

CONDENSED VERSION

RIVERWIND COVE COVENANTS, CONDITIONS AND RESTRICTIONS



The following pages represent a condensed version of the RWC Covenants, Conditions, and Restrictions and is not meant to replace the official RWC subdivision documents recorded in the Public Record of Lee County, Florida. This version is strictly a quick reference guide, outlining the most frequently referenced segments of the RWC Covenants, Conditions and Restrictions.

*The complete version of the CCR may be downloaded from our website at:
www.riverwindcovehoa.org*

All property owners of Riverwind Cove are encouraged to read the complete version of the Covenants, Conditions and Restrictions. Should you require clarification on any part of the CCR, please contact the Homeowners Association Board of Directors at riverwindcovehoa@gmail.com.

It is critical that property owners refer to the Covenants, Conditions and Restrictions before making **any** improvements or alterations to their property.

CONDENSED VERSION

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
RIVERWIND COVE SUBDIVISION
Lee County, Florida**

TABLE OF CONTENTS

Declaration of Covenants, Conditions, and Restrictions

- Exhibit A:** Legal Description of Property
- Exhibit B:** Articles of Incorporation of Riverwind Cove Homeowners Association
- Exhibit C:** By-Laws of Riverwind Cove Homeowners Association
- Exhibit D:*** *Draft of Deed of Conservation Easement (not included)*
- Exhibit D-1:*** *Restoration Plan (not included)*
- Exhibit E:*** *Maintenance and Monitoring Plan (not included)*
- Exhibit F:*** *Additional Property Owned by Declarant (not included)*
- Exhibit G:*** *Riverwind Cove Management Plan (not included)*

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, THE BDND CALOOSA LIMITED PARTNERSHIP, a Florida Limited Partnership, hereinafter sometimes called “Declarant”, is the owner in fee simple of certain real property situated in Lee County, Florida, as more particularly described in Exhibit “A” as attached hereto and made a part hereof; said property being known as RIVERWIND COVE, a subdivision pursuant to a plat to be recorded in the Official Records of Maps of Lee County, Florida; and

WHEREAS, it is the intent of the aforesaid Declarant to develop the real property as hereinabove described (Exhibit “A”) in a planned development consisting of nineteen (19) (note: language covering phases 2 and 3 can be found in the complete version) individual parcels and common areas; and

WHEREAS, it is the desire of Declarant, that uniform, restrictive covenant and restrictions upon the use and type of buildings and development of the above-described property is set forth herein.

NOW, THEREFORE, for the purpose of enhancing and protecting the value, attractiveness and desirability of the parcels constituting such development, Declarant hereby declares that all the real property described above and each part thereof shall be developed as a planned development and shall be held, sold, and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property, or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

SECTION 1 - “ASSOCIATION” - shall mean and refer to the Riverwind Cove Homeowners Association, a Florida non-profit corporation, its successors and assigns. The Articles of Incorporation of such Association are attached hereto as Exhibit “B”. The Bylaws of the Association are attached hereto as Exhibit “C”.

SECTION 2 - “COMMON AREAS” - includes within its meaning the following: (a) all real property owned by the Association for the common use and enjoyment of the residential parcel owners; (b) the property and installations required for the furnishing of utilities and other services to more than one parcel owner or to the common areas including the surface water management system; (c) tangible personal property required for the maintenance and operation of the Association even though owned by the Association

SECTION 3 - “DECLARANT” - shall mean the BDND Caloosa Limited Partnership, a Florida Limited Partnership, its successors and assigns, provided such successor, or assigns acquire more than one undeveloped parcel from Declarant for the purpose of development.

SECTION 4 - “PARCEL” - shall mean the legal description of the parcel and appurtenances thereto.

SECTION 5 - “MAINTENANCE” - shall mean the exercise of reasonable care to keep the roads, landscaping, lawns, lighting, and other related improvements and fixtures in condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy environment for optimum plant growth.

SECTION 6 - “MEMBER” - shall mean every person or entity that holds membership in the association.

SECTION 7 - “MORTGAGE” - shall mean any mortgage or deed of trust.

SECTION 8 - “MORTGAGEE” - shall mean a holder of a first mortgage or a beneficiary under or holder of a deed of trust.

SECTION 9 - “OWNER” - shall mean the record owner, whether one or more persons or entities, of a fee simple title to any parcel which is a part of the planned development, but shall not include those holding title merely as security for performance of an obligation.

SECTION 10 - “PLANNED DEVELOPMENT” - shall mean the real property hereinbefore described in Exhibit “A”, attached hereto and made a part hereof, and the development of the said property for residential use under a homeowners’ association for the purpose of enhancing and protecting the value, attractiveness and desirability of the parcels comprising such development.

SECTION 11 - Unless otherwise clearly indicated, words in the singular or plural shall include the plural or singular respectively, where they would apply. Words in masculine or neuter gender shall include feminine, masculine or neuter gender where applicable.

ARTICLE II: MEMBERSHIP AND ASSOCIATION: VOTING RIGHTS

SECTION 1 - Membership: Every person or entity who is an owner of any parcel which is subjected by this Declaration to assessment by the Association shall be a member of the Association.

SECTION 2 - Voting Rights: The Association shall have two classes of voting membership.

Class A : Class A members shall be all owners except the Declarant. Each Class A member shall be entitled to one (1) vote for each parcel for which he holds the interest for membership required by Section 1 of this Article II. When more than one person holds such interest or interesting any parcel, all such persons shall be members and the vote of such parcel shall be exercised as they, amount themselves, determine, but in no event shall more than one vote be cast with respect to any parcel.

Class B: The Class B member shall be the Declarant, its successors and assigns. The Class B member shall be entitled to five (5) votes for each unsold parcel, provided that when the total votes in the Class B memberships shall cease and be converted to Class A membership, including all parcels held by Declarant if Declarant shall decide to retain ownership of any parcels.

SECTION 3 - Management: The affairs of the Association shall be managed by a Board of Directors. The first Board of Directors shall consist of three (3) Directors, until after turnover of control of the Association and thereafter, the membership of the Board shall consist of at least three (3) but not more than five (5) Directors. The Developer shall have the right to designate the membership of the initial Board of Directors. Parcel owners of the members of the Board of Directors, and thus control the Association at whichever of the following shall first occur:

- (a) No later than (1) year after the developer has sold and conveyed 85 percent (rounded) of all parcels, including annexed parcels.
- (b) When the Declarant has sold some of the parcels and none of the parcels are held by the Declarant for sale in the ordinary course of business.
- (c) When the Declarant, in its sole discretion, determines that it wishes to affect a turnover of control.

Article III: Assessments

SECTION 1 – Lien and Personal Obligation of Assessment:

The Declarant shall not be obligated for assessments of Lots owned by them until August 1, 1994 or one (1) year after recordation of the Final Plat of Subdivision, whichever shall be later. Each Owner of a parcel is hereby deemed to covenant by acceptance of his deed for such parcel, whether or not it shall be so expressed in his deed, to pay to the Association (a) annual

assessments, (b) special assessments for capital improvements, and (c) assessments for enforcement of these covenants, conditions, and restrictions to the extent necessary. Such assessments will be established and collected as hereinafter provided. The assessments together with interest, costs, and reasonable attorneys' fees shall be a charge on the land and a continuing lien on each parcel against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person or persons who own the parcel at the time the assessment falls due and shall be an obligation of the successor in title in the event such assessments are not paid upon transfer of title.

SECTION 2 – PURPOSE OF ANNUAL ASSESSMENTS: The annual assessments levied by the Association shall be used exclusively to promote the health, safety, welfare and recreation of the residents in the planned development for the improvement and maintenance of the common areas situated within the planned development. Annual assessments shall include and the Association shall acquire and pay for out of the funds derived from annual assessments, the following:

(a) Maintenance and repair of the common areas, including but not limited to roads and street lighting within the subdivision and any security gate or other security feature which may be established for the subdivision.

