

**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR
PORTOFINO ESTATES**

EXHIBIT "A"

PORTOFINO ESTATES, COMMON AREA

LEGAL DESCRIPTION

A portion of the East ½ of Section 10, Township 57 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of the North ¼ of the SE ¼ of said Section 10, said point lying on the Easterly Right-of-Way line of the South Florida Water Management District, Canal C-103 N; thence run the following courses and distances along the said Easterly Right-of-Way line of Canal C-103 N: N01°17'30"W along the West line of the said East ½ of Section 10 for 992.57 feet; thence N88°42'30"E for 35.00 feet; thence N01°17'30"W for 35.00 feet; thence S88°42'30"W for 35.00 feet to a point on the said West line of the East ½ of Section 10; thence N01°17'30"W along the said West line of the East ½ of Section 10 for 243.71 feet to a point on the Southerly Right-of-Way line of WATERSTONE WAY, as said WATERSTONE WAY is shown on the plat of WATERSTONE ROADS, according to the plat thereof recorded in Plat Book 160, at Page 91, of the Public Records of Miami-Dade County, Florida; thence departing the said Easterly Right-of-Way line of Canal C-103 N, run the following courses and distances along the said Southerly Right-of-Way line of WATERSTONE WAY: N89°10'54"E for 137.10 feet to a point of curvature of a circular curve to the left; thence to the left along said curve, having for its elements a radius of 515.00 feet and a central angle of 34°24'20" for an arc distance of 309.25 feet to a point of tangency; thence N54°46'34"E for 100.19 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 45.00 feet and a central angle of 54°06'42" for an arc distance of 42.50 feet to a point of reverse curvature; thence to the left along said curve, having for its elements a radius of 100.00 feet and a central angle of 02°03'43" for an arc distance of 3.60 feet to a point of reverse curvature; thence to the right along said curve, having for its elements a radius of 45.00 feet and a central angle of 67°43'17" for an arc distance of 53.19 feet to a point of compound curvature, said point lying on the Westerly Right-of-Way line of N.E. 41st TERRACE, as said TERRACE is shown on said WATERSTONE ROADS; thence departing said Southerly Right-of-Way line of WATERSTONE WAY, run the following courses and distances along the said Westerly Right-of-Way line of N.E. 41st TERRACE: to the right along said curve, having for its elements a radius of 175.00 feet and a central angle of 04°34'07" for an arc distance of 13.95 feet to the point of tangency; thence S00°53'04"E for 106.40 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 225.00 feet and a central angle of 16°22'50" for an arc distance of 64.33 feet to the point of tangency; thence S15°29'47"W for 100.00 feet to a point of curvature of a circular curve to the left; thence to the left along said curve, having for its elements a radius of 275.00 feet and a central angle of 14°01'25" for

an arc distance of 67.31 feet to the point of tangency; thence $S01^{\circ}28'22''W$ for 92.19 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 50.00 feet and a central angle of $33^{\circ}33'26''$ for an arc distance of 29.28 feet to a point of reverse curvature; thence to the left along said curve, having for its elements a radius of 70.00 feet and a central angle of $113^{\circ}39'27''$ for an arc distance of 138.86 feet to a point, said point lying on the boundary line of the plat of MARBELLA COVE, according to the plat thereof recorded in Plat Book 161, at Page 1, of the Public Records of Miami-Dade County, Florida; thence departing the said Westerly Right-of-Way line of N.E. 41st TERRACE, run the following courses and distances along the said boundary line of MARBELLA COVE: $S45^{\circ}41'08''E$ for 525.72 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 100.00 feet and a central angle of $44^{\circ}59'35''$ for an arc distance of 78.53 feet to the point of tangency; thence $S00^{\circ}41'33''E$ for 369.16 feet to a point on the South line of the said North $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10; thence departing the said Boundary line of MARBELLA COVE, run $S89^{\circ}27'26''W$ along the said South line of the North $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10 for 956.21 feet to the Point of Beginning.

LESS: All buildable "Units", including but not necessarily limited to, Block 1, Lots 1 through 21; and Block 2, Lots 1 through 34; and Block 3, Lots 1 through 25; and Block 4, Lots 1 through 50, all as shown on the Plat for Portofino Estates, as recorded in official Records Book 161, Page 11, of the Public Records of Miami-Dade County, Florida

**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR
PORTOFINO ESTATES**

EXHIBIT "B"

PORTOFINO ESTATES
LEGAL DESCRIPTION

A portion of the East ½ of Section 10, Township 57 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of the North ¼ of the SE ¼ of said Section 10, said point lying on the Easterly Right-of-Way line of the South Florida Water Management District, Canal C-103 N; thence run the following courses and distances along the said Easterly Right-of-Way line of Canal C-103 N: N01°17'30"W along the West line of the said East ½ of Section 10 for 992.57 feet; thence N88°42'30"E for 35.00 feet; thence N01°17'30"W for 35.00 feet; thence S88°42'30"W for 35.00 feet to a point on the said West line of the East ½ of Section 10; thence N01°17'30"W along the said West line of the East ½ of Section 10 for 243.71 feet to a point on the Southerly Right-of-Way line of WATERSTONE WAY, as said WATERSTONE WAY is shown on the plat of WATERSTONE ROADS, according to the plat thereof recorded in Plat Book 160, at Page 91, of the Public Records of Miami-Dade County, Florida; thence departing the said Easterly Right-of-Way line of Canal C-103 N, run the following courses and distances along the said Southerly Right-of-Way line of WATERSTONE WAY: N89°10'54"E for 137.10 feet to a point of curvature of a circular curve to the left; thence to the left along said curve, having for its elements a radius of 515.00 feet and a central angle of 34°24'20" for an arc distance of 309.25 feet to a point of tangency; thence N54°46'34"E for 100.19 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 45.00 feet and a central angle of 54°06'42" for an arc distance of 42.50 feet to a point of reverse curvature; thence to the left along said curve, having for its elements a radius of 100.00 feet and a central angle of 02°03'43" for an arc distance of 3.60 feet to a point of reverse curvature; thence to the right along said curve, having for its elements a radius of 45.00 feet and a central angle of 67°43'17" for an arc distance of 53.19 feet to a point of compound curvature, said point lying on the Westerly Right-of-Way line of N.E. 41st TERRACE, as said TERRACE is shown on said WATERSTONE ROADS; thence departing said Southerly Right-of-Way line of WATERSTONE WAY, run the following courses and distances along the said Westerly Right-of-Way line of N.E. 41st TERRACE: to the right along said curve, having for its elements a radius of 175.00 feet and a central angle of 04°34'07" for an arc distance of 13.95 feet to the point of tangency; thence S00°53'04"E for 106.40 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 225.00 feet and a central angle of 16°22'50" for an arc distance of 64.33 feet to the point of tangency; thence S15°29'47"W for 100.00 feet to a point of curvature of a circular curve to the left; thence to the left

