
and recorded in the Public Records of Lee County, Florida*

AMENDMENT TO AMENDED AND RESTATED DECLARATION

*As approved by the members in meeting on April 9, 1998
and recorded in the Public Records of Lee County, Florida*

AMENDED AND RESTATED ARTICLES OF INCORPORATION

*As approved by the members in meeting on April 15, 2004
and recorded in the Public Records of Lee County, Florida*

AMENDED AND RESTATED BY-LAWS

*As approved by the members in meeting on April 15, 2004
and recorded in the Public Records of Lee County, Florida*

of the
**CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.**

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CERTIFICATE OF AMENDMENT OF
MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CROSS CREEK OF FORT MYERS
AND ARTICLES OF INCORPORATION AND BYLAWS OF
CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.

THE UNDERSIGNED, being the duly elected and acting President and Secretary, respectively, of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, 13050 Cross Creek Boulevard, Fort Myers, Florida 33912, do hereby certify that at a duly called meeting of the Board of Directors, where a quorum was present, all the resolutions set forth below were approved. Thereupon, at the Special Meeting of the members held on September 30, 1993, where a quorum was present, after due notice, the resolutions were approved and adopted by the votes indicated for the purposes of amending and restating the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers, as originally recorded at O.R. Book 1760, Page 2417 et seq., Public Records of Lee County, Florida, and the Articles of Incorporation and Bylaws of the corporation.

1. The following resolution was approved by not less than two thirds (2/3) of the unit owners.

RESOLVED: That the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers be and is hereby amended and restated, and the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions is adopted in the form attached hereto and made a part hereof; and

2. The following resolution was approved by not less than two thirds (2/3) of the total votes cast.

RESOLVED: That the Articles of Incorporation of Cross Creek of Fort Myers Community Association, Inc. be and are hereby amended and restated, and the Amended and Restated Articles of Incorporation are adopted in the form attached hereto and made a part hereof; and

3. The following resolution was approved by vote of a majority of a quorum of members present and voting in person or by proxy.

RESOLVED: That the Bylaws of Cross Creek of Fort Myers Community Association, Inc. be and are hereby amended and restated and the Amended and Restated Bylaws are adopted in the form attached hereto and made a part hereof; and it is further

RESOLVED: That the officers and Directors are hereby instructed and authorized to execute the aforementioned documents and cause them to be filed of public record, together with a Certificate of Amendment as required by law.

December 6, 1993
Date

Joyce E. Hassler
Signature of Witness

JOYCE E. HASSLER
Printed Name of Witness

J. H. Hassler
Signature of Witness

J. H. HASSLER
Printed Name of Witness

Attest:

Richard A. Allen
Richard A. Allen, Secretary

STATE OF FLORIDA
COUNTY OF LEE

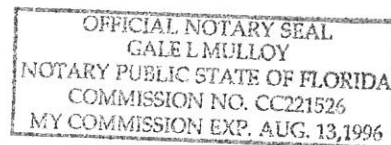
The foregoing instrument was acknowledged before me this 6th day of December, 1993, by Daniel F. Wettlin, President of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. He is personally known to me or has produced _____ (type of identification) as identification and he did (did not) take an oath.

CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.

By: [Signature]
Daniel F. Wettlin, President
(CORPORATE SEAL)

Gale L. Mulloy
Notary Public
Printed Name: GALE L. MULLOY
Commission No.: CC221526
My Commission Expires: 8/13/96
(SEAL)

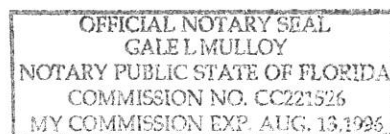
STATE OF FLORIDA
COUNTY OF LEE



The foregoing instrument was acknowledged before me this 6th day of December, 1993, by Richard A. Allen, Secretary of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. He is personally known to me or has produced _____ (type of identification) as identification and he did (did not) take an oath.

Gale L. Mulloy
Notary Public
Printed Name: GALE L. MULLOY
Commission No.: CC221526
My Commission Expires: 8/13/96
(SEAL)

WITNESSED BY
CHRISTOPHER N. DAVIES, ESQUIRE
Post Office Box 1480
Fort Myers, Florida 33902



0R2451 PG0303

AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

CROSS CREEK OF FORT MYERS

NOTE: SUBSTANTIAL REWORDING OF DECLARATION - SEE ORIGINAL

DECLARATION FOR ORIGINAL TEXT

KNOW ALL MEN BY THESE PRESENTS:

That heretofore on December 26, 1984, the original Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers, a planned residential community consisting of 905 residential Condominium Units located in Lee County, Florida (hereinafter "Cross Creek"), was recorded in Official Record Book 1760, at Page 2417 et seq., of the Public Records of Lee County, Florida. That Master Declaration of Covenants, Conditions and Restrictions is hereby further amended in part and is restated in its entirety.

1. PROPERTY SUBJECT TO THESE COVENANTS - This Amended and Restated Master Declaration of Covenants, Conditions and Restrictions is made by Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, hereinafter the "Community Association". The land subject to this Master Declaration, the legal description to which is designated in Exhibits "A" and "B" to the original recorded Master Declaration of Covenants, Conditions and Restrictions and incorporated herein by reference, and the following Deeds recorded at O.R. Book 1953, Page 0779, et seq.; O.R. Book 2041, Page 0160, et seq.; O.R. Book 2055, Page 2855, et seq.; O.R. Book 1987, Page 590, et seq.; O.R. Book 2083, Page 449, et seq.; and O.R. Book 2157, Page 742, et seq., all of the Public Records of Lee County, Florida, and as set forth in the official records of the Association, and the improvements located thereon, shall henceforth be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, charges, and liens hereinafter set forth without necessity or specific reference hereto, which provisions are for the purpose of protecting the value and desirability thereof, and which shall run with the Properties and be binding on all parties having any right, title or interest of any ownership of a Condominium Unit or other real property in Cross Creek or any part thereof, their heirs, personal representatives, successors and assigns.

2. **NAME** - The name of this Association is Cross Creek of Fort Myers Community Association, Inc. This Association is incorporated as a nonprofit Florida corporation, having been incorporated on April 9, 1984.

