

Prepared by:  
UTA S. GROVE, ESQ.  
Powell, Carney, Gross, Maller & Ramsay, P.A.  
One Progress Plaza, Suite 1210  
St. Petersburg, Florida 33701

(Area above reserved for the Clerk of the Court)

**DECLARATION OF CONDOMINIUM  
of  
BEACHWALK CONDOMINIUM**

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**DECLARATION OF CONDOMINIUM**  
*of*  
**BEACHWALK CONDOMINIUM**

KNOW ALL MEN BY THESE PRESENTS, that A & J Development LLC, a Florida limited liability company, does hereby submit to condominium ownership pursuant to the provisions of Chapter 718, *Florida Statutes* 2005 the land and improvements thereon and all improvements hereafter erected thereon, situate, lying and being in the County of Pinellas, State of Florida, said land being more particularly described in Exhibit A attached hereto and by this reference incorporated herein. Said property shall hereafter be subject to the following provisions, restrictions, reservations, covenants, conditions and easements:

1. **Definitions.** The following words when used in this Declaration shall have the following meanings:

(a) "**Association**" shall mean Beachwalk Condominium Association of Gulfport, Inc., its successors and assigns.

(b) "**Condominium Act**" shall mean Chapter 718 of the *Florida Statutes* (2005), and all provisions thereof shall apply to this condominium, except that this Declaration and the exhibits hereto shall control to the extent that the Condominium Act allows such documents to vary the provisions of the Condominium Act.

(c) "**Developer**" shall mean A & J Development LLC and its successors and assigns, provided there is an assignment of Developer's rights and/or obligations hereunder to such successor or assign. Developer may assign all or only a portion of such rights and/or obligations as to all or only a portion of the condominium. In the event of any such partial assignment, the assignee shall have only those rights and/or obligations specifically set forth in such assignment. Any such assignment may be made on a non-exclusive basis.

2. **Name.** The name by which this condominium shall be known and identified is BEACHWALK, A CONDOMINIUM.

3. **Condominium Plat.** A plat of the condominium property, containing a survey of the land and a plot plan locating the improvements thereon and identifying each condominium unit and the common elements and their relative locations and approximate dimensions, is attached hereto as Exhibit A and is recorded in Condominium Book 147 at pages 21-23, Public Records of Pinellas County, Florida. The locations, dimensions, descriptions, identification, and numbering or lettering of the respective condominium units shall be as described in the plat. The ten (10) condominium units which comprise this condominium are numbered 1A through 1E, 2A through 2D, and 3. A unit shall consist of the space defined in the plat. In the event that the actual physical location of any unit at any time does not precisely coincide with the plat and any subsequent amendments thereto, the actual physical

locations shall control over the locations, dimensions, and descriptions contained in the plat and any subsequent amendments. In the event of a total or substantial destruction of the building, the locations, dimensions, and descriptions of the respective units as contained in the plat, and any subsequent amendments, will control.

Developer reserves the right to change the configuration and size of any condominium unit, so long as the change is not material, and to alter or modify the appurtenances to a unit, as long as the alteration or modification is not material, as long as Developer owns the units involved, and provided such changes, alterations or modifications are reflected by amendments to this Declaration. Any amendments pursuant to this paragraph need be signed and acknowledged only by Developer and any mortgagee of the units, if any, and need not be approved by the Association or other unit owners. No amendment pursuant to this subparagraph shall change the proportion or percentage by which the owner of the unit shares the common expenses or owns the common surplus.

Developer further reserves the right to make non-material aesthetic alterations to the exterior of the condominium building which, in Developer's reasonable discretion, are in the best interests of the condominium.

Developer reserves the right to change the interior design or floor plan of all units so long as the Developer owns the units so changed and altered, and provided that no such alteration shall change the proportion or percentage of the undivided share in the common elements, common expenses and common surplus.

4. **Ownership of Common Elements and Sharing of Common Expenses.** The undivided share in the common elements appurtenant to each unit shall be determined on an equal fractional basis. That is, the common elements assigned to each unit shall be based upon each unit having a one-tenth (1/10th) share. The proportions or percentages of and the manner of sharing common expenses and owning common surplus shall be the same as the undivided shares in the common elements. The allocation for each unit is shown on attached Exhibit "D".

5. **Common Elements.** Any right, title, or interest in a condominium unit shall automatically carry with it as an appurtenance and without necessity of specific reference thereto its respective undivided share of the common elements and, subject to the provisions hereof, a right to use the common elements in conjunction with the owners of the other condominium units. The common elements shall include but shall not be limited to:

- (a) all of the above described land and all easements appurtenant thereto;
- (b) all improvements and parts thereof which are not included within the boundaries of the respective condominium units;

(c) all utility chases and all structural beams, columns, and members not within the boundary of a unit and an easement of support in any portion of a unit which contributes to the support of the building;

(d) all utility areas, improvements, and installations and all utility services which are available to more than one unit or to the common elements, including easements through the units necessary to provide such services; provided, however, Developer reserves the use and ownership of all main utility lines and equipment, including without limitation sewer, water, electric, telephone, surface and subsurface drainage and all central television antenna signal distribution wires, lines, and equipment that are located within the boundaries of this condominium and the right to convey the same to the Association, Pinellas County or an agency thereof, Progress Energy of Florida, Inc., Verizon, Time Warner Cable, or any other person or legal entity as Developer may deem appropriate;

(e) all parking areas, driveways and other means of ingress and egress;

(f) all electrical apparatus and wiring, plumbing pipes and apparatus, and other ducts, conduits, cables, wire or pipe, which are located outside the boundaries of the units or which, regardless of location, serve more than one unit, to the extent the same are not owned by utility companies or Developer or others as described in Subsection (d) above;

(g) all tangible personal property subjected to condominium ownership or owned, leased by, or dedicated by recorded plat to the Association for the use and benefit of its members; and

(h) all inlets, ditches, swales, culverts, water control structures, retention and detention areas, if any, hereinafter called "Surface Water Management System Facilities"; and

(i) alterations, additions, and further improvements to the common elements.

Some of the common elements are designated herein as limited common elements and, as such, are reserved for the exclusive use of certain units pursuant to the provisions of paragraph 6. The remaining common elements are for the equal and full use and enjoyment of all unit owners, which usage shall always be in recognition of the mutual rights and responsibilities of each of the unit owners. All of the common elements shall be subject to such restrictions as may be contained herein and to such reasonable and uniform regulations as may be duly adopted by the Association board of directors.

6. **Limited Common Elements.** After assignment as provided herein, the parking spaces shown on Exhibit "A" attached hereto shall be deemed to be

limited common elements, the use of which shall be limited to those unit owners to whom such use is assigned pursuant to the provisions of this Declaration. Developer shall have the right to assign parking spaces to the unit owners and, thereafter, designate such parking spaces with the corresponding unit number or with such other designation as it may deem appropriate. Upon such assignment, use of the designated parking space shall be deemed an exclusive right of the owner of the unit to which it is assigned. A separate roster shall be kept by the Association as to assigned parking spaces. Any such assignment may be changed subsequently by an assignment executed by both the unit owner making the assignment, and the unit owner receiving the assignment or the Association, as applicable. A copy of any such re-assignment shall be provided to the Association.

The following also shall be deemed to be limited common elements, the use of which shall be limited to those unit owners to whom such use is assigned by the provisions of this Declaration or the Condominium Plat attached hereto as Exhibit "A":

(a) **Air Conditioning/Heating Equipment.** Any equipment (including without limitation, freon lines, electrical lines and hook-up and equipment pad) comprising part of a heating/air conditioning system serving only one unit which is located outside the boundaries of the unit shall be a limited common element reserved for the exclusive use of the benefitted unit.

(b) **Buildings 1 and 2.** All of the structural portions of Buildings 1 and 2 which are not included within the boundaries of the Units, including without limitation the building foundations, exterior building walls, stairways, hallways, roof, plumbing, electrical and other facilities servicing more than one unit (hereinafter referred to as the "Buildings 1 and 2 Building Components"), shall all be limited common elements reserved for the exclusive use of those units that are located within Buildings 1 and 2.

(c) **Building 3.** All of the structural portions of Building 3 which are not included within the boundaries of Unit 3, including without limitation the building foundation, exterior building walls, stairways, hallways, roof, plumbing, electrical and other facilities servicing Unit 3 (hereinafter referred to as the "Building 3 Building Components"), shall all be limited common elements reserved for the exclusive use of Unit 3.

Except as may be otherwise specifically provided to the contrary in this Declaration, the owner of a unit may not make any alterations or improvements to any limited common element relating to the unit without the prior written consent of the Board of Directors of the Association.

The right of a unit owner to use any such limited common element shall be an appurtenance to the unit and shall be encumbered or conveyed as an appurtenance to the unit without necessity of specific reference thereto. Such right may not be separately conveyed, assigned or encumbered except for assignments of parking spaces between unit owners. Such right shall also run in favor of the unit owner's family, guests, invitees, tenants, agents, servants and employees. Such rights shall be subject to all the applicable restrictions on use elsewhere set forth herein, including without limitation those set forth in paragraph 13 hereinbelow. Such rights shall also be subject to any rules and regulations promulgated by the Association.

7. **Association.** The corporation which will be responsible for the operation of the condominium will be an incorporated association known as the Beachwalk Condominium Association of Gulfport, Inc. herein referred to as the Association. All persons owning a vested present interest in the fee title to any of the condominium units, which interest is evidenced by a proper instrument duly recorded in the Public Records of Pinellas County, shall automatically be members of the Association. Their respective memberships shall terminate as their vested interest in the fee title terminates, except as otherwise provided in the Association's Articles of Incorporation. All of the affairs and property of the condominium and of the Association shall be controlled by the officers and board of directors of the Association. A copy of the Articles of Incorporation which have been or will be filed with and certified by the Secretary of the State of Florida is attached hereto as Exhibit "B". The Bylaws governing the operation of the condominium and the Association are attached hereto as Exhibit "C". The Association shall have all of the rights and powers provided by the Condominium Act, the Florida Corporation Statutes, the Articles of Incorporation, the Bylaws, and this Declaration.

8. **Voting Rights.** The voting rights of each unit shall be determined on an equal fractional basis. Each condominium unit shall be entitled to one (1) vote at Association meetings and shall have such voting rights as are provided in the Articles of Incorporation and this Declaration of Condominium. Subject to the provisions of Section 718.112, *Florida Statutes*, regarding the use of general and limited proxies, any vote may be cast in person or by proxy executed in writing and filed with the secretary of the Association. Any otherwise properly executed proxy which does not appoint a specific person as the proxy holder shall automatically be deemed to designate the president of the Association as the proxy holder.

9. **Common Expenses.** The common expenses shall include:

(a) costs of operation, maintenance, repair, and replacement of the common elements, including by way of illustration and not limitation, costs of operation, maintenance, repair and replacement of the pool, landscaping, walkways, parking and driveway areas, Surface Water Management Systems Facilities, and such of the limited common elements as the Association is obligated under the terms hereof to maintain, repair and replace, unless the cost of such maintenance, repair and replacement is to be shared only by those units entitled to use of the limited common elements;

(b) costs of management of the condominium and administrative costs of the Association, including professional fees and expenses;

(c) costs of water and sewer service, electricity, and other utilities which are not metered separately to the individual condominium units;

(d) labor, material, and supplies used in conjunction with the common elements;

(e) damages to the condominium property in excess of insurance coverage;

(f) salary, management fee, or other compensation of a manager or managers and their assistants, as shall be determined by the board of directors of the Association;

(g) premium costs of fire, windstorm, flood, and other property and liability insurance as provided herein;

(h) cost of installation of additions or alterations, or of the acquisition of leaseholds, memberships or other possessory or use interests in lands or facilities acquired for the benefit of the unit owners of this condominium or of the acquisition or lease of property, both real and personal;

(i) all other costs and expenses that may be duly incurred by the Association through its board of directors from time to time in operating, protecting, managing, and conserving the condominium property and in carrying out its duties and responsibilities as provided by the Condominium Act, this Declaration, the Articles of Incorporation, and the Bylaws.



10. **Maintenance, Repairs and Replacements.** The respective obligations of the Association and the unit owners to clean, maintain, repair, and replace the condominium property shall be as follows:

(a) **By the Association.** Except as may be otherwise provided by the terms hereof, the Association shall have the responsibility to:

(1) clean, maintain, repair and replace all of the common elements, and the limited common elements to the extent this Declaration does not require the limited common elements to be maintained, repaired or replaced by any unit owner; and

(2) clean, maintain, repair and replace all electrical, plumbing and mechanical equipment serving the common elements.

The Association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any common elements therein or accessible therefrom, or of any other portions of the condominium property for which the Association has maintenance responsibility. The Association shall also have access to each unit during any hours for performing such emergency repairs or procedures therein as may be necessary to prevent damage to the common elements or to another unit. If the board of directors determines that any maintenance, repair, or replacement required to be made by the Association was necessitated by the carelessness, negligence, or intentional act of a unit owner, his lessees, invitees, or guests, the cost of such maintenance, repair, or replacement shall be charged against the unit owner and shall be payable by such unit owner within thirty (30) days after delivery of written notice of the charge. Neither the Association nor any unit owner shall be liable for any damage to the property or person of any other unit owner or occupant caused by water intrusion into a unit through the common elements or from another unit resulting from rain leakage, pipe leakage, overflow, or bursting, or other similar source, unless the Association or unit owner is guilty of gross negligence or willful and wanton misconduct.