along said curve, having for its elements a radius of 275.00 feet and a central angle of $14^{\circ}01'25''$ for an arc distance of 67.31 feet to the point of tangency; thence $S01^{\circ}28'22''W$ for 92.19 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 50.00 feet and a central angle of $33^{\circ}33'26''$ for an arc distance of 29.28 feet to a point of reverse curvature; thence to the left along said curve, having for its elements a radius of 70.00 feet and a central angle of $113^{\circ}39'27''$ for an arc distance of 138.86 feet to a point, said point lying on the boundary line of the plat of MARBELLA COVE, according to the plat thereof recorded in Plat Book 161, at Page 1, of the Public Records of Miami-Dade County, Florida; thence departing the said Westerly Right-of-Way line of N.E. 41st TERRACE, run the following courses and distances along the said boundary line of MARBELLA COVE: $S45^{\circ}41'08''E$ for 525.72 feet to a point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 100.00 feet and a central angle of $44^{\circ}59'35''$ for an arc distance of 78.53 feet to the point of tangency; thence $S00^{\circ}41'33''E$ for 369.16 feet to a point on the South line of the said North $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10; thence departing the said Boundary line of MARBELLA COVE, run $S89^{\circ}27'26''W$ along the said South line of the North $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 10 for 956.21 feet to the Point of Beginning.

NOTES:

1. The above described parcel contains 977,973 square feet (22.4512 acres), more or less.
2. The bearings are based on an assumed direction of $N01^{\circ}17'30''W$ along the West line of the NE $\frac{1}{4}$ of Section 10, Township 57 South, Range 39 East, Miami-Dade County, Florida.

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ARTICLES OF INCORPORATION

OF

SECRETARY OF STATE
TALLAHASSEE FLORIDA

PORTOFINO ESTATES PROPERTY OWNERS ASSOCIATION, INC.,

a Florida Not for Profit Corporation

The undersigned incorporator, Nancy Villaman, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation.

PREAMBLE

PRIME HOMES AT PORTOFINO ESTATES, LTD a Florida limited partnership, ("Declarant"), owns certain real property in Dade County, Florida (the "Property"), and intends to execute and record a Declaration of Covenants and Restrictions (the "Declaration"), which will affect the Property. This corporation not for profit (the "Association") is being formed as the homeowners' association to administer the Declaration, and to perform the duties and exercise the power pursuant to the Declaration, as and when the Declaration is recorded in the Public Records of Dade County, Florida.

All of the defined terms contained in the Declaration shall apply to these Articles of Incorporation, and to the Bylaws of the Association.

ARTICLE I. - NAME

The name of the corporation is: PORTOFINO ESTATES PROPERTY OWNERS ASSOCIATION, INC.,

ARTICLE II. - PRINCIPAL OFFICE

The initial principal office and mailing address of this corporation is: 21218 Saint Andrews Boulevard, Suite 510, Boca Raton, Florida 33433.

ARTICLE III. - PURPOSE

The purposes for which this corporation is organized are as

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follows:

1. To operate as a corporation not for profit pursuant to Chapter 617 of the Florida Statutes or any successor thereto.
2. To enforce and exercise the duties of the Association as provided in the Declaration.
3. To promote the health, safety, welfare, comfort and social and economic benefit of the members of the Association.

ARTICLE IV. - POWERS AND DUTIES

This corporation shall have the following powers and duties:

1. All of the common law and statutory powers of a corporation not for profit under the laws of the State of Florida.
2. To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the Declaration, including, but not limited to, the following:
 - a. To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.
 - b. To make and collect Assessments against Owners to defray the costs, expenses and losses incurred or to be incurred by the Association, and to use the proceeds thereof in the exercise of the Association's powers and duties.
 - c. To enforce the provisions of the Declaration, these Articles, and the Bylaws.
 - d. To make, establish and enforce reasonable rules and regulations governing the use of Common Property and Lots, and any other property under the jurisdiction of the Association.
 - e. To grant and modify easements, and to dedicate property owned by the Association to any public or quasi-public agency, authority or utility company for public, utility, drainage and cable television purposes.
 - f. To borrow money for the purposes of carrying out the powers and duties of the Association.

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g. To exercise control over exterior alterations, additions, improvements, or changes in accordance with the terms of the Declaration.

h. To obtain insurance as provided by the Declaration.

i. To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the Association and for proper operation of the properties for which the Association is responsible, or to contract with others for the performance of such obligations, services and/or duties.

j. To sue and be sued.

k. To contract for cable television services for the Property.

ARTICLE V. - MEMBERS

1. The members of the Association shall consist of all of the record owners of Lots. Membership shall be established as to each Lot upon the recording of the Declaration. Upon the transfer of ownership of fee title to, or fee interest in, a Lot, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon recording among the public records in Dade County of the deed or other instruments establishing the acquisition and designating the Lot affected thereby, the new Owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior Owner as to the Lot designated shall be terminated; provided, however, the Association shall not have the responsibility or obligation of recognizing any such change in membership until it has been delivered a true copy of the applicable recorded deed or other instrument.

2. The share of each member in the funds and assets of the Association, and membership of each member in this Association, shall not be assigned, hypothecated or transferred except as an appurtenance to the Lot for which that membership has been established.

3. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Lot. In the event any Lot is owned by more than one person and/or entity, the vote for such Lot shall be cast in the manner provided by the Bylaws. Any person or entity owning more than one Lot shall be entitled to one vote for each Lot owned.

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ARTICLE VI. - TERM OF EXISTENCE

The term of existence of the Association shall be perpetual.

ARTICLE VII. - DIRECTORS

1. The property, business and affairs of the Association shall be managed by a board of directors (the "Board") which shall consist of not less than three (3) directors, and which shall always be an odd number. The Bylaws may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the Board shall consist of three (3) director. The director(s) are not required to be members of the Association.

2. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board, its agents (including, without limitation, officers, committees or boards elected or appointed by the Board), contractors or employees, subject to approval by the members only when specifically required.

3. The Declarant shall have the right to appoint all of the directors until Declarant has conveyed 100% of the Lots within the Property. The Declarant may waive its right to elect one or more directors by written notice to the Association, and thereafter such directors shall be elected by the members. When the Declarant no longer owns any Lot within the Property, all of the directors shall be elected by the members in the manner provided in the Bylaws.

4. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws; provided, however, any director appointed by the Declarant may be removed only by the Declarant, and any vacancy on the Board shall be appointed by the Declarant if, at the time such vacancy is to be filled, the Declarant is entitled to appoint the directors.

5. The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are appointed or elected, are as follows:

Nancy Villaman
21218 Saint Andrews Boulevard
Suite 510
Boca Raton, Florida 33433

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Diane Buchler
21218 Saint Andrews Boulevard
Suite 510
Boca Raton, Florida 33433

Marie Chandler
21218 Saint Andrews Boulevard
Suite 510
Boca Raton, Florida 33433

ARTICLE VIII. - OFFICERS

The officers of the Association shall be a president, vice president, secretary, treasurer and such other officers as the Board may from time to time by resolution create. The same person may hold more than one (1) office. The officers shall serve at the pleasure of the Board, and the Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The names of the officers who shall serve until their successors are designated by the Board are as follows:

Nancy Villaman	President
Diane Buchler	Vice President
Marie Chandler	Secretary/Treasurer

ARTICLE IX. - INDEMNIFICATION, HOLD HARMLESS,
PROVISION OF DEFENSE

1. The Association shall indemnify, hold harmless and provide a defense to any person who was or is a party, or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he/she is or was a director, employee, officer or agent of the Association, against expenses (including, without limitation, attorneys' and paralegal fees and court and other costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with the action, suit or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, if he/she had no reasonable cause to believe his/her

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conduct was unlawful; except, the Association shall be relieved of responsibility under this provision in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his/her duty to the Association unless and only to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity, to be held harmless and/or to have his/her defense assumed for such expenses which the court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he/she reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he/she had no reasonable cause to believe that his/her conduct was unlawful.

2. Any action under Paragraph 1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification or hold harmless or provision of a defense to a director, officer, employee or agent is proper under the circumstances because he/she has met the applicable standard of conduct set forth in Paragraph 1 above. Such determination shall be made first, (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or second, (b) if such quorum is not obtainable or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in written opinion, or third, (c) by approval of the members of the Association.

3. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he/she is entitled to be indemnified, held harmless or provided a defense by the Association as authorized herein.

4. The rights set forth in Paragraph 1 above shall not be deemed exclusive of any other rights to which those seeking indemnification, hold harmless and/or provision of a defense may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of members or otherwise; and as to action taken in an

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official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

5. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him/her and incurred by him/her in any such capacity, as arising out of his/her status as such, whether or not the Association would have the power to indemnify, hold harmless and/or provide a defense to him/her against such liability under the provisions of this Article.

ARTICLE X. - BYLAWS

The Bylaws shall be adopted by the Board and may be altered, amended or rescinded by the Declarant, the Directors and/or members in the manner provided by the Bylaws.

ARTICLE XI. - AMENDMENTS

1. Amendments to these Articles shall be proposed and adopted in any of the following manners:

A. (1) A majority of the Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual or a special meeting;

(2) written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the Bylaws for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting;

(3) at such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes represented at such meeting;

(4) any number of amendments may be submitted to the members and voted upon by them at any one meeting; or

B. If a majority of the directors, and the members holding a majority of the votes of the Association, sign a written statement manifesting their intention that an amendment to these Articles be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied; or

C. Until Declarant has conveyed 100% of the Lots within the Property or as long as Declarant has the right to appoint any director to the Board, these Articles may be amended by resolution adopted by a majority of the Board, without approval of the members.

2. No amendment shall make any changes in the qualifications for membership or in the voting rights of members without approval by all of the members and the joinder of all Institutional Lenders holding mortgages upon the Lots. No amendment shall be made that is in conflict with the Declaration. Until Declarant has conveyed 100% of the Lots within the Property, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant shall join in the execution of the amendment, including, but not limited to, any right of the Declarant to appoint directors pursuant to Article VII.

3. Upon the approval of an amendment to these Articles, the articles of amendment shall be executed and delivered to the Department of State as provided by law.

ARTICLE XII. - CONFLICT

In the event of any conflict between the Declaration, these Articles and the Bylaws, the Declaration, these Articles, and the Bylaws, in that order, shall control.

ARTICLE XIII - ACCEPTANCE OF DEDICATION

The Association hereby agrees to accept the dedications to be made to it under that certain plat to be recorded in the Public Records of Dade County which dedications include various easements.

ARTICLE XIV. - DISSOLUTION

In the event of dissolution or final liquidation of the

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Association, the assets, both real and personal, of the Association, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall granted, conveyed and assigned to any non-profit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the Association. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded Declaration unless made in accordance with the provisions of such Declaration.

**ARTICLE XV. - REGISTERED AGENT
AND REGISTERED OFFICE**

The initial registered office of the Association shall be at 7000 W. Palmetto Park Rd., Suite 402, Boca Raton, FL 33433, and the initial registered agent of the Association at such address shall be Steven B. Greenfield, Esq..

WHEREFORE, the undersigned incorporator and the initial registered agent have executed these Articles as of the 13th day of March, 2003.

By: PORTOFINO ESTATES PROPERTY OWNERS ASSOCIATION, INC.,

N. Villaman

Print Name: Nancy Villaman

Title: President

STATE OF FLORIDA)
 Broward SS:
COUNTY OF ~~PALM BEACH~~)

^{13th} The foregoing instrument was acknowledged before me this day of March, 2003, by Nancy Villaman, on behalf of the corporation, as Incorporator of PORTOFINO ESTATES PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not for profit. He/she is personally known to me or produced

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_____ as identification, and did not take an oath.

My commission expires:



Marie B. Chandler
Commission #DD175669
Expires: Jan 06, 2007
Bonded Thru
Adams Bonding Co., Inc.