3. **DEFINITIONS** - The terms used herein shall have the meanings stated in the Condominium Act (Chapter 718, Florida Statutes) and as follows unless the context otherwise requires:

3.1. **ASSESSMENT** - The share of the funds required for the payment of Common Expenses which from time to time is assessed against an Owner.

3.2. **ASSOCIATION OR COMMUNITY ASSOCIATION** - The corporation responsible for the operation of Cross Creek and refers to the Cross Creek of Fort Myers Community Association, Inc., a Florida not for profit corporation.

3.3. **ASSOCIATION OR COMMUNITY ASSOCIATION PROPERTY** - All property, real or personal, owned by the Association.

3.4. **BOARD OF DIRECTORS** - The Board of Directors responsible for administration of the Association.

3.5. **BYLAWS** - The Bylaws of the Association including any and all amendments or modifications to those Bylaws.

3.6. **CHARGE OR SPECIAL CHARGE** - An obligation of an Owner to pay or reimburse money to the Association which cannot be secured as an assessment pursuant to Section 718.116, Florida Statutes, but which is secured by a common law lien on the Unit and its appurtenances pursuant to this Master Declaration.

3.7. **COMMON AREA** - All real property (including the improvements thereto) now or hereafter owned or leased by the Association for the common use and enjoyment of the Owners.

3.8. **COMMON EXPENSES** - All expenses and assessments properly incurred by the Association and such expenses as may be declared to be Common Expenses by this Master Declaration.

3.9. **COMMON SURPLUS** - The excess of all receipts of the Association over the Common Expenses.

3.10. **GOVERNING DOCUMENTS** - This Master Declaration and its attached exhibits, including previously promulgated documents incorporated herein by reference, which set forth the nature of the property rights in Cross Creek and the covenants running with the land which govern these rights. All the Cross Creek documents shall be

subject to the provisions of the Master Declaration and their order of precedence shall be as follows: (1) Declaration; (2) Articles of Incorporation; (3) Bylaws; (4) Rules and Regulations.

3.11. MORTGAGEE - The mortgagee (or its assignee) of a first mortgage against a parcel in Cross Creek, which mortgagee is a bank, savings and loan association, mortgage banker, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a first mortgage against a parcel in Cross Creek which mortgage is guaranteed or insured, as evidenced by a recorded instrument by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns, or other private individual mortgage holder.

3.12. PERSON - An individual, corporation, trust or other legal entity capable of holding title to real property.

3.13. PROPERTIES - The real property described in Exhibits "A" and "B" and subject to this Master Declaration.

3.14. UNIT OR CONDOMINIUM UNIT - A part of the condominium property which is subject to exclusive ownership.

3.15. UNIT OWNER(S) OR OWNER(S) - The Owner(s) of a Condominium Unit.

3.16. VOTING INTERESTS - The voting rights distributed to the Association members.

4. ADMINISTRATION -

4.1. Community Association. The Cross Creek of Fort Myers Community Association, Inc., also referred to herein as the "Community Association" or "Association", shall operate, manage, maintain and repair the Common Area, including but not limited to, the roadways, retention areas, the surface water management system, the sewage treatment plant, the drainage facility, golf course, pool, tennis courts, and clubhouse, the drainage easement along the south side of Cross Creek Boulevard, and any improvements thereto. The Association shall further maintain the decorative entranceways, the electrical fixtures, and medians in the streets. The Association shall pay for the costs incident to these responsibilities and the cost of street lighting for the Common Area through levying assessments against all Association members and shall take such other action as the Association is authorized to take pursuant to this Master Declaration, the Articles of Incorporation, and Bylaws.

The Association, subject to the rights of the Owners set forth in this Master Declaration, shall be responsible for the exclusive management and control of the Common Area, and shall keep the same in good, clean and proper condition, order and repair. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration, and management of the Common Area, golf course, tennis courts, pool, and clubhouse facilities, and performance of its other obligations hereunder.

4.2. Management. The Association may enter into leases and/or contracts for the management and maintenance of the Common Area, golf course and clubhouse facilities and authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules and maintenance of the Common Area, golf course and clubhouse facilities. If said contract is a lease arrangement, it must be approved by a majority of the members then present and voting in person or by proxy at a duly constituted meeting of the members.

4.3. Books and Records. Any member of the Association, or their authorized agent, and any holders of a first mortgage of a Unit in any one of the eighteen (18) Condominium Associations within the jurisdiction of the Association, shall have the right to examine the books and records during normal business hours, within five (5) working days after receipt of a written request by the Board.

5. PROPERTY RIGHTS -

5.1. Owner's Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- A. The right of the Association from time to time in accordance with its Bylaws to establish, modify, amend, and rescind reasonable Rules and Regulations regarding use of the Common Area;
- B. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area to the extent allowed by law and administrative fees for the transfer of membership cards;
- C. The right of the Association to impose fines and/or restrictions of privileges on members and guests for damage to the Association property or abuse of the Rules and Regulations;

D. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by its Articles;

E. The right of the Association to grant easements as to the Common Area and the Common Areas of the eighteen (18) local Condominium Associations provided same does not unreasonably interfere with the use of the property or any part thereof as provided by its Articles;

F. The right of the Association to otherwise deal with the Common Area as provided by its Articles including the right to authorize material alterations or substantial additions to the Common Area and/or real property with a favorable vote of a majority of the votes cast by the voting interests then present in person or by proxy at a duly called meeting of the Association;

G. The right of the Association to operate and maintain the Common Area, the golf course and clubhouse facilities for the use and benefit of its members and their guests as allowed except that public use of the golf course and clubhouse facilities may be allowed during the off-season and on such occasions as approved by the Board.

5.2. Delegation of Use. When a Unit is leased, a tenant shall have all use rights in the Association property and the Common Area otherwise readily available for use generally by Owners and the Owners shall not have any such rights except as a guest, and the right to vote as an Owner.

5.3. Prohibition of Certain Activities. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive, illegal, or offensive activity shall be permitted on or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, or place or erect any improvement or structure of any kind on the Common Area without the prior written approval of the Board of Directors.

5.4. Rules and Regulations. No Owner, or other permitted user, shall violate the reasonable Rules and Regulations adopted by the Board including, but not limited to those relating to the golf course and clubhouse facilities, as the same are from time to time adopted by the Association.

