

3718591 OR: 3913 PG: 2457

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10/18/2005 at 08:50AM DWIGHT B. BROCK, CLERK

REC FEE 69.50

Instrument prepared by and return to:
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Retn:
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850 PARK SHORE DR 3RD FLOOR
NAPLES FL 34103

CERTIFICATE OF AMENDMENT

**DECLARATION OF COVENANTS AND RESTRICTIONS OF
VALENCIA LAKES AT ORANGETREE**

**BY-LAWS OF
VALENCIA LAKES AT ORANGETREE HOMEOWNERS' ASSOCIATION, INC.**

THIS CERTIFICATE OF AMENDMENT is executed by BEAZER HOMES CORP., a Tennessee corporation, pursuant to the Assignment of Declarant's Rights recorded at O.R. Book 3275, Page 2206, et seq., in the Public Records of Collier County, Florida (the "Declarant").

WHEREAS, on April 2, 2001, the Declarant recorded a Declaration of Covenants and Restrictions for Valencia Lakes at Orangetree in Official Records Book 2799, Pages 2131, et seq., of the Public Records of Collier County, Florida (the "Declaration"), and Section 13.1 of the Declaration reserves to the Declarant the right to amend the Declaration and Section 9.3.2 of Exhibit B of the Declaration (the "By-Laws") reserves to the Declarant the right to amend the By-Laws; and

WHEREAS, the Declarant wishes to amend the Declaration and the By-Laws in accordance with the attached Amendments which remove scrivener errors and bring the documents into compliance with the Laws of the State of Florida.

NOW THEREFORE, pursuant to the rights reserved to the Declarant pursuant to the Declaration described above, the Declarant hereby amends the Declaration of Condominium and Exhibit B thereof in accordance with the attached Amendments.

IN WITNESS WHEREOF, the Declarant has executed this Amendment effective as of the day and year written below.

Signed, sealed and delivered
in our presence:

BEAZER HOMES CORP., a Tennessee
corporation

Witness

Print Name: Sarah Corant

Witness

By: Scott J. Osmond

Print Name: Scott J. Osmond

Title: Division President

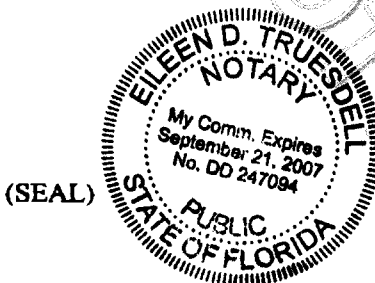
Et. Myers

Date: 9-6-05

Print Name: JAIME SUANEZ

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 19th day of SEPT., 2005, by Scott Osmond, as Division President for Beazer Homes Corp., a Tennessee Corporation, the Declarant described in the foregoing instrument, who is personally known to me or who has produced as identification.



Eileen Truesdell
Notary Public, State of Florida
Eileen Truesdell
Printed Name of Notary Public
My Commission Expires:

OR: 3913 PG: 2458

AMENDMENTS TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF VALENCIA LAKES AT ORANGETREE

Additional language indicated by underlining.

Deleted language indicated by ~~strikethrough~~.

4.7 Wall Easement. Declarant reserves the right to construct a privacy wall or berms along the ~~parameter~~ perimeter of the Subject Property, and there shall be created an easement for such privacy wall and/or berm and an easement for the construction, repair, and maintenance of such privacy wall or berm over other necessary portions of the Subject Property. Such easement shall inure to the benefit of the Association, and the Association shall maintain the privacy wall and/or berms so located within the easement in a state of good repair.

7.24 Outside Antennas and Flags. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted. The Board of Directors may require that a Reception Device be painted or screened by landscaping in order to blend into the Living Unit and removed from view from the street and other Living Units. Except for digital satellite dishes not exceeding 18" in diameter that are located in the rear of a Lot and that are not visible from adjoining streets, no outside signal receiving or sending antennas, dishes or devices that are visible from the exterior of a Unit are permitted on any Lot without the consent of the Approving Party which consent may be withheld in the foregoing shall not prohibit the exercise of the sole and absolute discretion of the Approving Party. The foregoing shall not prohibit any antenna or signal receiving dish owned by a third party that services the entire Subject Property. Likewise, the Association may, but shall have no obligation to, contract with a cable television provider to provide cable television services to all of the Lots, and in such event, the cost thereof shall be a Common Expense. No flag poles are permitted without the consent of the Approving Party, which consent may be withheld in the exercise of the sole and absolute discretion of the Approving Party. A flagpole shall not be used as an antenna. No Owner shall be prevented from displaying a portable, removable American flag or the official flag of the State of Florida in a respectful manner; and on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans' Day may display in a respectful manner portable, removable official flags, not larger than 4 1/2 feet by 6 feet which represent the United States Army, Navy, Air Force, Marine Corps. or Coast Guard.