(b) **By the Unit Owners.** Each unit owner shall clean, maintain, repair, and replace everything within the confines of his unit which is not part of the common elements or limited common elements as defined herein, and which is not otherwise specified herein as the responsibility of the Association to clean, maintain, repair, or replace, including but not limited to:

(1) paint, finish, covering, wallpaper, and decoration of the interior surfaces of all doors, walls, floors and ceilings;

(2) all built-in shelves, cabinets, counters, storage areas, and closets;

(3) all refrigerators, stoves, ovens, disposals, compactors, dishwashers, and other appliances and all bathroom fixtures, equipment, and apparatus;

(4) all electrical, plumbing, telephone, and television fixtures, apparatus, equipment, outlets, switches, wires, pipes, and conduits;

(5) all mechanical, ventilating, heating and air conditioning equipment;

(6) all interior doors, walls, partitions, and room dividers and all exterior doors, except the periodic cleaning and periodic painting of the exterior doors of the units to be performed by the Association as provided above;

(7) all furniture, furnishings, and personal property contained within the unit; and

(8) all screens, windows, sliding glass doors and other exterior glass and screen surfaces, except the cleaning and maintenance of certain windows and screens to be performed by the Association as provided above.

(c) Each unit owner shall also have the following responsibilities with regard to the limited common elements:

(1) *Air Conditioning/Heating Equipment.* The unit owner shall clean, maintain, repair and replace the limited common element air conditioning and heating equipment which serves his unit, at the sole expense of that unit owner.

(2) *Buildings 1 and 2.* The owners of units located in Building 1 or Building 2 shall equally share (1/9<sup>th</sup> share each) the cost of maintaining, repairing and replacing the Buildings 1 and 2 Building Components (as such term is defined in Section 6 above), which maintenance, repair and replacement is to be performed by the Association, pursuant to Section 10(a) above. The Association shall collect the payment of each such Unit owner's 1/9<sup>th</sup> share of such expense in the same manner as it collects assessments, as set forth in Section 15 below.

(3) *Building 3.* The owner of Unit 3, being the only Unit located in Building 3, shall solely be responsible for maintaining, repairing and replacing the Building 3 Building Components (as such term is defined in Section 6 (above) in good condition, and shall pay the entire cost of such maintenance, repair and replacement.

(4) *Alterations and Improvements.* The unit owner shall clean, maintain, repair and replace all alterations and improvements which he makes to any limited common element serving his unit. No unit owner shall make any alterations or improvements to any limited common element relating to the unit without the prior written consent of the Board of Directors of the Association

In the event any owner fails to fulfill his maintenance obligations as set forth above, the Association, at the discretion of the board of directors, may undertake such maintenance and make such repairs as the board may deem necessary, and the cost thereof shall be charged against such defaulting unit owner and shall be payable within thirty (30) days after delivery of written notice of the charge. In the event the Association incurs any expense in maintaining, repairing or replacing any limited common elements which is to be shared at the expense of only those entitled to use such limited common elements, the Association may use the provisions of Section 15 below and of Section 718.116 of the Condominium Act to enforce payment of the expense by the unit owners entitled to use such limited common element(s).

11. ***Hazard Insurance, Destruction and Reconstruction.*** Except as otherwise provided herein, the Association, as agent for and on behalf of the unit owners and their respective mortgagees, shall obtain and maintain fire and extended coverage insurance with a responsible insurance company upon all of the insurable improvements of the entire condominium, including the common elements and the respective units and personal property of the Association, for the full replacement or insurable value thereof with deductibles as reasonably determined by the Association. The coverage provided by said insurance shall be in compliance with the requirements of the Condominium Act. The Association shall maintain flood insurance in at least the amount required by institutional first mortgagees. The premium for all insurance shall be paid by the Association and shall be included in the assessment for common expenses. The Association shall have full authority as agent for the insured to compromise and settle all claims against its insurance carrier and may institute legal proceedings for the collection thereof. The original policy of insurance shall be held by the Association, and institutional first mortgagees shall be furnished, upon request, mortgagee endorsements covering their

respective interests. Each unit owner shall be responsible for insuring his own personal property within his unit and any improvements made by him within his unit which are not covered by the Association policy.

In the event of a destruction or casualty loss to any of the improvements, all insurance proceeds payable under the Association's policies shall be collected by the Association. Except as provided below, the proceeds shall be held by the Association and used for the immediate repair and reconstruction of the damaged improvements under the supervision and control of the board of directors. Any surplus of insurance proceeds shall be added to the common surplus. In the event the proceeds are not sufficient to pay the cost of the reconstruction, the Association shall obtain sufficient additional funds by levying a special assessment on the owners. The Association's insurance carrier shall not have a right of subrogation against any unit owner, but if it is determined by the board of directors that the damage was proximately caused by the gross negligence or willful and wanton misconduct or intentional acts of a unit owner, such unit owner may be charged a sum sufficient to reimburse the Association for any deductible or deficiency in insurance proceeds, which sum shall be payable by such unit owner within thirty (30) days after delivery of written notice of the charge.

Notwithstanding the above, in the event of a total or substantial destruction of all of the condominium improvements, the improvements shall be restored as above provided unless the owners of all of the units in the condominium vote to terminate this condominium. "Substantial destruction" shall mean loss or damage whereby seventy-five percent (75%) or more of the total space in the buildings on the condominium property is rendered untenable, or loss or damage whereby seventy-five percent (75%) or more of the total amount of insurance coverage on said buildings becomes payable. The consent of institutional first mortgagees pursuant to paragraph 16 shall also be necessary to effectuate a termination of the condominium in the manner above described. In the event the condominium is to be terminated, then all owners of units shall immediately convey all their right, title, and interest in their respective units to a bank trustee selected by the board of directors, to be held by such trustee in trust. The recording of each such conveyance to the trustee in the Public Records of Pinellas County will have the immediate effect of releasing all liens upon the respective unit and shall cause their instantaneous transfer to that unit owner's share of the funds to be subsequently distributed by the trustee as provided herein. Upon recording an instrument evidencing the termination of the condominium, the proportional share of each unit owner in the condominium property and, to the extent allowed by law, in all funds distributed by the trustee as herein provided shall be established in accordance with the respective values of the units prior to the

destruction as such values are determined by three experienced real estate appraisers selected by the board of directors.

The trustee shall collect all insurance proceeds payable as a result of such destruction, shall collect all assets of the Association which are allocable to the units in this condominium and which may remain after the Association pays its liabilities, and shall effect a public or private sale of the condominium property, by whatever means the Association board of directors shall deem best, for the highest and best price, for cash or terms, as soon as practicable consistent with local real estate market conditions. The trustee may make partial distributions of each unit's share of the funds collected by the trustee at such times and in such aggregate amounts as the trustee and the Association board of directors may deem appropriate. In determining the amount of any partial distribution, the trustee and the Association board of directors shall ensure that sufficient funds are retained by the trustee to cover unpaid or anticipated costs, fees, or other liabilities of the Association. When the trustee has collected all insurance proceeds and all proceeds from the sale of the condominium property and, to the extent applicable, the assets of the Association and has paid all applicable Association liabilities and reasonable trustee's fees, appraiser's fees, and other costs reasonably incurred, the trustee shall make a final distribution of each unit's share of the remaining funds held by the trustee.

Any distribution, whether partial or final, of a unit's share of the funds held by the trustee shall be made jointly to the record title owner of the unit and the record owners of any mortgages or other liens encumbering the unit at the time of the recording of the conveyance to the trustee by the unit owner. All mortgages and other liens upon the respective units shall be fully released and discharged as provided herein even though the share of a particular unit in the funds distributed by the trustee is insufficient to pay all liens in full; in such event the lienholders who had priority against the title to the unit shall have priority of payment of the unit's share of such funds. Nothing herein provided shall in any way relieve the unit owner of his personal liability for any deficiency which may remain upon any liens which encumbered his unit at the time of his conveyance to the trustee.

Mortgagees and other lienholders will evidence their acceptance and consent to the foregoing provisions by the acceptance of their mortgages or perfection of their liens. The provisions of this paragraph 11 may be enforced by injunction, by suit for specific performance, or by other appropriate remedy upon suit filed by the Association in a court of competent jurisdiction.

12. **Liability Insurance.** The Association shall obtain and maintain public liability insurance covering all of the common elements and insuring the Association and the unit owners as their interests may appear in such amount as the board of directors may deem appropriate. The premiums for such insurance coverage shall be a part of the common expenses. The board of directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The unit owners shall have no personal liability upon any such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess unit owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage. Each unit owner will be responsible for procuring and maintaining public liability insurance covering losses which may occur in and about his particular unit, as he may deem appropriate.

The Association shall obtain and maintain fidelity bonding and/or liability insurance on behalf of the Association's officers, directors and agents as more particularly set forth in the Bylaws of the Association.

13. **Restrictions Upon Use.** No owner, tenant, invitee, or other occupant of a condominium unit shall:

(a) use the unit other than for residential purposes with the maximum occupancy for each unit being two (2) persons for each bedroom in the unit. In units wherein there are rooms which may alternately be used as a bedroom or a den, the den shall be deemed a bedroom for purposes of this subparagraph. No commercial, professional or business use shall be permitted, with the exception of any management office, any sales/rental and/or model unit utilized by Developer. Notwithstanding the foregoing, Unit 3 may be used for such purposes as is permitted by the applicable zoning code(s), which may include retail usage.

(b) do any of the following without the prior written consent of the Association's board of directors: paint, block up, or otherwise change the appearance of any exterior wall, door, window, screen, deck, terrace, porch, or any exterior surface or improvement; tint, color, or otherwise treat or apply anything to any window which will adversely affect the uniform exterior appearance of the building in the opinion of the board; plant any planting outside of a unit; erect any exterior lights or signs; place any signs or symbols in windows or on any exterior surface; erect or attach any structural additions or alterations to the unit or to the common elements;

(c) permit loud and objectionable noises or obnoxious odors to emanate from the unit or the common elements which may cause a nuisance to the occupants of other units in the sole opinion of the board;

(d) make any use of the unit or common elements which violates any laws, ordinances, or regulations of any governmental body;

(e) fail to conform to and abide by the provisions of this Declaration, the Association's Articles of Incorporation and Bylaws, and such rules and regulations in regard to the use of the units and the common elements as may be adopted from time to time by the board of directors;

(f) permit or suffer anything to be done or kept in the unit or in or on the common elements which will cause damage to, or increase insurance rates on, any unit or the common elements;

(g) commit or permit any public or private nuisance or illegal act in the unit or in or on the common elements;

(h) divide or subdivide the unit for the purpose of sale or lease or for any other purpose;

(i) obstruct the common way of ingress or egress to the other units or the common elements;

(j) hang any laundry, garments, or unsightly objects from any porch, or in any place readily visible from outside of the unit;

(k) allow anything to remain in or on the common elements which would be unsightly or hazardous;

(l) allow any rubbish, refuse, garbage, or trash to accumulate in places other than the receptacles provided therefore, fail to keep the unit and the limited common elements relating thereto in a clean and sanitary condition at all times;

(m) allow any fire or health hazard to exist;

(n) interfere with the use of any area reserved or assigned as a limited common element for the benefit of another unit or make use of any of the other common elements in such a manner as to abridge the equal rights of the other unit owners to their use and enjoyment;

(o) lease a unit for a period of less than seven (7) days;

(p) park or store overnight any commercial or recreational vehicle or boat, such as without limitation, trucks, boats, campers, trailers, tractors, tractor trailers, motor homes, mobile homes, or similar vehicles in any driveway or other parking area, or anywhere else on the condominium property; provided that the Association shall have the right to allow exceptions to this rule when it deems appropriate in its sole discretion; and further provided that vehicles engaged in activities on behalf of Developer relating to construction, maintenance or marketing of units shall be exempt from any such restrictions;

(q) keep any pet, or pets, in a unit except that unit owner residents may keep one cat or dog in their unit provided that the pet's weight at maturity shall not exceed twenty (20) pounds, and further provided that any pet shall be kept in conformity with rules and regulations promulgated from time to time by the board of directors; lessees of units are not permitted to keep any pets in any unit;

(r) install any hurricane shutters or other roll down type of exterior covering for windows and sliding glass doors without the prior written approval of the Association and a structural engineer acceptable to the Association. The color of all hurricane shutters, window coverings, door covering of any kind or type placed on the exterior of the building must be approved by the Association.

(s) make use of any attic area located above his unit. Such areas, if any, are designed for access to common elements only.

14. **Sale, Transfer, Lease or Occupation of Unit.** In recognition of the close proximity of the 10 units and the compact living conditions which will exist in this condominium, the mutual utilization and sharing of the common elements, and the compatibility and congeniality which must exist between the unit owners and occupants in order to make an undertaking of this nature satisfactory and enjoyable for all parties in interest, it shall be necessary for the board of directors of the Association, or its duly authorized officer, agent, or committee, to approve in writing all sales, transfers, leases, or occupation of a unit before such sale, transfer, lease, or occupation shall be valid and effective. Written application for such approval shall contain such information as may be required by application forms promulgated by the board and shall be accompanied by an application fee as required by regulation of the board. When considering such application, consideration shall be given to the moral character, social compatibility, personal habits, and financial



responsibility of the proposed purchaser, transferee, lessee, or occupant. A waiver of this provision or the failure to enforce it in any particular instance shall not constitute a waiver of, or estop the Association from enforcing, this provision in any other instance. A lessee shall not assign his lease or sublet his condominium unit without the prior written approval of the board of directors or its duly authorized officer, agent, or committee.