OR2451 PG0309

6. MEMBERSHIP AND VOTING RIGHTS -

6.1. Every Owner of record of a Unit in Cross Creek which is subject to assessment shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, Bylaws, Rules and Regulations, and this Master Declaration. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. When any Unit is owned of record by two (2) or more persons or other legal entity, all such persons or entities shall be members. An Owner of more than one (1) Unit shall be entitled to one (1) membership for each Unit owned. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit which is subject to assessment, and it shall be automatically transferred by recording with the Association the conveyance of that Unit.

6.2. Additional rights of the members regarding voting, corporate meetings, notices, etc., shall be as set forth in the Articles of Incorporation and Bylaws.

7. OWNER AND ASSOCIATION COMPLIANCE - The covenants, restrictions, and servitudes imposed by this Master Declaration shall apply to the following:

- A. All Owners of record of a Condominium Unit in Cross Creek.
- B. Each Condominium Association within Cross Creek.
- C. All occupants of a Unit either pursuant to a deed, lease, license, or other agreement, written or unwritten.

Failure of the Association or the Owner of a Condominium Unit to notify any persons of the existence of these covenants shall not in any way act to limit or divest the right of the Association of enforcement of these covenants.

Any failure by the Association to object to any other party's failure to comply with this Master Declaration or any of the other governing documents shall in no event be deemed a waiver by the Association, or any other party having an interest therein, of its right to object to same and to seek compliance therewith in accordance with the provisions of these documents.

OR2451 P60310

8. ASSESSMENTS - The Association shall assess each of the Owners for the cost of operating the Association and maintaining and repairing the Common Area. The making and collection of assessments for Common Area expenses, and for reserves as may from time to time be established by the Association, shall be pursuant to the Bylaws and subject to the following provisions:

8.1. Share of Common Area Expenses. Each Owner of each Unit shall be liable for a proportionate share of the Common Area expenses which shall be the same for each Unit and shall share in the Common Area surplus but such right shall not vest or create in any Owner the right to withdraw or receive distribution of their share of the Common Area surplus.

8.2. Special Assessments. The Association shall have the right to levy special assessments subject to approval of not less than two-thirds (2/3rds) of those then present in person or by proxy and voting at a meeting called for the purpose. If a special assessment is necessary because of emergency circumstances two-thirds (2/3rds) of the members of the Board may approve same and no vote of the membership at large shall be required.

8.3. Payments. Assessments which are not paid within ten (10) days after the due date shall bear interest at the highest lawful rate. The Association shall also have the right to impose an administrative late fee in an amount determined by the Board of Directors. No Owner may exempt himself from liability for assessments levied by the Association, nor may any Owner effect the release of his Unit from the lien for unpaid assessments owed to the Association by waiver of the use and enjoyment of the Common Area or the abandonment of his Unit. The Association shall have the right to receive payment of any unpaid assessment from the rents due to any owner who rents his Unit and has failed to make payment of his assessment(s).

8.4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners of the Units and for the operation, replacement, improvement and maintenance of the Common Area, including the golf course and clubhouse facilities, for the common benefit of all of the Owners for purposes authorized by this Association. Nothing in this Master Declaration, however, shall be construed in such a way as to prohibit the Association from using any assessments to abate any annoyance or nuisance emanating from outside the boundaries of the Common Area.

8.5. Creation and Enforcement of Charges. The Association shall have a statutory lien upon all of the Condominium parcels within the Properties and under the jurisdiction of this Master Declaration in accordance with the provisions of the Florida Condominium Act. Any such lien may be foreclosed in the same fashion as a claim of lien may be foreclosed, pursuant to Section 718.116, Florida Statutes. Such lien shall bear

interest at the highest lawful rate and shall carry with it late fees, costs, and attorney's fees, including appeals, incurred in collection.

9. **INSURANCE** - Insurance shall be carried upon the Common Area, and the cost of same shall be a Common Expense, in the amount determined by the Board of Directors. All insurance policies upon the Common Area shall be purchased by the Association for the benefit of the Association. Such policies and endorsements thereon shall be deposited with the insurance trustee, if one has been designated. If no insurance trustee has been designated the Association shall act as same.

Any insurance carried by the Association shall not alleviate the responsibility and obligation of each of the Condominium Associations to obtain its own insurance for its respective Condominium property, buildings, and appurtenances thereto; nor shall the Owner be relieved of its own personal insurance responsibilities.

(a) Coverage. The Association shall purchase the following insurance coverage:

- (i) Casualty.
- (ii) Public Liability.
- (iii) Workers' Compensation.
- (iv) Fidelity Bonds.
- (v) Directors' and Officers' Liability.
- (vi) Such other insurance as the Board of Directors shall determine from time to time to be desirable.

(b) Distribution of Proceeds. Proceeds of insurance policies received by the Association or the insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(i) Expense of Trust. All expenses of the insurance trustee shall be first paid or provisions made therefor;

(ii) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Association for the benefit of its members.

(c) Failure to Reconstruct or Repair. If it is determined by not less than two-thirds (2/3) of the owners that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Association for the benefit of its members.

10. CONDEMNATION - In the event the Association receives any award or payment arising from any taking of the Common Area, or any part thereof, as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall be applied to the restoration of the remaining Common Area, and improvements thereon, to the extent deemed advisable by the Association and the remaining balance used to pay the operating expenses of the Association.

11. COMPLIANCE AND DEFAULT - Each Owner shall be governed by and shall comply with the terms of this Master Declaration, the Articles of Incorporation, the Bylaws, and Rules and Regulations as they may be amended from time to time. Failure of the Owner to comply therewith shall entitle the Association or other Owners to the following relief in addition to other remedies provided in this Master Declaration.

11.1. Enforcement. The Association is hereby empowered to enforce this Master Declaration, the Articles of Incorporation, the Bylaws, and Rules and Regulations of the Association. The Board of Directors and any Owner (not at the time in default hereunder) shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoin any violation of this Master Declaration. Each remedy provided for in this Master Declaration shall be cumulative and not exclusive or exhaustive.

