

ARTICLE IX. Use Restrictions

The Property shall be used only for residential and related purposes as may more particularly be set forth in this Declaration and subsequent amendments hereto. The Association, acting through the Board of Directors, shall have the standing and the power to enforce use restrictions contained in this Declaration.

The Association, acting through its Board of Directors, shall have the authority to make, to enforce, to amend and to delete standards and restrictions governing the use of Lots and Common Area, in addition to those contained herein, and to impose reasonable user fees for facilities, including, but not limited to, vehicle storage areas, pathway systems, lakes and parking facilities, if any. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled or modified in a general or special meeting of the Association by Members representing a majority of the total votes at such meeting.

The declaration or other creating document for any individual deed to a Lot may impose stricter standards than those contained in this Declaration. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

Section 9.01 **Occupants Bound.** All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners or Members, and which provide for sanctions against Owners or Members, shall also apply to all occupants of any Lot.

Section 9.02 **Signs.** No sign of any kind shall be erected by an Owner within the Property without the written consent of the Board of Directors and Declarant. The Board of Directors or Declarant, their agents, employees, nominees and assigns, shall have the right to erect signs without the consent of any Person whatsoever being required. "For Sale" signs may be erected by Declarant or Declarant's agent, however, "For Sale" signs erected by Owners shall not exceed four feet (4') square or be taller than thirty-six inches (36"). Any sign erected without permission can be removed by the Association or Declarant.

Section 9.03 **Parking and Garages.** Owners shall park only in their garages or in the driveways serving their Lot, or permitted spaces or designated areas on Common Area as may be directed by the Association, in which parking may or may not be assigned, subject to such reasonable rules and regulations as the Board of Directors may adopt. In no event shall Owners or guests of Owners be permitted to park on roads or in Common Areas outside the designated areas, unless prior approval has been obtained from the Association. All commercial vehicles, recreational vehicles, buses, trucks, vans, tractors, mobile homes, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers must be parked entirely within a garage unless otherwise permitted by the Board. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed.

Section 9.04 **Animals and Pets.** No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other

usual and common household pets, in a reasonable number so as not to create a nuisance as determined by the Association; provided, however, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots, or the owner of any property located adjacent to the Property, may be removed by the Board and handed over to the appropriate state or county authority. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs which are household pets shall at all times, whenever they are outside a Lot, be confined on a leash held by a responsible person. Dogs shall be walked only in those areas designated by the Association and shall not be allowed to foul the Common Areas.

Section 9.05 **Nuisance.** No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No gatherings, parties, barbecues or the like may be held outside of the Member's dwelling which may interfere with the peaceful enjoyment of neighboring Lot Owners. No illegal, noxious, or offensive activity shall be carried on or conducted upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants, animals, or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unlawful, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No business or commercial activities shall be conducted from any Lot except as provided herein or pursuant to the development and sale of Lots.

Section 9.06 **Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent unclean, unhealthy, unpleasant, unsightly or unkempt conditions on his Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Gardening and landscaping on the Property are to be maintained in good order at all times. No basketball hoops or volleyball nets shall be erected in front yards nor on or adjacent to any Area of Common Responsibility.

Section 9.07 **Antennas.** No exterior television or radio antennas, aerials or satellite dishes of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Lot, except as provided herein. Specifically, a Member shall be entitled to place or maintain a satellite dish, the diameter of which shall not exceed one (1) meter (or such greater diameter as required by applicable federal and state law), at the rear of the house so long as said satellite dish is not visible from any private roadway or Common Area located within the Subdivision, unless approved by the ARC. However, the Declarant and/or the Association, or any party with whom they may contract, may erect an antenna, aerial, satellite dish or other apparatus for a master antenna, cable system, or controlled access system on such portion of the Property as the Declarant or Association may designate for such use.

Section 9.08 **Clotheslines, Garbage Cans and Tanks.** All clotheslines,

garbage cans, above-ground tanks and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon.

