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St. James Crossing

This Instrument Prepared By: Christopher A. Desrochers, Esq., Christopher A. Desrochers, P.L., 2504 Ave. G NW, Winter Haven, FL 33880. (863) 299-8309.

Resolution Regarding Approval Process for Above-Ground Swimming Pools.

Note: For the purposes of these resolutions, the Declaration of Covenants, Conditions, and Restrictions of and for St. James Crossing, which is duly recorded in OR Book 7670, Page 956, Public Records of Polk County, Florida, together with any subsequent amendments thereto, shall be referred to as "the CCRs".

WHEREAS, St. James Crossing Homeowners Association, Inc., ("the Association") has determined that the installation of above-ground swimming pools is beneficial to the residents of St. James Crossing ("the community"), provided they are properly regulated; and

WHEREAS, Article VI, Section 1(a) of the Bylaws of the Association, permits the Board of Directors to promulgate reasonable rules and regulations for the entire development; and

WHEREAS, under Article VI, Section 4, of the CCRs, noxious or offensive activities are prohibited; and

WHEREAS the Association, through its Board of Directors, has determined that the promulgation of rules and regulations for the installation of above-ground swimming pools; to establish rules of procedure; and to declare that above-ground swimming pools not in compliance constitute noxious or offensive activities is in the best interest of the Association; and

WHEREAS the Association, through its Board of Directors, has determined that rules and regulations for the installation of above-ground swimming pools; to establish rules of procedure; and to declare noncompliant pools to be noxious or offensive activities is necessary to protect the health, safety, and welfare of the residents of the community, as well as to preserve and protect the property values of the community;

THE BOARD OF DIRECTORS of the Association has approved the following resolution, providing for rules and regulations regarding the installation of above-ground swimming pools, which are as follows:

1. Above-ground swimming pools are permitted in the community, provided the lot owner strictly complies with the terms and conditions of this resolution.

2. All above-ground swimming pools must be approved by the Architectural Committee prior to installation. In the case of an above-ground swimming pool in existence on the date of the approval of this resolution, the owner has 90 days from the date of the approval of this resolution to submit an after the fact request for approval to the Architectural Committee, unless the lot owner previously submitted the swimming pool for approval to the Architectural Committee, obtained approval, and the swimming pool is currently in compliance with the terms and conditions of that approval. Lot owners with existent, above ground swimming pools that were approved by the Architectural Committee and are in compliance must follow the rules and regulations in this resolution governing fencing, fence gates, and gate entrance hardware, effective immediately.

3. A. Lot owners installing above-ground swimming pools must obtain a building permit for their swimming pool, together with any accessory or other structures to be constructed, such as decks, steps, and ramps. Construction of the above-ground swimming pool, together with any accessory or other structures constructed must be performed by a licensed contractor; unless the lot owner is a licensed contractor in a field that is permitted to perform this type of work, in which case the lot owner may self-

contract. The above-ground swimming pool, together with any accessory or other structures, must be situated completely in the back yard and completely shielded from street view. The above-ground swimming pool must be surrounded on all sides by a wall or opaque fence, a minimum of six feet in height, which must be maintained at all times and be without breach. The fence, the openings, the gates, and all gate entrance hardware and accessories must be ANSI compliant and approved for swimming pool enclosures. The above-ground swimming pool, together with any accessory or other structures constructed, and the fence must follow any laws, ordinances, or codes applicable to the subject, including, but not limited to, any terms and conditions on the issuance of the building permit.

B. Above-ground swimming pools are restricted to owner-occupied properties only. Lots used for rentals of any kind, and lots that are occupied by permissive use occupants whose names are not on the title to the lot are not permitted to possess an above-ground swimming pool of any kind. Above-ground swimming pools must be of a solid construction and not inflatable or semi-inflatable.

4. Nothing in this resolution shall be construed as eliminating any requirement in the CCRs or the governing documents to submit plans for review and approval by the Architectural Committee.

5. In the event the above-ground swimming pool

i. falls out of use;

ii. contains untreated or contaminated water; or

iii. contains a breach that remains unrepaired for more than 30 days;

then the above-ground swimming pool shall be considered abandoned and the lot owner must immediately remove the above-ground swimming pool, together with any accessory or other structures associated with it.

6. In the event any accessory or other structure associated with the above-ground swimming pool

i. falls into disrepair that remains unrepaired for more than 30 days; or

ii. has collapsed or becomes structurally unsound;

then the above-ground swimming pool shall be considered abandoned and the lot owner must immediately remove the above-ground swimming pool, together with any accessory or other structures associated with it.

7. In the event any fence surrounding an above-ground swimming pool contains a breach of any kind that remains unrepaired for more than seven days, then the above-ground swimming pool shall be considered abandoned and the lot owner must immediately remove the above-ground swimming pool, together with any accessory or other structures associated with it. For the purposes of this paragraph, a breach includes, but is not limited to, gate equipment that is broken, missing, or otherwise not properly functioning. A gate that is left open or ajar for a period of seven days carries a rebuttable presumption that gate equipment is broken, missing, or otherwise not properly functioning.

8. For the purposes of enforcing this resolution, a photograph or other video depiction taken on one day, together with a photograph or other video depiction taken on another day showing the same, similar, or worse conditions, shall carry a rebuttable presumption that the condition existed for every day from and including the day the first photograph or video depiction was taken through and including the day the other photograph or other video depiction was taken.

9. Supplemental Nature; Severability; Effective Date.

A. This resolution is supplemental to any rules and regulations currently governing above-ground swimming pools in the governing documents.

B. No part of this Resolution shall be construed as violating any governing law. In the event any provision is suspected of violating any governing law, the Association shall have the opportunity to provide a construction that will place that provision in conformance with governing law, and if that is done, that construction shall conclusively be presumed to the be correct construction. In the event no construction will place a provision in conformance with governing law, then the offending portion shall be stricken, and the remaining Resolution shall be enforced.

C. This Resolution shall be effective immediately upon passage.

D. The President and the Secretary of the Association shall have the power to conduct any and all acts to provide that this Resolution shall be valid and effective. This includes, but is not limited to, the power to record this Resolution in the public records, to publish this Resolution to the membership, and to execute any collateral documents deemed reasonable to make this Resolution valid and effective.

I hereby certify that this is a true and correct copy of the foregoing Resolution of the Association.

Dated April 29, 2020.

Cindy Brown
Secretary
St. James Crossing Homeowners Association, Inc.

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 29 day of April, 2020, by Cynthia Brown, Secretary, St. James Crossing Homeowners Association, Inc., who is personally known to me or has produced _____ as identification and who did not take an oath.

Monique Desrochers
Notary

MONIQUE DESROCHERS
MY COMMISSION # GG 071893
EXPIRES: March 27, 2021
Bonded Thru Budget Notary Services