11.2. Negligence. An Owner shall be liable to the Association for the expense of any maintenance, repair or replacement rendered necessary by his act, unauthorized or improper installation or maintenance of any improvements, neglect or carelessness or by that of any principals, employees, lessees, or his or their guests, invitees, employees or agents, or by any other person deriving their right and easement of use and enjoyment of the Common Area from the Owner, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance premiums occasioned by said use, misuse, occupancy or abandonment of a Unit or its appurtenances, or of the Common Area. However, the Association through its Board of Directors may elect not to make a claim upon the insurance maintained by the Association and, furthermore, the Association may, after notice and hearing, levy a charge or fee equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Owner or any person for whom the Owner may be liable, as aforesaid. In the case of joint ownership of a Unit, the liability of the Owners shall be joint and several. The expense of collection shall be borne by the Owner.

OR2451 PG0313

11.3. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of an Owner to comply with the terms of this Master Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations adopted pursuant thereto, and said documents as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court, including costs and attorneys' fees for any appellate proceedings, provided no attorneys' fees may be recovered against the Association in any such action.

11.4. No Waiver of Rights. The failure of the Association, or any Owner to enforce any covenant, restriction or other provisions of the Condominium Act, this Master Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

12. AMENDMENT - The covenants and restrictions of this Master Declaration shall run with and bind the land for a term of thirty (30) years from the date this Master Declaration was recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Master Declaration shall be amended only by an affirmative vote, in person or by proxy, of not less than two-thirds (2/3) of the Owners. Any amendment shall be recorded in the Public Records of Lee County, Florida, in order to become effective.

13. USE RESTRICTIONS -

13.1. Units. Each Unit shall be occupied by only one (1) principal family. However, guests may be permitted in conformance with the rules and regulations of the governing local association. No trade, business, profession or other type of commercial activity which creates a nuisance or which generates excessive traffic shall be carried on in any Unit, except that real estate brokers, Owners, and their agents may show Units for sale or lease.

13.2. Nuisance. No Owner shall use his Unit, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential community, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and governing documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

13.3. Failure to Maintain. If the Owner of a Unit shall fail to maintain his Unit as required, or if any of the Condominium Associations fail to enforce the applicable maintenance requirements, the Association, after giving such Owner and/or the local Condominium Association at least ten (10) days written notice, shall be authorized to

undertake such maintenance at the Owner's expense. Entry upon an Owner's Unit for such purpose shall not constitute a trespass. If such maintenance is undertaken by the Association, the charge therefor shall be collected from the Owner and may be secured by a lien on the Unit.

13.4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Unit, except that cats, dogs, and other household pets may be kept provided they are not kept, bred, or maintained for any commercial purposes or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to stray or go upon another's Unit without the consent of the Owner of such Unit. All animals shall be on a leash when outside the Owner's Unit, and all defecations shall be immediately removed.

13.5. Signs. No signs shall be displayed on Units with the exception of a maximum of one (1) "For Sale" or "For Rent" sign not exceeding 36" x 24" in size, unless authorized by the Board. All unauthorized signs shall be removed or discarded.

13.6. Water Retention Areas. The Association shall maintain the water retention areas. Such maintenance shall include removal of aquatic weeds and debris. Swimming, fishing, boating, or bathing in water retention areas shall be prohibited. Docks or other structures may not be erected in water retention areas without the prior written consent of the Board. All other uses of water retention areas shall be subject to the prior written approval of the Board, and such rules and regulations as the Board may adopt from time to time.

13.7. Vehicles. No vehicle shall be parked within the Properties except on a paved parking surface, driveway or within a specifically designated area. No trucks or commercial vehicles may be parked in designated parking areas, without prior approval of the Association.

14. ARCHITECTURAL CONTROL - No exterior change or modification shall be made to any residential Unit or Common Area, nor shall any fences, walls, structures or improvements be added to a Unit or local Condominium Association facility, until the plans and specifications showing the nature, kind, shape, height, materials and color to be used on the exterior, and location of the same, shall have been submitted and approved in writing by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Section will be deemed to have been fully complied with. No approval shall be given by the Board of Directors, or its designated committee, pursuant to the provisions of this Section unless it determines, in its sole discretion, that such approval shall (1) assure harmony of external design, materials, and location in relation to surrounding buildings and topography within Cross Creek; (2) protect and conserve the value and

of this Master Declaration; and (4) conform to or enhance, in the sole opinion of the Board or its designated committee, the aesthetic appearance of Cross Creek. Neither the Association, the Board, nor any member of the Board or its designated committee, shall have any liability to anyone by reason of any acts or action taken in good faith pursuant to this Section.

15. TERMINATION - The Association may be terminated at any time by approval, in writing, of the Owners of ninety percent (90%) of the Units and the consent of all lien and mortgage holders of record, if any.

16. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and use of any gender shall be deemed to include all genders.

17. 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 Master Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations of the Association, and any Exhibits attached hereto, shall not affect the remaining portions thereof.

18. APPLICABLE STATUTES - The validity, application and construction of this Master Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as it exists on the date hereof.

19. CONFLICTS - If there is a conflict between any provision of this Master Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration, the Articles of Incorporation, and the Association's Bylaws, the Declaration shall control. If a difference exists between the Master documents and the documents of any of the eighteen (18) local Condominiums in Cross Creek, the provisions of the Master documents shall control unless the local Condominium documents are more restrictive.

20. INTERPRETATION - The Board of Directors is responsible for interpreting the provisions of this Master Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

21. **EFFECTIVE DATE** - This Amended and Restated Master Declaration of Covenants, Conditions and Restrictions shall not become effective until same is recorded in the Public Records of Lee County, Florida.

THIS AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS and attachments hereto made and entered into this 30th day of September, 1993.

WITNESSES:

Earl A. Slagle, Jr.

Witness Earl Slagle, Jr.
(Print name below signature)

Joseph H. Hassler

Witness Joseph H. Hassler
(Print name below signature)

Attest:

Richard A. Allen
Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30th day of September, 1993, by Dan Wetlin, Jr. and Richard A. Allen, President and Secretary, respectively, of CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC., who are personally known to me or who have produced personally known (type of identification) as identification and who did (did not) take an oath, on behalf of said corporation.

CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.

