

CHECKLIST FOR HOMEOWNER/PROPERTY OWNER ASSOCIATION DOCUMENTS

Application or Permit No. _____
Project Name _____

This checklist is to be used in the review of Homeowner/Property Owner Association (Association) Article of Incorporation, Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded documents (Documents) for compliance with Section 9.2 of the Basis of Review for Environmental Resource or Surface Water Management permits within the South Florida Water Management District (BOR).

I. POWERS AND ATTRIBUTES OF THE ASSOCIATION

Pursuant to Section 9.2.3, BOR, the Articles of Incorporation or other documents of record shall set forth-general powers and attributes of the association.

- A. Do the documents state that the Association shall have all the powers set forth in Section 617.0302, F.S. ? _____; page number _____
- B. If not, do the documents give the Association the following powers?
1. to own and convey property; _____; page number _____
 2. to operate and maintain common property, including the surface water management system (SWM) permitted in the SFWMD Permit _____; page number _____
 3. the power to establish rules and regulations _____; page number _____
 4. to assess members and enforce assessments _____; page number _____
 5. to sue and be sued _____; page number _____ and
 6. to contract for services _____; page number _____
- C. Pursuant to Section 9.2.3(g) and 9.2.6(d), BOR, are all homeowners; lot, property and unit owners; and the golf course (if any) members of the association? _____; page number _____

II. LEGAL DESCRIPTION AND EASEMENTS

- A. Do the documents cover the entire project according to the legal description? _____
If not, which phase(s) does it cover? _____
- B. Is the legal description included as an exhibit? _____; Exhibit number _____

- C. Is the legal description by plat? _____ Are golf courses, if any, platted? _____
- D. Where or how will conservation, drainage, access and maintenance easements be dedicated? _____

- E. 1. Are drainage, access and maintenance easements defined and reserved/dedicated to the operating entity? ¹ _____; page number _____
2. Does the dedication/reservation state that the easement may not be removed from its intended use by subsequent owners or others? _____; page number _____
3. If a reservation or dedication to the operating entity is not included in the documents, please identify the document(s) where such a reservation or dedication is made. _____
- F. Are conservation easement use restrictions defined and included in the documents?² _____; page number _____

III. OWNERSHIP AND MAINTENANCE

- A. Pursuant to Section 9.2.4(a), BOR, the documents should state that "It is the responsibility of the Association to operate and maintain the SWM system." Do the documents provide that the association shall operate and maintain the SWM system? _____; page number _____
- B. Pursuant to Section 9.2.4(b), BOR, do the documents state that the Association owns the common areas and SWM system? _____; page number _____
- C. Pursuant to Section 9.2.4(c), BOR, there must "be a method of assessing and collecting the assessment for operation and maintenance of the SWM system." Do the documents provide that the association can assess and collect for the operation, maintenance and replacement of the swm system through regular and special assessments? _____; page number _____

IV. AMENDMENTS, DURATION AND DISSOLUTION

- A. Section 9.2.4(d), BOR, states: "That any proposed amendment to the Association's documents, that would affect the SWM system (including environmental conservation areas and the water management portions of the common areas) must be submitted

¹ See Section 7.5, BOR.

² Although not specifically required by Section 9.2, BOR, the inclusion of conservation easement use restrictions in the documents is considered informative.

to the District for a determination of whether the amendment necessitates a modification of the SWM permit. If a modification is necessary, the District will so advise the permittee.”

Is an amendment section included, which requires SFWMD approval if the swm system, environmental conservation areas, and/or water management portions of common areas requested by the permit would be affected? _____; page number _____

- B. Pursuant to Section 9.2.4(e), BOR, “The rules and regulations must be in effect for at least 25 years with automatic renewal periods thereafter.” Do the documents have a minimum 25-year duration with automatic renewal periods thereafter? _____; page number _____
- C. Section 9.2.3(h), BOR states: the Association shall exist in perpetuity; however, if the Association is dissolved, the Articles of Incorporation must provide that the property consisting of the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.
1. Do the documents provide that the Association shall exist in perpetuity? _____; page number _____
 2. If the Association is dissolved, are their provisions requiring the SWM system, property containing the SWM system and water management portions of common areas required to be conveyed to local government determined to be acceptable by the SFWMD? _____; page number _____
 3. If the local government declines to accept the conveyance, do the documents require the SWM system, property containing the SWM system and water management portions of common areas be dedicated to a similar non-profit corporation? _____; page number _____

V. MONITORING AND MAINTENANCE

If monitoring and/or maintenance of mitigation areas are required by the permit, please answer the following questions.

Section 9.2.4(f), BOR, states: “If wetland mitigation monitoring will be required and the operational entity will be responsible to carry out this obligation, the rules and regulations shall state that it will be the association’s responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.”

- A. If mitigation monitoring will be the responsibility of the Association, do the Association documents indicate that the Association shall be responsible for mitigation monitoring? _____; page number _____
- B. Are any requirements pertaining to perpetual mitigation maintenance included in the documents? _____; page number _____

VI. ATTACHMENT OF PERMIT(S) AND CONDITIONS

- A. Section 9.2.4(g), BOR states that ERP or SWM permits and conditions shall be attached to the rules and regulations as an exhibit. Is the permit(s) referenced as an exhibit to the Association documents? _____; Exhibit number _____
- B. Pursuant to Section 9.2.4(g) BOR, is the Association Registered Agent required to maintain copies of all further permitting actions for the benefit of the association? _____; page number _____

VII. PHASED PROJECTS OR INDEPENDENT ASSOCIATIONS

- A. Pursuant to Section 9.2.4(h), BOR, do the documents provide that the District has the right to take enforcement action, including a civil action for an injunction and penalties, against the association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the association? _____; page number _____
- B. Pursuant to Section 9.2.6, BOR, if a master association is proposed for a project which will be constructed in phases and subsequent phases will use the same SWM system, does this Association have the ability to accept future phases into the Association? _____; page number _____
- C. Pursuant to Section 9.2.6, BOR, if the development contemplates independent associations for different phases, but proposes an interdependent water management system for the different phases, one of the following alternatives should be chosen by the applicant for setting up the operating entities.

A master association may be formed which includes all of the various associations within the project, with the master association having the responsibility and legal ability to operate and maintain the SWM system for the entire project.

or

If no master association is proposed, each entity which will operate and maintain a portion of an integrated SWM system must have cross easements for drainage, ingress and egress capabilities and the ability to enter and maintain the various portions, should any sub association fail to operate and maintain the portion of the SWM system within their boundaries. A definition of operation and maintenance responsibilities between the entities shall be included in any such document.

1. Do the documents provide that the independent associations , if any, have the right to utilize the permitted SWM system? _____; page number _____
2. Do the documents delineate maintenance responsibilities between the parties and grant ingress and egress easements for maintenance? _____; page number _____

Additional Documents Required Prior to Construction Completion Certification

Prior to or simultaneous with the submittal of the construction completion/construction certification statement, the following additional documents will be required:

1. filed copy of the articles of incorporation;
2. recorded copy of deed restrictions and associated exhibits;
3. copy of the certificate of incorporation;
4. copies of all plats; and
5. a signed written statement from the proposed transferee that it has reviewed the District permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.