Section 9.09 **Subdivision of Lot.** Until Turnover occurs, no Lot shall be platted, replatted, subdivided or its boundary lines changed, nor shall any portion of a Lot, less than the whole thereof, be sold, conveyed or transferred except with the prior written approval of the Declarant, which approval may be granted or withheld in the sole discretion of Declarant. Thereafter, no Lot shall be platted, replatted, subdivided or its boundary lines changed, nor shall any portion of a Lot, less than the whole thereof, be sold, conveyed or transferred except with the prior written approval of the Board of Directors. Declarant, however, hereby expressly reserves the right to plat, replat, subdivide or change the boundary lines of any Lot(s) or other property owned by the Declarant and the right to sell, convey or transfer any portion of a Lot less than the whole thereof, without notice to or the approval or consent of any Person whatsoever being required. Any such Subdivision, boundary line change, platting or replatting shall not be in violation of the applicable subdivision and zoning regulations. The Declarant may subdivide a Lot in such manner that any portion of a Lot may be sold, transferred and conveyed by the Declarant, together with the whole of an adjacent or contiguous Lot such that the whole of one Lot and a portion of another Lot which are owned in common by the same Owner may be combined, developed and improved by such Owner as a single unified home site. Once so combined, developed and improved as a single unified residential home site, no such combination of a Lot and a portion of another Lot or combination of two (2) or more Lots shall thereafter be resubdivided into more than one (1) single family residential home site. It is expressly provided that to the extent that any two (2) or more contiguous Lots or portions of contiguous Lots which share a common side boundary line are owned in common by a single Owner and are combined, developed and improved by the Owner thereof as a single unified residential home site, any utility easement reserved along the side Lot line of the Lot shown on the plat of the Lot lying adjacent to the boundary between the Lots so combined shall automatically be terminated, cancelled and extinguished without the requirement of any separate instrument and without the necessity for the joinder of the Declarant, the Association or Brevard County; provided and to the extent that any such utility easement is not then in use.

Section 9.10 **Guns.** The use of firearms within the Property is prohibited. The term "firearms" includes "B-B" guns, paint ball guns, pellet guns, and other firearms of all types, regardless of size. Use of crossbows, slingshots, and like items is similarly prohibited.

Section 9.11 **Swimming Pools.** No above ground swimming pools shall be erected, constructed or installed on any portion of the Property. No swimming pools shall be enclosed by any screen, screening or other enclosure or under a roof of any kind unless the same shall be located entirely within the required governmental or subdivision setbacks. No pools shall be constructed in positions where they are visible from roads or Common Areas unless approved by the ARC.

Section 9.12 **Tennis Courts.** Tennis courts may be constructed only in positions where they are suitably screened from roads, Common Areas and adjacent Lots, as

approved by the ARC.

Section 9.13 **Irrigation.** All sprinkler and irrigation systems shall be subject to approval in accordance with Article VII of this Declaration and shall draw water only from utilities or governmental entities furnishing water to the Property, except for such systems owned or operated by the Association or the Declarant, which may use wells, or if required by Declarant, shall use treated effluent.

Section 9.14 **Tents, Trailers and Temporary Structures.** Owners or occupants shall not place upon a Lot or any part of the Property any tent or trailer or any structure of a temporary nature, such as a shack or utility shed without obtaining prior written approval from the ARC.

Section 9.15 **Trees.** Until Turnover, no trees shall be removed from any Lot or any portion of the Property without the prior written consent of Declarant and the ARC. Thereafter, no such trees shall be removed from any Lot or any portion of the Property without the prior written consent of the ARC. Such approval shall be reasonably given if such removal is necessary in connection with the location of the main residential dwelling(s) or other improvement on a particular Lot, or any portion of the Property, where the preservation of any tree would work a hardship or require extraordinary design measures in connection with the location of such dwelling or other improvement on the Lot, or any portion of the Property. Approval to remove trees shall be sought at the same time as construction plans are submitted to the ARC for approval. As used herein, the term "trees" shall mean and be defined as any tree three (3) inches or greater in diameter as measured one (1) foot above ground level. Trees which die or are removed shall be replaced by trees of a similar or approved type. Each Owner shall comply with all governmental regulations relating to tree protection and removal.

Section 9.16 **Drainage.** All storm water from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, retention areas, or Common Area in the manner to be approved by Declarant and the ARC, and in accordance with regulations promulgated by the District, Brevard County, and such other governmental agencies, as same may be modified or required by future regulation. Storm water from any Lot shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across or upon any contiguous or adjacent Lot unless a drainage easement shall exist therefor. No Owner shall be permitted to alter the grade of or original drainage plan for any Lot, or change the direction of, obstruct or retard the flow of Surface Water drainage, nor shall any Owner alter or remove any drainage or environmental berm or swale on any lakefront, Lot or portion of the Property or divert any storm water drainage over, under, through or around any such berm or swale.

Section 9.17 **Pesticides, Herbicides and Fertilizers.** No pesticides, insecticides, fungicides, herbicides, fertilizers or other deleterious substances shall be applied within thirty (30) feet of any Lot boundary adjoining a lake or pond without the prior written approval from the Board of Directors. The Declarant may apply pesticides, insecticides, fungicides, herbicides, fertilizers or other substances as they may deem appropriate within thirty (30) feet of a lake or pond without approval of any entity including the Board being required as such is allowed by applicable law.

Section 9.18 **Walls.** Other than those constructed by the Declarant and/or the Association, no walls shall be erected unless approved in writing by the ARC. The height of all walls shall be subject to the control and approval of the ARC. All walls shall be constructed of brick, stucco or other materials that shall conform to the guidelines and specifications otherwise set forth in the Architectural Review Manual.

Section 9.19 **Exterior Lighting.** Exterior lighting or illumination of buildings, yards, parking areas, sidewalks and driveways on a Lot or other portions of the Property shall be designed and installed so as to avoid visible glare (direct or reflected) being seen from street and road rights-of-way, other Lots or Common Areas. All exterior lighting shall conform to the applicable provisions of the Architectural Review Manual. Special exceptions to such specifications may be approved by and within the discretion of the ARC upon a showing of good cause.

Section 9.20 **Enforcement.** In the event of the violation of or the failure to comply with the requirements of this Article and the failure of the Owner of the affected Lot, within ten (10) days following written notice by the Association of such violation or non-compliance and the nature thereof, to cure or remedy such violation, then the Association or its duly appointed employees, agents or contractors shall have the right, but not the obligation, and an easement and license to enter upon the affected Lot or improvements thereon, without being guilty of any trespass therefor, for the purpose of curing or eliminating such violation, all at the sole expense of the Owner of the affected Lot. Such costs and expenses, together with an overhead expense to the Association of fifteen percent (15%) of the total amount thereof, shall be payable by the Owner of the affected Lot to the Association within ten (10) days after written notice to the Owner of the Lot of the amount thereof, which amount shall become a Lot Expense and Lot Assessment against said Lot. The Association may place a lien upon the Owner's Lot to recover such costs and expenses, as a charge on and running with the Property as provided herein, and the Association may seek all other legal and equitable remedies available to it.

Section 9.21 **Building Envelope.** Improvements on each Lot shall be confined within a building envelope which shall be established by the Declarant at the time a Lot is sold to an Owner and shall be on file with the ARC. The Declarant, until Turnover, and thereafter the ARC, may modify the building envelope of a Lot, if so requested by the Owner of that Lot, if in the sole opinion of Declarant, until Turnover, and thereafter the ARC, it is necessary to make such modifications.

Section 9.22 **Residential Dwelling Size.** Each residential dwelling constructed on the Property, except a guest house when permitted by the ARC, shall have a minimum heated and cooled living area as follows:

- (a) A detached single family residential dwelling located on a Lot shall have at least 2,000 square feet of heated and cooled living area.
- (b) Any other residential dwellings within the Property when approved by the ARC shall have at least 250 square feet of heated and cooled living area.

The ARC shall have the right, but not the obligation, to grant variances to the foregoing.

Section 9.23 **Controlled Access and Central Security System.** Access through the main entrance to the Property may be controlled by the Declarant, until Turnover, or the Association. Owners shall be subject to the procedures adopted by the Declarant until Turnover or the Association for granting access to the Property through the main entrance. A central security system may be installed throughout the Property. The plans and specifications for each Lot within the Property which are submitted to the ARC for its review and approval may include plans and specifications for an individual electronic security system, which may in the discretion of the Owner be connected to the central security system if it is compatible with the central security system. The cost of the installation and maintenance of the individual security system for each Lot and the connection thereof to the central security system, if the Owner shall so elect, shall be borne by the Owner. If an Owner installs an individual security system which is not connected to the central security system, the Owner shall provide the name of its security system monitoring service to the Association and the person the Association may contact in the event of security system malfunctions. It is expressly provided, however, that notwithstanding any ARC approval of the plans and specifications, nor procedures formulated for access to the Property from any entrance thereto by the Association, Declarant or otherwise, neither the Declarant, the Association nor the ARC shall have any responsibility or liability to any Person whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any individual security system or the central security system, nor for any procedures established for access to the Property from any entrance thereto. Declarant, the Association and the ARC expressly disclaim any guarantee or warranty of the merchantability or fitness for use of the central security system or any individual security system, or any portion thereof, or that said security systems or any portion thereof will prevent intrusion, fires or other occurrences or the consequences of same, regardless of the purpose or the design of said security systems or portion thereof. Further, Declarant, the Association and the ARC state, and the Persons served by said security systems acknowledge, that the operation of said security systems does not render any of the aforesaid parties insurers of the Property or safety of the Persons served thereby. Such parties further assume no liability for any loss or damage to real or personal property resulting whether proximate or otherwise, from any failure or alleged failure of said security systems or any portion thereof, or acts of God.

Section 9.24 **Cable Television System.** Each Lot may be wired to receive and accept cable television service and may have an individual cable television system compatible with and capable of being connected to the central cable television system which may be installed throughout the Property. The cost of the installation and maintenance of the individual cable television system and the connection thereof to the central cable television system along with the cost of subscribing to the cable television system shall be borne by the Owner. It is expressly provided, however, that notwithstanding any ARC approval of the plans and specifications therefor, neither the Declarant, the Association nor the ARC shall have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any individual cable television system or the central cable television system.

Section 9.25 **Precedence Over Less Stringent Governmental Regulations.** In those instances where the Covenants, conditions and restrictions set forth in this Article set or establish minimum standards or limitations or restrictions on and in excess of governmental

regulations, the Covenants, conditions and restrictions set forth in this Article shall take precedence and prevail over less stringent governmental regulations.

Section 9.26 Lakes and Retention Areas. Access to and use of lakes, if any, within the Property shall be governed and controlled by the Association. This shall not be deemed to imply that any of the Property will have access to lakes. There shall be no boating, swimming or other water sports conducted on any retention ponds within the Property. Fishing activities related to retention ponds shall be subject to the rules and regulations of the Association, and at the risk of the Person undertaking such activity.

Section 9.27 Fences. Other than those constructed by the Declarant and/or the Association, no fences shall be erected unless approved in writing by the ARC. The height of all fences shall be subject to the control and approval of the ARC. All fences shall be constructed of materials which shall conform to the guidelines and specifications otherwise set forth in the Architectural Review Manual.

ARTICLE X. Insurance and Casualty Losses

Section 10.01 Insurance. The Board of Directors, or its duly authorized agent, shall have the authority to procure insurance coverage for the Association, its directors, officers and Members collectively by virtue of their directorship, services as an officer, or membership in the Association, if the same shall be available at reasonable cost, as follows:

(a) The Association may maintain casualty insurance covering the Common Area, Area of Common Responsibility (to the extent the Association does not own same, casualty insurance shall only be obtained by the Association if required by agreement of the Association or if deemed necessary to cover an interest of the Association in same), and other real and personal property owned by the Association, or that for which it is responsible to insure. The insurance coverage shall be in amounts and with deductibles determined by the Board.

Should any property which the Association is required to insure be damaged or destroyed by any act, omission or fault of a Member, or group of Members, as determined by a court of competent jurisdiction, nothing contained in this Declaration shall be deemed to prohibit the Association and/or its insurers from seeking any remedies it may have in law or in equity against the offending Member or group of Members.

(b) The Association may maintain liability insurance covering any liability the Association, its directors, officers and Members by virtue of their directorship, services as an officer, or membership in the Association, may assume under common law or by contract, for claims for damages, for bodily injury, sickness, disease or death of any person, other than an employee of the Association, and for the loss, injury or destruction of tangible real or personal property including loss of use resulting therefrom. The limits of coverage shall be determined by the Board.

Should any claim for damages for bodily injury, sickness, disease or death of any person or for loss, injury or destruction of tangible real or personal property be made