By: [Signature]

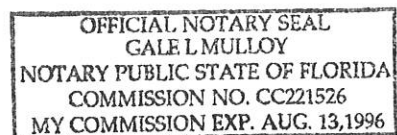
President
(CORPORATE SEAL)

Gale L. Mulloy

Notary Public GALE L. MULLOY
Printed name:

My Commission Expires: 8/13/96

Commission No. CC221526 (SEAL)



34 pages
104.50 Rec

3501338

CERTIFICATE OF AMENDMENT OF
MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CROSS CREEK OF FORT MYERS
AND ARTICLES OF INCORPORATION AND BYLAWS OF
CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.

THE UNDERSIGNED, being the duly elected and acting President and Secretary, respectively, of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, 13050 Cross Creek Boulevard, Fort Myers, Florida 33912, do hereby certify that at a duly called meeting of the Board of Directors, where a quorum was present, all the resolutions set forth below were approved. Thereupon, at the Special Meeting of the members held on September 30, 1993, where a quorum was present, after due notice, the resolutions were approved and adopted by the votes indicated for the purposes of amending and restating the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers, as originally recorded at O.R. Book 1760, Page 2417 et seq., Public Records of Lee County, Florida, and the Articles of Incorporation and Bylaws of the corporation.

1. The following resolution was approved by not less than two thirds (2/3) of the unit owners.

RESOLVED: That the Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers be and is hereby amended and restated, and the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions is adopted in the form attached hereto and made a part hereof; and

2. The following resolution was approved by not less than two thirds (2/3) of the total votes cast.

RESOLVED: That the Articles of Incorporation of Cross Creek of Fort Myers Community Association, Inc. be and are hereby amended and restated, and the Amended and Restated Articles of Incorporation are adopted in the form attached hereto and made a part hereof; and

3. The following resolution was approved by vote of a majority of a quorum of members present and voting in person or by proxy.

RESOLVED: That the Bylaws of Cross Creek of Fort Myers Community Association, Inc. be and are hereby amended and restated and the Amended and Restated Bylaws are adopted in the form attached hereto and made a part hereof; and it is further

RESOLVED: That the officers and Directors are hereby instructed and authorized to execute the aforementioned documents and cause them to be filed of public record, together with a Certificate of Amendment as required by law.

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: G. SHERWOOD, D.C.

0R2451 P60302

December 6, 1993
Date

Joyce E. Hassler
Signature of Witness

JOYCE E. HASSLER
Printed Name of Witness

J. H. Hassler
Signature of Witness

J. H. HASSLER
Printed Name of Witness

Attest:

Richard A. Allen
Richard A. Allen, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 6th day of December, 1993, by Daniel F. Wettlin, President of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. He is personally known to me or has produced (type of identification) as identification and he did (did not) take an oath.

CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.

By: Daniel F. Wettlin
Daniel F. Wettlin, President
(CORPORATE SEAL)

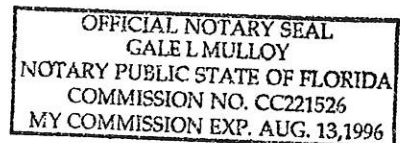


OR2451 PG0303

Gale L. Mulloy

Notary Public
Printed Name: GALE L. MULLOY
Commission No.: CC221526
My Commission Expires: 8/13/96
(SEAL)

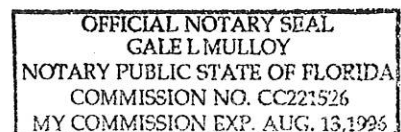
STATE OF FLORIDA
COUNTY OF LEE



The foregoing instrument was acknowledged before me this 6th day of December, 1993, by Richard A. Allen, Secretary of Cross Creek of Fort Myers Community Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. He is personally known to me or has produced (type of identification) as identification and he did (did not) take an oath.

Gale L. Mulloy

Notary Public
Printed Name: GALE L. MULLOY
Commission No.: CC221526
My Commission Expires: 8/13/96
(SEAL)



WITNESSED BY
CHRISTOPHER N. DAVIES, ESQUIRE
Post Office Box 1480
Fort Myers, Florida 33902



4-27-16
Date

An Amendment to the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for Cross Creek of Fort Myers, as originally recorded at O. R. Book 1760, Page 2417 et seq. Public Records of Lee County, Florida and the Articles of Incorporation and Bylaws of the Corporation.

AMENDED BY-LAWS

As approved by the members in meeting on April 21, 2016
And recorded in the Public Records of Lee County, Florida

of the
**CROSS CREEK OF FORT MYERS
COMMUNITY ASSOCIATION, INC.**

BYLAWS
OF
CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION, INC.

3. BOARD OF DIRECTORS

3.1. NUMBER, TERM AND QUALIFICATIONS. The affairs of the Corporation shall be governed by the Board of Directors. The number of Directors which shall constitute the whole Board shall be not less than three (3) and not more than (9). The present Board consists of five but this number may be changed by a majority vote of the Directors at any meeting. Directors shall be unit owners or their spouse of any one of the condominiums comprising Cross Creek. The Directors shall be elected at the annual meeting by written ballot or voting machine. In the case of a vacancy the Director elected by the Board shall serve for a period specified by the rules of the Division. The term of each Director's service shall extend until his/her elected term is completed and thereafter until his/her successor is duly elected and qualified or until the Director is recalled by a majority of the voting interests provided in Chapter 718, Florida Statutes.

IN WITNESS WHEREOF, this Amendment to 3.1 NUMBER, TERM, AND QUALIFICATIONS to the Amended and Restated By-Laws is executed this 27 day of April, 2016.

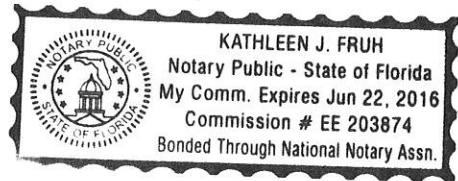
Signed, Sealed and Delivered in the Presence of both Witnesses:

Eileen M. Govern By: Frank A. Maranto and Andrew Baszczuk
1st Witness' Signature Frank A. Maranto Andrew Baszczuk
President Vice President
Eileen M. Govern
Print Name

John Carpenter
2nd Witness Signature
John Carpenter
Print Name

COUNTY OF LEE
STATE OF FLORIDA

The foregoing instrument was acknowledged before me this 27th day of April, 2016, by Frank A. Maranto, the President, and Andrew Baszczuk, a Vice President, of Cross Creek of Fort Myers Community Association, Inc., a Florida Corporation, on behalf of the corporation. Both signers are personally known to me.



Kathleen J. Fruh
Signature of Notary
Kathleen J. Fruh
Notary

LeeClerk.ORG

LINDA DOGGETT : CLERK OF COURT
 2115 Second Street
 P.O. Box 2278
 Fort Myers, FL 33902
 (239) 533-5007

Lee County - DBLive Transaction
 #: **102330672**
 Receipt #: **2288189**
 Cashier Date: **5/2/2016 9:07:13 AM**
 (ALUCKEY)



Print Date: 5/2/2016 9:07:14
 AM

Customer Information	Transaction Information	Payment Summary
() CROSS CREEK 13050 CROSS CREEK BLVD. FORT MYERS, FL 33912	DateReceived: 05/02/2016 Source Code: Ft. Myers Office Q Code: Mail Customer Return Code:Supplied Envelope Trans Type: Recording Agent Ref Num:	Total Fees \$27.00 Total Payments \$27.00

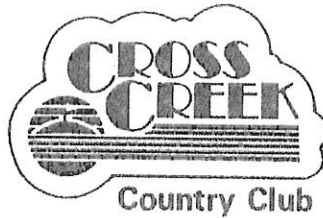
1 Payments

CHECK 8180	\$27.00
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1 Recorded Items

(RES) Restrictions	CFN:2016000092533 Date:5/2/2016 9:07:11 AM From: CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION INC To:
Recording @ 1st=\$10 Add'l=\$8.50 ea.	3 \$27.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	1 \$0.00

0 Search Items**0 Miscellaneous Items**



INSTR # 2015000088026, Pages 7
Doc Type AGR, Recorded 04/27/2015 at 09:38 AM,
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee \$61.00
Deputy Clerk DMAYS
#1

**Cross Creek Golf and Country Club
13050 Cross Creek Blvd
Fort Myers, Florida 33912**

Surface Water Management and Erosion Control

Contents

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Section I - Water Retention Lakes and Ditches.....	1
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Section III - Lake Maintenance Plan	3

An addition to the Amended Master Declaration of Covenants and restated conditions and restrictions for Cross Creek of Fort Myers Community Association, Inc., as originally recorded at O. R. Book 1760, Page 2417 et seg. Public Records of Lee County, Florida and the Articles of Incorporation and Bylaws of the corporation.

INTRODUCTION

This Environmental and Surface Water Management Plan, hereinafter referred to as the "Plan," is created this 1st day of May, 2014, by the Master Board of the Association, herein referred to as the Board, whose address 13050 Cross Creek Blvd, Fort Myers, FL 33912. The Plan is an enhancement and consolidation of previous procedures, policies, documents, informal arrangements, etc. pertaining to community environmental controls and the maintenance of surface water management within the community. The Board intends this Plan to provide guidelines and direction to the property owners, maintenance contractors and other persons conducting work on or in the lakes or lake bank slopes.

Section I - Water Retention Lakes and Ditches

- 1) Lee County has responsibility for maintenance of Daniel's Parkway storm water discharge ditch.
- 2) Lee County has responsibility for weed control and for checking and cleaning discharge culverts.
- 3) Lee County has responsibility for dredging ditches to maximize ditch depth and water retention to hold water runoff from associations and common property.
- 4) Lee County and SFWMD have responsibility for controlling the dam, weirs and water elevation in the Daniels ditch. They also regulate water elevation of the Slough.
- 5) The Association is responsible for water retention in lakes and ditches on Association Property.
- 6) The Association is responsible for weed control and water quality testing (currently done under contract with Aquatic Systems Inc).
- 7) The Association is responsible for ditch and lakeshore maintenance on all lakes within the community.
- 8) The Association is responsible for cleaning soil and weeds from culverts. This should be done semi-annually.
- 9) The Association is responsible for managing the water flow from interconnected lakes and the Daniels discharge ditch as water levels rise in lakes and ditches. Periodic checks should be completed to find potential obstructions.
- 10) The Association is responsible for managing the maintenance on lake aeration equipment.
- 11) The Association is responsible for checking all storm water discharge areas - basins, culverts, downspouts, swales, etc. and for notifying local associations where any of these within their purview might cause excessive erosion.
- 12) The Association is responsible for maintaining a proper sprinkler system pattern in all common areas to eliminate lakeshore or ditch erosion. Local associations are responsible for their own sprinkler systems to insure that these do not cause erosion to the lake banks.
- 13) The Association is responsible for the Storm Water Management Plan.
- 14) The Association is responsible for interfacing with EPA, DNR, SFWMD, and Lee County on all environmental programs that affect the Association.
- 15) The current Superintendent, is a certified environmental Manager. He reports to the Master Board of the Association.

Section II - Environmental & Storm Management Plan

- 1) The used oil recycling program is conducted via Safety Kleen Disposal Co. Records are to be maintained.
- 2) The solvent management plan is conducted via Safety Kleen Disposal Co. Records are to be maintained.
- 3) There is a spill management training program for cleanup, containment and disposal. Records are to be maintained and proper authorities notified upon any release to the environment.
- 4) There is a concrete containment area maintained for tractor fuel dispensing.
- 5) There are concrete containment areas for cleaning lawn cutting equipment. There is an ESD liquid waste water/oil separator system. Oil is to be recycled and water is to be rendered nonhazardous. Machine maintenance records should be maintained to demonstrate proper machine functioning.
- 6) Chemical storage areas are managed and locked. The storage areas are inspected regularly and records are to be maintained.
- 7) Regular weed control is done on lakes, ditches and lakeshore banks.
- 8) There is a semi-annual cleaning of culverts restricted by weeds/soil to maintain effective water flow to discharge ditches on Daniels. Records are to be maintained.
- 9) Lake aerators are maintained with checks on power and operations. Aquatic Systems Inc. is the current maintenance contractor. Regular inspections are performed and records are to be maintained.
- 10) Storm drain cleaning and discharge to containment areas (lakes and ditches) are performed on a regular basis.
- 11) Normal maintenance and management is performed on lake control boxes and weirs controlling lake elevation. Weirs are fixed at an establish height and cannot be varied or discharge altered by the Association.
- 12) The Association manages the installation and maintenance of littoral plantings along the lakeshore banks in order to reduce lakeshore erosion - ecofiltration.
- 13) The Association manages/supervises the environmental company (Aquatic Systems Inc.) and insures regular water testing, removal and control of exotic nuisance plants, water treatment, and maintenance of aerators. Records are to be maintained on treatments, problems and problem resolution.
- 14) The Association maintains storm water discharge pipes to lakes and ditches to eliminate bank erosion. Periodic discussions with local regulatory agencies are held to eliminate storm water bank erosion.
- 15) Annual updates and education are scheduled on water treatment and management and proper use of chemicals to eliminate water pollution. Certification of environmental courses taken - sponsored by Southwest Chapter of Golf Course Superintendents Association – are documented.
- 16) The Superintendent is responsible for education and training of staff and for documenting environmental and safety training programs given to staff.
- 17) The Superintendent reports to the Master Board of the Association.
- 18) When necessary, reviews with County or SFWMD on water quality problems or discharges are done.
- 19) The Association will insure that all lakeshore banks and ditches are environmentally friendly.

