

be the duty of the owner thereof, with all due diligence, to rebuild, repair or 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 with thirty (30) days after the damage occurs, and shall be completed within one hundred eighty (180) days after the damage occurs.

(c) The Association shall procure and provide general liability and hazzard insurance insuring other improvements and common area upon the land.

Section 7. Development by Declarant. No provisions contained herein shall prevent Declarant, their contractors or subcontractors, from performing such work and activities as are reasonably necessary or advisable in connection with the construction of any houses or other improvements upon the property, nor shall said provisions in any way prevent the Declarant from maintaining such signs on the property as they think to be helpful for the sale, lease, or other disposition of houses.

Section 8. Election of Board of Directors. In addition to all other rights and privileges granted to the Declarant under this Declaration, and notwithstanding any provisions of the Articles on Incorporation and By-Laws to the contrary, the Declarant shall, subject to the following limitations, be entitled to appoint all of the members of the Board of Directors of the Association until January 1, 2007, unless Declarant releases or terminates such right by instrument in writing.

Section 9. Variances. Variances for minor deviations from this Declaration may be granted by Declarant or the Architectural Control Committee at any time to Declarant and any homeowner.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this Declaration to executed the day and year first above written.

Sworn to and subscribed before
me this _____ day of _____,

Witness

Notary Public

(L.S.)
Kimberly J. Weckwert President
President Allerbest Development, Inc.

Buyers Acceptance

Date

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE PALMS TOWN HOMES**

THIS DECLARATION, is made and executed this 4th day of February, 2005, by Kimberly J. Weckwert, President Allerbest Development, Inc., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of 20 described townhome units which shall hereinafter be referred to as "The Palms". The 20 described units are located on the following described real property ("the Property"):

FOR LEGAL DESCRIPTION, SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

WHEREAS, the Owner herein desires to place certain covenants, restrictions and easements, affirmative obligations, charges and liens upon the above described property which shall be binding upon the Owner, his successors and assigns forever.

WHEREAS, the Owner desires herein to establish The Palms Home Owners Association of Mexico Beach, Inc., a not for profit corporation, to be charged with the management, control, and administration of The Palm Townhomes including the enforcement of these Declaration of Covenants, Conditions and Restrictions for The Palms Townhomes.

NOW, THEREFORE, for and in consideration of the promises and for other good and valuable consideration the owner does restrict, for himself, his heirs, administrators, executors, successors, assigns, and lessees, the use as hereinafter provided of the 20 townhome units and does hereby place upon the subject real property, the following covenants, conditions and restrictions.

ARTICLE I. DEFINITIONS

Section 1. "Association" shall mean and refer to The Palms Homeowners Association of Mexico Beach, Inc. it's successors and assigns. The Association shall be responsible for the operation and management of the common areas, roadways and easement area within the subdivision, and such other rights, duties and obligations as are set forth in this Declaration.

Section 2. "By-Laws" shall mean such By-Laws as are established by the Association from time to time.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, and, upon subdivision and construction into town home residential units, each owner of such unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Property" shall mean and refer to that certain real property hereinbefore described,

upon which is located 20 townhome units, including common areas; subject however, to the right of Allerbest Development, Inc. to annex townhome units to be developed and constructed on property attached hereto as Exhibit "B", Mexico Beach, Florida, according to the plat thereof in Plat Book _____ Page _____ of the public records of Bay County, Florida.

Section 5. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Additional real property may be conveyed to the Association for the common use and enjoyment of the Owners as the Property is developed.

Section 6. "Lot" shall mean and refer to each of the numbered lots described on a plat of survey of The Palms prepared by Sea Level Surveying, dated _____, 2005, a copy of which said plat is recorded in Plat Cabinet _____, Folio _____ of the Public Records of Bay County, Florida and by reference made a part hereof, exclusive of common area owned by the Association.

Section 7. "Declarant" shall mean and refer to Allerbest Development Inc., its successors and assigns.