Marie B. Chandler

Print Name: Marie B. Chandler

**CERTIFICATE OF DESIGNATION
REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of section 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the state of Florida, submits the following statement in designating the registered office/registered agent, in the state of Florida.

1. The name of the corporation is: PORTOFINO ESTATES PROPERTY OWNERS ASSOCIATION, INC a Florida corporation not for profit

2. The name and address of the registered agent and office is:

Steven B. Greenfield, Esq., 7000 W. Palmello Park Rd., Suite 402, Boca Raton, FL 33433

Signature: *Nancy Villaman*

Print Name: Nancy Villaman

Title: President

Date: 3/13/03

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TALLAHASSEE, FLORIDA

HAVING BEEN NAMED AS REGISTERED AGENT AND TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATING TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

Signature: *Steven B Greenfield*
Steven B Greenfield

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EXHIBIT "D"

BYLAWS

OF

**PORTOFINO ESTATES PROPERTY OWNERS' ASSOCIATION, INC.
A Florida Corporation Not For Profit**

BYLAWS-1

1. **GENERAL PROVISIONS.**

1.1 **Identity & Powers.** These are the Bylaws, as they may be amended from time to time ("**Bylaws**"), of **PORTOFINO ESTATES PROPERTY OWNERS' ASSOCIATION, INC .**, a Florida corporation not for profit ("**Association**"). The Association has been organized for the purposes stated in the Association's Articles of Incorporation, as they may be amended from time to time ("**Articles**"), and shall have all of the powers provided in these Bylaws, the Articles, the Declaration of Covenants and Restrictions For PORTOFINO ESTATES to be recorded in the Public Records of Miami-Dade County, Florida, as it may be amended from time to time ("**Declaration**"), and any statute or law of the State of Florida, and any other power incident to any of the above powers.

1.2 **Principal Office.** The principal office of the Association shall be at such place as the Board of Directors of the Association ("**Board**") may determine from time to time.

1.3 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

1.4 **Seal.** The seal of the Association shall have inscribed upon it the name of the Association, the year of its incorporation and the words "Not For Profit." The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed or otherwise reproduced upon any instrument or document executed in the name of the Association.

1.5 **Inspection of Books and Records.** The books and records of the Association shall be open to inspection by all members or their authorized agents, upon request, during normal business hours or under other reasonable circumstances. Such records of the Association shall include current copies of the Declaration, Articles and Bylaws (and any amendments thereto), any contracts entered into by the Association, and the books, records and financial statements of the Association.

1.6 **Definitions.** Unless the context otherwise requires, all capitalized terms used in these Bylaws shall have the same meanings as are attributed to them in the Articles and the Declaration.

2. **MEMBERSHIP IN GENERAL.**

2.1 **Qualification.** Pursuant to the Articles, all of the record owners of Lots shall be members of the Association.

2.2 **Changes in Membership.** The transfer of the ownership of any Lot, either voluntarily or by operation of law, shall automatically terminate the membership of the prior owner, and the transferee or new owner shall automatically become a member of the Association. It shall

be the responsibility of any such transferor and transferee of a Lot to notify the Association of any change in the ownership of any Lot, and the corresponding change in any membership, by delivering to the Association a copy of the recorded deed or other instrument of conveyance which establishes a transfer of ownership. In the absence of such notification, the Association shall not be obligated to recognize any change in membership or ownership of a Lot for purposes of notice, voting, Assessments, or for any other purpose.

2.3 Member Register. The secretary of the Association shall maintain a register in the office of the Association showing the names and addresses of the members of the Association. It shall be the obligation of each member of the Association to advise the secretary of any change of address of the member, or of the change of ownership of the member's Lot, as set forth above. If requested by the Association, a member shall provide the Association with the name and address of any mortgagee holding a mortgage on the member's Lot and/or copies of any such mortgage(s) and/or satisfaction(s) thereof.

3. MEMBERSHIP VOTING.

3.1 Voting Rights. There shall be one vote for each Lot. In the event any Lot is owned by more than one person, or is owned by a person other than an individual, the vote for such Lot shall be cast as set forth below, and votes shall not be divisible. In the event any member owns more than one Lot, the member shall be entitled to one vote for each such Lot.

3.2 Quorum and Voting Requirements; Proxies. Action taken by a majority of the votes present at a meeting at which a quorum is present shall be binding upon all members for all purposes, except where otherwise specifically provided by law, in the Declaration, in the Articles, or in these Bylaws. Unless otherwise so provided, at any regular or special meeting, the presence in person or by proxy of persons entitled to cast the votes for one-third (1/3) of the Lots shall constitute a quorum.

Members may vote in person or by proxy, and proxies may be used to establish a quorum. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. A proxy is not valid for a period longer than 90 days after the date of the first meeting for which it was given. A proxy is revocable at any time at the pleasure of the member who executes it.

3.3 Determination as to Voting Rights.

3.3.1 In the event any Lot is owned by one person, his right to cast the vote for the Lot shall be established by the record title to his Lot.

3.3.2 In the event any Lot is owned by more than one person or by

an entity, the vote for the Lot may be cast at any meeting by any co-owner of the Lot provided, however, that in the event a dispute arises between the co-owners as to how the vote for the Lot shall be cast, or in the event the co-owners are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to cast the vote for the Lot on the matter being voted upon at that meeting, but their membership shall be counted for purposes of determining the existence of a quorum. For purposes of this paragraph, the principals or partners of any entity (other than a corporation) owning a Lot shall be deemed co-owners of the Lot, and the directors and officers of a corporation owning a Lot shall be deemed co-owners of the Lot.

3.3.3 Proxies. Every member entitled to vote at a meeting of the members, or to express consent or dissent without a meeting, may authorize another person or persons to act on the member's behalf by a proxy signed by such member or his attorney-in-fact. Any proxy shall be delivered to the secretary of the meeting at or prior to the meeting for which it was given. Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned and reconvened 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 shall be revocable at any time at the pleasure of the member executing it. Every proxy shall specifically set forth the name of the person voting by proxy, and the name of the person authorized to vote the proxy for him. Every proxy shall contain the date, time, and place of the meeting for which the proxy is given, and if a limited proxy, shall set forth those items which the proxy holder may vote, and the manner in which the vote is to be cast.