20) The Association will interface with EPA, DNR, SFWDM, and Lee County, or OSHA on all programs or regulations or requirements and discuss problems with appropriate sources for resolution.

21) The Association will adhere to Lee County Land Development code chapter 10-329 (d) (see below), the lake maintenance plan, and listed elements.

22) The Superintendent is certified in chemical applications - fertilizers and herbicides. He sprays and monitors these applications.

23) Roof drains and swales will be routed in such a method, elevation or length as to eliminate or minimize erosion. These will be continually monitored.

24) Local associations will be made aware of issues such as design between houses; run off from roofs, down spouts, improper slopes; elevation changes; irrigation leaks; lawnmower traffic on lake shorelines; chemical treatment for weeds along shorelines, etc. and, where necessary, will be required to make appropriate alterations.

Section III - Lake Maintenance Plan **for Cross Creek Community Association**

This Lake Maintenance Plan, hereinafter referred to as the "Plan," is created this 1st day of May, 2014, by the Master Board of the Association, herein referred to as the Board, whose address 13050 Cross Creek Blvd, Fort Myers, FL 33912. The Plan is an enhancement and consolidation of previous procedures, policies, documents, informal arrangements, etc. pertaining to the maintenance of surface water management within the community. The Board intends this Plan to provide guidelines and direction to the property owners, maintenance contractors and other persons conducting work on or in the lake bank slopes as follows:

Introduction

The County has duly adopted its Land Development Code (LDC), which, in Section 10-329, establishes the need to develop a Lake Maintenance Plan which will provide for the long term maintenance of the lake and lake-shoreline areas and provide for the public's health and safety, preservation of property and enhancement of water quality.

The Board is the grantee of a Surface Water Management permit #36-00434-S and is responsible for lake maintenance on the property commonly described as the Cross Creek Community Association which is more specifically described as STRAP 20-45-25-00-0000-00CE, according to the plat thereof, recorded in the Public Records of Lee County, Florida, hereinafter referred to as the "Property;" and

The Board applied for a local Development Order #LDO2014-00345 pertaining to the above described Property and obtained approval for lake bank restoration on the Property; and

Pursuant to Lee County Land Development Code Chapter 10-329, the County has agreed to approve the Board's development order request with the condition that the Board develop a Lake Maintenance Plan so as to achieve reasonable continuing compliance with the County regulations pertaining to lake slopes, littoral planting requirements and building setbacks.

Plan for Lake Maintenance

Pursuant to Lee County Land Development Code Chapter 10-329(d), the Lake Maintenance Plan must specifically include the following elements:

Identification of the methods to remove and control exotic and nuisance plants in perpetuity: The Board will retain a contract with an appropriate and approved company (currently Aquatic Systems, Inc.) or have on staff a qualified person or persons assigned to maintain the lakes and littorals within and around the lakes. Responsibilities will include regular water testing, control and removal of exotic and nuisance plants, water treatment for algae and/or other irregularities, and maintenance of aerators and fountains within the lakes. The lake banks will be inspected at least semi-annually and prohibited vegetation removed by a combination of hand clearing or proper herbicide treatment by a licensed applicator.

Required littoral vegetation must remain in a healthy and vigorous state in perpetuity. If any littoral plants die, they must be replaced within sixty (60) days. The use of trimming, mowing and herbicides to remove littoral plants is prohibited.

The overriding emphasis on erosion control within the community revolves around the use of littorals for earth shoreline landscaping. The Board also feels that this will greatly enhance the beauty and health of our lakes. There are numerous benefits to adding a natural buffer or riparian zone with native plants to our lakes, and, in many cases, Lee County actually requires them as designated mitigation areas for storm water retention. Some of the advantages that will accrue to our lakes include:

Erosion control – roots from plants will stabilize the shoreline and offshore vegetation will buffer against wave action;

Long-term solution – these plants are perennials and, with a minimum of proper care from the Board and the local associations, they should continue to provide erosion control for the foreseeable future;

Reduction of non-native plant invasions – exotic and unwanted plants will have a much harder time taking root in areas where these native plants are well established; in addition, the Board will contract with a maintenance company or hire our own staff to insure that unwanted plants do not take hold in these areas.

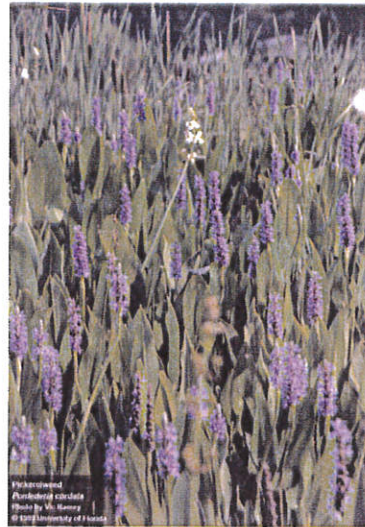
Water quality – these plants will act as a filter for surface run-off from various sources including roads and lawns and reduce excess nutrients that may be introduced; this will reduce algae and other undesirable elements within our lakes.

Wildlife habitat – many native wildlife inhabit the areas around the shorelines of our lakes and aquatic plants will provide both food and shelter for these;

Aesthetics – bare shorelines during the dry seasons are not attractive and areas that solely consist of well-manicured grass tend to erode during rainy seasons. Both of these contribute to erosion, adding a variety of plants adds layers of visual interest to the scenery.