(b) Common electrical lighting and other utility service.

(c) Maintenance and repair of all drainage, water retention, and conservation easements as may be set forth in the subdivision plat, and as required by the South Florida Water Management District.

(d) Acquisition of furnishings and equipment for the common areas as may be determined by the Association.

(e) Fire insurance covering the full insurable replacement; value of the common areas with extended coverage.

(f) Liability insurance securing the Association against any and all liability to the public, to any owner or to the invitees or tenants of any owners, arising out of their occupation and/or use of the common areas. The policy limits shall be set by the Association and shall be reviewed at least annually and increased or decreased in the discretion of the Association.

(g) Worker's compensation insurance to the extent necessary to comply with Section 440.38 of the Florida Statutes and any other insurance deemed necessary by the Board of Directors of the Association.

(h) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or by the law or which shall be necessary or proper in the opinion of the Board of Directors of the Association for the operation of the common areas for the benefit of parcel owners or the enforcement of these restrictions.

SECTION 3 – SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS:

In addition to the annual assessments authorized above, the Association may levy any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement on the common areas, including fixtures and personal property related thereto. Any such assessment must be approved by a majority vote of the members constituting a quorum at the meeting.

SECTION 4 – SPECIAL ASSESSMENTS FOR REPAIRS TO COMMON

AREAS: In the event any portion of the common areas including, but not limited to, private roads within the development are damaged as a result of the improvements made to or construction upon a parcel, only for the purpose of providing for the repair, replacement, or reconstruction of the damaged portion of the common areas. Any such assessment may be levied by a majority vote of the Board of Directors of the Association. Further, by acceptance of ownership of a parcel, all owners agree that no Certificate of Occupancy shall be issued from the applicable governmental authority until any damages contemplated herein to common areas have been repaired, replaced, or reconstructed to the reasonable satisfaction of the Association.

SECTION 5 – ASSESSMENTS FOR ENFORCEMENT:

In the event the Association is required to expend any sum to enforce these restrictions or to perform the duties of any owner pursuant to these restrictions based upon the non-performance of said duties by an owner, the Association may assess said costs against the owner.

SECTION 6 – NOTICE AND QUORUM FOR ACTION AUTHORIZED

UNDER SECTIONS 2 AND 3: Written notice of any meeting called for the purpose to taking any action authorized by Sections 2 and 3 of this Article III shall be sent to all members not less than fifteen (15) nor more than sixty (60) days in advance of such meeting. A quorum for the transaction of business at any association meeting shall constitute the number of members representing a majority of the then outstanding voting shares, and the Association members present at any meeting with less than a quorum may adjourn the meeting to a future time.

SECTION 7 – UNIFORM RATE OF ASSESSMENT:

Both Annual and special assessments must be fixed at a uniform rate for all parcels.

SECTION 8 – RESERVE:

An initial reserve shall be created by the payment of the sum set forth in the sales agreement with the developer to the Association by the initial purchaser of any lot at the time of the closing of the initial sale of such lot.

SECTION 9 – COMMENCEMENT AND COLLECTION OF ANNUAL

ASSESSMENTS: Assessments shall be made payable annually, due on January 1 of each year. Notice of the annual assessments shall be sent to every owner subject thereto. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments against the specific parcel have been paid, and may, in their discretion, cause to be recorded in the Public Record of Lee County, Florida a list of delinquent assessments as of that date.

SECTION 10 – EFFECT OF NONPAYMENT OF ASSESSMENTS;

REMEDIES OF THE ASSOCIATION: Any assessment not paid within fifteen (15) days after the due date shall be deemed in default and shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape liability of the assessment provided herein by non-use of the common areas or abandonment of such owner's parcel.

SECTION 11 – SUBORDINATION OF ASSESSMENT LIEN TO

MORTGAGES: All assessment liens provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any parcel shall not affect the assessment lien, however, the sale or transfer of any parcel pursuant to a mortgage foreclosure or any proceedings in lieu thereof shall extinguish the assessment lien as to payments which become due prior to such sale or transfer. NO sale or transfer shall relieve such a parcel from liability for assessments thereafter becoming due prior to such sale or transfer nor relieve the prior owner of personal liability for the assessments previously due.

ARTICLE IV: PROPERTY RIGHTS

SECTION 1 - EASEMENTS:

(a) The Declarant hereby reserves for itself, its successors and assigns, an easement of six (6) feet along all boundaries of all parcels for the purposes of constructing and maintaining facilities such as for electricity, gas, water and drainage. Easements, including, but not limited to those shown on the recorded subdivision Plat, for ingress and egress and the installation and maintenance of utilities and drainage facilities and such other easements as are required for the planned development shall be granted by Declarant and joined in, if required, by the Association. Within these easements no structure, which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction or flow of drainage facilities in the easements. The easement area of each parcel and all improvements therein shall be continuously maintained by the owner of such parcel, except for improvements for maintenance of which a public authority or utility responsible. However, the Association shall be responsible for the maintenance of the surface water management system throughout the property including, but not limited to, any portion of the system located on an individual parcel.

(b) Conservation Easements: Certain lots within the Subdivision contain wetland preservation areas and upland buffers which are protected under conservation easements. The conservation easements as shown on the recorded Subdivision plat are hereby responsibility of the Association in accordance with the Deed of Conservation Easement granted to the South Florida Water Management District recorded in the Public Records. These areas/easements may in no way be altered from their natural state unless permitted otherwise (i.e., boardwalks, access docks/restoration work/canal maintenance) as may be permitted in the management plans. Activities prohibited within the conservation easements include, but are not limited to, construction or placing of buildings on or above the ground, dumping or placing soil

or other substances such as trash; removal or destruction of trees, shrubs or other vegetation – with the exception of exotic/nuisance vegetation removal; restoration in accordance with the Restoration Plan included in the conservation easement; or any other activities detrimental to drainage; flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation. Exotic vegetation may include Melaleuca, Brazilian, Pepper, Australian Pine and Japanese Climbing Fern. Nuisance vegetation may include Cattails, Primrose Willow and Grape Vine. A copy of the Deed of Conservation Easement and the Restoration Plan substantially in the same form and content as will be recorded in favor of the South Florida Management District is attached hereto as Exhibits “D” and “D-1” and by this reference are made a part hereof. The Association will be responsible for enforcing the use restrictions contained herein. The Association also will be responsible for the monitoring and maintenance of the Conservation Easement Areas as specified in the Maintenance and Monitoring Plan attached hereto as Exhibit “E” and by this reference made a part hereof. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at the intersection of the buffer and each lot line. These markers shall be maintained in perpetuity by the Association. Individual lot owners shall not disturb the signs and shall cooperate in the maintenance of said signs.

(c) Drainage Easements: The drainage easements as shown on recorded Subdivision plat shall be the perpetual responsibility of the Association and shall in no way be altered to adversely affect the drainage requirements of the South Florida Water Management District permit and engineering design plans.

(d) Wildlife Habitat Preservation Easements: The wildlife habitat preservation easements as shown on the recorded Subdivision plat shall be left in their natural state as a habitat for wildlife. This area may be altered for the purpose of enhancing the habitat from time to time with the review Committee’s approval. When alteration occurs within these areas, care shall be taken to prevent impacts to gopher tortoises or their burrows.

(e) Proposed Future Easement to the United States of America/ Army Corps of Engineers: An easement will be created in favor of the United States of America/Army Corps of Engineers for exchange of an existing spoil easement.

(f) Equestrian Area: Use of the equestrian area as may be designated by the Association or as may be shown on the recorded Subdivision plat shall be temporary in nature and such use shall at all times be subject to termination by the Association. Such use is subordinate to governmental easement rights as may now or hereafter be recorded.

(g) No home or other structure of any kind shall be built, erected or maintained on any such easement, reservation or right of way, and such easements, reservations and rights of way shall, at all times, be open and accessible to public and quasi public utility corporations, their employees and contractors, and shall also be open and accessible to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservation and rights of way are reserved.