Section 8. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

ARTICLE II. PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and Parking Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable fees for upkeep and maintenance of the Common Area.
- (b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members or to mortgage all or any part of the Common Area (no such dedication, transfer or mortgage shall be effective unless an instrument agreeing to such dedication, transfer or mortgage signed by two-thirds (2/3) of each class of members has been recorded); and

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity who is a record owner of a Lot shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. The Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to nine (9) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) upon the expiration of five (5) years from the date of the recording of this Declaration.

ARTICLE IV. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by Declarant, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments of charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Such assessments shall be fixed at a uniform rate for all townhome units including any units subsequently annexed into the association. Such assessments shall be mailed to all unit owners at their addresses as they appear on the books of the Association and any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 1 1/2% per month on the outstanding balance. The Association may bring an action at law against the owners personally obligated to pay the same, and/or foreclose the lien against the property. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and for the improvement and maintenance of the Common Area and of the yards and exteriors of homes situated upon the Property.

Section 3. Annual Assessment and Maximum Annual Assessment. The initial annual assessment per homeowner shall be \$900.00 per year per Townhome payable in installments of \$450.00 due January 1 and July 1 of each calendar year. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner. Any lot or lots owned by Declarant shall not be subject to assessments until such time as town homes are constructed thereon and same are sold or transferred by Declarant.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year by no more than ten percent (10%) above the assessment for the previous year without a majority vote of the membership.

- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may increase the annual assessment at any time.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in 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, insurance, repair or replacement of a capital improvement upon the Pool and Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Assessments for Yard Maintenance. In addition to the annual assessments authorized above, the association may levy, in any assessment year, an assessment applicable to that year only for the purpose of paying the cost of all yard maintenance for the common area and the yards of all of the lots for The Palms Town Houses provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3, 4 or 5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of member or proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

Section 7. Uniform Rate of Assessment and Collection. Both annual and special assessments shall be fixed at a uniform rate for all Lots and may be collected on an annual or semiannual basis. Annual assessments shall be due on January 1, of each year for the current year. Semiannual assessments shall be due on January 1 and July 1 of each year for the current year.

Section 8. Date of commencement of Annual Assessments: due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the certificate of occupancy on said lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment levied against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or at such other legal rate as may be established by the Board

of Directors. The Association may bring an action at law against an Owner personally, and/or foreclose the lien against the subject Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non- use of the Common Area or abandonment of a Lot.

Section 10. Subordination of the Lien of Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot shall not affect the personal obligation of an Owner to pay any outstanding assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof or the bona fide conveyance to a mortgagee in satisfaction of a first mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V. EASEMENTS

Section 1. Easement for Utility Purposes. The Declarant hereby reserves, accepts, imposes, grants and creates a non-exclusive, perpetual easement to and on behalf of the Declarant, the Association, the Owners, their grantees, heirs and successors in interest, for utility purposes within those areas titled "Utility Easement" as shown on a plat of survey of The Palms, prepared by Sea Level Surveying.

Section 2. Utility Easement. The Declarant hereby reserves, accepts, imposes, grants and creates a non-exclusive, perpetual easement to and on behalf of each Owner of a dwelling unit within a building containing attached dwelling units, a non-exclusive easement over, across and under the Lots on which such building is located for the installation, maintenance, replacement and repair of utility lines including electricity, telephone, gas, water, sewer and cable television. In the event of any installation, replacement or repair, the party making such installation or repair shall restore the property to the condition existing immediately prior to such installation and repair. The said easement shall not extend over, through or under any portion of the building unless the building is constructed with utility service to one side of the building with the utility lines and facilities running through the attic or floor area of the building. In such event, an easement shall exist for the maintenance, repair and replacement of such utility lines in the manner as originally constructed. In the event any utility line or facility is damaged or destroyed by the act or omission of an Owner, such Owner shall repair or replace such line or facility at his sole cost and expense and restore all the property to the condition existing immediately prior to such repair or replacement.

Section 3. Easement for Encroachments. The Declarant hereby reserves, accepts, imposes, grants and creates a perpetual easement to and on behalf of the Declarant and each Owner for encroachments created during the initial construction by the Declarant of permanent improvements to the Lots. Such easements shall extend to and cover encroachments of the party walls and portions of buildings, roof overhangs, driveways, roadways and walkways.