4. MEMBERSHIP MEETINGS.

4.1 Who May Attend. In the event any Lot is owned by more than one person, all co-owners of the Lot may attend any meeting of the members. In the event any Lot is owned by a corporation, any director or officer of the corporation may attend any meeting of the members. However, the vote for any Lot shall be cast in accordance with the provisions of Section 3 above. Institutional Lenders have the right to attend all members meetings.

4.2 Place. All meetings of the members shall be held at the principal office of the Association or at such other place and at such time as shall be designated by the Board and stated in the notice of meeting.

4.3 Notices. Written notice stating the place, date and hour of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by first-class mail or personal delivery to each member entitled to vote at such meeting not less than 10 nor more than 60 days before the date of the meeting, by or at the direction of the president, the secretary or the officer or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the Association, with postage thereon pre-paid. For the

purpose of determining members entitled to notice of, or to vote at, any meeting of the members of the Association, or in order to make a determination of the members for any other purpose, the Board shall be entitled to rely upon the member register as same exists ten (10) days prior to the giving of the notice of any meeting, and the Board shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. Notwithstanding the foregoing, if a Lot is owned by more than one person or by an entity, only one notice shall be required to be given with respect to the Lot, which may be given to any co-owner as defined in Paragraph 3.3.2 of these Bylaws. Notice to any member or co-owner shall be sent to the Lot of such member or co-owner, unless the Lot Owner(s) of the Lot otherwise request.

4.4 Waiver of Notice. Whenever any notice is required to be given to any member under the provisions of the Articles or these Bylaws, or as otherwise provided by law, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except when the member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

4.5 Annual Meeting. The annual meeting for the purpose of electing directors and transacting any other business shall be held once each year at such time and place as shall be determined by the Board and as is contained in the notice of such meeting. However, so long as Declarant is entitled to appoint a majority of the directors of the Association, no annual meetings will be required.

4.6 Special Meetings. Special meetings of the members may be called at any time by any director, the president, or at the request, in writing, by not less than 25% of the members, or as otherwise provided by law. Such request shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting. Notice of any special meeting shall be given by the secretary, or other officer of the Association, to all of the members within sixty (60) days after same is duly called, and the special meeting shall be held not less than ten (10) days nor more than sixty (60) days after notice is given, as set forth in Paragraph 4.3 of these Bylaws.

4.7 Adjournments. Any meeting may be adjourned or continued by a majority vote of the members present in person or by proxy and entitled to vote, or if no member entitled to vote is present, then any officer of the Association may adjourn the meeting from time to time. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to members not present at the

original meeting, without giving notice to the members who were present at such meeting.

4.8 Organization. At each meeting of the members, the president, the vice president, or any person chosen by a majority of the members present, in that order, may act as chairman of the meeting. The secretary, or in his absence or inability to act, any person appointed by the chairman of the meeting, shall act as secretary of the meeting.

4.9 Order of Business. The order of business at the annual meetings of the members shall be:

- 4.9.1 Determination of chairman of the meeting;
- 4.9.2 Calling of the role and certifying of proxies;
- 4.9.3 Proof of notice of meeting or waiver of notice;
- 4.9.4 Reading and disposal of any unapproved minutes;
- 4.9.5 Election of inspectors of election;
- 4.9.6 Determination of number of directors to be elected;
- 4.9.7 Election of directors;
- 4.9.8 Reports of directors, officers and/or committees;
- 4.9.9 Unfinished business;
- 4.9.10 New business; and
- 4.9.11 Adjournment.

4.10 Minutes. The minutes of all meetings of the members shall be kept in a book available for inspection by the members or their authorized agents, and the directors, at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

4.11 Actions Without a Meeting. Any action required or permitted to be taken at any annual or special meeting of the members of the Association, may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to

vote thereon were present and voted. Within ten (10) days after obtaining such authorization by written consent, notice shall be given to those members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. If a Lot is owned by more than one person or by a corporation, the consent for such Lot need only be signed by one person who would be entitled to cast the vote for the Lot as a co-owner pursuant to Paragraph 3.3.2 of these Bylaws.

5. DIRECTORS.

5.1 Membership.

5.1.1 The affairs of the Association shall be managed by a Board of not less than three (3) directors. So long as the Declarant is entitled to appoint any director pursuant to the Articles, the number of directors shall be determined, and may be changed from time to time, by the Declarant by written notice to the Board. After the Declarant is no longer entitled to appoint any director, the number of directors may be changed at any meeting where the members are to elect any directors (i) by the then existing Board, if prior to such meeting of the members, the Board votes to change the number of directors and such change is indicated in the notice of the meeting sent to the members, or (ii) by the members at the meeting prior to the election of directors. If the number of directors on the Board is not changed, then the number of directors shall be the same as the number on the Board prior to such meeting (plus any unfilled vacancies created by the death, resignation or removal of a director). In any event there shall always be an odd number of directors.

5.2 Election of Directors by Members. Election of directors to be elected by the members of the Association shall be conducted in the following manner:

5.2.1 Within sixty (60) days after the members other than the Declarant are entitled to elect any directors, as provided in the Articles, or within sixty (60) days after the Declarant notifies the Association that it waives its right to appoint one or more directors, the Association shall call, and give not less than ten (10) days nor more than sixty (60) days notice of, a special meeting of the members to elect any directors the members are then entitled to elect, or to replace the appropriate number of directors previously appointed by the Declarant. Such special meeting may be called and the notice given by any member if the Association fails to do so. At such special meeting, the members shall be required to elect any directors which they are entitled to elect, and if they fail to do so, any directors appointed by Declarant which would have been replaced by any directors elected by the members may resign without further liability or obligation to the Association. In the event such a special meeting is called and held, at the meeting the members may elect not to hold the next annual meeting of the members if such next annual meeting would be less than four (4) months after the date of the special meeting, and upon such election the next annual meeting of the members shall not be held.

5.2.2 Except as provided above, the members shall elect directors at the annual members' meetings.

5.2.3 Prior to any special or annual meeting at which directors are to be elected by the members, the existing Board may nominate a committee, which committee may nominate one person for each director to be elected by the members, on the basis that the number of directors to serve on the Board will not be altered by the members at the members meeting. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor.

5.2.4 The election of directors by the members shall be by ballot cast in person or by proxy, and by a plurality of the votes cast, each member voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

5.3 Term of Office. All directors elected by the members shall hold office until the next annual meeting of the members and until their successors are duly elected, or until such director's death, resignation or removal, as hereinafter provided or as otherwise provided by statute or by the Articles.