In the event a lease, sublease, or occupation of a unit is disapproved, the unit shall not be so leased, subleased, or occupied.

In the event a sale or transfer is disapproved or no action is taken by the board or its duly authorized officers, agent, or committee within fifteen (15) days after receipt of said application, and the unit owner intends to close notwithstanding such disapproval or inaction, the unit owner shall give the board written notice of such intent and shall provide the Association with a copy of the sales contract. In such event, the Association or any other unit owner shall have a right of first refusal to purchase the unit for the identical price, terms, and conditions, which right shall be exercised in writing delivered to the proposed seller or mailed to his address as shown on the Association records. In the event the Association is of the opinion that the price is not a bona fide sales price, then the sales price for purposes of the right of first refusal shall be the fair market value of the unit determined by the average of the values assigned by the written appraisals of three real estate appraisers, one of whom shall be selected by the Association, one by the proposed seller, and the third by the first two appraisers. The cost of such appraisals shall be divided equally between the Association and the proposed seller. If such right of first refusal is exercised by more than one party, priority shall be given first to the Association and then to the unit owner who delivers his acceptance before any other unit owner. If no party exercises the right of first refusal by delivering or mailing his acceptance within fifteen (15) days of the giving of notice by the Seller to the Association of its intent to close notwithstanding the Association's disapproval or inaction, or within ten (10) days after the sales price is determined by appraisal, whichever is later, the transfer may be closed pursuant to the price and terms stated in the notice.

Failure of a transferor to comply with these provisions for sale or transfer shall give the Association or any other unit owner a right to redeem the unit involved from the transferee at any time before the closing of such sale or transfer and for a period of six (6) months after the recording of such conveyance in the Public Records of Pinellas County, or sixty (60) days after the board of directors is given formal written notice of the consummation of such sale or transfer, whichever period is shorter. The only condition to the exercise of such right to redemption shall be that the transferee be reimbursed

for that portion of the purchase price he has paid to that date. Immediately upon the tender of such sums, the transferee shall convey all his right, title, and interest to the party making the redemption. In addition to all other available remedies, the right of redemption may be enforced by suit for specific performance. In the event legal proceedings are commenced by the Association or any unit owner to enforce the provisions of this paragraph 14 against a unit owner or transferee who fails to comply therewith, the party bringing such proceedings shall be entitled to his costs and reasonable attorneys' fees as determined by the Court, including attorneys' fees for appellate proceedings, if such party prevails.

The Association shall have the right to require that each tenant deposit a security deposit into an escrow account maintained by the Association. In the event that the Association requires such a deposit, such security deposit shall be no more than the equivalent of one month's rent from such lessor unit owner's tenant. Such deposit may be used by the Association to pay for repairs to the condominium property damaged by the tenant. Within fifteen (15) days after a tenant vacates the premises, the Association shall refund the full security deposit or give written notice to the tenant of any claim made against the deposit.

The foregoing provisions shall not be applicable to conveyances or leases to or from institutional first mortgagees or to purchasers at foreclosure sales of mortgages held by institutional first mortgagees. The foregoing provisions shall not be applicable to conveyances to or from Developer.

15. **Assessments and Liens.** The board of directors of the Association shall approve annual budgets of anticipated income and expenses for each fiscal year and thereupon shall levy an annual assessment against each unit based upon its proportionate share of the common expenses as provided herein. Said annual assessments shall be collected in the manner provided in the Bylaws, but in any event not less frequently than quarterly. In addition, the board of directors shall have the power to levy special assessments against the unit owners in proportion to each unit's share of the common expenses, if necessary to cover unanticipated expenditures which may be incurred during the fiscal year. Any assessments, including assessments made pursuant to the provisions of paragraphs 10 and 11 hereof, which are not paid when due shall be subject to such late charge, enforceable by lien, as may be established by resolution of the board, and shall bear interest from the due date until paid at the maximum rate allowed by law. The Association shall have the remedies and liens provided by the Condominium Act with respect to unpaid assessments of any kind, including a right to accrued interest and reasonable attorney's fees incurred by the Association incident to the collection of an

assessment or enforcement of a lien, including attorney's fees for appellate proceedings. The Association may charge an administrative late fee in addition to such accrued interest and attorneys' fees, said administrative late fee not to exceed the greater of \$25.00 or five percent (5%) of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the delinquent assessment.

16. **Certain Rights of Mortgagees.** All savings and loan associations, banks, mortgage companies, insurance companies, pension funds or business trusts, including but not limited to real estate investment trusts, and any other institutional lender engaged in financing real estate transactions, or any institutional assignee of loans made by such lender, or any governmental institution which has insured the loan of the lender, or their subsidiaries or affiliates, holding first mortgages upon any of the condominium units are herein referred to as "institutional first mortgagees." The termination of the condominium shall require the written consent of institutional first mortgagees holding one hundred percent (100%) of such first mortgages. The liability of a first mortgagee or its successor or assigns who acquires title to a unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of: the unit's unpaid common expenses and regular periodic assessments which accrued or became due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association, or one percent (1%) of the original mortgage debt. The provisions of the sentence next above shall not apply unless the first mortgagee joins the Association as a defendant in the foreclosure action; provided, however, joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the said first mortgagee.

17. **Certain Rights of Developer.** Developer hereby reserves the right to elect, remove, and replace from time to time the directors of the Association in accordance with the provisions of the Association's Articles of Incorporation and Bylaws. Developer may terminate such right by relinquishing control of the election of the board of directors to the unit owners at any time.

(a) The Developer hereby guarantees that the assessment for common expenses of the condominium imposed upon unit owners will not increase over the amounts stated below for the period beginning with the date

of recordation of the Declaration of Condominium and ending with the earlier of the occurrence of the following: December 31, 2007, or turnover of control of the Association by the Developer to the unit owners. During said period Developer agrees to pay any amount of common expenses incurred which is in excess of the assessments receivable from other unit owners at the applicable guaranteed level. In consideration for this guaranty, Developer will be excused from the payment of its share of the common expenses with respect to any unit owned by it during said guaranty period, as provided by Section 718.116, *Florida Statutes*. During the guaranty period, assessments will not exceed the following per unit per month:

	For 2007
All Units	\$243.38

18. **Easements.** The respective rights and obligations of the unit owners, the Association, Developer, and others concerning easements affecting the condominium property shall include the following:

(a) **Reserved by Developer.** Developer hereby reserves for the benefit of itself, perpetual nonexclusive easements for: the installation, construction, repair, maintenance, use, and replacement of lines, pipes, wells, drains, cables, equipment, apparatus, structures, driveways, and other improvements for private or public utility services of all kinds, including without limitation, water, sewer, drainage, surface water management, irrigation, fire protection, electricity, telephone, cable television, and trash disposal, over, under, through, and across the common elements; pedestrian and vehicular ingress and egress and parking over, under, through, and across the common elements for the purpose of obtaining access to the condominium property, to properties adjacent thereto, and for the purpose of providing parking facilities to serve such properties, together with the right to construct, maintain, and repair such driveways, walkways, parking areas, surface water management systems, and other improvements as may be reasonably appropriate for the use and enjoyment of said easements; and the operation, repair, maintenance, and use of a model center in one or more of the units in the condominium, together with a right of pedestrian and vehicular ingress, egress, parking, and access over all portions of the condominium property for the purpose of marketing and sale of condominium units in the condominium. The rights of Developer created in this subparagraph shall also run in favor of Developer's successors, assigns, guests, invitees, agents, servants and employees.

(b) **Granted to Unit Owners.** Each unit owner is hereby granted a nonexclusive perpetual easement for ingress and egress to and from his respective unit through the common elements and a perpetual easement for encroachments by his unit which may exist now or in the future because of inaccuracies in construction or settlement or movement of the building, or for any other reason, which encroachments shall be allowed to remain undisturbed until they no longer exist. Said easement shall also run in favor of the family members, guests, invitees, tenants, agents, servants and employees of the unit owners.

(c) **Granted to Utilities.** There is hereby granted to all public and private utility companies rendering utility services to the condominium a perpetual nonexclusive easement for the construction, installation, maintenance, use, repair, and replacement of the equipment, structures, and other improvements by which such utility services are respectively provided over, under, across, and through such portion of the common elements as may be necessary therefor. Any utility company making an entry pursuant to this subparagraph shall restore the property as nearly as practicable to the condition which existed prior to such entry.

(d) **General Easements.** A nonexclusive, perpetual easement for ingress, egress and parking is hereby granted across the driveway, parking areas, pathways, and walkways in the condominium in favor of representatives of utilities, delivery, pickup and sanitation services, mail carriers, and representatives of fire and police departments and other necessary governmental and quasi-governmental agencies.

(e) **Authority of Association.** The Association shall have the right to grant easements under, over, across, and through the condominium property to such persons or entities and for such purposes as the Association board of directors may deem appropriate by recording in the Public Records of Pinellas County, Florida, an instrument duly executed by the president or vice-president of the Association. No joinder by unit owners or a mortgagee shall be required.

19. **Management Agreement.** The Association, acting through its board of directors, is authorized to enter into an agreement with any person or legal entity, including Developer or an affiliated company of Developer, to act as managing agent to handle the administrative affairs of the Association and the maintenance of the condominium upon such terms and conditions as the board may deem to be in the best interests of the condominium and the unit owners. The board of directors shall, however, retain at all times the power to

adopt budgets, levy assessments, promulgate rules, and otherwise determine matters of a non-ministerial character.

20. **Limitations Upon Additions and Alterations.**

(a) **In general.** There shall be no alteration or addition to the common elements or any part thereof except as provided in this Declaration or as provided in § 718.113, *Florida Statutes*.

(b) **Alteration or addition by the Association.** Whenever in the judgment of the board of directors, the common elements or any part thereof, shall require additions or alterations (as distinguished from repairs and replacements) costing in excess of \$1,000.00 in the aggregate, the Association may proceed with such additions or alterations only if the making of such additions or alterations has been approved by a majority of the voting interests represented at a meeting at which a quorum is attained. Any such additions or alterations to such common elements, or any part thereof, costing in the aggregate \$1,000.00 or less, may be made by the Association board of directors without approval of the unit owners. The costs and expense of any such additions and alterations to such common elements shall constitute a part of the common expenses and shall be assessed to the unit owners as a common expense.

(c) **Surface Water Management System Facilities.** No construction activities may be conducted relative to any portion of the Surface Water Management System Facilities without the specific approval from the Southwest Florida Water Management District ("District"). Prohibitive activities include, but are not limited to, digging or excavation, depositing fill, debris or any other material or item, constructing or altering any water control structure; or any other construction to modify the Surface Water Management System Facilities.

(d) **Additions and alterations by unit owners:**

(1) No unit owner shall make any addition or alteration in or to the common elements (including to any limited common element) including, but not limited to, additions or improvements to parking spaces, entry areas, porches, air conditioning/heating equipment, without the prior written approval by a majority of the voting interests of the condominium unit owners; provided, however, that this provision shall not be deemed to prohibit the cleaning, repair, maintenance and replacement of limited common elements by unit owners which is otherwise required by this Declaration.

(2) A majority of the voting interests of the condominium unit owners shall have the absolute right, with or without cause, to reject a request by a unit owner to make such an alteration or improvement. Unit owner approval may be conditioned upon receipt of plans and specifications therefor. The Board of Directors shall be delegated the responsibility to review all plans and specifications on behalf of the unit owners. Until receipt by the board of directors of all required plans and specifications, the board of directors may postpone review of plans submitted for approval. The board shall have thirty (30) days after delivery of all required materials to make a recommendation to the unit owners and to schedule a special meeting of the unit owners to vote on the request.

(3) The board of directors recommended approval of any plan shall not be deemed approval of any plan from the standpoint of structural safety or conformity with building codes or other governmental regulations. However, any proposed addition or alteration shall be made in compliance with all laws, rules, ordinances and regulations of governmental authorities having jurisdiction, and in compliance with any conditions imposed by the board of directors with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise.

(4) Once approved by a majority of the voting interests of the condominium unit owners, such approval may not be revoked thereafter so long as all requirements and conditions of the approval are met.

(5) A unit owner making or causing to be made any such additions or alterations agrees, and shall be deemed to have agreed, for such owner and his heirs, personal representatives, successors and assigns, as applicable, to hold the Developer, the Association, the board of directors and all other unit owners harmless from any liability or damage to the common elements and expenses arising therefrom, and shall be solely responsible for maintenance, repair, replacement and insurance thereof from and after the date of installation or construction thereof.

(6) If the unit owner fails to construct the addition or alteration in the manner approved, the unit owner shall be obligated to make all corrections necessary, and if such unit owner fails to do so, the Association, with or without notice to the owner, may make such corrections and such owner shall reimburse the Association for the cost of such correction plus pay an administrative charge in the amount of ten percent (10%) of such cost.

(7) The board of directors may appoint an architectural control committee to assume the foregoing functions on behalf of the board of

directors; provided, however, the board of directors shall have the authority to override the recommendation of any such committee and a majority vote of the condominium unit owners shall override the recommendation of either the board of directors or an architectural review committee.

(8) The board of directors shall adopt hurricane shutter specifications for the entire condominium building, which specifications shall include color, style and other factors deemed relevant by the board. All specifications adopted by the board shall comply with the applicable building code. The board of directors may adopt rules and regulations permitting the use of roll-up style shades (of canvas, vinyl or similar material). The installation, replacement, operation, repair and maintenance of such hurricane shutters and roll-up style shades in accordance with the rules and regulations adopted by the board shall not be deemed a material alteration to the common elements or the association property.

21. **Acquisition of Leaseholds, Memberships and Other Interests.** The Association has the power to acquire leaseholds, memberships and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas and other recreational facilities. The Association has this power whether or not the lands or facilities are contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. The Association may not acquire or enter into agreements acquiring these leaseholds, memberships or other possessory or use interests except as authorized by seventy-five percent (75%) of all the voting interests in the Association. The rental, membership fees, operations, replacements and other expenses are common expenses.

22. **Acquisition, Conveyance, Lease or Mortgage of Association Property.** The Association has the power to acquire, convey, lease and mortgage Association real property. The Association may not acquire, convey, lease or mortgage such real property except as authorized by seventy-five percent (75%) of all the voting interests. The purchase price, closing costs, mortgage payments, and other expenses are common expenses. The power to acquire, convey, lease and mortgage Association personal property shall be exercised by the board of directors.

23. **Remedies for Default.** In addition to the remedies provided by statute and common law and the remedies elsewhere provided herein, a default by the owner, tenant, or occupant of any unit in complying with the provisions and requirements of the Condominium Act, this Declaration, the Articles of Incorporation, the Bylaws, and such regulations and rules as may be promulgated by the Association board of directors shall entitle the Association



to the remedies set forth in the bylaws governing this condominium. Each unit owner is empowered to enforce this Declaration as more particularly set forth in the Condominium Act.

24. **Termination.** The condominium property may be removed from the provisions of this Declaration, and the condominium thereby terminated, at any time by affirmative vote of one hundred percent (100%) of the voting interests in this condominium. Additionally, the consent of institutional first mortgagees shall be required as set forth in paragraph 16 above. The termination of the condominium by such action shall be evidenced by an instrument to that effect signed by the president, or a vice president and secretary, of the Association with the formalities of a deed and duly recorded in the Public Records of Pinellas County. In the event of termination, the rights of owners of mortgages or other liens and the procedure for liquidation of the condominium assets as provided in paragraph 11 above with respect to total or substantial destruction shall apply and shall be under the supervision and control of the banking trustee selected by the board of directors of the Association. If the Association ceases to exist, all unit owners shall be jointly and severally responsible for the operation and maintenance of the Surface Water Management System Facilities and that they are in accordance with the requirements of the Environmental Resource Permit, if any, unless and until an alternative entity assumes responsibility as more fully delineated in the rules and regulations of the District.

25. **Amendments.** The power to modify or amend this Declaration may be exercised by the board and the members of the Association if notice of the proposed change is given in the notice of the meetings of the board and the Association at which the vote upon the proposed amendment is to be taken. An amendment may be proposed either by the board or by not fewer than twenty percent (20%) of the voting interests. Unless otherwise provided herein, the resolution adopting a proposed amendment must bear the approval of a majority of the board of directors, and not fewer than fifty-one percent (51%) of all voting interests; provided, however, that any proposal for the amendment of a provision, which provision requires the vote, joinder or consent of greater than fifty-one percent (51%) of the voting interests, or by other individuals or entities, shall be approved only upon the vote of that number of voting interests and other individuals and entities, if any, needed to act under the provision to be amended. Notwithstanding the foregoing, as provided in Section 718.110(1)(a), *Florida Statutes*, no amendment shall require approval by more than four-fifths (4/5) of the voting interests.

An amendment, other than amendments made by Developer, shall be evidenced by a certificate of the Association which shall include the

recording data identifying the Declaration and shall be executed by the proper officers of the Association in the form required for the execution of a deed. Amendments by Developer must be evidenced in writing, but a certificate of the Association is not required. Any amendment shall be effective when properly recorded in the Public Records of Pinellas County, Florida.

If it appears that through a scrivener's error any word has been misspelled; or any reference to any document or the Florida Statutes or any portion thereof is incorrect; or some error or omission has been made; or a unit has not been designated as owning an appropriate undivided share of the common elements or does not bear an appropriate share of the common expenses; or that all of the common expenses or interest in common surplus or all of the common elements have not been distributed in this Declaration such that the sum total of the shares of common elements which have been distributed or the sum total of shares of the common expenses or ownership of the common surplus fails to equal one hundred percent (100%), or if more than one hundred percent (100%) of common elements or common expenses or ownership of the common surplus shall have been distributed, the error may be corrected by filing an amendment to this Declaration approved by the Board or by a majority of the voting interests.

(a) Except as limited by the provisions of Section 718.110(2), *Florida Statutes*, Developer shall have the right and irrevocable power to amend this Declaration as it deems necessary or desirable from time to time, including without limitation in order to identify, locate, and indicate the dimensions of any units which are not certified as being completed on the surveyor's certification recorded in the Public Records of Pinellas County for the purpose of providing surveyor certificates of completion for such units as required by law; to correct any errors or omissions in the Declaration or any exhibits hereto; to make this Declaration comply with the requirements of any statutory provisions or any state or federal laws, rules or regulations; or to gain the Declaration's acceptance or approval by any institutional lender or insurer. Any such amendment shall be executed by Developer, and the joinder or further consent of the Association, individual unit owners or holders of recorded liens or other interests therein, including institutional first mortgagees, shall not be required.

So long as Developer holds units in this condominium for sale in the ordinary course of business, this Declaration shall not be amended in any manner which would be detrimental to the sale of units by Developer except with the prior written consent of Developer.

(b) No amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment, and a majority of the total voting interests in the condominium approve the amendment, unless otherwise required by any governmental entity.

No amendment may affect the surface water management system, including but not limited to the water management portions of any common elements without the prior approval having been secured from the Southwest Florida Water Management District or any other successor agency with jurisdiction over surface water management.

26. **Binding Effect.** All provisions of this Declaration shall be enforceable as equitable servitudes and shall run with the land and shall be in full force and effect until a particular provision is duly amended or until this Declaration is duly revoked and terminated. Any gender used herein shall include all genders and legal entities, and the plural number shall include the singular and the singular shall include the plural.

27. **Severability.** If any provision of this Declaration, the Articles of Incorporation, or the Bylaws or any section, sentence, clause, phrase or word thereof, or the application thereof in any circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of such instruments and of the application thereof in other circumstances shall not be affected thereby.

28. **No Implied Waiver.** The failure of the Association or the Developer to object to a failure by anyone to comply with any provision of this Declaration or any of the other documents governing the condominium shall in no event be deemed a waiver of the right to object to such or any other similar failure and to seek compliance in accordance with the applicable document.

**The remainder of this page was intentionally left blank.**

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed in its name this 18 day of January, 2008.

Signed sealed and delivered in the presence of:

**DEVELOPER:**

A & J DEVELOPMENT, LLC, a Florida limited liability company

[Signature]  
Signature of 1<sup>st</sup> Witness

Lauren Blake  
Print Name of 1<sup>st</sup> Witness

By:

[Signature]  
Stephen S. Berlin, its Manager

[Signature]  
Signature of 2<sup>nd</sup> Witness

Uta S. Grove  
Print Name of 2<sup>nd</sup> Witness

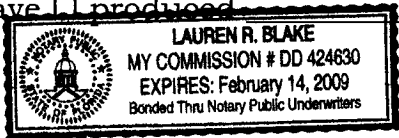
By:

[Signature]  
Kristen S. Berlin, its Manager

(COMPANY SEAL)

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 18 day of January, 2008, by **STEPHEN S. BERLIN** and **KRISTEN S. BERLIN**, the Managers of **A&J DEVELOPMENT, LLC**, a Florida limited liability company, on behalf of the company. They are  personally known to me or have  produced \_\_\_\_\_ as identification.



[Signature]  
NOTARY PUBLIC, State of Florida  
My Commission Expires: 2/14/09  
(NOTARY SEAL)

**JOINDER OF ASSOCIATION**

Beachwalk Condominium Association of Gulfport, Inc., hereby joins in and consents to the foregoing Declaration of Condominium and hereby agrees to the provisions thereof and the obligations imposed upon the corporation herein.

IN WITNESS WHEREOF, the corporation has caused this joinder to be executed in its name by its duly authorized officer and caused its corporate seal to be hereunto affixed this 18 day of January, 2009.

Signed sealed and delivered in the presence of:

[Signature]  
Signature of 1<sup>st</sup> Witness

Beachwalk Condominium Association  
Of Gulfport, Inc., a Florida not-for-profit corporation

Lauren Blake  
Print Name of 1<sup>st</sup> Witness

By: [Signature]  
Name: Stephen S. Berlin

[Signature]  
Signature of 2<sup>nd</sup> Witness

(CORPORATE SEAL)

Uta S. Grove  
Print Name of 2<sup>nd</sup> Witness

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 18 day of January, 2009, by Stephen S. Berlin, the President of **BEACHWALK CONDOMINIUM ASSOCIATION OF GULFPORT, INC.**, a Florida not-for-profit corporation, on behalf of the corporation. He/She is  personally known to me or has  produced \_\_\_\_\_ as identification.



[Signature]  
NOTARY PUBLIC, State of Florida  
My Commission Expires: 2/14/09  
(NOTARY SEAL)

**JOINDER AND CONSENT OF MORTGAGEE**

THE UNDERSIGNED is the holder of a first mortgage on the real property submitted to condominium form of ownership in the Declaration of Condominium of BEACHWALK CONDOMINIUM. The undersigned hereby joins in and consents to the submission of said lands to condominium ownership in accordance with the terms and provisions of said Declaration of Condominium, and consents to and agrees to be bound by the terms, conditions and provisions of said Declaration of Condominium.

Signed sealed and delivered in the presence of:

**LENDER:**

Nancy A. McNabb  
Signature of 1<sup>st</sup> Witness

Regions Bank, successor by merger to AmSouth Bank, a Florida banking association

Nancy A. McNabb  
Print Name of 1<sup>st</sup> Witness

By:

Michael J. Tufano  
Name: Michael J. Tufano  
Title: Senior Vice President

Leslie Ann Moore  
Signature of 2<sup>nd</sup> Witness

Title:

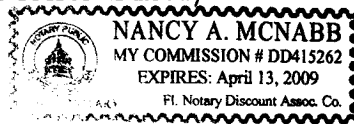
(CORPORATE SEAL)

LESLIE ANN MOORE  
Print Name of 2<sup>nd</sup> Witness

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of January, 2008, by Michael J. Tufano, the Sr. Vice President of Regions Bank, a Florida banking association, on behalf of the association. He/She is  personally known to me or has  produced \_\_\_\_\_ as identification.

Nancy A. McNabb  
NOTARY PUBLIC, State of Florida  
My Commission Expires: 4/13/09  
(NOTARY SEAL)

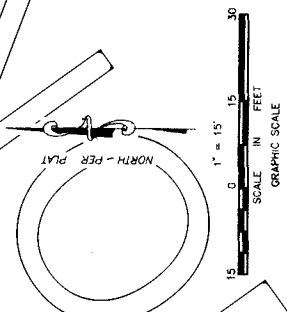
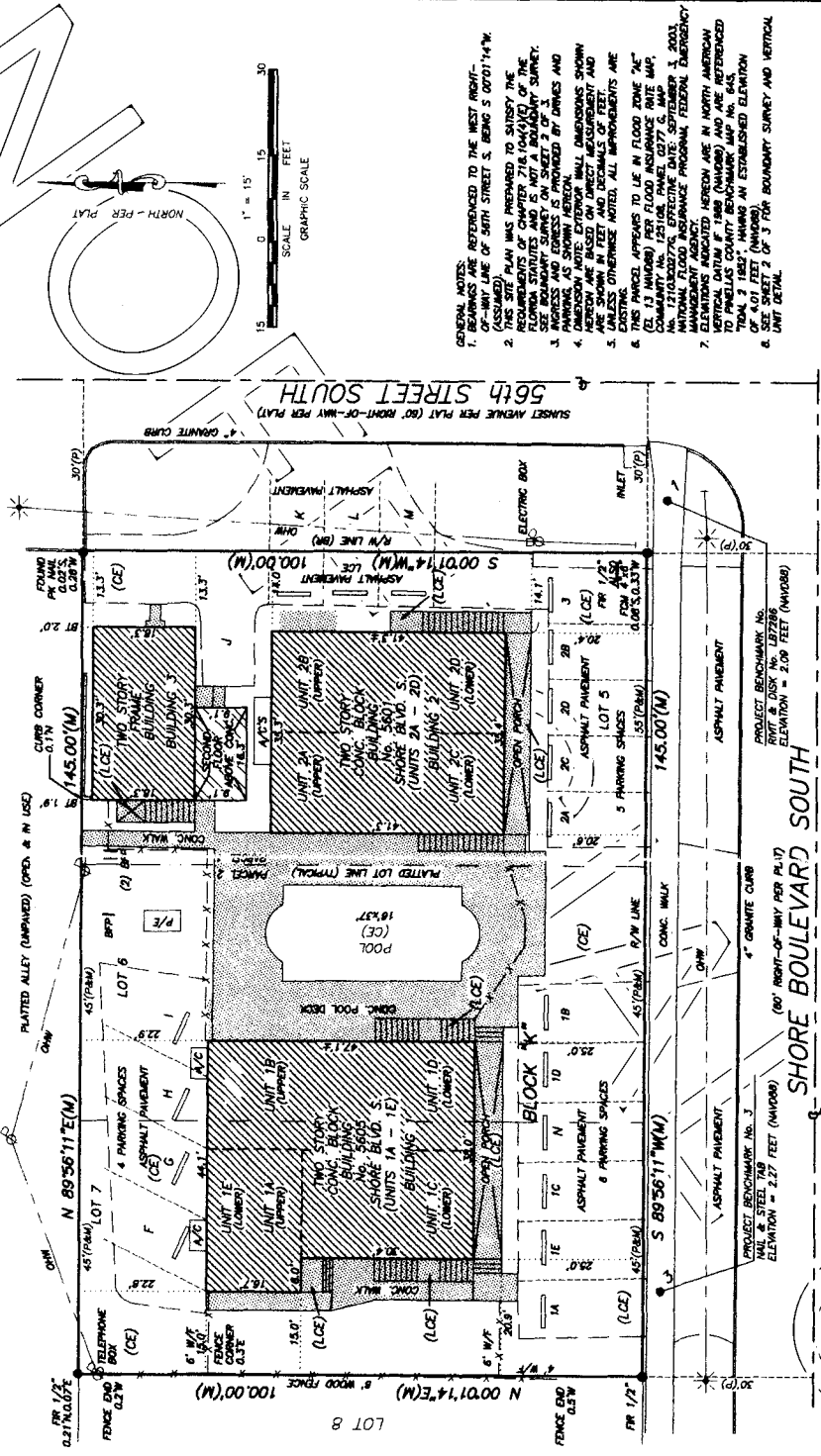


***Exhibit "A"***  
***Condominium Plat***

UNOFFICIAL COPY

# BEACHWALK A CONDOMINIUM

BOCA CIEGA PARK SUBDIVISION - SECTION 33, TOWNSHIP 31 SOUTH, RANGE 16 EAST, CITY OF GULFPORT, PINELLAS COUNTY, FLORIDA.