There are a number of littoral plants that are approved and recommended for use along lake shorelines such as ours, but the Board has generally selected plants that are lower growing so as to be less obstructive to views of the lakes and surroundings and these have been planted at a rate of at least 3 plants per linear foot. Spikerush (left picture below) has been widely used closest to the water's edge and it can grow in a maximum of 2 to 3 foot depths. It generally grows no more than 2 feet tall and it doesn't grow or dies where the water is deeper, so will not grow too far into our lakes. The native Pickerelweed (right picture below) grows in the dryer sections of the banks to a height of about 1 1/2 to 3 feet including the purple flowers that grow at the top. Pickerelweed is tolerant of both wet and dry conditions and has been installed behind the spikerush and closer to the banks. For additional aesthetics, blue flag iris and golden canna has been introduced in various locations near the tops of banks and in more dense applications in non-residential areas such as the golf course fairways. Finally, a limited amount of arrowhead and cord grass have been utilized in non-residential areas as well.

None of the littorals are allowed to be cut back or trimmed by local associations or their members as the plants are likely to die from over trimming. Local associations or their members are not required nor allowed to maintain the littoral plantings throughout the community. As noted elsewhere, this is the responsibility of the Master Board currently via a contract with Aquatic Systems to avoid, for example, their getting overrun with weeds or invasive plants that might become less attractive. Any concerns about the littorals should be reported to the Cross Creek Association office. Please note, however, that it is the responsibility of owners to educate and monitor lawn maintenance staff to insure proper use of trimming, mowing and herbicides anywhere in the vicinity of the lake shores in order to protect littoral plants from damages.



Demonstration as to how surface water runoff quantities and flow velocities will be controlled to prevent bank erosion, including but not limited to, routing roof drains away from lake shorelines.

In 1999, a study with Ecosystems Technologies Inc. concluded that much of the erosion in the community was “mostly man-made although nature does contribute to the overall problem.” Specific items were identified home owners’ responsibilities to abate erosion. The Board, at that time, documented owners’ responsibilities and directed them to address these issues by, e.g., swale design between houses; run off from roofs, down spouts, improper slopes; elevation changes; irrigation leaks; lawnmower traffic on lake shorelines; chemical treatment for weeds along shorelines, etc. These kinds of requirements will become part and parcel of this Plan; will be refreshed with local associations from time to time; and will be monitored and reviewed by a Board director assigned to oversee the common grounds.

Requirements that educational materials be provided to residents describing the purpose and function of the bank slope and littoral areas. The materials must also explain the individual property owner's responsibilities with respect to compliance with bank slope and littoral area management plans. Educational materials may take the form of signs and brochures.

This document itself contains information on the lake banks and littoral areas including owners’ responsibilities. The document has been made available to each of the 18 associations in Cross Creek. In addition, the Cross Creek Policy & Procedures Manual, specifically Policy G-13 referring to the Lakes, has been substantially re-written to incorporate these kinds of information. To further insure that every resident is aware of these materials, they have also been added to the Resident’s Handbook of Rules and Regulations and General Information. Finally, the Plan as well as links to other pertinent information on surface water management and littoral plantings have been added to the Cross Creek web site and are readily available for all residents.

1. In consideration of the County's approval of the Board’s aforementioned Development Order and in further consideration of the benefits contained in the recitals in the foregoing Introduction, incorporated as part of this Plan by reference thereto, the sufficiency of which is acknowledged, The Board hereby agrees to maintain the lake(s) subject to development order to the specific standards of that development order and as augmented herein.
2. This Lake Maintenance Plan is binding on the heirs, successors, and assigns of the Board, and is intended to run with the land and as such, will be recorded in the Public Records of Lee County, Florida.

IN WITNESS WHEREOF, this Lake Maintenance Plan is executed this 16 day of April, 2015.

Signed, Sealed and Delivered In the Presence of both Witnesses:

Eileen McGovern

[1st Witness' Signature]

Eileen McGovern

[Print Name]

Patricia A Kentzer

[2nd Witness' Signature]

Patricia A Kentzer

[Print Name]

BY: Frank A. Maranto
Frank A. Maranto
President

and Andrew Baszczuk
Andrew Baszczuk
Vice President

COUNTY OF LEE :

STATE OF FLORIDA :

The foregoing instrument was acknowledged before me this 16th day of April, 2015, by Frank A. Maranto, the President, and Andrew Baszczuk, a Vice President, of Cross Creek of Fort Myers Community Association, Inc a Florida Corporation, on behalf of the corporation. Both signees are personally known to me.



Kathleen J. Fruh
[Signature of Notary]

Kathleen J. Fruh

Notary
[Title]

[Serial number, if any]

ATTEST:

CHARLIE GREEN, CLERK

By: _____

Print: _____

Deputy Clerk

APPROVED AS TO FORM

By: _____

Print: _____

Office of the County Attorney

LeeClerk.ORG

LINDA DOGGETT : CLERK OF COURT
 2115 Second Street
 P.O. Box 2278
 Fort Myers, FL 33902
 (239) 533-5007

Lee County - DBLive Transaction
 #: **102126197**
 Receipt #: **2086829**
 Cashier Date: **4/27/2015 9:38:37 AM**
 (DMAYS)



Print Date:
 4/27/2015 9:38:38 AM

Customer Information	Transaction Information	Payment Summary
() CROSS CREEK OF FORT MYERS COMMUNITY ASSOCIATION INC 13050 CROSS CREEK BLVD FORT MYERS, FL 33912	Date Received: 4/27/2015 Source Code: Ft. Myers Office Q Code: Mail Customer Return Code: Supplied Envelope Trans Type: Recording Agent Ref Num:	Total Fees \$61.00 Total Payments \$61.00

1 Payments

CHECK 7054	\$61.00
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1 Recorded Items

(AGR) Agreement	CFN: 2015000088026 Date: 4/27/2015 9:38:31 AM From: CROSS CREEK GOLF AND COUNTRY CLUB To:
Recording @ 1st=\$10 Add'l=\$8.50 ea.	7 \$61.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	1 \$0.00

0 Search Items**0 Miscellaneous Items**