7.36 Rules and Regulations. The Association or the Approving Party may from time to time adopt additional reasonable rules and regulations relating to the use, maintenance and operation of the Subject Property. Copies of such rules and regulations ~~nor~~ or modification thereto shall be furnished by the Association or the Approving Party to any Owner upon request.

11.2 Non-Monetary Defaults. In the event of a violation by any Owner or any tenant of an Owner, or any person residing in a Unit, or their guests or invitees (other than the non-payment of any Assessment or other moneys due to the Association,) or any of the provisions of this Declaration, the Association shall notify the Owner, any tenant of the Owner or any person residing in a Unit of the violation by written notice. If such violation is not ~~eared~~ cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the Owner or tenant fails to commence and diligently proceed to completely cure such violation as soon as practicable after written notice by the Association, or if any similar violation is thereafter repeated, the Association may at its option:

- (a) Fine the Owner or tenant as provided below, and/or
- (b) Commence an action to enforce performance on the part of the Owner or tenant or for such equitable relief as may be necessary under the circumstances, including but not limited to injunctive relief without the necessity of posting a bond therefore, and/or
- (c) Commence an action to recover damages; and/or
- (d) Take any and all actions deemed reasonably necessary to correct such failure, which actions may include, where applicable, but shall not be limited to, removing any addition, alteration, improvement or change which has not been approved by the Association, or performing any maintenance required to be performed by this Declaration.

All expenses incurred by the Association in connection with the correction of any such violation, plus a service charge of twenty-five percent (25%) of such expenses, and all expenses incurred by the Association in connection with any legal proceedings to enforce this Declaration, including reasonable attorneys' fees whether or not incurred in legal proceedings, shall be an Assessment against the applicable Owner, and such Assessment shall be due upon written demand by the Association. The Association shall have a lien for any such Assessment and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such Assessment, and the Association may take such action to collect such Assessment or foreclose said lien as in the case and in the manner of any other Assessment as provided hereinabove. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the County in which the Subject Property is located.

13. Amendment.

13.1 Generally. This Declaration may be amended upon the approval of not less than two-thirds of the Owners, except that if any provision of this Declaration requires more than a two-thirds vote of the Owners to approve any action, such provision may not be amended to require a lesser vote, and may not be deleted, without the same number of voted required to approve such action. In addition, so long as Declarant owns any portion of the Subject Property, this Declaration

may be amended from time to time, by Declarant and without the consent of the Association, any other Party or any Owner, and no amendment may be made by the Owners without the written joinder of Declarant. Such right of Declarant to amend this Declaration shall specifically include, but shall not be limited to:

- (a) amendments adding any property which will be developed in a similar manner as the Subject Property, or deleting any property from the Subject Property which will be developed differently than the Subject Property (provided that any such amendment shall require the joinder of the owners of such property or any portion thereof if the owners are different than Declarant, and further provided that Declarant shall not have the obligation to add any property to or delete any property from the Subject Property), and

(Remainder of section unchanged).

469269.1.103922.0059

AMENDMENTS TO BYLAWS OF
VALENCIA LAKES AT ORANGETREE HOMEOWNERS' ASSOCIATION, INC.

Additional language indicated by underlining.
 Deleted language indicated by ~~strikethrough~~.

3.2 Majority Vote and Quorum Requirements. The acts approved by a two-thirds (2/3rds) of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding upon all members and OWNERS for all purposes, except where otherwise provided by law, in the DECLARATION, in the ARTICLES, or in these BYLAWS. Unless otherwise so provided, at any regular or special meeting, the presence in person or by proxy of persons entitled to cast the votes for ~~sixty~~ thirty percent (~~60~~30%) of the LOTS shall constitute a quorum.