- GENERAL NOTES:
1. BEACHWALK IS REFERENCED TO THE WEST RIGHT-OF-WAY LINE OF 56TH STREET S, BEING S 00°01'14\"/>
  - 2. THIS SITE PLAN WAS PREPARED TO SATISFY THE REQUIREMENTS OF THE FLORIDA STATUTES AND IS NOT A BOUNDARY SURVEY. SEE BOUNDARY SURVEY ON SHEET 2 OF 3.
  - 3. DIMENSIONS AS SHOWN ARE PROVIDED BY DRINKS AND DIMENSION NOTE. EXTERIOR WALL DIMENSIONS SHOWN HEREON ARE BASED ON DIRECT MEASUREMENT AND ARE NOT TO BE CONSIDERED AS A BASIS FOR CONSTRUCTION UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE EXISTING.
  - 4. THIS PARCEL APPEARS TO BE IN FLOOD ZONE "X" (MODERATE RISK) AS SHOWN ON THE FLOOD MAP, COUNTY OF PINELLAS, FLORIDA, DATE: SEPTEMBER 3, 2003, NATIONAL FLOOD INSURANCE PROGRAM, FEDERAL EMERGENCY MANAGEMENT AGENCY. THE FLOOD ELEVATION IS 4.01 FEET (MWD80) AND ARE REFERENCED TO PINELLAS COUNTY BENCHMARK MAP NO. 643, WHICH HAS AN ESTABLISHED ELEVATION OF 4.01 FEET (MWD80).
  - 5. SEE SHEET 2 OF 3 FOR BOUNDARY SURVEY AND VERTICAL UNIT DETAIL.

- LEGEND
- 1 DENOTES NORTH
  - 2 DENOTES EAST
  - 3 DENOTES WEST
  - 4 DENOTES SOUTH
  - 5 DENOTES PLAT BOOK
  - 6 DENOTES PAGE
  - 7 DENOTES PERMANENT REFERENCE MONUMENT
  - 8 DENOTES COMMON ELEMENT
  - 9 DENOTES LIMITED COMMON AREA
  - 10 DENOTES FINISH ELEVATION
  - 11 DENOTES LOWEST FLOOR ELEVATION
  - 12 DENOTES AIR CONDITIONER
  - 13 DENOTES GARAGE ENTRANCE
  - 14 DENOTES OVERHEAD WIRE(S)
  - 15 DENOTES EDGE OF PAVEMENT
  - 16 DENOTES FRONT-OF-WAY
  - 17 DENOTES MEASURED DIMENSION
  - 18 DENOTES CONCRETE STAIRS
  - 19 DENOTES FOUND IRON ROD
  - 20 DENOTES MEASURED DIMENSION
  - 21 DENOTES WOOD FENCE
  - 22 DENOTES UTILITY POLE
  - 23 DENOTES LOT/PAVEMENT
  - 24 DENOTES SHORLOW PREVENTER
  - 25 DENOTES BAKER
  - 26 DENOTES BAKER
  - 27 DENOTES BAKER
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  - 50 DENOTES BAKER

DESCRIPTION (OVERALL):  
 LOTS 5, 6, AND 7, BLOCK K, MAP OR PLAT ENTITLED "BOCA CIEGA PARK SUBDIVISION", AS RECORDED IN PLAT BOOK 3, PAGE 24 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

DESCRIPTION: PARCEL 1  
 LOT 5, BLOCK K, PLAT OF BOCA CIEGA PARK SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 24 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

DESCRIPTION: PARCEL 2  
 LOTS 6 AND 7, BLOCK K, PLAT OF BOCA CIEGA PARK SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 24 OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

AREA OF SITE = 14,500 SQUARE FEET, MORE OR LESS.

SURVEYOR'S CERTIFICATE  
 I, MICHAEL J. BAKER, THE UNDERSIGNED PROFESSIONAL SURVEYOR AND MAPPER, AUTHORIZED TO PRACTICE IN THE STATE OF FLORIDA, IN COMPLIANCE WITH SECTION 718.104(4) (E), FLORIDA STATUTES DO HEREBY REPORT THAT THE SITE PLAN OF "BEACHWALK A CONDOMINIUM", CONSISTING OF SHEETS 1, 2 & 3, IS SUBSTANTIALLY COMPLETE, SO THAT THIS MATERIAL, TOGETHER WITH THE PROVISIONS OF THE DECLARATION RELATING TO MATTERS OF SURVEY DESCRIBING THE CONDOMINIUM PROPERTIES, CONSTITUTES A COMPLETE AND SUFFICIENT SET OF DOCUMENTS OF THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM SAID MATERIALS, AND THAT ALL PLANNED IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, UTILITY SERVICES AND ACCESS TO EACH UNIT, AND COMMON ELEMENT FACILITIES SERVING THE BUILDING HAVE BEEN SUBSTANTIALLY COMPLETED.

DATE: JAN. 15, 2007

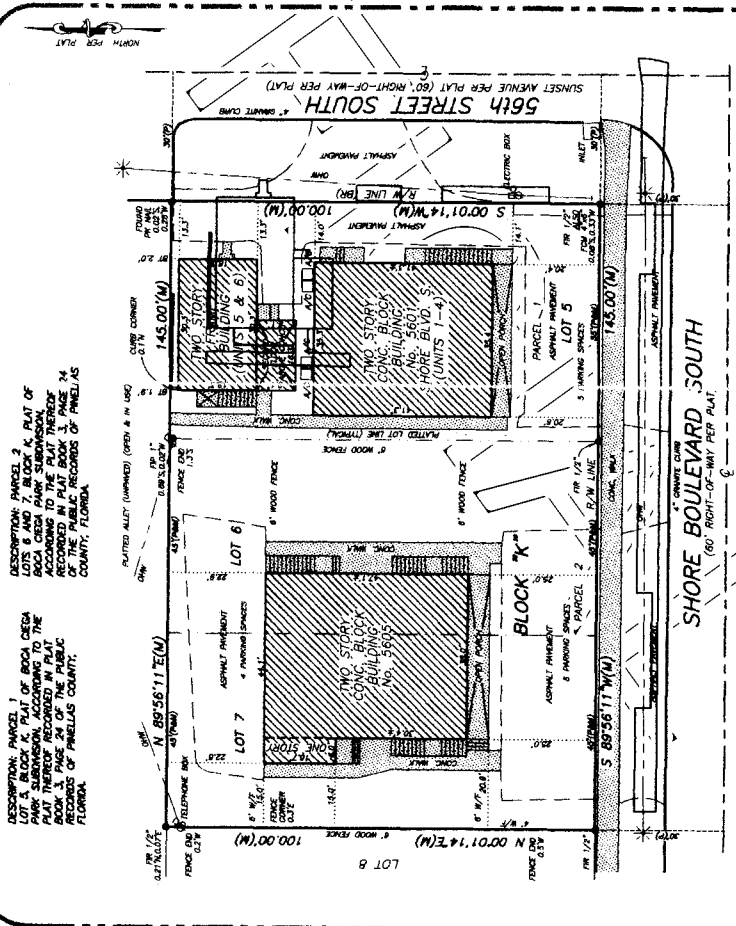
*Michael J. Baker*  
 MICHAEL J. BAKER  
 PROFESSIONAL SURVEYOR AND MAPPER  
 REGISTRATION NUMBER 4088



# BEACHWALK, A CONDOMINIUM

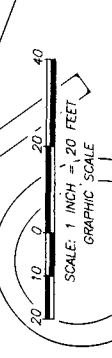
BOCA CIEGA PARK SUBDIVISION - SECTION 33, TOWNSHIP 31 SOUTH, RANGE 16 EAST, CITY OF GULFPORT, PINELLAS COUNTY, FLORIDA.

DESCRIPTION: PARCEL 1 OF BOCA CIEGA PARK SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 24, PAGE 24, RECORDS OF PINELLAS COUNTY, FLORIDA.



NOTES:  
 -THIS PARCEL APPEARS TO BE IN ZONE S-1C (13.5 HUNDRED FEET FLOOR FINISH) AND IS SUBJECT TO THE CITY OF GULFPORT PLANNING DEPARTMENT'S REVIEW.  
 -BEARINGS ARE REFERENCED TO THE BEST RIGHT-OF-WAY LINE OF SHORE BOULEVARD SOUTH, BEING S 02°11'14" W (ASSUMED).  
 -ACCORDING TO ANDELA OF THE CITY OF GULFPORT PLANNING DEPARTMENT, THE STRENGTHS ARE AS FOLLOWS:  
 -PARCEL 1 AND PARCEL 2 ARE CONTIGUOUS ALONG THEIR COMMON BOUNDARY, AND THAT NO GAPS, OVERLAPS, OR HUNDREDS EXIST.  
 -AREA OF SITE = 14500 SQUARE FEET, MORE OR LESS.  
 LEGEND:  
 -LOT = LOT  
 -BLOCK = BLOCK  
 -CORNER = CORNER  
 -PROPERTY OWNER = PROPERTY OWNER  
 -EXISTING ELEVATION = EXISTING ELEVATION  
 -PROPOSED ELEVATION = PROPOSED ELEVATION  
 -EXISTING FLOOR FINISH = EXISTING FLOOR FINISH  
 -PROPOSED FLOOR FINISH = PROPOSED FLOOR FINISH  
 -EXISTING CONCRETE MONUMENT = EXISTING CONCRETE MONUMENT  
 -CONCRETE MONUMENT = CONCRETE MONUMENT  
 -EXISTING ELEVATION = EXISTING ELEVATION  
 -PROPOSED ELEVATION = PROPOSED ELEVATION  
 -EXISTING FLOOR FINISH = EXISTING FLOOR FINISH  
 -PROPOSED FLOOR FINISH = PROPOSED FLOOR FINISH  
 -EXISTING CONCRETE MONUMENT = EXISTING CONCRETE MONUMENT  
 -CONCRETE MONUMENT = CONCRETE MONUMENT

BOUNDARY SURVEY  
 DATE OF FIELD SURVEY: OCT. 14, 2005 SCALE: 1" = 20'

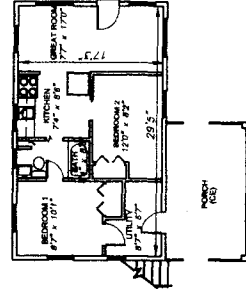
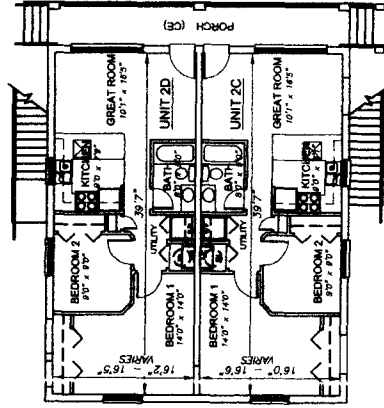
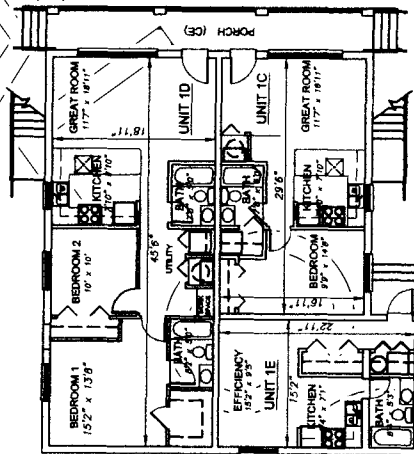
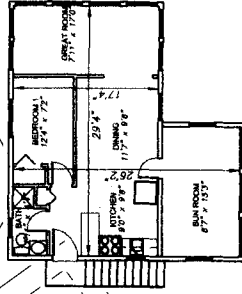
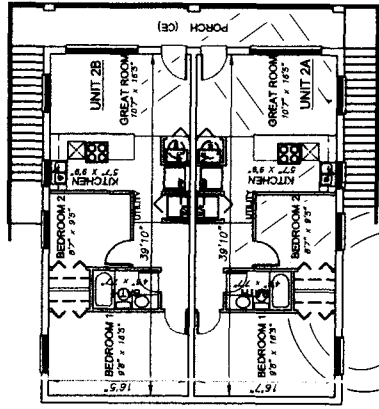
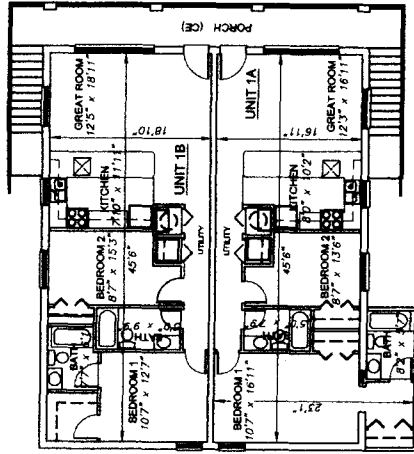
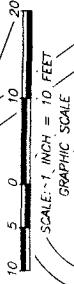