(h) Right of Entry - The Association through its duly authorized employees and contractors, will have the right after reasonable notice to the owners thereof, to enter upon any parcel at any reasonable hours on any day to perform such maintenance as may be authorized thereon or to correct and failure of an owner to comply with these covenant, conditions and restrictions. Any such entry shall not be deemed a trespass.

Said easements shall commence and encumber a particular lot only as of the date said parcel has been deeded out by the Declarant to a member (other than a member who is a successor or assign as provided in Article I, Section 3 of this Declaration) and said deed is recorded in the Public Records of Lee County, Florida.

SECTION 2 - NO PARTITION: There shall be no judicial partition of the common areas or of any Lot subject to the terms hereof, nor shall Declarant or any owner or any other person acquiring any interest in the planned development or any part thereof, seek judicial partition thereof.

SECTION 3 - WATERFRONT BOUNDARIES: To the extent there is a gap between any waterline boundary as platted on the recorded Subdivision Plat and the waterline boundary as approved by the appropriate governmental agency, Declarant does hereby quitclaim and release forever to the abutting parcel owner any and all right, title, interest, claim and demand which Declarant has in and to said gap area of property.

SECTION 4 - OWNER'S EASEMENTS OF ENJOYMENT: Every owner of a parcel shall have a right and easement of enjoyment in and to the common area, which right shall be appurtenant to and shall pass with the title to such lot, subject to the rights of the association as set forth in this Declaration which shall include a right of the Association to charge a reasonable fee for the use of any recreational facility situated within the common area and to adopt reasonable rules and regulations pertaining to the use of such common areas.

ARTICLE V: USE RESTRICTIONS

The planned development shall be occupied and used only as follows:

SECTION 1 - Each parcel, except the common areas, shall be used for single family residential purposes and for no other purposes. All structures and improvements must be completed substantially in accordance with the approved Plans within twelve (12) months after the date of issuance of the original building permit, except that the Declarant may grant extensions for good cause shown, including those circumstances in which the Owner has made diligent effort to complete such construction but timely completion is impossible as a result of matters beyond the control of the Owner, such as strikes, casualty losses, national emergency or acts of God.

SECTION 2 - All roofs of dwellings shall only be Galvalum, mill finish or decorator color or glazed or cement altered tile. No other roof materials are allowed. This prohibition includes, but is not limited to asphalt and fiberglass shingles.

SECTION 3 - There shall be no recreation vehicles, 5th wheels, travel trailers, commercial vans, tractors, or trucks larger than three (3) axels and/or more than 10,001 lbs empty, ~~or boats~~ parked upon any of the parcels and/or the common areas unless said ~~recreational~~ vehicles, ~~commercial vans, tractors, trucks, or boats~~ are parked in an enclosed area and concealed from public view. Further, no motorized vehicles of any kind shall be parked on any of the common areas or roadways except for purposes of loading or unloading. Notwithstanding the foregoing, a van or pickup truck for personal transportation purposes only, without advertising on the exterior, and which is not used for commercial purposes, may be parked on a lot/parcel. ~~the driveway of a lot/parcel, but no lot may have more than one such vehicle regularly parked in the driveway. Further, no vehicles larger than three (3) axels may be parked or stored upon any of the parcels and/or common areas.~~ One (1) registered boat on a registered trailer, not to exceed thirty-six (36) feet in length overall (LOA) or a maximum of two (2) registered personal watercraft on a registered trailer may be parked on a lot/parcel in the driveway. BOATS AND WATERCRAFT'S ON TRAILERS MUST BE PROPERLY TITLED, INSURED, AND FREE FROM UNSIGHTLY DAMAGE.

SECTION 4 - No business of any kind shall be conducted in any residence with the exception of the business of Declarant and the transferees of Declarant in developing all of the parcels.

SECTION 5 - No noxious or offensive activity shall be carried on in any parcel with the exception of the business of the Declarant and the transferees of Declarant in developing all of the parcels.

SECTION 6 - Other than "For Sale" signs for resales, no sign of any kind shall be displayed for public view on a parcel or the common areas, without the prior written consent of the Association. This provision shall not be applicable to Declarant who may maintain signs for promotional purposes. "For Sale" signs for resales may not exceed three (3) square feet in size and shall be set back at least fifteen (15) feet from the front lot line of the parcel.

SECTION 7 - Nothing shall be done or kept on a parcel or on the common areas which would increase the rate of insurance relation thereto without the prior written consent of the Association, and no owner shall permit anything to be done or kept in his parcel or the common areas which would result in the cancellation of insurance on any residence or any part of the common areas, or which would be in violation of any law.

SECTION 8 - No animals, livestock or poultry of any kind shall be raised, bred or kept on any parcel, or on the common areas; however, dogs, cats and other household pets may be kept in a home subject to such rules and regulations as may be adopted by the Association so long as they are not kept, bred or maintained for commercial purposes. No animal, bird or reptile shall be kept in such a manner as to constitute or create a nuisance.

SECTION 9 - All unsightly objects, including but not limited to side pads, air conditioning equipment, pool equipment, garbage cans, pumps, irrigation equipment, compressors and clothes lines shall be constructed or stored in such a fashion as to not be visible from adjacent properties or streets. Such unsightly objects shall be fenced, walled, hedged, or otherwise enclosed by a structure or landscaping, which must be approved by the Architectural Review Board. Garbage containers shall not be placed curbside for longer than twenty-four hours

before or after the scheduled pickup date.

SECTION 10 - No fence ~~or hedge~~ over ~~five (5)~~ six (6) feet in height measured from the ground on which it stands shall be constructed or maintained on any parcel/lot ~~except that the Declarant and the transferees of Declarant may vary or exceed such height in construction hedges.~~ (Installation of such fence requires prior approval from the Architectural Review Committee and [must] conform to pertinent Lee County codes, permits, and ordinances.) Permanent fences must be of painted aluminum, vinyl, decorative wrought iron, wood or wood like materials, and must complement the exterior of the residence and outbuildings. ~~Fences must be of wood or wood-like material and shall be located only in the front and/or rear of all parcels. Chain link fences are strictly prohibited.~~ NO CHAIN LINK FENCES ARE ALLOWED. Fencing on active constructions sites must confirm to pertinent Lee County codes.

SECTION 11 - No outbuildings (i.e. guest rooms, servant quarters, basement, tent, shack, detached garage, trailer, shed, carports, or temporary building of any kind) shall be allowed without the prior approval of the Architectural Review Board. Additional storage facilities will be approved and allowed as long as they conform to the architectural standards of the residence. No metal storage sheds, of any kind, shall be allowed. Detached garages with a side entry will be allowed and approved.

SECTION 12 - Nothing shall be altered in, constructed on, or removed from the common areas, except on the written consent of the Association.

SECTION 13 - No exterior radio, television, short wave or any other electronic antennas or aerials shall be allowed. However satellite dishes, antennas or aerials which are installed within the interior of a residence so as to be completely concealed from the public view such as in attics or garages shall be permitted. Satellite dishes only, may be utilized in the rear yard of residences; however, they must be totally screened with landscaping and approved by the review committee. Solar heating devices may be installed but may not be visible from the street in front of the residences.

SECTION 14 - No residences may be rented for a period of less than thirty (30) days. An estoppel fee of \$250.00 will be assessed to all estoppel requests, paid to the Riverwind Cove Homeowners Association, Inc. before an estoppel is released to a title company for closing a sale within the community. This fee will increase in accordance with enacted Florida Statutes in the future.

SECTION 15 - Underground Utilities and Plumbing. All utilities, including but not limited to electrical, telephone, and cable television shall be installed underground and concealed from public view. Further, no plumbing fixtures, including but not limited to stack pipes, shall be visible from the street in front of residence.

SECTION 16 - Fire and Sprinkler Systems. Each residence must be protected by an individual dwelling fire protection sprinkler system in accordance with the requirements of the latest edition of “NFPA 13D Sprinkler System Dwellings”.

SECTION 17 - Lawn and Parcel Maintenance. All parcels, whether improved or unimproved, shall be mowed, watered, weeded, and maintained on a regular basis except for designated natural areas pursuant to Article X. Unimproved parcels must be kept cleared of rubbish, weeds and high grass so as not to become objectionable to neighboring parcel owners. All restrictions as set forth in or imposed by Article X must be complied with at all times.

If not so maintained, the Association shall have the right, through its agents and employees to do so, the cost of which shall be added to and become a part of the annual assessment with respect to such Lot and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to collection as are provided for annual assessments. Neither the Association nor any of its agents, employees, or contractors shall be liable for trespass or any damage which may result from such work. It shall be the responsibility of each lot owner to maintain the front portion of his/her lot to the edge of the road right-of-way.

SECTION 18 - Boat Docks and Boardwalks. All boat dock facilities built on waterfront properties must be fifteen (15) feet from each side lot line unless otherwise approved by review committee. These boat docks must be single story. No roofs or boat-house structures are permitted unless approved by the review committee. Elevator and davits may be installed adjacent to a boat dock. All boat dock facilities and boardwalks within the subdivision must be approved by the review committee. Developer hereby specifically reserves the right to require shared private dock facilities and boardwalks.

(a) Common area boat docks – all common area boat docks shall be the property of the Association and shall be assigned by the Association to non-waterfront lot owners only. Non-waterfront lot owners shall be allowed only one common area boat slip. The Association shall have authority to promulgate Rules and Regulations regarding assignments and use of common area boat docks.

(b) Concrete seawalls are prohibited in Riverwind Cove except for the existing concrete wall on, nearby or adjacent to Lot 1 which is necessary for retaining wall purposes and shall remain in place.

SECTION 19 - Pools. No above ground swimming pools shall be permitted at any time anywhere within the Subdivision. This provision shall not be deemed to prohibit hot tubs, therapy pools, or hydra spas when they are incorporated into improvement and approved by the Architectural Review Board, even though such pools may be above-ground. All pool enclosures shall be constructed to comply with applicable rules, regulations and standards of all

governmental entities having jurisdiction. All pools, pool enclosure screening and caging shall be subject to approval by the Architectural Review Board.

SECTION 20 - Standard Mailboxes, Post Lights, and Identification Signs. All mailboxes, post lights, and identification signs with lettering or house numbers must be constructed to specifications approved by the Architectural Review Board. Post lights are required on all Lots, in a location approved by the Architectural Review Board. In order to provide uniformity of mailbox and light post designs throughout the subdivision, the developer may promulgate design standards and specifications to be used for all mailboxes, post lights, and identification signs which must be complied with to the extent not inconsistent with any requirements of the Architectural Review Board.

SECTION 21 - Notwithstanding anything above the contrary Declarant or the transferees of Declarant shall undertake the work of developing all parcels included within the planned development, the completion of that work, and the sale, rental or other disposition of residential parcels as essential to the establishment and welfare of the planned developments and ongoing residential community. In order that such work may be completed and the planned development established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant from doing on any part or parts of the planned development's property owned or controlled by Declarant or Declarant's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work.

(b) Prevent Declarant, Declarant's transferees, or the, employees, contractors or subcontractors of Declarant from constructing and maintaining on any part of parts of the planned development's property owned or controlled by Declarant, Declarant's transferees or their representatives, such structure: as may be reasonably necessary for the completion of such work, the establishment of the planned development as a residential community and the disposition of parcels for sale.

(c) Prevent Declarant, Declarant's transferees, or the, employees, contractors or subcontractors of the Declarant or of Declarant's transferees from conducting on any part or parts of the planned development's property owned or controlled by Declarant or Declarant's transferees or their representatives, the business of completing such work, of establishing the planned development as a residential community and of disposing of parcels by sale.

(d) Prevent Declarant, Declarant's transferees or the employees' contractors or subcontractors of the Declarant or of Declarant's transferees from maintaining such sign or signs on any of the parcels owned or controlled by any of them, as may be necessary in connection with the sale, or other disposition of the planned development's parcels. As used in this section, the words "its transferees" specifically excludes purchasers of parcels improved with completed residences.

(e) Prevent any parcel owner from having the right to select the licensed contractor of their choice to build their residence.

(f) Allow any owner of property within the subdivision to construct or maintain any building, residence, or structure, or to undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the South Florida Water Management District or any governmental agencies as may be required by law.

ARTICLE VI: SETBACK, MINIMUM SQUARE FOOT AREA, GARAGES, AND DRAINAGE

- (a) Setback. All buildings erected or constructed on a parcel shall conform to the following setback limitations or the appropriate Lee County setback limitations, whichever is more restrictive, subject always to the Right of the Architectural Review Board to require additional setbacks in furtherance of the Review Board's objectives and in the sole discretion of the Review Board:

<u>Front</u>	<u>Rear</u>	<u>Side</u>
40' to recorded	50' to Lot or River line	15'
Right-of-way line	25' to wetland line	

(b) Minimum Square Foot Area. All buildings with single story plans or stilt homes with one floor above garage erected or constructed on a riverfront parcel shall contain a minimum of 2300 square feet of heated and cooled living area. All buildings with two-story plans or stilt homes with two-stories above the garage erected or constructed on a riverfront parcel shall contain a minimum of 2700 square feet of heated and cooled living area.

All buildings with single-story plans or stilt homes with one floor above garage erected or constructed on an off-water parcel shall contain a minimum of 1800 square feet of heated and cooled living area. All buildings with two-story plans or stilt homes with two stories above the garage erected or constructed on an off-water parcel shall contain a minimum of 2200 square feet of heated and cooled living area.

Garages, roofed screen porches, and the like shall not be taken into account in calculating the minimum square foot areas stated above.

(c) Garages. Each residence shall contain a minimum enclosed two (2) car garage with a minimum area of 20' x 25' and of sufficient size to allow the parking of two standard size automobiles. Garages shall be constructed so that automobiles may be parked side by side. Carports shall not be allowed. The minimum driveway width shall be sixteen (16) feet. All driveways and sidewalks shall be constructed with a minimum of 3,000 PSI concrete, brick pavers or like material extending from its remaining driveway may be improved with like material or with a shell-based treatment. No gravel or plain dirt driveways shall be allowed. All driveways shall have a reinforced concrete culvert pipe properly installed and shall be completed

at the time of original construction of improvements and prior to issuance of a Certificate of Occupancy for the dwelling served by such drive. Said culvert may be allowed to extend along the entire front of the lot so long as drainage from same meets the design grades indicated on the approved engineering plans for the subdivision as prepared by Bean, Whitaker, Lutz & Barnes, Inc., of Fort Myers, Florida. The requirement for a driveway culvert may be waived in favor of open swale drainage by the review committee if, in its sole discretion, such culvert is not necessary for effective drainage. Driveway, parking area, and walkway design, location, materials, and coloring shall be subject to the Architectural Review Board.

(d) All parcels shall be graded to provide adequate drainage without negative impact to adjoining lots.

(e) Combined Lots Construction. Notwithstanding the setback provisions of Article 3 VI of this Declaration, and upon Architectural Review Board approval, a dwelling may be constructed upon contiguous Lots. Provided, however, that no easements of record, including easements shown on any plat of the Subdivision, maybe encroached upon by the location of the dwelling. In the event lots are combined, the side easements along the common middle boundaries shall automatically terminate. Once the dwelling is constructed, the Lots upon which it is constructed must remain under common ownership unless and until the dwelling is removed. Upon removal of the dwelling, the setback provisions of Article VI shall again apply to and control construction upon the Lots and the side easements along the common boundaries shall again exist and be automatically reinstated as to such Lots.

ARTICLE VII: OWNER'S OBLIGATION TO REPAIR

Each owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of such residence and driveway at the time of its initial construction, excepting only normal wear and tear.