4.3 Notice. Written notice stating the place, day and hour of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by first-class mail or personal delivery to each member entitled to vote at such meeting not less than ~~10~~ 14 nor more than 60 days before the date of the meeting, either personally or by first-class mail, by or at the direction of the president, the secretary or the officer or persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the ASSOCIATION, with postage thereon pre-paid. For the purpose of determining members entitled to notice of, or to vote at, any meeting of the members of the ASSOCIATION, or in order to make a determination of the members for any other purpose, the BOARD shall be entitled to rely upon the member register as same exists ~~ten~~ fourteen (14) days prior to the giving of the notice of any meeting, and the BOARD shall not be required to take into account any changes in membership occurring after that date but may, in their sole and absolute discretion, do so. Notwithstanding the foregoing, if a LOT is owned by more than one person or by an entity, only one notice shall be required to be given with respect to the LOT, which may be given to any co-owner as defined in Paragraph 3.3.2 of these BYLAWS. Notice to any member or co-owner shall be sent to the LOT of such members or co-owner, unless the LOT OWNER(S) of the LOT otherwise request. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. A Member may waive notice of any meeting at any time, but only by written waiver. Notice may also be sent by electronic transmission to any Member who has consented in writing to receiving notices by electronic transmission. Notice to the Members of meetings of the Board, meetings of a committee requiring notice in the same manner as meetings of the Board, and annual and special meetings of the members, may be electronically transmitted in the manner set forth in Section 617.0141, Florida Statutes (except as limited by Chapter 720, Florida Statutes and these By-Laws). Notice by electronic transmission is effective: when actually transmitted by facsimile telecommunication, if correctly directed to a number at which the recipient has consented to receive notice; and when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the recipient has consented to receive notice. Notice is also effective when posted on an electronic network that the recipient has consented to consult, upon the later of: such correct posting; or the giving of a separate notice to the recipient of the fact of such specific posting; or when correctly

transmitted to the recipient, if by any other form of electronic transmission consented to by the recipient to whom notice is given. Consent by a recipient to receive notice by electronic transmission shall be revocable by the recipient by written notice to the Association. Any such consent shall be deemed revoked if: the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. The recipient is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the member has revoked his consent. However, the Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. As used in these By-Laws, the term "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmission of images, and text that is sent via electronic mail between computers. An affidavit of the Secretary, an Assistant Secretary, or other authorized agent of the Association that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice.

5.2.3. ~~Prior to any special or annual meeting at which directors are to be elected by the members, the existing BOARD may nominate a committee, which committee shall nominate one person for each director to be elected by the members, on the basis that the number of directors to serve on the BOARD will not be altered by the members at the members meeting. Nominations for additional directorships created at the meeting shall be made from the floor, and other nominations may be made from the floor. On the day of each annual meeting, the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring. Notice of each annual election shall be given to all Owners at least sixty (60) days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate may notify the Association in writing of his desire to be a candidate at least forty (40) days prior to the annual election. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also include with such notification, a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be received by the Association at least thirty-five (35) days prior to the election. The Association shall mail or deliver a second notice of the election, together with the candidate information sheets and a ballot which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required. Directors shall be elected by a plurality of the votes cast. In the election of Directors, there shall be appurtenant to each Parcel as many votes for Directors as there are Directors to be elected, but no Parcel may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information~~

sheets and ballots may be given by electronic transmission (to those members who have so consented), pursuant to rules adopted or to be adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

5.7 Notice of Meetings. Notice of each meeting of the BOARD shall be given by the secretary, or by any other officer or director, which notice shall state the day, place and hour of the meeting. Notice of such meeting shall be delivered to each director either personally or by telephone or telegraph, at least 48 hours before the time at which such meeting is to be held, or by first class mail, postage prepaid, addressed to such director at his residence, or usual place of business, at least three days before the day on which such meeting is to be held. Notice of a meeting of the BOARD need not be given to any director who signs a waiver of notice either before or after the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting, an objection to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the BOARD need be specified in any notice or waiver of notice of such meeting. All meetings of the Board of Directors shall be open to all Members, except for meetings with the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Members shall be permitted to attend Board meetings, and speak to agenda items subject to the rules of the Association as to the manner of doing so. Notices of all Board meetings shall be posted in a conspicuous location in the Properties for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In addition to the posting requirements discussed above, notice of each Board meeting may be published in a newsletter, or by conspicuously posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically in the Properties, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws or Chapter 720, Florida Statutes. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

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