5.4 Organizational Meeting. The newly elected Board shall meet for the purposes of organization, the election of officers and the transaction of other business immediately after their election or within ten (10) days of same at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, unless otherwise required by law.

5.5 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors.

5.6 Special Meetings. Special meetings of the Board may be called by any director, or by the president, at any time.

5.7 Notice of Meetings. Notice of each meeting of the Board shall be given by the secretary, or by any other officer or director, which notice shall state the date, place and hour of the meeting. Notice of such meeting shall be delivered to each director in the same manner(s) as notice is to be delivered to non-director members, as described in the following paragraph. Notice of a meeting of the Board need not be given to any director who signs a waiver of notice either before or after the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not

lawfully called or convened. Unless otherwise required herein or by law, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in any notice or waiver of notice of such meeting.

Meetings of the Board shall be open to all members, except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice to members of a Board meeting shall be made in any one or more of the following manners, except in an emergency: (a) by posting in a conspicuous place in the community at least 48 hours in advance, (b) by mailing or delivering notice to each member at least 7 days before the meeting, (c) by publishing notice at least 48 hours in advance, (d) by providing an annual or other schedule of Board meetings at least 7 days prior to the next scheduled meeting, or (e) by any other reasonable alternative determined by the Board. Notice of any meeting in which assessments against Lots are to be established shall specifically contain a statement that assessments shall be considered and a statement of the nature of such assessments.

5.8 Quorum and Manner of Acting. A majority of the directors determined in the manner provided in these Bylaws shall constitute a quorum for the transaction of any business at a meeting of the Board. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number of directors is required by statute, the Declaration, the Articles, or by these Bylaws. A director may join by written concurrence in any action taken at a meeting of the Board but such concurrence may not be used for the purposes of creating a quorum.

5.9 Adjourned Meetings. A majority of the directors present at a meeting, whether or not a quorum exists, may adjourn any meeting of the Board to another place and time. Notice of any such adjourned meeting shall be given to the directors who are not present at the time of the adjournment, and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.10 Presiding Officer. The presiding officer of the Board meetings shall be the chairman of the Board if such an officer is elected; and if none, the president of the Association shall preside. In the absence of the presiding officer, the directors shall designate one of their members to preside.

5.11 Order of Business. The order of business at a Board meeting shall be:

5.11.1 Calling of role;

5.11.2 Proof of notice of meeting or waiver of notice;

- 5.11.3 Reading and disposal of any unapproved minutes;
- 5.11.4 Reports of directors, officers and/or committees;
- 5.11.5 Election of officers;
- 5.11.6 Unfinished business;
- 5.11.7 New business: and
- 5.11.8 Adjournment.

5.12 Minutes of Meetings. The minutes of all meetings of the Board shall be kept in a book available for inspection by the members of the Association, or their authorized agents, and the directors at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

5.13 Committees. The Board may, by resolution duly adopted, appoint committees. Any committee shall have and may exercise such powers, duties and functions as may be determined by the Board from time to time, which may include any powers which may be exercised by the Board and which are not prohibited by law from being exercised by a committee.

5.14 Resignation. Any director may resign at any time by giving written notice of his resignation to another director or officer. Any such resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.15 Removal of Directors. Directors may be removed as follows:

5.15.1 Any director other than a director appointed by the Declarant may be removed by majority vote of the remaining directors, if such director (a) has been absent for the last three consecutive Board meetings and/or adjournments and continuances of such meetings; or (b) has been absent for three Board meetings during the preceding twelve months; or (c) is an Owner and has been delinquent for more than thirty (30) days after written notice in the payment of Assessments or other moneys owed to the Association.

5.15.2 Any director other than a director appointed by the Declarant may be removed with or without cause by the vote of a majority of the members of the Association at a special meeting of the members called by not less than twenty-five (25%) percent of the members of the Association expressly for that purpose. The vacancy on the Board caused by any such removal may be filled by the members at such meeting or, if the members shall fail to fill such

vacancy, by the Board, as in the case of any other vacancy on the Board.

5.16 Vacancies.

5.16.1 Vacancies in the Board may be filled by a majority vote of the directors then in office, though less than a quorum, or by a sole remaining director, and a director so chosen shall hold office until the next annual election and until his successor is duly elected, unless sooner displaced. If there are no directors, then a special election of the members shall be called to elect the directors. Notwithstanding anything contained herein to the contrary, the Declarant, until it has conveyed 100% of the Lots within the Property or waived such right, shall have the right to appoint all directors permitted by the Articles, and any vacancies on the Board may be filled by the Declarant to the extent that the number of directors then serving on the Board which were appointed by the Declarant is less than the number of directors the Declarant is then entitled to appoint.

5.16.2 In the event the Association fails to fill vacancies on the Board sufficient to constitute a quorum in accordance with these Bylaws, any Lot Owner may apply to the Circuit Court of the County in which the Property is located for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Lot Owner shall mail to the Association a notice describing the intended action giving the Association the opportunity to fill the vacancies. If during such time the Association fails to fill the vacancies, the Lot Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all powers and duties of a duly constituted member of the Board, and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

5.17 Directors Appointed by the Declarant. Notwithstanding anything contained herein to the contrary, the Declarant shall have the right to appoint all directors in accordance with the privileges granted to the Declarant pursuant to the Articles. All directors appointed by the Declarant shall serve at the pleasure of the Declarant, and the Declarant shall have the absolute right, at any time, and in its sole discretion, to remove any director appointed by it, and to replace such director with another person to serve on the Board. Replacement of any director appointed by the Declarant shall be made by written instrument delivered to any officer or any other director, which instrument shall specify the name of the person designated as successor director. The removal of any director and the designation of his successor by the Declarant shall become effective immediately upon delivery of such written instrument by the Declarant.

5.18 Compensation. The Directors shall not be entitled to any compensation for serving as Directors unless the members approve such compensation, provided however, the Association may reimburse any Director for expenses incurred on behalf of the Association without approval of the members.

5.19 Powers and Duties. The directors shall have the right to exercise (and to delegate the exercise of) all of the powers and duties of the Association, express or implied, existing under these Bylaws, the Articles, the Declaration, or as otherwise provided by statute or law.

6. **OFFICERS.**

6.1 Members and Qualifications. The officers of the Association shall include a president, a vice president, a treasurer and a secretary, all of whom shall be elected by the directors and may be removed from office at any time with or without cause by the directors. Any person may hold two or more offices except that the president shall not also be the secretary. The Board may, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be appropriate to manage the affairs of the Association from time to time. Each officer shall hold office until the meeting of the Board following the next annual meeting of the members, or until his successor shall have been duly elected and shall have qualified, or until his death, or until he shall have resigned, or until he shall have been removed, as provided in these Bylaws.

6.2 Resignations. Any officer may resign at any time by giving written notice of his resignation to any director or officer. Any such resignation shall take effect at the time specified therein, or if there is no time specified therein, immediately upon its receipt; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

6.3 Vacancies. A vacancy in any office, whether arising from death, resignation, removal or any other cause may be filled for the unexpired portion of the term of the office which shall be vacant in the manner prescribed in these Bylaws for the regular election or appointment of such office.

6.4 The President. The president shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association or corporation including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association.

6.5 The Vice President. The vice president shall, in the absence or disability of the president, exercise the powers and perform the duties of the president. He shall also assist the president generally and exercise such other powers and perform such other duties as may be prescribed by the directors.

6.6 The Secretary. The secretary shall prepare and keep the minutes of all

proceedings of the directors and the members. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly executed. He shall perform all other duties incident to the office of secretary of an association, and as may be required by the directors or the president.

6.7 The Treasurer. The treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. He shall submit a Treasurer's Report to the Board whenever requested and shall perform all other duties incident to the office of treasurer. He shall collect all Assessments and shall report to the Board the status of collections as requested.

6.8 Compensation. The officers shall not be entitled to compensation unless the Board specifically votes to compensate them. However, neither this provision, nor the provision that directors will not be compensated unless otherwise determined by the members, shall preclude the Board from employing a director or an officer as an employee of the Association and compensating such employee, nor shall they preclude the Association from contracting with a director for the management of property subject to the jurisdiction of the Association, or for the provision of services to the Association, and in either such event to pay such director a reasonable fee for such management or provision of services.

7. FINANCES AND ASSESSMENTS.

7.1 Assessment Roll. The Association shall maintain an Assessment roll for each Lot, designating the name and current mailing address of the Owner, the amount of each Assessment against such Owner, the dates and amounts in which the Assessments come due, the amounts paid upon the account of the Owner, and the balance due.

7.2 Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board from time to time. Funds shall be withdrawn only upon checks and demands for money signed by such officer(s), director(s) or other person(s) as may be designated by the Board.

7.3 Application of Payments and Commingling of Funds. All sums collected by the Association from Assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board.

7.4 Accounting Records and Reports. The Association shall maintain accounting records according to good accounting practices. The records shall be open to inspection by Owners or their authorized agents, at reasonable times. The records shall include, but not be

limited to, (a) a record of all receipts and expenditures, and (b) the Assessment roll of the members referred to above. The Board may, and upon the vote of a majority of the members shall, conduct a review of the accounts of the Association by a certified public accountant, and if such a review is made, a copy of the report shall be furnished or made available to each member, or their authorized agent, within fifteen (15) days after same is completed.

7.5 **Reserves.** The budget of the Association may provide for a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Property and those other portions of the Property which the Association is obligated to maintain.

8. **PARLIAMENTARY RULES.**

8.1 Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

9. **AMENDMENTS.** Except as otherwise provided, these Bylaws may be amended in the following manner:

9.1 **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

9.2 **Initiation.** A resolution to amend these Bylaws may be proposed either by any director, or by or at the direction of ten (10%) percent or more of the members of the Association.

9.3 **Adoption of Amendments.**

9.3.1 A resolution for the adoption of the proposed amendment shall be adopted either: (a) by unanimous vote of all of the directors; or (b) by not less than a majority of the votes of the entire membership of the Association. Any amendment approved by the members may provide that the Board may not further amend, modify or repeal such amendment.

9.3.2 Notwithstanding anything contained herein to the contrary, so long as the Declarant is entitled to appoint a majority of the directors, the Declarant shall have the right to unilaterally amend these Bylaws without the joinder or approval of the Board or any member, and so long as the Declarant owns any Lot, no amendment to these Bylaws shall be effective without the written approval of the Declarant.

9.4 No amendment shall make any changes in the qualification for

membership or in the voting rights of members without approval by all of the members and the joinder of all record owners of mortgages upon the Lots. No amendment shall be made that is in conflict with the Declaration or the Articles. Prior to the closing of the sale of all Lots by Declarant, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant shall join in the execution of the amendment, including, but not limited to, the right of the Declarant to appoint directors.

9.5 No amendment to these Bylaws shall be made which discriminates against any Owner(s), or affects less than all of the Owners without the written approval of all of the Owners so discriminated against or affected.

9.6 Execution and Recording. No amendment to these Bylaws shall be valid until it is signed by the Secretary and recorded in the public records of the county in which the Property is located.

10. MISCELLANEOUS.

10.1 Genders and Tenses. The use of any gender or of any tense in these Bylaws shall refer to all genders or to all tenses, wherever the context so requires.

10.2 Partial Invalidity. Should any provision hereof be void or become unenforceable at law or in equity, the remaining provisions shall, nevertheless, be and remain in full force and effect.

10.3 Conflicts. In the event of any conflict, the Declaration, the Articles, and these Bylaws, shall govern, in that order.

10.4 Captions. Captions are inserted herein only as a matter of convenience and for reference, and are not intended to and shall not define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

10.5 Waiver of Objections. The failure of the Board or any officer(s) of the Association to comply with any term or provision of the Declaration, the Articles, or these Bylaws which relates to a time limitation shall not, in and of itself, invalidate the act done or performed. Any such failure shall be waived if it is not objected to by a member of the Association within ten (10) days after the member is notified, or becomes aware or should have reasonably become aware, of the failure. Furthermore, if such failure occurs at a general or special meeting, the failure shall be waived as to all members who received notice of the meeting or appeared and failed to object to such failure at the meeting.

**DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR
PORTOFINO ESTATES**

Exhibit "E"

**Architectural Control Board ("ACB")
Rules and Regulations**

1. **WINDOWS, DOORS, SCREENED PORCHES AND PATIOS**

1. Bright-finished or bright plated metal exterior doors, windows, window screens, louvers, exterior trim or structural members shall not be permitted.
2. All screening and screen enclosures shall be constructed utilizing anodized or electrostatic plated aluminum of approved color.
3. The use of reflective tinting or mirror finishes on windows is prohibited.
4. Security bars on windows or doors must be approved by the ACB.

2. **SOLAR PANELS**

Solar water heating panels shall be reviewed on an individual basis, and if approved by the ACB, must be coordinated with the roof color so as to present the least obtrusive condition.

3. **EXTERIOR MATERIALS AND COLORS**

1. Exterior artificial, simulated or imitation materials shall not be permitted without the approval of the ACB.
2. The use of the following items are appropriate:
 1. Stucco - Similar in finish and color as originally constructed.
 2. Metals - Factory finished in durable anodized or electrostatic plated aluminum in white or other approved color.
3. Exterior colors that, in the opinion of the ACB, would be inharmonious, discordant and/or incongruous to Portofino Estates shall not be permitted. Bright colors (other than white) as the dominant colors are prohibited. No change in color or shall be permitted without the approval of the ACB.

4. ROOFS

1. Roof colors shall be an integral part of the exterior color scheme of the building.
2. No change in color or existing roofing material shall be permitted without the approval of the ACB.
3. Roofs shall be cement tile or approved equal.

5. GARAGE, DRIVEWAYS, WALKWAYS AND EXTERIOR LIGHTING

1. Driveways. All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width. Driveways shall be constructed of concrete pavers or a comparable material approved by the ACB.
2. No asphalt driveways will be permitted.
3. Any change from the existing garage door must be approved by the ACB.
4. All proposed exterior lighting shall be detailed on the request for architectural modification. No exterior lighting shall be permitted which, in the opinion of the ACB, would create a nuisance to the adjoining property owners.

6. AWNINGS, SHUTTERS, FENCES AND WALLS

1. Awnings and canopies shall not be permitted or affixed to the exterior of the residence. Shutters must be in a color to match the trim of the home and approved by the ACB.
2. Permanent storm shutters may be either of the following:
 1. Accordion type colored to match the body paint of the building (or other approved color).
 2. Roll up type consisting of a roll box and slats colored to match the body paint of the building (or other approved color; positioned immediately above the window or door.
3. Temporary storm shutters shall not be stored on the exterior of the residence. All permanent tracks or fixtures shall match the color of the body paint of the building (or other approved color). Temporary storm shutters may be installed only during official broadcast storm warnings and removed within a reasonable period of time.

4. All proposed fences or privacy fences must be approved by the ACB prior to installation. No pressure treated fences are permitted. Fences shall be either white or aluminum, or a different color as approved by the ACB.
5. Walls that are an integral part of the residential design may be used.
6. Fencing of the front yard areas is not permitted.
7. Water softeners, trash containers and other similar utilitarian devices must be fenced, walled or landscaped provided they do not extend into the setback and they are properly screened from view in a manner approved by the ACB.

7. LANDSCAPING

1. All landscaping shall be completed according to the Declarant's Landscaping Plan. Any changes to the approved plan will be subject to the approval of the ACB.

8. AIR CONDITIONERS, GARBAGE AND TRASH CONTAINERS

1. Window and/or wall air conditioning units shall not be visible from the street and shall be approved, in writing, by the adjacent unit owner in addition to the ACB.
2. All garbage and trash containers shall be placed in an enclosed or landscaped area as approved by the ACB.

9. ANTENNAS, FLAGPOLES AND SIGNS

- a. No outside antennas, antenna poles, antenna masts, antenna towers, satellite dishes, flagpoles or electronic devices shall be permitted unless the design, location and shielding are first approved by the ACB, which approval shall require appropriate landscaping or other screening, except in the case of flagpoles. Only one (1) flagpole (for display of the American flag only) per lot shall be permitted and an approved flagpole shall not be used as an antenna unless first approved by the ACB. None of the above mentioned facilities shall exceed a height of thirty-five (35) feet above ground level or the height of any building or dwelling, whichever is less.
- b. All signs, billboards, and advertising structures are prohibited on any lot except with the written permission of the ACB. The ACB shall determine size, color, content and location of any sign. No sign shall be nailed or attached to a tree.

10. SWIMMING POOLS, TENNIS COURTS, ACCESSORY STRUCTURES, PLAY EQUIPMENT, AND DECORATIVE OBJECTS

1. Swimming pools shall only be permitted where approved by the City of Homestead and the ACB. Pool screening, fencing and decks must be within the zoning prescribed set-back.
2. Accessory structures, such as basketball hoops, playhouses, tool sheds or doghouses may be permitted but must receive specific written approval of the ACB before installation.
3. All playground equipment shall be placed to the rear of the residence and only with the approval of the ACB.
4. No decorative objects such as sculptures, birdbaths, fountains, and similar items shall be placed or installed on the street side of any lot without approval of the ACB.
5. Clotheslines shall not be permitted on lots, unless approved by the ACB.

11. PATIO ENCLOSURES

1. Patio enclosures are an extension of the home and have a significant impact on its appearance. All enclosures should be designed to conform to the contours of the house. Color and material should be compatible with the home. All patio enclosures must have ACB approval prior to the commencement of construction.

12. MAJOR EXTERIOR ALTERATIONS

1. The design of major alterations should be compatible in scale, materials, and color with the Owner's house and adjacent houses.
2. The location of major alterations should not impair the views or amount of sunlight and natural ventilation on adjacent properties.
3. Pitched roofs should match the slope of the roof on the applicant's house.
4. New windows and doors should match the type used in the Owner's house and should be located in a manner which will relate well with the location of exterior openings in the existing house.
5. If changes in grade or other conditions which will affect drainage are anticipated, they must be indicated. Generally, approval will be denied if adjoining properties are adversely affected by changes in drainage.

6. Construction materials should be stored so that impairment of views from neighboring properties is minimized. Excess material and debris should be immediately removed after completion of construction.
 7. Gutters and downspouts must match the trim on the house and be as inconspicuous as possible. Run-off must not adversely affect the drainage on adjacent property. All gutters and downspouts must have the approval of the ACB prior to installation.
 8. No major alteration should be started without the approval of the ACB.
13. PARKING
- a. On-street parking is prohibited between the hours of 12:00 A.M. and 6:00 A.M.