ARTICLE VIII: OWNER'S OBLIGATION TO REBUILD

If all or any part or a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof with all due diligence to rebuild or repair and reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within three (3) months after the damage occurs and shall be completed within six (6) months after the damage occurs unless prevented by causes beyond the control of the owner or owners.

ARTICLE IX: ANNEXATION OF ADDITIONAL PROPERTY

Additional residential property and common areas may be annexed to the planned development with the consent of two-thirds (2/3) of each class of members of the Association. However, Declarant specifically reserves unto itself the unrestricted right to annex additional properties owned by it to the planned development. Declarant owns the property described in Exhibit "F" attached hereto and may, upon the filing of the appropriate documents with the Clerk of the Circuit Court Records Office annex all or any portion thereof to the planned development. In the event Declarant takes such action all the terms and conditions of the Declaration of Covenants, Conditions and Restrictions shall apply thereto.

ARTICLE X: GENERAL PROVISIONS

SECTION 1 - ENFORCEMENT: Declarant, the Association or any owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now, or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association, or by any owner to enforce any covenant or restriction herein contained shall, in no event be deemed a waiver of the right to do so thereafter.

SECTION 2 - SEVERABILITY: Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

SECTION 3 - AMENDMENTS: Covenants and restrictions of this Declaration may be amended by duly recording an instrument executed and acknowledged by two-thirds (2/3) of each class of the voting members of the Association. Notwithstanding the above, however, the Declarant shall have the unrestricted right to amend the covenants and restrictions until such time as all of the parcels in the development are sold. Any amendment affecting the surface water management system, including the water management portions of the common areas, must have the prior approval of the South Florida Water Management District.

SECTION 4 - SUBORDINATION: No breach of any of the conditions herein contained or reentry by reason of such breach, shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the planned development or any parcel therein, provided, however, that such conditions shall be voiding upon any owner whose title is acquired by foreclosure, trustee's sale or otherwise.

SECTION 5 - ARCHITECTURAL CONTROL: In order to insure that the buildings on the aforementioned Property will preserve a high standard of construction an Architectural Review Board ("Review Board") shall be established. The members of the Review Board shall be made up of individuals selected in the sole discretion of the Declarant so long as the Declarant continues to hold title to any parcel. The members of the Review Board shall be responsible only to the Declarant and shall not be under the control of or be liable to the Association.

No building or other structure shall be erected, placed or remain on the aforementioned Property until a set of plans and specifications, including working drawings, and a plot plan showing the location of the buildings or other structures, driveways, mailboxes, street lights, terraces, patios, walls, fences, television antennas, property lines and setbacks, is submitted to the Review Board as meeting the requirements of these restrictions and as being in accordance with the building, plumbing, and electrical codes in effect at the time of construction or alteration on any such building. Refusal of approval of plans and specifications and location by the Review Board may be based on any ground, including purely aesthetic grounds which, in their sole and uncontrolled discretion, the members of the Review Board deems sufficient.

With the submission of plans, each applicant must submit a check to the association in the amount of \$250.00 as a non-refundable review fee. At the time the plans have been fully approved and stamped and prior to release, a check for an additional \$1,000.00 must be deposited with the Riverwind Cove Homeowner's Association. This money will be held as a bond to be used to make repairs if it becomes necessary to the road and ditch areas if damaged during the construction phases. Notification will be given in writing to the owner of record as to the damage and that a repair will be required. If no action is taken to correct the condition the required repair will take place utilizing the bond money. When construction is completed and an occupancy certificate given by the Governmental Authorities, the owner may request the bond be released.

Construction requirements and specifications may include (but are not limited to) the following: minimum roof pitch, roofing materials, driveway construction and colors, lot drainage and outside building colors.

Culvert and suitable temporary and permanent driveway entrances must be constructed prior to any trucks entering a parcel so as to avoid damage to road shoulders and edges of pavement. All temporary and permanent culverts must be staked by a registered land surveyor approved by the Review Board, in accordance with the engineering plans prior to construction.

Prior to approval of plans, written approval of the building contractor to be employed in the construction of the aforementioned buildings or other structures must be obtained from the Review Board. Said building contractor shall be a regularly employed, bona fide building contractor duly licensed by the applicable governmental authorities.

No alterations in the exterior appearance of any of the above buildings or structures shall be made without the approval of the Review Board in writing. The provision herein contained shall apply equally to repair, alterations, or modifications made in the above buildings or structures.

The Review Board shall have the right but not the obligation to, from time to time; inspect the building construction as it proceeds in order to assure itself that the building is being constructed according to the plans and specifications. Such inspections, if undertaken by the Review Board, shall be solely and only for purposes of determining that the construction is in compliance with these deed restrictions. If it should occur that said inspections show that the building is not being constructed according to the plans and specifications, then a letter shall be addressed to the contractor, with a copy of same to the owner, setting forth said objections to construction and forthwith the work on said construction shall stop and abate until said objections shall have been complied with and settled.

The issuance of a building permit or license or the substantial completion of improvements, which may be in contravention of these restrictions, shall not prevent the Review Board from enforcing these provisions.

The location of the buildings upon a parcel shall be designed to provide development logically related to trees, topography, solar orientation, natural features, streets, and adjacent land uses. All development shall be designed to maximize the preservation of natural

features, trees, tree masses, unusual rock formations, water courses, and sites which have historical significance, scenic views, or similar assets.

A comprehensive landscaping plan with a minimum cost of \$3,000.00 shall be submitted to the Review Board prior to construction for its approval. As much native vegetation as possible must be preserved. Xeriscape is an authorized method of landscaping. Said plans must also be submitted for approval by Lee County Governmental Agencies as may be required by law.

A tree survey designating all trees with three inch (3") or greater caliper and all Simpson Stopper trees regardless of size shall be provided to the Review Board, designating which trees, if any, are not to be removed from the lot. No trees shall be removed without permission from the Review Board. Each lot owner shall be responsible for planting a minimum of six (6) trees preferably Pine, Palm, or Oak, or other acceptable tree, with at least 10' overall height. Credit shall be given for existing trees, other than those planted by developer. Acceptable trees shall be defined as per the Lee County Tree Requirement code for native trees. Brazilian pepper and Melaleuca trees shall not be planted or permitted to grow on any parcel. Specific requirements with regard to Simpson Stopper trees are outlined in the Riverwind Cove Management Plan prepared by W. Dexter Bender and Associates, Inc. attached hereto as Exhibit "G" and by this reference made a part hereof.

That portion of each Lot, and also the unpaved portion of a street right-of-way adjoining such Lot, that is not covered by a dwelling, patio, flowerbed, driveway, or walkway, shall be sodded with Floritam grass or other approved grass, at the time of the original construction of improvements on the Lot except for the rear 100 feet or greater. "Sodded" shall be defined as the result of installing fully matured grass and not plugs or seed. The lawn shall thereafter be maintained in good condition herein shall prohibit the use of gravel and/or wood shavings for decorative landscaping purposes within an otherwise sodded yard.

Said landscaping plan, after approval of the Review Board in writing, shall be built and installed by the owner. Refusal of approval of said landscaping plan may be made by the Review Board based on purely aesthetic grounds which, in the sole and uncontrolled discretion of the Review Board, shall be sufficient.

Approval to commence building construction under these restrictions may be withheld until such landscaping plans have been brought up to a standard commensurate with the terms of these restrictions. If the landscaping is not installed in accordance with the landscaping plans, the Review Board of the Declarant may, at its discretion, enter upon the above said land and rearrange, remove or install said landscaping and make a reasonable charge for doing so and said charge shall become a lien upon the above-mentioned land.

No owner shall plant or install any trees, bushes, shrubs or other plantings or authorize the same to be down without written approval of the Review Board. If unauthorized plantings do occur the Review Board, the Declarant or the Association may, at their discretion, enter upon said land and rearrange, remove or install said landscaping and make a reasonable charge for doing so and said charge shall become a lien upon the above-mentioned land, as provided for under the laws of the State of Florida.

Notwithstanding any turnover of control of the Association by the Declarant to the parcel owners (pursuant to Article II, Section 3, of this Declaration, or otherwise) or deeding by the Declarant of any of the common areas to the Association, the Review Board shall retain the above-referenced rights of architectural review so long as Declarant retains title to any parcel. The Declarant, at any time and at its option, may assign all rights of architectural control which it retains by and through the Review Board to the Association. However, the Declarant shall have no obligation to do so.

SECTION 6 – AMENDMENT AND MODIFICATIONS BY DECLARANT:

Notwithstanding any provisions of these restrictions to the contrary, Declarant, its successors and designated assigns, reserves the right and authority at its sole discretion until all parcels are sold to amend, modify or grant exceptions or variances from any of the use restrictions set forth herein and the Articles of Incorporation and Bylaws of the Association without any liability therefore to owners or other parcels in the development, or any other person or entity, whether private or governmental. However, any such amendment, modification or variance regarding the issue of private road maintenance, or affecting the surface water management system, shall not be made without prior approval of the appropriate governmental board or body of Lee County, Florida. Any assignment or right hereunder by Declarant may be total or partial, exclusive or non-exclusive.

SECTION 7 – INCONSISTENCY: In the event any inconsistencies exist among the provisions herein and the Articles of Incorporation and Bylaws of the Association, the provisions herein shall be controlling overall and the provisions of the Articles of Incorporation shall control over those of the Bylaws.

SECTION 8 – DURATION: The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or any member thereof for a period of twenty-five (25) years from the date hereof. Thereafter they shall be automatically extended for additional periods of twenty-five (25) years unless otherwise agreed to in writing by the then owners of at least two-thirds (2/3) of the planned development's parcels.

IN WITNESS WHEREOF, this Declaration has been executed by the Developer herein at _____, Florida, on this ____ day of _____, 1994.

WITNESS:

THE BOND CALOOSA LIMITED
PARTNERSHIP, a Florida Limited
Partnership BY: It's General Partner BOND,
INC.

BY: _____

BYLAWS OF RIVERWIND COVE HOMEOWNERS ASSOCIATION

ARTICLE I

NAME

The name of this Association is the Riverwind Cove Homeowners Association.

ARTICLE II

DEFINITIONS

Section 1. “Association” shall mean Riverwind Cove Homeowners Association, a Florida not-for-profit corporation.

Section 2. “The properties” shall mean and refer to the Existing Properties, and all additions to the Existing Properties subjected to the Declaration of Covenants, Conditions, and Restrictions.

Section 3. “Common Properties” shall mean any real property and improvements thereon and any personal property or equipment with respect to which Developer grants, assigns or conveys to the Association, title, interest in or rights of use, or with respect to which the Developer permits use by the Association and its Members, and any replacement of or for any of the foregoing.

Section 4. “Lot” shall mean any plot of land designated by a numeral upon any recorded subdivision map of The Properties whether vacant or having a Single Family Residence thereon, but shall not include any plot designated as an “out lot”.

Section 5. “Owner” Shall mean (i) the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Single Family Residence situated upon *The Properties*; (ii) the contract purchaser for any Lot or Single Family Residence situated upon *The Properties*; and (iii) the beneficiary or beneficiaries under any title-holding land trust.

Section 6. “Board” means Board of Directors of the Association.

Section 7. “Declaration” means the Declaration of Covenants, Conditions, and Restrictions by the Developer and any Supplemental Declaration as referred to therein, recorded with the Recorder of Deeds of Lee County, Florida, with respect to which the Lots will be made subject.

Exhibit “C”

Section 8. All other items used herein shall have the meaning set forth in or as defined in the Declaration as said Declaration may be amended from time to time.

ARTICLE III

OFFICES

Section 1. Registered Office. “The Association” shall have and continuously maintain in the State of Florida a registered office and a registered agent whose office shall be identical with such registered office, and may have other offices within or without the State of Florida as the Board of Directors may from time to time determine.

Section 2. Principal Office. The principal office of the Association shall be maintained on the Property at the residence of the Association secretary from time to time, or at the principal office of the Developer, at the election of the Association.

ARTICLE IV

MEMBERSHIP

Section 1. Membership. The Developer shall be a member of the Association so long as the Developer remains an Owner of any Lot subject to the provisions of the Declaration and so long as Developer owns additional property which may be subjected to the Declaration. Every person or entity except the Developer, who becomes an Owner of any Lot or Living Unit subject to the provisions of the Declaration or any Supplemental Declaration and which is subject to assessment by the Association shall be a member of the Association by acceptance of a Deed of Conveyance or by entering into a contract for purchase of such Lot.

Section 2. The Developer shall appoint the initial Board of Directors of the Homeowners Association. Thereafter the Directors shall be elected by the membership as provided in the By-Laws.

Section 3. The membership rights of any person whose interest in the Properties is subject to assessments, whether or not he/she be personally obligated to pay such assessments, may be suspended by action of the Board during the period when the assessments remain unpaid: but, upon payment of such assessments, his/her rights and privileges shall be automatically

Exhibit “C”

restored. If the Board has adopted and published rules and regulations governing the use of the Common Properties and facilities, and the personal conduct of any person thereon, it may, in its discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed thirty (30) days.

Section 4. The rights of membership are subject to the payment of annual assessments levied by the Association in the amount and manner as provided in these By-Laws, the obligation of which assessments is imposed against each Owner of and becomes a lien upon the Property against which such assessments are made as provided in the Declaration.

ARTICLE V

PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT

OF COMMON PROPERTIES

Section 1. Each Member shall be entitled to the use and enjoyment of the Common Properties and facilities as provided by the Declaration, subject to reserved rights as stated therein.

Section 2. Any Member may delegate his/her rights of enjoyment in the Common Properties and facilities to the members of his/her family who reside upon the Properties or to any of his/her tenants who reside thereon under a leasehold interest for a term of one year or more. Such Member shall notify the secretary in writing of the name and relationship of any such person. The rights and privileges of such person are subject to suspension as stated herein to the same extent as those of the Member.

ARTICLE VI

EVIDENCE OF MEMBERSHIP

Section 1. A certificate of membership in the Association may be issued to Members in such form as the Board may determine. Failure to issue such a certificate shall not affect the rights of a Member.

Exhibit "C"

ARTICLE VII

ASSOCIATION PURPOSES AND POWERS

Section 1. The Association has been organized to accept and hold title to the Common Properties and streets within the development which will be conveyed and transferred to it from time to time by the Developer in accordance with the Declaration; to maintain and administer the Common Properties as provided by the Declaration; to administer and enforce the Covenants and Restrictions as set forth in the Declaration; and to collect and disburse the assessments and charges as provided in the Declaration.

Section 2. Subject to the provisions of the Declaration, and to the extent provided by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same or similar purposes.

Section 3. Assessments may be made only by the Property Owner's Association, and, provided, that no assessment shall be made prior to December 31, 1993. The Board of Directors of the Association, by resolution adopted in the manner provided in these By-Laws may increase the amount of the annual assessment for any future year, except that the amount of the increase for any year shall not exceed 10 percent of the annual assessment for the preceding annual period unless an annual assessment of a greater amount for such year shall have been approved by vote of Members as provided in these By-Laws of the Association.

Section 4. The Association may exercise any powers conferred upon it by law subject to any limitation or restriction imposed in its Articles of Incorporation.

ARTICLE VIII

BOARD OF DIRECTORS

Section 1. The affairs of the corporation shall be managed by a Board of Directors who need not be Members of the corporation. The Board shall be three (3) members initially appointed by the Developer, and thereafter elected by the membership. Each initial Director shall hold his/her office until the next annual meeting of Directors and until his successors shall have been elected and qualified. The Directors elected at the first annual meeting of Directors, shall be divided into three classes, one Director as Class I, nominated and elected for a term of one year, one Director as class II, nominated and elected for a term of two years, and one Director as Class III, nominated and elected for a term of three years and until their respective successors are elected and qualified. Thereafter as their terms of office expire their successors shall be elected and shall hold office for a term of three years and until their successors are elected and qualified.

Exhibit "C"

ARTICLE IX

ELECTION OF BOARD MEMBERS

Section 1. Subject to the provisions of Article II of the Declaration with regard to Developer appointment of Directors, election to the Board shall be by written ballot as hereinafter provided. Nomination and election of Directors shall be by a majority of those qualified and casting votes at a meeting expressly called for such purpose of the membership. At such election, the Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The names receiving the largest number of votes shall be declared elected.

Section 2. Nominations for election to the Board shall be made by a Nominating Committee which shall be one of the standing committees of the Association.

Section 3. The Nominating Committee shall consist of a chairman who shall be a member of the Board and two or more Members of the Association. The Nominating Committee shall be appointed by The Board prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting.

Section 4. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or nonmembers, as the Committee in its discretion shall determine. Nominations shall be placed on a written ballot.

Section 5. All elections of the Board shall be made on written ballot which shall:

- (a) Describe the vacancies to be filled:
- (b) Set forth the names of those nominated by the Nominating Committee for such vacancies; and
- (c) Contain a space for a write-in vote by the Members for each vacancy. Such ballots shall be prepared and mailed by the secretary to the Members at least thirty (30) and not more than forty (40) days in advance of the date set forth therein for return ballots (which shall be a date not later than the day before the annual or special meeting called for elections).

Section 6. Each Member shall receive as many ballots as he has votes. Notwithstanding that Member may be entitled to several votes, he/she shall exercise on any one ballot only one vote for each vacancy shown thereon. The ballots shall be returned to the secretary at the address stated in the ballot transmittal.

Exhibit "C"

Section 7. Upon receipt of teach return, the secretary shall immediately place it in a safe or other locked place until the day set for the annual or other special meeting at which the elections are to be held. On that day, the external envelopes containing the “Ballot” envelopes shall be turned over, unopened, to an Election Committee which shall consist of three (3) Members appointed by the Board. The Election Committee shall then adopt a procedure which shall:

- (a) Establish that the number of envelopes marked “Ballot” corresponds to the number of votes allowed to the Member by his/her proxy, and
- (b) That the signature of the Member is genuine, and

Such procedure shall be taken in such manner that the vote of any Member shall not be disclosed to anyone, even the Election Committee.

The outside envelopes shall thereupon be placed in a safe or other locked place and the Election Committee shall proceed to the opening of the “Ballot” envelopes and the counting of the votes. Immediately after the announcement of the results, unless a review of the procedure is demanded by the Members present, the ballots and the outside envelopes shall be destroyed.

ARTICLE X

POWERS AND DUTIES OF THE BOARD

Section 1. The Board shall have power:

- (a) To call special meetings of the Members whenever it deems necessary and shall call a meeting at any time upon written request of one-half (1/2) of the membership.
- (b) To appoint and remove at pleasure all officers, agents, or employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer, or Director of the Association in any capacity whatsoever.
- (c) To establish, levy, assess and collect the assessments or charges referred to in Articles III of the Declaration.

Exhibit “C”

- (d) To adopt and publish rules and regulations governing the use of the Common Properties and facilities and the personal conduct of the Members and their guests thereon.
- (e) To exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those, if any, reserved to the Members in the Declaration or in the Articles of Incorporation.
- (f) In the event that any Member of the Board shall be absent from three (3) consecutive regular meetings, the Board may by action taken at the meeting during which said third absence occurs, declare the office of said absent Director to be vacant.

Section 2. It shall be the duty of the Board:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to represent a statement thereof to the Members at the annual meeting or, at any special meeting, when requested by the Members.
- (b) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.
- (c) To issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether any assessment has or has not been paid. Such certificate shall be conclusive evidence of the matters therein certified.
- (d) To make annual assessments against the Members and to collect the same and create and enforce liens with respect thereto as provided in the Declaration No assessment shall be made for any year prior to December 31, 1993. The amount of the assessment for each year and the time for payment thereof shall be fixed by resolution of the Board and sent to each Member with the notice of annual meeting of Members for such year.
- (e) The Board may increase the amount of the annual assessment for any year after December 31, 1994 in an amount greater than 10 percent of the amount of the assessment for the preceding year upon approval by vote of Members at the annual meeting of Members of a majority of the Members present and voting at said meeting, in person or by proxy, in the following manner: Prior to any such annual meeting the Board shall adopt a budget for such year to be presented for approval by Members at such meeting, which budget as adopted shall be sent to the Members with a notice of such meeting. If such budget is approved by the Members, the Board may levy an assessment for such year in amount sufficient to meet the provisions of such budget.

Exhibit "C"

ARTICLE XI

DIRECTORS' MEETING

Section 1. Commencing with the year 1994, a regular meeting of the Board shall be held immediately following the annual meeting of Members for the purpose of electing officers and transacting any further business.

Section 2. Special meetings of the Board shall be held when called by the President or any two Directors upon not less than three (3) days' notice setting forth the business to be transacted at the meeting.

Section 3. The transaction of any business at any meeting of the Board, however called the noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present; or, if, either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

Section 4. A majority of the Board shall constitute a quorum.

Section 5. Any action required by law or these By-Laws to be or which may be taken at a meeting of the Members or Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all Members or Directors, as the case may be, entitled to vote with respect to the subject matter.

Section 6. Meeting of the Board of Directors shall be open to all parcel owners, and notices of meetings shall be posted in a conspicuous place on the association property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against parcels are to be established shall specifically contain a statement that assessments shall be considered and a statement of the nature of such assessments.

ARTICLE XII

OFFICERS

Section 1. The officers shall be a president, a vice president, a secretary/treasurer. The president and vice president shall be members of the Board.

Section 2. Officers shall be chosen by a majority vote of the Board.

Exhibit "C"

Section 3. All officers shall hold office at the pleasure of the Board.

Section 4. The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out and sign all notes, checks, leases, mortgages, deeds, and all other written documents.

Section 5. The vice president shall perform all the duties of the president in his absence.

Section 6. The secretary/treasurer shall be ex officio the secretary of the Board, shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He/she shall sign all certificates of membership. He/she shall keep the records of the Association. He/she shall record in a book kept for that purpose the names of all Members of the Association together with addresses as registered by such Members.

Section 7. The secretary/treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board, provided, however, that a resolution of the Board shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board. By resolution the Board shall designate the officer or officers who may sign checks on behalf of the Association.

Section 8. The secretary/treasurer shall keep proper books of the account and may cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year. He/she shall prepare an annual balance sheet statement for consideration by the Board.

ARTICLE XIII

COMMITTEES

Section 1. The standing Committees of the Association shall be the Nominating Committee and an Audit Committee. When the Developer tenders assignment to the Association of the functions of the Architectural Review Committee established pursuant to the Declaration, the Association shall create an Architectural Review Committee as a standing Committee.

Unless otherwise provided herein, each Committee shall consist of a chairman and two (2) or more Members, and shall include a Member of the Board for Board contact. The Committee shall be appointed by the Board prior to each annual meeting to serve from the close of such annual meeting to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The Board may appoint such other Committees as it deems desirable.

Section 2. The Nominating Committee shall have the duties and functions described in Article IX hereof.

Section 3. When the Architectural Review Committee shall have been created, its duties and functions shall be the same as those of the Architectural Control Committee as established in the Declaration.

Section 4. The Audit Committee shall supervise the annual audit of the Association's books and prepare and present to the Board the Association's annual budget. The

Exhibit "C"

treasurer shall be an ex officio Member of the Audit Committee.

Section 5. With the exception of the Nominating Committee and the Architectural Review Committee each Committee shall have power to appoint a subcommittee and to delegate thereto any of its powers and duties.

Section 6. It shall be the duty of each Committee to receive complaints from Members of any matter involving Association functions, duties, and activities within its field or responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other Committee, Director or Officer of the Association as is further concerned with the matter presented.

ARTICLE XIV

MEETINGS OF MEMBERS

Section 1. A regular annual meeting of Members shall be held on the first Monday in April in each year after the incorporation of the Association, for the purpose of electing Directors and taking action with respect to any other business noticed for the meeting.

Section 2. Special meetings of Members for any purpose may be called at any time by the president, vice president, secretary, or treasurer, or by any two (2) Members of the Board, or upon written request of one-half (1/2) of total members.

Section 3. Notice of any meetings shall be given to the Members by the secretary. Notice may be given to the Member either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his/her address appearing on the books of the corporation. Each Member shall register his/her address with the secretary, and notices of meetings shall be mailed to him/her at such address.

Notice of any meeting, regular or special, shall be mailed at least six (6) days in advance of the meeting and shall set forth in general the nature of the business to be transacted, provided, however, that if the business of any meeting shall involve an election governed by

Article VII herein or any action governed by the Articles of Incorporation, notice of such meeting shall be given or sent as therein provided.

Section 4. The presence at the meeting of Members entitled to cast, in person or by proxy, 10 percent of the votes of Members entitled to vote shall constitute a quorum for any action governed by these By-Laws, except as otherwise may be required by the Articles or Declaration.

ARTICLE XV

PROXIES

Section 1. At all corporate meetings of Members, each Member may vote in person or by proxy. Members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may also be used for votes taken to amend the Articles of Incorporation or Bylaws or for any matter that requires or permits a vote of the members.

Section 2. All proxies shall be in writing and filed with the secretary. Any proxy shall be effective only for the specific meeting for which originally given any lawfully adjourned 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. Every proxy shall automatically cease upon sale by the Member of his/her Lot which obligates his/her membership.

Section 3. For election of members of the Board of Directors, members shall vote in person at a meeting of the members or by a ballot that the member personally casts.

ARTICLE XVI

LIABILITY AND INDEMNITY OF DIRECTORS AND OFFICERS

Neither the directors nor the officers of the Association shall be personally liable to the Owners or the Association for any mistake of judgment or for any other acts of omissions of any nature whatsoever as such directors or officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Association shall indemnify and hold harmless the directors and officers, their heirs and legal representatives, against all contractual and other liabilities to others arising of contracts made by other acts of the directors and officers

Exhibit "C"

on behalf of the Owners or the Association, or arising out of their status as directors or officers unless any such contract or act shall have been made fraudulently or with gross negligence. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorneys' fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, investigative, or otherwise, in which any such director or officer may be involved by virtue of being or having been such director or officer, provided, however, that such indemnity shall not be operative with respect to any acts or omissions as to which such person is adjudged to be guilty of gross negligence or fraud in the performance of his/her duties as such director or officer.

ARTICLE XVII

BOOKS AND PAPERS

Section 1. The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member, with 30 days written notice.

ARTICLE XVIII

AMENDMENTS

Section 1. These By-Laws may be amended at a regular or special meeting of the Board, except as otherwise may be provided in the Articles of Incorporation, except that no such amendment shall be made which would conflict with the provisions of the Declaration.

Exhibit "C"

AMENDMENT I

This instrument prepared by:
TRACY L. COGHILL, Esquire
Cottrell, Warchol, Merchant & Railings
P. O. Box 767
Cape Coral, Florida

FIRST AMENDMENT TO DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR RIVERWIND COVE SUBDIVISION, LEE COUNTY FLORIDA

WHEREAS, the BDND Caloosa Limited Partnership, a Florida limited partnership, hereinafter sometimes called "Declarant", is the owner in fee simple of certain real property situated in Lee County, Florida; said property being known as RIVERWIND COVE, Phase I and RIVERWIND COVE, Phase II, a subdivision pursuant to a Plat recorded in Plat Book 54, Page 54, and Plat Book 56, Page 95, respectively, Public Records of Lee County, Florida, and future RIVERWIND COVE, Phase III; and

WHEREAS, Declarant did declare that all of the real property and each part thereof would be developed as a planned development and would be held, sold and conveyed subject to the Declaration of Covenants, Conditions and Restrictions of RIVERWIND COVE SUBDIVISION, (the "Declaration"), recorded in O. R. Book 2493, Page 1, Public Records of Lee County, Florida; and

WHEREAS, the Declarant wishes to amend said Declaration in accordance with the powers therein provided.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions for RIVERWIND COVE SUBDIVISION are hereby amended as follows:

ARTICLE I: DEFINITIONS

SECTION 2 - "COMMON AREAS" - includes within its meaning the following:

(a) All real property owned by the Association for the common use and enjoyment of the residential parcel owners; (b) the property and installations required for the furnishing of utilities and other services to more than one parcel owner or to common areas, including the surface water management system; (c) tangible personal property required for the maintenance and operation of the Association even though owned by the Association; and (d) all property to be leased from the Declarant for the purposes of operating an equestrian area as described in Exhibit AA.@

Exhibit "C"

ARTICLE III

SECTION 12. EQUESTRIAN AREA. In addition to all assessments authorized above, the Association may levy a special assessment for the reconstruction, repair, replacement or upkeep of the equestrian area, as defined below. Such assessment shall only be assessed to those members of the Association utilizing the common equestrian area.

ARTICLE IV: PROPERTY RIGHTS

SECTION 1, paragraph (f) shall be deleted in its entirety.

SECTION 5 - EQUESTRIAN AREA: The Association shall lease from the Declarant a common area to be used by the members of the Association as an equestrian area. Declaration has the option of terminating said lease at any time with sixty (60) days written notice to the Association. The equestrian area shall be solely for the use of Riverwind Cove residents. The equestrian area shall be used by the residents solely for their private use and may not be used for any commercial purpose, including boarding horses for a fee. The rules and regulations regarding use of the equestrian area shall be adopted by those members utilizing the common area.

ARTICLE V

SECTION 8 - No animals, livestock or poultry of any kind shall be raised, bred or kept on any parcel, or on the common areas; however, *dogs*, cats, and other household pets may be kept in a home subject to such rules and regulations as may be adopted by the Association so long as they are not kept, bred or maintained for commercial purposes. No animal, bird or reptile shall be kept in such a manner as to constitute or create a nuisance. Horses for personal use are allowed on the common equestrian area as defined above and shown on the plat as ATract A@ and on individual lots per the approved zoning.

Except as hereby amended by this Amendment of Declaration of Covenants, Conditions and Restrictions, all the terms and conditions of the Declaration of Covenants, Conditions and Restrictions for Riverwind Cove Subdivision and all other related documents are hereby ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment to Declaration has been executed by the Declarant herein at Cape Coral, Florida, on this day of October, 1998.

WITNESSES:

Ron York, President

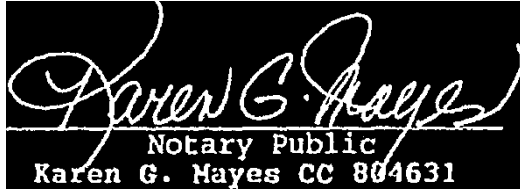
THE BDND CALOOSA LIMITED PARTNERSHIP, a Florida Limited Partnership
BY: Its General Partner BDND, IN



Exhibit "C"

STATE OF FLORIDA) COUNTY OF LEE

The foregoing instrument was acknowledged before me this 16th day of February , 1999, by RON YORK, as Vice-President of THE BDND CALOOSA LIMITED PARTNERSHIP, a Florida Limited Partnership, who is personally known to me or who has produced as i/did not take an oath.



Karen G. Hayes
Notary Public
Karen G. Hayes CC 804631

Notary Public

Karen G. Hayes CC 8 4631



My Commission Expires: