

INSTR # 2008000078821, Doc Type RES, Pages 4, Recorded 03/25/2008 at 03:45 PM,  
Charlie Green, Lee County Clerk of Circuit Court, Rec. Fee \$35.50 Deputy  
Clerk ACENTORINO

This Instrument Prepared by:  
Christopher J. Shields, Esq.  
PAVESE LAW FIRM  
1833 Hendry Street  
Fort Myers, Florida 33901  
(239) 334-2195

**CERTIFICATE OF AMENDMENT  
TO THE  
AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
BAY POINTE YACHT & RACQUET CLUB, A CONDOMINIUM**

---

**THE UNDERSIGNED**, being duly elected and acting President and Secretary, respectively, of BAY POINTE YACHT & RACQUET CLUB CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, do hereby certify that all resolutions set forth below were approved, evidenced by a written statement or ballot manifesting their intention that such amendment be adopted. The resolution was approved and adopted by the votes indicated for the purposes of amending the Declaration of Condominium of Bay Pointe Yacht & Racquet Club, A Condominium, as originally recorded in Official Records Book 2230, page 1678 *et. seq.* in the Public Records of Lee County, Florida.

1. The following resolution was approved and passed by a unanimous vote of the Board of Directors as required by the documents of the Association:

**RESOLVED**, that the Amended and Restated Declaration of Condominium of Bay Pointe Yacht & Racquet Club, A Condominium, be and is hereby amended as follows:

**1. Section 4.3 shall be amended as follows:**

**4.3 Use and Possession.** A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements and common areas in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property. No unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the units, common elements, and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws. Use of the units is restricted to single family residential purposes only. A unit may be owned in a trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers of title. Units owned in the name of a corporation, limited liability company, partnership, or trust shall be treated as co-owned. Co-ownership of units is

BAY POINTE YACHT & RACQUET CLUB - CERTIFICATE OF AMENDMENT

permitted. However, if the co-owners are other than husband and wife, the co-owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Both the initial approval and the continued approval of a trustee, corporation, or other entity as an owner, shall be condition upon designation of one (1) natural person to be the "primary occupant," and the use of the unit by other persons shall be as though the primary occupant were the only actual owner. Those co-owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift. No more than one (1) such change shall be approved in any twelve (12) month period. The intent of this provision is solely to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the unit may be used as short term accommodations for several families or individuals.

**2. Section 10.8 shall be amended as follows:**

10.8 ***Guest Occupancy.*** A "guest is defined as a person who enters upon the condominium property at the invitation of a unit owner or tenant, (or their respective families) for the purpose of visiting the unit owner or tenant (or their respective families), ~~occupying the condominium unit for less than thirty days during any calendar year, or~~ utilizing the Condominium Property. Use or visitation without consideration (payment) distinguishes a guest usage from a tenancy. There are various types of guest uses, which are regulated as follows:

(A) Visitation by Guests When Unit Owner or Tenant is in Residence. Non-Overnight Visitation by Guests When Unit Owner is in Residence. There is no restriction against this type of guest usage, provided that same does not create a nuisance or annoyance to other condominium residents, nor prevent their peaceful enjoyment of the premises. The Association may restrict guest visitation relative to convicted felons, including by ~~but~~ not limited to registered sex offenders. ~~Non-overnight~~ guests shall be entitled to use the Condominium facilities only when accompanied by the unit owner or tenant (or an adult resident member of the unit owner's or tenant's family). The Board may establish additional restrictions on guest usage of Condominium facilities, such as maximum numbers of guests who may use common facilities, maximum numbers of common facility usages per guest, and the like.

(B) Overnight Guests When Unit Owner or Tenant is in Residence. Unit owners and Tenants (and their respective family) may have related or unrelated overnight guests, so long as the unit owner is in simultaneous residence. The Association may restrict or prohibit guest visitation by convicted felons, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Under no circumstances may more than six (6) persons, including the Unit Owner and his family, sleep overnight in any unit.

(Renumbered) (C) Non-Overnight Guests in the Absence of the Unit Owner or Tenant. Unit owners and tenants are not permitted to have non-overnight guests when the unit owner or tenant is absent from the Condominium. Unit owners and tenants may have their units inspected by

BAY POINTE YACHT & RACQUET CLUB - CERTIFICATE OF AMENDMENT

caretakers, family members, etc. However, such individuals shall not be permitted to use Condominium facilities, such as recreational facilities (pool, parking areas, etc.)

(Renumbered) (D) Overnight Guests in the Absence of the Unit Owner or Tenant. Tenants are not permitted to have overnight guests (related or non-related) in the absence of the tenants simultaneous residence. Unit Owners are permitted to have overnight guests in the absence of the unit owner subject to the reasonable rules that the Board may adopt from time to time by the Board. The following conditions, and such other rules and regulations as may be deemed necessary by the Board to effectuate the residential, non-transient nature of this condominium.

(1) Non-Related Overnight Guests in the absence of the owner will be limited to two (2) occupancies per calendar year. The length of occupancy is restricted to two (2) weeks per visit. The limitation of unit density in Article 10.8(B) applies. Ten (10) days prior notice to the Association is required.

(2) Related Overnight Guests may occupy a unit in the absence of the owner. For the purpose of this clause, "related" means all persons who are staying in the unit on an overnight basis, in the absence of the owner, are related to the unit owner or primary occupant (by blood, marriage, or adoption) to the following degree: parent, grandparent, child, grandchild, or sibling. The limitation on unit density in Article 10.8(B) applies. Ten (10) days prior notice to the Association is required.

(E) Additional Board Authority. The Board may promulgate such rules, policies, and procedures as are necessary to implement this Article. In the event that unit owners are suspected of circumventing rental restrictions by receiving consideration for occupancies which are held out as guest occupancies, the Association may require proposed guest occupants to submit proof of familial relationship, an affidavit as to absence of payment for the right to occupy the premises, and the like.

Dated this 16 day of MARCH, 2008.

BAY POINTE YACHT & RACQUET CLUB  
CONDOMINIUM ASSOCIATION, INC.

WITNESS:

Howard L. Hutchison  
Howard L. Hutchison  
Printed Name of Witness

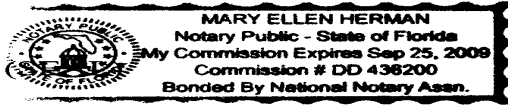
By: Edward G. Blum  
Print Name: EDWARD G. BLUM  
Title: President

Howard L. Hutchison  
Howard L. Hutchison  
Printed Name of Witness

Attest: Jeanne M Lavelle  
Print Name Jeanne M Lavelle  
Title: Secretary

STATE OF FLORIDA                     )  
   :  
COUNTY OF LEE                     )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of March, 2008, by Edward G. Blum, President of Bay Pointe Yacht & Racquet Club Condominium Association, Inc., a non-profit Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_, as identification and did not take an oath.



M.E.H.  
Notary Public  
**MARY ELLEN HERMAN**  
Printed Name of Notary

STATE OF FLORIDA                     )  
   :  
COUNTY OF LEE                     )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of March, 2008, by Jeanne M. Lavelle, Secretary of Bay Pointe Yacht & Racquet Club Condominium Association, Inc., a non-profit Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_, as identification and did not take an oath.



M.E.H.  
Notary Public  
**MARY ELLEN HERMAN**  
Printed Name of Notary

F:\WPDATA\CJS\FORMS\CONDO\Amendment\Bay Pointe Yacht & Racquet Club - cert of amend - declaration 3-11-08.wpd