Section 4. Ingress and Egress. Subject to the restrictions in Article XXI, every townhome

owner, their guests, invitees and lessees shall have an easement for ingress and egress for pedestrian and vehicular traffic to and from their respective units over and across that portion of the Association property lying between the respective townhome unit and the Driveway. Such easement shall be appurtenant to the unit of the owner and all conveyances of title to that unit shall include a conveyance of this easement of ingress and egress even though no specific reference to such easement appears in such instrument.

ARTICLE VI. ARCHITECTURAL CONTROL

The Board of Directors of the Association shall appoint from among themselves and/or the members of the Association an Architectural Control Committee consisting of not less than two or more than 5 persons. With the exception of the initial members, members of the Committee must be homeowners in The Palms Town Houses. The initial members will serve until January 1, 2003, unless they sooner resign. Thereafter, all members shall serve at the pleasure of the Board of Directors of the Association. The initial members of the Committee are Richard Powell and Kimberly Jean Weckwert. All notices or submission requests to be given to the Committee shall be in writing delivered by mail to the principal registered office of the Association as from time to time set forth in the records of the office of the Secretary of State of Florida, Corporate Division. No homeowner shall erect or maintain any building, fence, wall or other structure nor shall any homeowner commence or make any exterior addition to or change or alteration in the shape, color, or appearance of the exterior of existing improvements or make any material alteration, addition, or deletion to the landscaping of any lot until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and all other details of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to the quality of materials, harmony and external design, and color, and the location in relation to surrounding structures and topography. The effect of the changes, improvements, or alterations on the topography of the land and environmental impact thereof may also be considered by the Committee in determining whether approval may be given. Such approval may be withheld for any reason, but if no written notice of approval or disapproval is given by the Committee within thirty (30) days after it has received full plans and specifications, approval will not be required and this provision will be deemed to have been complied with. In the event written approval is given, no work shall be commenced until such time as the homeowner or his contractor has obtained all permits required by law. Notwithstanding the foregoing provisions related to the appointment of the Architectural Control Committee and the members constituting the same, the Declarant shall have the right to appoint all successor members until January 1, 2007.

ARTICLE VII. LAND USE AND BUILDING TYPE

No Lot shall be used except for residential purposes and such other purposes set forth in this Declaration. No building of any type shall be erected, altered, placed or permitted to remain on any Lot other than attached single-family dwellings. Declarant shall have the right to maintain a sales and/or management office on the property.

ARTICLE VIII. SUBDIVISION OF LOT

No Lot shall be re-subdivided.

ARTICLE IX. PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion of such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and a decision determining the liabilities of the parties shall be by a majority of the arbitrators.

ARTICLE X. EXTERIOR MAINTENANCE

Exterior lawn maintenance shall be the responsibility of the Association and the cost of same shall be paid from annual assessments. Roofing, siding, paint shall be the responsibility of each owner.

ARTICLE XI. NUISANCES

No noxious or offensive activity shall be permitted or performed upon any Lot which may be or may become an annoyance or nuisance to the neighborhood which shall in any way interfere with the reasonably quiet enjoyment of each of the homeowner of his respective house. Loud music or barking dogs can constitute a nuisance under this provision, with such examples being inclusive,

not exclusive. No dogs, cats, or other animals or fowl may be kept in a pen or on a leash outside a town home.

ARTICLE XII. NON-HOUSE STRUCTURES

No trailer, tent, shack, utility shed or other non-house building shall be placed or used on any lot; provided, however, Declarant may maintain offices or storage facilities during construction. The Association may maintain on Associations property such storage, maintenance or other buildings as its Board of Directors determines.

ARTICLE XIII. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one sign not more than five square feet to advertise the property for sale or lease.

ARTICLE XIV. LIVESTOCK AND POULTRY

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, provided, however, dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided they are kept in compliance with Article XI above and in compliance with ARTICLE XX below.

ARTICLE XV. EXTERIOR ANTENNA

No exterior radio, television or satellite-dish antenna may be installed on any portion of the properties unless the installation, size, color and design of the antenna have been approved by the Architectural Control Committee appointed by the Board of Directors.