CEILING ELEVATION = 11.3 2ND FLOOR ELEVATION = 11.3 CEILING ELEVATION = 10.7 UNIT 3	NO. SMO1 SHORE BLDG. S. STREETSIDE	CEILING ELEVATION = 14.0 2ND FLOOR ELEVATION = 14.0 CEILING ELEVATION = 13.7 UNIT 1E	NO. SMO2 SHORE BLDG. S. STREETSIDE	CEILING ELEVATION = 15.7 2ND FLOOR ELEVATION = 15.7 CEILING ELEVATION = 14.9 UNIT 2A UNIT 2B CEILING ELEVATION = 13.8 UNIT 2C UNIT 2D	NO. SMO1 SHORE BLDG. S.	CEILING ELEVATION = 15.8 2ND FLOOR ELEVATION = 15.8 CEILING ELEVATION = 15.1 UNIT 1A UNIT 1B CEILING ELEVATION = 14.0 UNIT 1C UNIT 1D 1ST FLOOR ELEVATION = 8.7	NO. SMO2 SHORE BLDG. S.
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VERTICAL UNIT DETAIL  
 NOT TO SCALE

# BEACHWALK A CONDOMINIUM

BOCA CIEGA PARK SUBDIVISION - SECTION 33, TOWNSHIP 31 SOUTH, RANGE 16 EAST, CITY OF GULFPORT, PINELLAS COUNTY, FLORIDA.



BEACHW. SITE2.DWG / 11/21/06

OVERALL BUILDING DIMENSIONS

SCALE: 1" = 10'

EXHIBIT A  
SHEET 3 OF 3

MICHAEL BAKER ASSOCIATES - 220 SOUTH SAFFORD AVENUE - TARPON SPRINGS, FLORIDA - CERTIFICATE OF AUTHORIZATION NO. LB4019

UNOFFICIAL COPY

**Exhibit "B"**  
**Articles of Incorporation**

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of BEACHWALK CONDOMINIUM ASSOCIATION OF GULFPORT, INC., a Florida corporation, filed on January 17, 2007, as shown by the records of this office.

The document number of this corporation is N07000000541.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Eighteenth day of January, 2007



*Kurt S. Browning*  
Kurt S. Browning  
Secretary of State

**FILED**  
07 JAN 17 PM 3:14  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION**

of

**BEACHWALK CONDOMINIUM ASSOCIATION OF GULFPORT, INC.**

I, the undersigned, by and under the provisions of statutes of the State of Florida, providing for the formation, liability, rights, privileges and immunities of a corporation not-for-profit, do hereby declare as follows:

**ARTICLE I  
NAME OF CORPORATION**

The name of this corporation shall be **BEACHWALK CONDOMINIUM ASSOCIATION OF GULFPORT, INC.**, hereinafter referred to as the Association.

**ARTICLE II  
PRINCIPAL OFFICE**

The principal office of the corporation shall initially be located at 2936 68<sup>th</sup> Avenue South, St. Petersburg, FL 33712. The corporation may change its principal office from time to time as permitted by law.

**ARTICLE III  
PURPOSES OF CORPORATION**

The purpose of the Association shall be to operate and manage the affairs and property of the condominium known as **Beachwalk, a Condominium**, located at 5601 Shore Boulevard South, 5605 Shore Boulevard South, and 3131 56<sup>th</sup> Street South, Gulfport, Florida 33707, and to perform all acts provided in the Declaration of Condominium of said condominium and the Condominium Act, Chapter 718, *Florida Statutes*.

**ARTICLE IV  
POWERS**

The Association shall have all of the statutory powers of a corporation not-for-profit and all of the powers and duties set forth in the Condominium Act and the Declaration of Condominium of Beachwalk, a Condominium. As more particularly set forth in the Declaration of Condominium of Beachwalk, a Condominium, the Association may acquire leasehold, membership and other possessory or use interests (whether or not such interests relate to property

contiguous to the lands of the condominium) intended to provide for the enjoyment, recreation, or other use or benefit of the Association members, and the Association may acquire, convey, lease and mortgage Association property. By way of illustration and not limitation, the powers of the Association shall include the right to contract for services to provide for the operation and maintenance of the Surface Water Management System Facilities required for Beachwalk, a Condominium pursuant to the Environmental Resource Permit, if any, issued by the Southwest Florida Water Management District, to operate and maintain the Surface Water Management System Facilities, if any, including any inlets, swales, culverts, water control structures, and any associated buffer areas.

#### **ARTICLE V MEMBERS**

All persons owning a vested present interest in the fee title to a condominium unit in Beachwalk, a Condominium, which interest is evidenced by a duly recorded proper instrument in the Public Records of Pinellas County, Florida, shall be members of the Association. Membership shall terminate automatically and immediately at the time a member's vested interest in the fee title terminates, except that upon the termination of the condominium the membership of a unit owner who conveys his unit to the trustee as provided in the Declaration of Condominium shall continue until the trustee makes a final distribution of such unit's share of the funds collected and held by the trustee.

After the Association approves of a conveyance of a condominium unit as provided in the Declaration of Condominium, the change of membership in the Association shall be evidenced in the Association records by delivery to the Association of a copy of the recorded deed or other instrument of conveyance.

Prior to the recording of the Declaration of Condominium of Beachwalk, a Condominium, the subscriber hereto shall constitute the sole member of the Association.

#### **ARTICLE VI VOTING RIGHTS**

The voting rights of each unit shall be determined on an equal fractional basis. That is, each unit shall be entitled to one (1) vote. When more than one person owns a unit in the condominium, the vote for that unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one unit, and the vote shall not be divided among the owners of any one unit. If one owner owns more than one unit, such owner shall have the one vote for each unit owned. If units are joined together and occupied by one owner, such owner shall have a separate vote for each unit owned.

**ARTICLE VII  
INCOME DISTRIBUTION**

No part of the income of the Association shall be distributable to its members, except as compensation for services rendered.

**ARTICLE VIII  
EXISTENCE**

The Association shall exist perpetually unless dissolved according to law. In the event that the Association is dissolved, according to law, the control or right of access to the common areas of the condominium property which contains the Surface Water Management System Facilities, if any, shall be conveyed or dedicated to an appropriate governmental unit or public utility and if that is not accepted, then the Surface Water Management System Facilities shall be conveyed to a non-profit Florida corporation similar to the Association.

**ARTICLE IX  
REGISTERED OFFICE AND REGISTERED AGENT**

The registered office of the Association shall be at 2936 68<sup>th</sup> Avenue South, St. Petersburg, FL 33712, and the registered agent at such address shall be **Stephen S. Berlin**, until such time as another registered agent is appointed by resolution of the board of directors.

**ARTICLE X  
NUMBER OF DIRECTORS**

The business of the corporation shall be conducted by a board of directors which shall consist of not less than three (3) persons, as shall be elected or appointed as set forth in the Bylaws.

**ARTICLE XI  
BOARD OF DIRECTORS AND OFFICERS**

The names and mailing addresses of the initial board of directors and officers are as follows:

<u>Name</u>	<u>Address</u>
Stephen S. Berlin	2936 68 <sup>th</sup> Ave. S. St. Petersburg, Fl. 33712
Kristen Berlin	2936 68 <sup>th</sup> Ave. S. St. Petersburg, Fl. 33712

Jeffrey Berlin

2936 68<sup>th</sup> Ave. S.  
St. Petersburg, Fl. 33712

**ARTICLE XII  
RECALL AND REMOVAL OF DIRECTORS**

Subject to the provisions of Article X hereof, and the provisions of the Condominium Act, Chapter 718, *Florida Statutes*, and the rules and regulations promulgated pursuant thereto, directors may be recalled from office with or without cause, by the affirmative vote of a majority of the voting interests of the Association.

**ARTICLE XIII  
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

All officers and directors shall be indemnified by the Association to the extent required by Florida law. The Association may purchase and maintain insurance on behalf of all officers and directors against any liability asserted against them or incurred by them in their capacity as officers and directors or arising out of their status as such.

**ARTICLE XIV  
RIGHTS OF DEVELOPER**

As more particularly set forth in Section 718.301, *Florida Statutes*, A&J DEVELOPMENT, LLC, a Florida limited liability company, who is the developer of Beachwalk, a Condominium, and who is referred to herein as the Developer, shall have the right to appoint all of the directors of the Association (which directors need not be unit owners), subject to the following:

A) When fifteen percent (15%) or more of the units in the condominium are conveyed to owners other than the Developer, such unit owners shall be entitled to elect not less than one-third (1/3) of the directors.

B) Unit owners other than the Developer shall be entitled to elect not less than a majority of the directors upon the occurrence of the earliest of the following:

1. Three (3) years after fifty percent (50%) of the units that will be operated ultimately by the Association have been conveyed to owners other than the Developer; or



2. Three (3) months after ninety percent (90%) of the units that will be operated ultimately by the Association have been conveyed to owners other than the Developer; or

3. When all of the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to owners other than the Developer, and none of the others are being offered for sale by the Developer in the ordinary course of business; or

4. When some of the units have been conveyed to owners other than the Developer and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

5. Seven (7) years after recordation of the Declaration of Condominium for Beachwalk, a Condominium in the Public Records of Pinellas County, Florida.

C) When the Developer no longer holds for sale in the ordinary course of business at least five percent (5%) of the units that will be operated ultimately by the Association, unit owners other than the Developer shall be entitled to elect all of the directors.

D) Any director appointed by the Developer may be removed and replaced by the Developer at any time, subject only to the foregoing rights of the unit owners.

**ARTICLE XV  
BYLAWS**

The first Bylaws of the Association shall be adopted by the board of directors and may be altered, amended or rescinded in the manner provided in such Bylaws.

**ARTICLE XVI  
SUBSCRIBERS**

The name and street address of the subscriber to these Articles of Incorporation is as follows:

Name

Address

Stephen S. Berlin

2936 68<sup>th</sup> Ave. S.  
St. Petersburg, Fl. 33712

**ARTICLE XVII  
AMENDMENT**

These Articles of Incorporation may be amended as provided by Chapter 617, *Florida Statutes*; provided, however, that any such amendment shall be approved by at least fifty-one percent (51%) of the voting interests of the Association and by a majority of the board of directors.

IN WITNESS WHEREOF, I, the undersigned subscriber hereby adopt these Articles of Incorporation, and hereunto set my hand and seal this 16<sup>th</sup> day of January, 2007.

Signed sealed and delivered in the presence of:

*Diana Buchanan*  
Signature of 1<sup>st</sup> Witness

DIANA BUCHANAN  
Print Name of 1<sup>st</sup> Witness

By: *ASB*  
Stephen S. Berlin

*Manny Santos*  
Signature of 2<sup>nd</sup> Witness

Manny Santos  
Print Name of 2<sup>nd</sup> Witness

STATE OF FLORIDA )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of January, 2007, by **STEPHEN S. BERLIN**. He is  personally known to me or has  produced \_\_\_\_\_ as identification.

*Jeana M Roncolato*  
NOTARY PUBLIC, State of Florida  
My Commission Expires: \_\_\_\_\_  
(NOTARY SEAL)



**ACCEPTANCE BY REGISTERED AGENT**

The undersigned hereby accepts designation as registered agent of the foregoing corporation. The undersigned is familiar with, and accepts, the obligations of that position.

Signed sealed and delivered in the presence of:

Diana Buchanan  
Signature of 1<sup>st</sup> Witness

DIANA BUCHANAN  
Print Name of 1<sup>st</sup> Witness

By: SSB  
Stephen S. Berlin

Jenny Santos  
Signature of 2<sup>nd</sup> Witness

Jenny Santos  
Print Name of 2<sup>nd</sup> Witness

**FILED**  
07 JAN 17 PM 3:14  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**Article "C"**  
**Bylaws of Association**

UNOFFICIAL COPY

**BYLAWS**  
**of**  
**BEACHWALK CONDOMINIUM ASSOCIATION OF GULFPORT, INC.**

*A corporation not for profit  
existing under the laws  
of the State of Florida*

**A. PRINCIPAL OFFICE.**

The initial principal office of the Association shall be located at 2936 68<sup>th</sup> Avenue South, St. Petersburg, FL 33712. The address of the principal office may be changed at the discretion of the Board of Directors.

**B. MEMBERSHIP.**

1. **Members.** All persons owning a vested present interest in the fee title to a condominium unit in Beachwalk, A Condominium, or any other condominium operated by the Association, which interest is evidenced by a duly recorded proper instrument in the Public Records of Pinellas County, Florida, shall automatically be members of this Association; their membership shall automatically terminate as their vested interest in the fee title terminates. Such membership may be evidenced by the issuance of a membership certificate which shall be deemed automatically cancelled when the membership it evidences is terminated as provided heréin.

2. **Voting Rights.** Each unit shall be entitled to one (1) vote. Subject to the provisions of Section 718.112, *Florida Statutes*, regarding the use of general and limited proxies, any vote may be cast in person or by proxy executed in writing and filed with the secretary. Any otherwise properly executed proxy which does not appoint a specific person as the proxyholder shall automatically be deemed to designate the President of the Association as the proxyholder.

3. **Proxies.** Except as specifically provided herein, unit owners 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 ("Division")). 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 as provided by Section 718.111(14); for votes taken to amend the Declaration of Condominium pursuant to Section 718.110; for votes taken to amend the Articles of Incorporation or these Bylaws; and for any other matter for which applicable law requires or permits a vote of the unit

owners. 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 non-substantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this paragraph, unit owners may vote in person at unit owner meetings. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it. Any otherwise properly executed proxy which does not appoint a specific person as the proxy holder shall automatically be deemed to designate the President of the Association as the proxyholder.

#### 4. **Voting Representatives.**

(a) If title to a condominium unit is vested in one individual, including title held as trustee, that individual shall automatically be designated as voting representative on admission to membership.

(b) If title to a condominium unit is vested in more than one owner, the vote or votes to which the condominium unit is entitled may be cast by any of the joint owners. If more than one (1) of the joint owners of a unit are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they will lose their right to vote on that subject at the meeting.

(c) If title to a condominium unit is owned by a corporation, partnership, or other legal entity, then any officer, director or other authorized representative of such entity shall be entitled to cast the vote or votes for said unit.

(d) An administrator, executor, personal representative, guardian, conservator or receiver of the owner of a unit, without a transfer of title to said unit into his name, shall have a right to cast the vote or votes for said unit.

(e) The developer may be represented by any director, officer, employee or agent of the developer.

(f) The Association shall have a right to rely on the veracity of any person indicating that he or she is the authorized representative of the owner of a unit as set forth in subsections (a) through (e) above.

5. **Annual Meeting.** An annual meeting of the members shall be held each year at such time and place as may be designated by the board of directors for the purpose of electing directors of the Association and for the transaction of such other business as may come before the meeting.

6. **Special Meetings.** Special meetings may be called by the president or by the board of directors, or by the written request of at least ten percent (10%) of the voting interests of the members, for any purpose and at any time.

7. **Notices.** Written notice of annual and special meetings of members, which shall include an agenda, shall be provided to members either personally or by first class mail at least fourteen (14) days prior to the date of the meeting and shall be posted in a conspicuous place on the condominium property at least fourteen (14) continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium or association property upon which all notices of unit owner meetings shall be posted. If mailed, such notice shall be deemed given when deposited in the U.S. Mail addressed to the owner at his address as it appears in the books of the Association. Members may waive such notice and may act by written agreement without meetings; provided that there must be an annual meeting of the members. Notwithstanding the above, notice of the annual meeting of members shall be by mail unless the member waives in writing the right to receive such notice by mail. An officer of the Association, or the manager or other person providing notice of the Association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association affirming that the notice was mailed or hand delivered as required, to each unit owner at the address last furnished to the Association.

8. **Approvals.** Any approval by unit owners called for by the Articles of Incorporation, Declaration of Condominium or these Bylaws shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of the Condominium Act or the applicable condominium documents relating to unit owner decision making, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or the Declaration of Condominium or any statute which provides for such action.

9. **Quorum and Voting.** One-half (1/2) of the voting rights represented in person, or by proxy, shall constitute a quorum, and if a quorum is not present, a majority of the voting rights present may postpone the meeting from time to time until a quorum is present. Proper notice of any such

postponed meeting shall be given to the members as is otherwise required herein for such a meeting as originally scheduled. A member shall be deemed present for purposes of a quorum with respect to any question or election upon which his written and signed proxy shall have been received by the secretary. A simple majority of all voting rights present in person or otherwise represented shall decide any question brought before the meeting, except when otherwise required by the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, or these Bylaws. Members shall have the right to participate in meetings of the members with reference to all designated agenda items, subject to reasonable rules adopted by the Association governing the frequency, duration and manner of member participation. Any member may tape record or videotape a meeting of the members subject to the provisions of Section 718.112, Florida Statutes, and any rules and regulations promulgated pursuant thereto by the Division.

**C. BOARD OF DIRECTORS.**

1. **Powers.** The board of directors shall have all powers necessary to manage the affairs of the Association and to discharge its rights, duties, and responsibilities as provided in the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, and these Bylaws.

2. **Number.** The board of directors shall consist of no less than three (3) directors.

3. **Qualification.** Each director shall be a member or a person exercising the rights of an owner who is not a natural person, except that during such time as the Developer, its successors and assigns, has the right to appoint any directors of the Association pursuant to the Articles of Incorporation, no director appointed by Developer need be a member of the Association. All directors shall act without compensation.

4. **Election and Term.** Except as hereinafter provided, the term of each director shall expire upon the election of his successor at the next succeeding annual meeting of members. Commencing with the first annual meeting of members at which unit owners other than the Developer elect a majority of the board of directors, the two (2) directors receiving the highest number of votes shall serve two (2) year terms, and the other elected director shall serve a one (1) year term. At each annual meeting of members thereafter, directors shall be elected for two (2) year terms to fill the vacancies of those directors whose terms are then expiring. All directors shall serve until their respective successors shall have been duly elected and qualified, or until their earlier resignation, disqualification, removal or death. Directors appointed by the Developer shall serve until their resignation or removal by Developer.



Nomination and election of directors shall comply with the requirements of Section 718.112, *Florida Statutes*.

5. **Regular Meetings.** An annual meeting of the board of directors shall be held immediately after, and at the same place as, the annual meeting of the membership. Additional regular meetings may be held as provided by resolution of the board.

6. **Special Meetings.** Special meetings of the board may be called by the president or a majority of the directors for any purpose and at any time or place.

7. **Budget Meetings.** The board of administration shall mail or hand deliver to each unit owner, at the address last furnished to the Association a meeting notice and copies of the proposed annual budget of common expenses not less than fourteen (14) days prior to the meeting of the units owners or the board of administration at which the budget will be considered. Evidence of compliance with this fourteen (14) day notice must be made by an affidavit executed by an officer of the Association or the manager or other person providing notice of the meeting and filed among the official records of the Association. Since the Declaration of Condominium provides that the budget may be adopted by the board, the unit owners shall be given written notice of the time and place of the meeting of the board to consider the budget. The meeting shall be open to the unit owners. If a board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the association. At the special meeting, unit owners shall consider and enact a budget. The adoption of the budget shall require a vote of not less than a majority of all the voting interests. The board may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of the voting interests in writing, the budget shall be adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is

not adopted by the unit owners, the budget adopted by the board shall go into effect as scheduled. In determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property shall be excluded from the computation. However, as long as the Developer is in control of the board, the board shall not impose an assessment for any year greater than one hundred fifteen percent (115%) of the prior fiscal or calendar year's assessment without approval of a majority of all of the voting interests.

8. **Notices.** Notice of any meeting of the board shall be mailed by first class mail or delivered to each director at his address shown in the Association records at least five (5) days before such meeting, unless notice is waived by such director. If mailed, such notice shall be deemed given when deposited in the U.S. Mail addressed to the director at his address as it appears in the records of the Association. Notices of special meetings shall state the purpose thereof. Notices of any meeting at which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Notice of any meeting of the board shall specifically incorporate an identification of agenda items and shall be posted conspicuously on the condominium property at least forty-eight (48) continuous hours in advance of the meeting, except in an emergency. Any item not included in the notice may be taken up on an emergency basis by at least a majority plus one (1) of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding unit use will be proposed, discussed or approved, shall be mailed or delivered to the unit owners and shall be posted conspicuously on the condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with the fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property upon which all notices of board meetings shall be posted.

9. **Quorum and Voting.** A majority of directors shall constitute a quorum. If a quorum is not present, a majority of those present may postpone the meeting from time to time until a quorum is present. Proper notice of any such postponed meeting shall be given as is otherwise required herein for such

a meeting as originally scheduled. At any meeting that takes place on account of a previously adjourned meeting, any business that might have been addressed at the meeting as originally called may be addressed. The vote of a majority of directors present shall decide any matter before the board, except as may be otherwise required by the Articles of Incorporation, these Bylaws, or the Declaration of Condominium. A director may join by written concurrence in any action taken at a meeting of the board of directors, but such concurrence may not be used for the purpose of creating a quorum. Board members utilizing telephone conference calls may be counted toward obtaining a quorum, and may vote over the telephone. Directors may not vote by proxy or by secret ballot at board meetings, except that officers may be elected by secret ballot. A vote or abstention for each member shall be recorded in the minutes of the meeting.

10. **Removal.** Any director appointed by the Developer may be removed by the Developer at any time by giving written notice to the board of directors, and the vacancy created by such removal shall be filled by appointment by the Developer. (Any director elected by the members may be removed by a majority vote of all voting interests.

11. **Telephone Conferences.** Directors may attend meetings of the board of directors by means of telephone conference; provided that a telephone speaker shall be attached so that the discussion may be heard by all board members and by any unit owner present in an open meeting.

12. **Attendance by Members.** Members are allowed to attend all meetings of the board of directors. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items; provided, however, the Association may adopt reasonable rules governing the frequency, duration and manner of unit owners' statements. Subject to the provisions of Section 718.112 *Florida Statutes*, and the rules and regulations promulgated pursuant thereto by the Division of Florida Land Sales, Condominiums and Mobile Homes, any unit owner may tape record or videotape meetings of the board of directors.

13. **Inquiries.** When any unit owner files a written inquiry by certified mail with the board, the board shall respond to the unit owner within thirty (30) days of receipt of the inquiry. The board shall give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division. If the board requests advice from the Division, the board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive

response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the board from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may through its board of administration adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the association is only obligated to respond to one (1) written inquiry per unit in any given thirty-day period. In such a case any additional inquiry, or inquiries, must be responded to in the subsequent thirty-day period, or periods, as applicable.

**D. COMMITTEES.**

1. **Function.** Except when specifically delegated authority to act, committees shall serve in an advisory capacity to the board of directors and the membership and shall make specific recommendations to the board and the members regarding those aspects of the business and affairs of the Association for which they have been delegated responsibility. Any committee shall have and may exercise all of the authority granted to it by the board of directors, except that no committee shall have the power to:

- (a) Fill vacancies on the board of directors or on a committee;
- (b) Adopt, amend or repeal the Articles of Incorporation or the Bylaws;
- (c) Amend or repeal any resolution of the board of directors; or
- (d) Act on any matters committed by the Condominium Act, the Articles of Incorporation, the Bylaws, the Declaration of Condominium or a resolution of the board of directors to another committee or to the board.

2. **Types of Committees.** The board of directors may appoint such standing committees or *ad hoc* committees as it deems necessary from time to time.

3. **Appointment and Term.** The board shall appoint committee members from among the members, or in the case of an owner who is not a natural person from among those representing the member; provided, however, that prior to the time that the unit owners other than the Developer elect a majority of the board of directors committees may include employees, agents and representatives of the Developer. The board of directors shall designate a chairman and a secretary for each committee, which positions may be filled by one or more members. The members of each committee shall initially be

appointed at any meeting of the board and thereafter shall be appointed at the annual meeting of the board. Each appointee shall take office on the day of such board meeting and shall hold office until the next annual meeting of the board and until a successor shall have been appointed, or until his earlier resignation, disqualification, death or removal from office, or until such committee shall terminate, whichever first occurs.

4. **Removal, Resignation and Vacancies.** Any committee member may be removed from office by the board of directors at any time with or without cause. Any member of a committee may resign therefrom by providing written notification of such resignation to the President of the Association, and any such resignation shall become effective immediately upon receipt by the President of such written notification or at such later date as may be specified in the notification. Any vacancy occurring in the membership of any committee or any position on any committee to be filled by reason of an increase in the number of members of a committee shall be filled by the board of directors.

5. **Regular Meetings.** Regular meetings of each standing committee shall be held at such times as are determined by the chairman of the committee. There shall be no regular meetings of an *ad hoc* committee unless established by the chairman of said committee.

6. **Special Meetings.** Special meetings of any committee may be called at any time by the chairman of the committee or by twenty-five percent (25%) of the members thereof.

7. **Notice of Meetings.** Notice of any committee meeting shall be mailed or delivered to each committee member at his address shown in the Association records at least three (3) days before such meeting, unless notice is waived by such committee member. Notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least forty-eight (48) continuous hours preceding the meeting, except in an emergency. However, written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding unit use will be proposed, discussed or approved, shall be mailed or delivered to the unit owners and shall be posted conspicuously on the condominium property not less than fourteen (14) days prior to the meeting. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

8. **Quorum and Voting.** A majority of the committee members will constitute a quorum. If a quorum is not present, the majority of those present may postpone the meeting from time to time until a quorum is present. The vote of a majority of the committee members present at any legally convened meeting shall decide any matter before the committee, unless a greater number is required by resolution of the board.

9. **Members' Attendance.** Committee meetings at which a quorum is present shall be open to all unit owners. The right to attend such meetings includes the right to speak at such meetings with reference to all agenda items, subject to reasonable rules adopted by the Association governing the frequency, duration and manner of unit owners' statements.

E. **OFFICERS.**

1. **Number.** The officers shall be a president, a past president, a vice president, a secretary, and a treasurer, and such other officers as the board of directors may designate from time to time by resolution, each of whom shall be elected by the board of directors. Any two (2) or more offices may be held by the same person. All officers shall act without compensation.

2. **Election and Term.** Each officer shall be elected annually by the board of directors at the first meeting of directors following the annual meeting of members and shall hold office until a successor shall have been elected and duly qualified, or until such officer's earlier resignation, disqualification, removal or death.

3. **President.** The president shall be the principal executive officer of the Association and shall supervise all of the affairs of the Association. He shall preside at all meetings of members and directors. He shall sign all agreements and recordable instruments on behalf of the Association, unless otherwise provided by resolution of the board of directors.

4. **Vice President.** In the absence of the president, the vice president shall perform the duties of the president, and when so acting, shall have all the powers and responsibilities of the president. The vice president shall also perform such duties as may be designated by the board of directors.

5. **Secretary.** The secretary may attest to any agreement or recordable instrument on behalf of the Association, but such attestation shall not be required. The secretary shall record the minutes of meetings of members and directors. The secretary shall have the primary responsibility, but not the exclusive right, to give notices required by these Bylaws. He shall

have custody of and maintain the records of the Association, other than those maintained by the treasurer.

6. **Treasurer.** The treasurer shall have custody of all funds of the Association, shall deposit the same in such depositories as may be selected by the board of directors, shall disburse the same, and shall maintain the Association's financial records, which shall be available for inspection by any member at all reasonable times. At the discretion of the board of directors, the functions of the treasurer may be delegated to and performed by a managing agent or financial institution.

7. **Fidelity Bonds.** The Association shall obtain and maintain adequate bonding of all persons who control or disburse funds of the Association in the principal sum required by Section 718.111(11)(d), *Florida Statutes*. The Association shall bear the cost of such 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.

8. **Removal.** Any officer may be removed, with or without cause, by a majority vote of the board of directors present at any meeting of the board, and the vacancy thereby created shall be filled by an election by the board of directors.

#### F. **MANAGER AND EMPLOYEES**

1. The board of directors may employ the services of a manager and other employees and agents as they shall determine appropriate to manage, operate, and care for the condominium property, with such powers and duties and at such compensation as the board may deem appropriate and provide by resolution from time to time. Such manager, employees, and agents shall serve at the pleasure of the board. Any management agent that handles funds of the Association shall obtain a fidelity bond conforming to the requirements of Section 718.111(11)(d), *Florida Statutes*, and shall provide the Association with a Certificate of Insurance evidencing compliance with said section.

#### G. **CONTRACTS AND FINANCES**

1. **Contracts.** In addition to the authority granted herein to the president and vice presidents, the board of directors may authorize any officer or agent to execute and deliver any contract or other instrument on behalf of the Association.

2. **Loans.** No loan shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors and, where required by the Condominium Act, the Articles of Incorporation, these Bylaws or the Declaration of Condominium, said loans or indebtedness have been approved by the members of the Association.

3. **Checks and Notes.** All checks, drafts, and other orders for payment of money issued in the name of the Association shall be signed by the treasurer or such officers or agents of the Association as shall from time to time be authorized by resolution of the board of directors. All promissory notes or other evidences of indebtedness of the Association shall be signed by the president or a vice president.

4. **Deposits.** All funds of the Association shall be deposited from time to time in the name of the Association in such banks, savings and loan associations, or other depositories as the board of directors may select from time to time.

5. **Fiscal Year.** Unless otherwise established by resolution of the board of directors, the fiscal year of the Association shall begin on the first (1st) day of January of each year.

6. **Initial Contribution.** At the time of closing the Association may collect from the initial purchaser of a unit an initial contribution in an amount equal to two (2) monthly installments of the annual assessment as determined from time to time, which sum shall be in addition to the assessments otherwise due with regard to said unit.

#### H. **ANNUAL BUDGET**

1. **Proposed Budget.** The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications including, if applicable, but not limited to, those expenses listed in Section 718.504(21), *Florida Statutes*. In addition, if the Association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements, the budget or a schedule attached thereto shall show amounts budgeted therefor.

2. **Reserve Accounts.** In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any



other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates of extension of the useful life of a reserve item caused by deferred maintenance. This paragraph does not apply to budgets in which the members of the Association have, by a majority vote, at a duly called meeting of the Association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this paragraph. However, prior to turnover of control of the Association by the Developer to unit owners other than the Developer, the Developer may vote to waive the reserves or reduce the funding of reserves for the first two (2) years of the operation of the Association, after which time reserves may only be waived or reduced upon the vote of a majority of all non-Developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

3. **Reserve Funds.** Reserve funds and any interest accruing thereon shall remain in the reserve account, or accounts, and shall be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, voting in person or by limited proxy, at a duly called meeting of the Association. Prior to turnover of control of the Association by the Developer to unit owners other than the Developer, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

#### I. **VACANCIES**

1. **Procedures to Fill Board Vacancy.** Subject to the provisions of Section 718.301, *Florida Statutes* concerning transfer of association control, any vacancy occurring on the board prior to the expiration of a term, except in the case of a vacancy caused by recall, may be filled by the affirmative vote of a majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may in its discretion hold an election to fill the vacancy, in which case election procedures must conform to the requirements of Section 718.112(2)(d)3, *Florida Statutes* and Rule 61B-23.0021, Florida Administrative Code. A board member appointed or elected pursuant to procedure shall fill

the vacancy until the next regularly scheduled election for any position, regardless of whether the board seat to which the member was appointed or elected is scheduled to be filled at that election. If, however, upon appointment, the Association has already mailed or delivered the first notice of election pursuant to Section 718.112(2)(d)3., *Florida Statutes*, the board member appointed or elected as provided in this section shall serve until the next election scheduled in the future for any position.

2. **Procedure to Fill Recall Board Vacancy.** When the voting interests have recalled one or more board members at a unit owner meeting, the following provisions apply regarding the filling of vacancies on the board:

(a) If less than a majority of the existing board is recalled at the meeting, no election of replacement board members shall be conducted at the unit owner meeting as the existing board may, in its discretion, fill these vacancies, subject to the provisions of Section 718.301, *Florida Statutes* and Rules 61B-23.003 and 61B-23.0026, Florida Administrative Code, by the affirmative vote of the remaining board members. In the alternative, if less than a majority of the existing board is recalled at the unit owner meeting, the board may call and conduct an election which meets the requirements of Section 718.112(2)(d), *Florida Statutes*, and Rule 61B-23.0021, Florida Administrative Code, to fill a vacancy or vacancies.

(b) If a majority or more of the existing board is recalled at the meeting, an election, which is subject to the provisions of Section 718.301, *Florida Statutes*, and Rule 61B-003 and 61B-23.0026, Florida Administrative Code, shall be conducted at the recall meeting to fill vacancies on the board occurring as a result of recall. The voting interest may vote in person or by limited proxy to elect replacement board members in an amount equal to the number of recalled board members. Newly selected or elected board members shall take office in accordance with the provisions of Rule 61B-23.0027(3)(e), Florida Administrative Code.

3. **Procedure to Fill Other Vacancies.** A vacancy in any other office other than board of administration created by death, disqualification, removal or resignation of the person holding office shall be filled for the balance of the term of the office by vote of the board of administration.

#### J. **AMENDMENTS TO BYLAWS**

1. These Bylaws may be altered or repealed at any meeting of the Board by a majority vote. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended, new words shall be inserted in the text

underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw \_\_\_\_\_ for present text". Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

#### K. **REGULATIONS**

1. The board of directors may from time to time adopt such uniform administrative rules and regulations governing and restricting the use and maintenance of the condominium units and common elements and other property owned or operated by the Association as may be deemed necessary and appropriate to prevent unreasonable interference with the use thereof and to assure the enjoyment thereof by the unit owners. Such rules and regulations shall not be inconsistent with the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, or these Bylaws. A copy of such rules and regulations shall be made available to each unit owner and occupant, although the failure to furnish a copy thereof in any instance shall not affect the enforceability of any such rule or regulation.

#### L. **REMEDIES FOR VIOLATION**

1. **Legal Remedies.** In the event of violation of any provisions of any declaration of condominium, the articles of incorporation, these Bylaws, any rules and regulations, or the Condominium Act, the Association, on its own behalf, may, but is not required to, bring appropriate action to enjoin such violation or to enforce the provisions of such document or sue for damages, or take all such courses of action at the same time, or bring appropriate action for such other legal or equitable remedy as it may deem appropriate. Failure by the Association to enforce any such provision shall in no event be deemed a waiver of the right to enforce later violations. Initiation and conclusion of the hearing procedures described hereinbelow shall not be a condition precedent to an action under this section.

2. **Hearing Procedures.** In the event of violation of any of the provisions of the Declaration of Condominium, these Bylaws, or reasonable rules of the Association, the Association shall have the right to initiate in-house hearing procedures. These hearing procedures shall constitute a separate remedy for the Association, and they are not a condition precedent to the remedies described in Section 1 above. In any such hearing procedure the

alleged non-complying owner, or other defendant, shall be given a reasonable opportunity to be heard. Said owner, or other defendant, shall be notified by certified mail, return receipt requested, or by hand delivery, of any hearing before the Board at least fourteen (14) days in advance of such hearing. The notice shall include:

- (a) A statement of the date, time and place of the hearing.
- (b) A statement of the provisions of the document which have allegedly been violated; and
- (c) A short and plain statement of the matters asserted by the Association.

The party against whom a remedy 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 Board. At the conclusion of testimony, the Board shall deliberate the evidence. By a majority vote, the Board shall determine whether a violation has occurred. If the Board concludes that a violation has taken place, it shall have the right to elect any one or a combination of the following remedies:

- (i) Reprimand the appropriate party;
- (ii) Levy a fine not in excess of \$100.00; however, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000.00.
- (iii) Authorize the initiation of action under Section 1 above.

The hearing must be held before a committee of other unit owners. If the committee does not agree with the fine, the fine may not be levied.

3. **Cumulative.** The remedies contained in this Article are in addition to and not in lieu of other remedies otherwise provided by law.

4. **Costs.** In the event that the Association is the prevailing party in any action brought pursuant to Section 1 above, or in the event that the Board determines that a violation has occurred pursuant to Section 2 above, then all costs and expenses incurred by the Association in such enforcement action(s), including without limitation filing and service of process fees, and

attorneys' fees and costs incident to the proceeding, before trial, during trial, upon any appeal and in any post judgment proceedings shall be paid to the Association by the unit owner, or other defendant, determined to be in violation.

M. **SEAL**

1. The board of directors shall provide a corporate seal, circular in form, showing the corporate name, the year and state of incorporation, and the words "corporation not for profit".

N. **COLLECTION OF ASSESSMENTS**

1. Assessments for the payment of common expenses shall be levied annually by the board of directors in the manner provided in the Declaration of Condominium. Each unit's annual assessment shall be due and payable in advance to the Association on the first day of each month of each budget year. Special assessments may be levied by the board of directors in the manner provided in the Declaration of Condominium or the Condominium Act.

O. **MANDATORY NON-BINDING ARBITRATION**

1. In accordance with the provisions of Section 718.1255, *Florida Statutes*, prior to the institution of any court litigation arising out of or related to the Condominium Act, the Declaration of Condominium, the Articles of Incorporation, these Bylaws, or any rules adopted by the Association, the parties to such dispute shall petition the Division for non-binding arbitration.

P. **CERTIFICATE OF COMPLIANCE**

1. A Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Association's board of directors as evidence of compliance of the condominium units with the applicable fire and life safety code.

Q. **LIMITED POWER OF CONVEYANCE**

1. The Association shall have the power to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

**R. THE CONDOMINIUM ACT**

1. In the event of a conflict between the provisions of these Bylaws and the Condominium Act, or in the event the Condominium Act sets forth mandatory bylaws provisions that are not expressly contained herein, the terms and provisions of the Condominium Act shall control (except to the extent that the Condominium Act allows these Bylaws to vary the provisions of the Condominium Act) and, to that extent, are incorporated by reference herein. As used in these Bylaws, the "Condominium Act" shall mean the provisions of Chapter 718, *Florida Statutes*.

2. All provisions of Section 718.112(2)(a) through (m), Florida Statutes, are deemed to be included in these bylaws.

**S. SURFACE WATER MANAGEMENT SYSTEM**

1. In the event of dissolution of the Association any plan of dissolution shall require that the Association transfer the surface water management system to an appropriate agency of local government and that if said transfer is not acceptable to such agency of local government, then the surface water management system shall be transferred to another not for profit corporation.

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**CERTIFICATE**

The foregoing were adopted as the Bylaws of BEACHWALK  
CONDOMINIUM ASSOCIATION OF GULFPORT, INC., a Florida corporation not  
for profit, on 1/18/07, ~~2006~~.

*Ar. M.*

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**Exhibit "D"**  
**Unit Allocations**

UNOFFICIAL COPY



**BEACHWALK, a Condominium**

UNIT ALLOCATIONS FOR SHARING COMMON EXPENSES, OWNING COMMON ELEMENTS AND SURPLUS, AND FOR VOTING:

<u>UNIT NUMBER</u>	<u>EQUAL FRACTIONAL BASIS</u>
1A	1/10th
1B	1/10th
1C	1/10th
1D	1/10th
1E	1/10th
2A	1/10th
2B	1/10th
2C	1/10th
2D	1/10th
3	1/10th

There shall be one (1) vote for each condominium unit.