ARTICLE XVI. GARBAGE AND REFUSE DISPOSAL

No Lot shall be used, maintained or allowed to become a dumping ground for scraps, litter, leaves, limbs or rubbish. Trash, garbage or other waste shall not be allowed to accumulate on any Lot or other part of the Property and shall not be kept on any Lot except in sanitary containers designed for waste containment and approved by the Board of Directors of the Architectural Control Committee appointed by the Board of Directors. All equipment for the storage or disposal of such waste material shall be kept in a reasonably clean and sanitary condition and shall not be stored so as to be visible from the street.

ARTICLE XVII **SIGHT DISTANCE AT INTERSECTIONS**

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points

fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten(10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. The Board of Directors or the Architectural Control Committee appointed by the Board of Directors may, in its sole discretion, grant variances to the restrictions provided for in this Article.

ARTICLE XVIII. REGULATIONS

Reasonable rules and regulations concerning the use of the common areas and easement areas and all other areas which the Association owns or maintains may be made and amended from time to time by the Board of Directors of the Association. Copies of such regulations and amendments shall be furnished by the Association to all homeowners and residents of the houses.

ARTICLE XIX. PETS

Household pets such as dogs or cats are permitted but no dog or cat shall be permitted to run free, and it must be leashed and under direct control of its owner when it is anywhere on the property other than upon the owner's lot.

ARTICLE XX. BOATS, TRAILERS AND PROHIBITED VEHICLES

Unless specific provisions to the contrary are subsequently hereto made and adopted by the Board of Directors of the Association, no trailer, motor home, commercial panel van or truck larger than a pick-up truck may be parked or stored upon the Property; except, however, for the temporary parking, up to four weeks, of any such prohibited vehicles incident to delivery or repair being made for a homeowner.

ARTICLE XXI. PARKING

No unit owner, guest or invitee, or lessee shall restrict, block or otherwise impeded parking of vehicles in parking areas which are designated for other units. Parking for each respective unit owner shall be solely on that portion in front of the townhome structure unless otherwise designated for units 1A, 1B, 1C, 1D, 9A, 9B, 9C or 9D.

ARTICLE XXII. MISCELLANEOUS

(a) No laundry, mattresses, bedding materials or clothing shall be hung on or over patio rails or fences of any home. Clotheslines are prohibited except inside a fenced-in patio and not substantially visible to neighbors.

(b) No window air-conditioning units shall be permitted which would be exposed

to the exterior of any building.

ARTICLE XXIII. GENERAL PROVISIONS

Section 1. Enforcement. The Association, any Owner, or Declarant shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservation, liens and charges now or hereafter imposed by the provisions of this Declaration. The failure of the Association or 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. Invalidation 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. Annexation. Additional residential property and common areas may be annexed to the Property with the consent of two-thirds (2/3) of each class of members or by Declarant at any time. Any such annexation shall subject said lands to these covenants, conditions and restrictions, and the Owners of each Lot in such annexed area shall have the same rights, benefits, obligations and duties as the Owners of the Lots described in this Declaration.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. No Amendment shall affect the priority of the lien of any first mortgage on any Lot over the lien of the assessments provided for herein unless the holder of the mortgage joins in the execution of the amendment. Any amendment must be recorded in the Public Records of Bay County, Florida. Allerbest Development Inc. reserves the right to amend the restrictions for any purpose that will not adversely effect the existing owners.

Section 5. Limitation of Liability of Association. Notwithstanding the duties and/or rights of the Association, specifically including, but not limited to its duty to maintain, operate and repair Association property, the Association shall not be liable for injury for damage suffered during the use of or upon any of the property owned, or to be maintained and repaired, by the Association, or caused by acts of God or by third parties.

Section 6. Insurance and Homeowner's Obligation to Rebuild.

- (a) Each homeowner shall maintain fire and extended coverage insurance on his house and improvements in an amount equal to the maximum insurance replacement value. The Association may require the homeowner to provide written evidence of such coverage annually. In the event of loss, subject to the consent and approval of any mortgages named as a loss payee, all insurance proceeds shall be used to promptly repair or replace the damaged property unless the Board of Directors of the Association shall otherwise agree.
- (b) If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall