

ARTICLE X
RESTRICTIONS

Section 1. Land Use and Building Type. Townhome Units in Village "A " will consist of 8 buildings with 4 Units in each building, having a minimum, air conditioned living area of 1,350 square feet. Plat overlay Units in Village "C " will consist of 115 Units, having a minimum, air conditioned living area of 1,400 square feet. No Lot within Village "C " shall be used except for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling having a minimum, air conditioned living area of 1,400 square feet, exclusive of garages, porches, patios, decks and the like.

Lofts, basement rooms or attic rooms shall not be included in calculations to determine whether the dwelling contains the minimum living area. The ARB shall have the option, in its sole discretion, to reduce the minimum required square footage on a lot-by-lot basis if it finds that because of particular site constraints or qualities attributable to a particular lot and proposed house which will otherwise produce a positive influence on the neighborhood, the particular proposed construction with the reduced minimum square footage shall eliminate a hardship peculiar to the particular lot or shall be otherwise compatible in style and design with the other construction on the properties. All dwellings must have a private enclosed garage. Said garage shall be attached to the main dwelling unless specifically otherwise approved by the ARB. No garage may be later used as living area without the construction of garages as specified above to replace that which is converted to living area. All dwellings must face to the front of the particular lot. None of the foregoing dwellings shall be more than two stories. Separate guest houses not included in the main dwelling are prohibited without express approval of the ARB.

Section 2. Roofs. Without specific ARB approval, no flat, or built up roofs shall be permitted. No mansard roofs shall be permitted. All other roofs shall be composed of dimensional asphalt shingles.

Section 3. Garage and Driveways. In addition to the requirements stated in Section 1 above, no carports will be allowed.

Dwellings shall be served with a concrete or pavers driveway. All driveways must be constructed of concrete, brick pavers, or other such materials acceptable to the ARB. Under no

circumstances shall any driveway be finished with asphalt or any loose material. The plan submittals as required under this Declaration must show the proposed finish of the driveway and detail the colors and material to be used. The color and finish of any material is subject to the express review and approval of the ARB and shall not be approved if it is deemed to be incompatible with the dwelling, surrounding dwellings or the character of the neighborhood.

Section 4. Exterior Materials.

A. General. The major material used on the front exterior of the dwelling should be used on all sides of the dwelling, not to exclude other materials used for accents or decorative features if in good taste and acceptable to the ARB.

B. Windows. Window glass shall be clear or tinted bronze, grey or smoke. Also permitted is obscure glass and glass block. Reflective tints are not acceptable.

The use of hurricane window protection (shutters, panels, etc.) shall be limited to the time that a hurricane watch and/or warning is in effect for Indian River County through a period of time 72 hours following the expiration of the hurricane watch and/or warning. Use of hurricane window protection shall be defined as full or partial covering of the glass portion of any windows or doors with a material or product designed or used for the purpose of protecting the windows or doors from damage. Hurricane shutters in an open, and secured, position shall not be considered in "use".

Hurricane window protection shall be limited to the following types of products: working shutters designed to be closed and secured in the event of a hurricane. Panels, corrugated or flat, made of approved material, designed to be attached to the structure using preinstalled threaded rods, or tracks. Roll down or accordion type products. Only professionally manufactured products are approved for hurricane window protection.

The portion of the hurricane window protection system that is permanently mounted to the structure must be of the same color as the portion of the structure it is attached to, or white. The portion of the hurricane window protection system designed to be used only during the "full use" period shall be an appropriate color, or lack of color, based on the design and material of the product. This shall be determined by the Board of Directors.

The Board of Directors shall have the authority to give approval to additional types of hurricane window protection products.

Section 5. Building Location. The front, side and rear setback lines are to conform with the Subdivision Guidelines, Typical Lot Detail, Indian River County Code of Ordinances, and the plat of the Subdivision.

Section 6. Common Improvements. The common improvements described above are for the benefit and well-being of the Owners and shall be retained and maintained at the direction of the Homeowners Association. The Board of Directors of the Association may publish rules and regulations pertaining to the uses, functions and activities for said common area.

Section 7. Signs. No sign of any kind shall be displayed to public view on any Lot or in the window of any Unit. Notwithstanding the foregoing, Developer shall be entitled to maintain flags, signs and banners and the like, until after sale of the last Lot by Developer.

Section 8. Game and Play Structures. Tree houses or platforms of a like kind or nature will not be constructed on any part of the Lot or Common Area. Fixed or permanent game or play structures shall be permitted subject to the architectural review procedures defined herein, if the ARB, in its sole discretion, determines the structures to be aesthetically compatible with the neighborhood. No structures which are attached to the house, which in the opinion of the ARB are offensive, block view, invade the privacy of surrounding lots, or violate the aesthetic quality of the neighborhood or adjoining lots shall be permitted. Temporary movable play equipment (for example basketball, volleyball or badminton nets) is permissible provided it is not left erected for more than 24 hours without the prior consent of the ARB, and not in the road right-of-way, at any time.

Section 9. Fence Wall; Hedges. No fence or fence walls shall be constructed, erected or maintained on or around any portion of building lot that is in front of or within 40' of the front building line of the dwelling. Any fence or wall must, in the sole discretion of the ARB, be completely and aesthetically acceptable in design, materials and construction. No chain link, split rail or stockade fences shall be permitted. The ARB encourages the use of white PVC fencing. The ARB shall determine the maximum height of any fence, wall or hedge, but in no event shall a fence or fence/wall or hedge exceed a height of six (6) feet, measured from finished grade, except when located on a berm, the berm height shall be taken into account by the ARB. No fences shall be constructed of any material other than white aluminum or other material specifically approved in the sole discretion of the ARB. Exposed block, simulated brick or simulated stone are not acceptable on those portions of a fence/wall which are of masonry construction. No fence or walls shall be

constructed perpendicular or adjacent to the fence or wall on any adjoining lot which is not the exact same height as the fence located on said adjoining lot. The intent of this requirement is to preserve a uniform appearance and height to avoid an irregular or unsightly character on different properties which do not match in height, particularly where the fences intersect. No hedges shall be permitted to grow in excess of six (6) feet in height, except hedges located on the exterior boundaries portions of the subdivision which do not adjoin any other lot within the subdivision. All hedges shall be neatly trimmed and kept in a manicured appearance at all times. In general, hedges located in front on the front building line of a dwelling shall not exceed three (3) feet in height without specific approval of the ARB. No frontage hedge (being defined as a hedge running parallel with a front lot line which is located anywhere in front of the front building line of the dwelling) shall be permitted without the express written approval of the ARB, and said approval shall be granted only if the hedge does not exceed three (3) feet in height. All frontage hedges, if approved, must be low or be of an open design not to block the view of a house and landscaping. Owners of Lots are hereby put on notice that the use of fences or hedges located in front of the front building line which restrict an open view are disfavored and shall be closely scrutinized.

Section 10. Swimming Pool. Any swimming pool to be constructed upon any homesite shall be subject to review and approval by the ARB, provided, however, Developer is exempt from any approval by the ARB. The design must incorporate, at a minimum, the following:

- A. The composition of the material must be thoroughly tested and accepted by the industry for such construction.
- B. Unless otherwise approved by the ARB any swimming pool constructed on any Lot shall have an elevation of the top of the pool not over one foot above the natural grade and pool patios and decks should be at grade unless otherwise approved. No above-ground pools are permitted.
- C. Pool screen enclosures must be of a design, color and material matching the house and approved by the ARB and shall be no higher than twelve (12) feet unless otherwise approved by the ARB.
- D. Pool screening shall not extend beyond the sides of the house without express approval of the ARB. Above ground pools or spas shall not be permitted. Any swimming pool to be constructed on any lot shall be subject to approval of the ARB.

Screened pools may be permitted when designed as an integral part of the roof and walls.

- E. Pool enclosures must not block the view from the other lots.
- F. Any lighting of a pool or other recreation area shall be designed so as to buffer surrounding dwellings from the lighting and must be approved by the ARB.

Section 11. Maintenance of Vacant Lots.

A. **Vacant Lots.** Once a Lot has been sold by the Developer, the same, whether improved or not, shall be maintained in good appearance and free from overgrown weeds and from rubbish or from weeds and grass growing over the edge of the curb. It is recommended that vacant lots be maintained once every two weeks during the growing season and once a month during the winter season. In the event any Lot is not maintained, then the Developer, its successors and/or assigns, including specifically the Association, shall have the right to enter upon said Lot for the purpose of cutting removing such overgrown weeds and rubbish and the expense thereof shall be charged to and paid for by the Owner of such Lot. If not paid by said Owner within thirty (30) days after being provided with a written notice of such charge, the same shall become a special assessment lien upon said Lot until paid, bearing interest at the highest lawful rate until paid, and may be collected by an action to foreclose said lien or by an action at law, at the discretion of said Developer, its successors and/or assigns, including the Association, in the same manner as any other lien or action provided for in these restrictions.

B. **Construction Schedule.** The Board may promulgate rules and regulations governing the required commencement of construction. Developer or the ARB shall have the right to grant extensions to this time limitation. Once construction has been commenced, work must be continuously prosecuted with due diligence. Unless additional time is granted at the time of plan approval or unless construction is delayed by matters outside the control of the Owner and Owner's contractor (including but not limited to inclement weather conditions, unavailability of materials, acts of God and the like) construction must be finished and landscaping and all finishes installed within nine (9) months from commencement of construction unless extended by the ARB for good cause. In the event said schedule is not met, or in the event that construction ceases for a continuous thirty (30) day period, Developer or the ARB shall have the right, but not obligation to take such

steps as may be deemed necessary by either of them to correct the situation, including but not limited to:

1. completion of construction,
2. installation of appropriate landscaping,
3. removal of materials and debris, and
4. such other actions as may be necessary to minimize the negative aesthetic quality of the incomplete structure. In the event of a violation of this paragraph, Developer or the ARB shall have the right to bring an action at law or in equity to compel performance with these provisions. In the event either deems it necessary to exercise the right of self help granted above, the correcting party shall have the right to record a claim of lien for the costs of enforcing or remedying the violation. Said lien may be enforced and foreclosed in the same manner provided herein for enforcement of liens for unpaid assessments. A subsequent Owner acquiring title to a Lot takes title subject to any plan approval previously granted by the ARB if the dwelling improvements have been commenced but not completed and is subject to all requirements herein to diligently complete construction in a timely manner.

Section 12. Garbage and Trash Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers and, except during pick-up, if required to be placed at the curb, all containers shall be kept out of sight from the street and adjoining lots and stored in garage. There shall be no burning of trash or any other waste materials. The Association shall have the right to employ or contract with a refuse collection service and, in such case, each Lot Owner shall use that service to the exclusion of any other. During the time that the Developer is constructing residences on the lots, the Developer shall have the right to stockpile materials on the lots for construction of the residences.

Section 13. Nuisances. No noxious or offensive activity, including without limitation, noise, odor or lights, shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall be no solicitations of any kind in the subdivision except by lawful permit obtained from the applicable governmental body, accompanied by written approval of Developer or the Association.

Section 14. Temporary Structures. No structures of a temporary character, trailer, tent, shack, garage, barn or other outbuilding, unless approved by the ARB, on any Lot at any time as a residence, either temporarily or permanently, or shall a temporary structure of any kind be used for storage, utility, tools, workshop or otherwise. During the time that the Developer is constructing residences on the lots, the Developer shall have the right to maintain a temporary structure or trailer on any lot or Common Area which would be used for construction purposes.

Section 15. Pets. No livestock, horses, poultry or other animals of any kind shall be raised, bred or kept on any Lot, except that dogs and cats in numbers which do not create a nuisance or health hazard may be kept provided that they are not kept, bred or maintained for any commercial purposes. No kennels or animal shelters shall be permitted. No pet or other animal shall be permitted to leave the Lot on which said pet resides unless under leash and in control of a responsible person. Indoor pets are encouraged. The maximum number of cats and dogs maintained on one lot shall be two (2) dogs and two (2) cats. Owner shall clean up pet's feces when pet is maintained outside of residence, including common areas and owner's back yard.

Section 16. Clotheslines, Solar Devises and Tanks. No clotheslines, drying yards or similar devises shall be permitted to be erected on any Lot. No tanks of any type, including without limitation, oil or gas shall be maintained on any lot without ARB approval, providing, however, there shall not be permitted on any lot an above ground tank of any type.

Any solar panels or other devises for the collection of solar energy shall be placed in a manner so as not to be visible from adjoining properties. Any such devices shall be subject to the architectural review requirements contained in Article IX of the Declaration, and the ARB is authorized to prescribe the location, color, and design of such device. The ARB may prescribe a standard design and color, or may prescribe a design and color which will best blend with the dwelling on which the device is to be placed, or both, in its discretion. All such devices shall be located to the rear of dwellings and shall be mounted flat against the dwelling roof. In no event, shall any such device be visible from any street running in front of or adjacent to the Lot. No solar device may be mounted on a Lot other than on the dwelling roof.

Section 17. Vehicles and Repair. No inoperative cars, motorcycles, boats, trucks, trailers or other types of vehicles shall be allowed to remain either on or adjacent to any Lot, provided, however, this provision shall not apply to any such vehicle being kept in an enclosed garage. There

shall be no maintenance or repair (excluding routine washing and waxing) performed on any motor vehicle on or adjacent to any Lot. When not in use, all operative vehicles must be parked in the garage and not anywhere else on the Lot or on the street. No outside parking area in addition to the driveway shall be permitted unless specifically approved by the ARB and only then if said additional parking area is not visible from the street or any adjoining Lot(s).

If upon the Association's provision of that notice required by Section 715.07, Florida Statutes and applicable County Ordinances, as amended from time to time, an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the Property, the Association shall have the power and right to have the vehicle towed away at the vehicle owner's expense.

Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Section 17 by injunctive and other relief through the courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation and Bylaws. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 17.

Garage doors shall be kept closed when not in use. Each garage must be kept free of materials and debris so that it may be used at all times to park vehicles and so an unsightly condition is not present when garage doors are in use. No garage may be converted to additional living space except pursuant to plans approved by the ARB, which plans must provide for new garage space. The following modes of transportation shall be required to be maintained in the Owner's garage: pickup trucks, vans, motorcycles, boats and any vehicle which has any type of sign or lettering on its exterior body. All other automobiles and sport utility vehicles are permitted to be maintained on the lot, but not necessarily in the owner's garage. Recreational vehicles and boats are not to be stored on the lots except (i) in the Owner's garage or (ii) for a two-hour period for loading and unloading, which if violated by Owner would subject Owner to lose privilege of loading and unloading at the sole discretion of Board of Directors.

Section 18. Easements. Easements to the Association for installation and maintenance of landscaping, utilities and drainage facilities, and ingress and egress to lake are reserved as shown on the recorded plat, or as heretofore or hereafter granted by said Developer or its predecessors in title.

Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of the flow or drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company or the Association is responsible. No above ground wires or pipes shall be permitted within the utility easements.

Section 19. Trees. Unless the ARB permits in writing to the contrary, no trees larger than four (4) inches in diameter measured at three (3) feet above ground level may be removed from any lot unless the tree is located within the house pad or driveway or unless the tree is diseased, in either of which cases the ARB must be notified in writing fifteen (15) days prior to removal. The Developer is exempt from this restriction.

Section 20. Walkways. All walkways shall be constructed of the same materials as the driveways or of other compatible materials acceptable to the ARB. Walkways shall be designed and located to be in harmony with the location of the improvements, the landscape plan and the drainage design. All walkways located on lot shall be maintained and insured for liability by Owner.

Section 21. Antennas, Satellite Receivers. There shall not be permitted to exist anywhere on the Properties any outside antennas or other devices for the purposes of reception of television, radio, ham radio or similar signals. The term antenna as used herein shall be interpreted to specifically prohibit the construction or installation of a satellite dish or similar type of receiving device, whether such device is to be part of the structure or located on the Lot apart from the structure unless approved by ARB. Notwithstanding the above, the Owner is entitled to maintain an 18" dish, provided prior to installation, the Owner obtains written approval of the location of said dish from the ARB.

Section 22. Cable Services. Developer may enter into any such contracts which Developer determines are for the benefit of the Owners, generally. The expenses of such contracted undertakings shall be a Common Expense, and a upon the date of the closing, shall become a Unit Expense. All maintenance, repairs and replacements not covered by the contract shall remain the responsibility of the Unit Owner. An election by Unit Owner not to take advantage of the services or maintenance provided by such contracts shall not excuse the Owner from paying his share of the cost.

Section 23. Mailboxes and Coach Lights. Mailboxes must conform to a standard mailbox design to be promulgated and made available by the ARB. Initial mailboxes shall be purchased from or through Developer as part of the initial assessment. The Owner shall be responsible for maintaining any Coach Lights in good working order at Owner's expense.

Section 24. Exterior Painting. The Association, or Developer while in control of the Association, shall have the right to require each residence, including the roof and driveway, to be cleaned and repainted periodically, if in the opinion of the Association or Developer the cleaning or repainting is necessary. If the Association or Developer determines that repainting is necessary, the Owner shall have the right to change the color of the exterior, provided the color is approved by the ARB and any additional costs, as a result of changing the color, is paid by the Owner. All approved colors will be set by the ARB and each Townhome building, containing 4 living Units, will be required to be one color.

Section 25. Drainage and Grading. No drainage ditches, cuts, swales, berms, impoundments, mounds, knobs, or hills and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be created, destroyed, altered or modified without the prior written consent of the ARB, whether on private property or common area.

Special attention shall be given to proper site drainage, so that surface waters will not interfere with surrounding homesites and natural drainage flows. Paved areas shall be designed to allow surface water to drain naturally and not to allow water to collect or stand.

In the event the ARB has reason to believe any proposed improvements will alter the existing drainage of a Lot or adjoining lots, the plan submission process shall include a drainage and grading plan prepared by a civil engineer, and the resulting design shall be consistent with existing ground slopes and shall not obstruct proper drainage or cause standing water or washouts.

Section 26. Review Fees. When an Owner, other than the Developer, submits plans to the ARB for preliminary review or final approval, the submission shall include the "Review Fees" as described below:

- A. *New Home Construction* - the original contemplated alteration of a homesite from its natural state to a residential dwelling with submission to include

building plans, specifications, plat plans and landscape plan: Three Hundred Fifty Dollars (\$350.00).

- B. *Major alteration or addition* - structural or site modification taking place after the original construction which is significant enough to warrant the issuance of a building permit by a governmental authority, including without limitation, pool and/or screen cage: One Hundred Twenty Five Dollars (\$125.00).
- C. *Minor alteration or addition* - structural or site modifications of a relatively insignificant nature, including without limitation, shutters, gutters, screen enclosures, exterior paint change, or fence request: Fifty Dollars (\$50.00).
- D. *Changes to or re-submission of plans* - whenever a submission for which the ARB previously granted final approval is re-submitted for final approval to the ARB due to a change in the originally approved plan, or whenever a submission whose approval was previously denied is re-submitted by a builder or homeowner: Seventy Five Dollars (\$75.00).
- E. *Reinspection* - when a dwelling or any improvement fails to pass inspection because of noncompliance with approved plans and specifications, a reinspection fee shall be imposed and shall be a condition of final approval: Fifty Dollars (\$ 50.00).

Section 27. Statues/Windmills/Fountains. No statues, windmills, fountains, or other ornamental or similar items will be allowed which are visible from any street or neighboring improvement without written approval of the ARB. No screens over exterior doors are permitted.

All temporary and reasonable exterior holiday decorations shall be permitted one (1) week before and one (1) week after the holiday.

Section 28. Compatibility of Design, Style and Quality. In the ARB, in its sole discretion, determines that any plans as submitted, notwithstanding the fact the plans may meet technical requirements of this Declaration would (1) lower the value of any other Property or dwelling the Properties, or (2) are inconsistent with the character of development and construction of homes in the Properties, or (3) are not compatible in style, design, or quality with the development of the Properties as a whole or with any other dwellings planned to be constructed or already constructed on the Properties, the ARB may disapprove of plans or require modifications as it sees fit. The ARB shall be the final arbiter in conflicts involving questions of taste and aesthetics or in resolving

conflict or interpretations of this Declaration and the Guidelines. The fact that a particular type of construction, material, design concept or other aspect is not specifically prohibited herein shall not preclude the ARB from prohibiting it in the future or in a particular application.

Section 29. Enforcement of Fines. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family guests, invitees, or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are followed:

- A. **Notice.** The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of the next Board of Directors meeting at which time the Owner shall present reasons why penalties should not be imposed.
- B. **Hearing.** The non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why penalties should not be imposed. Any party charged shall be entitled to cross-examine witnesses and may be represented by counsel. A written decision of the Board of Directors shall be submitted to the Owner not later than twenty-one (21) days after the Board of Directors' meeting.
- C. **Penalties.** The Board of Directors may impose special assessments against the Lot owned by the Owner as follows:
 - (1) First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
 - (2) Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).
 - (3) Third and subsequent non-compliance, or violation or violations which are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00).
- D. **Payment of Penalties.** Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.
- E. **Collection of Fines.** Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth in Article VI hereof.

- F. **Application of Penalties.** All monies received from fines shall be allocated as directed by the Board of Directors.
- G. **Non-exclusive Remedy.** These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Section 30. Occupancy and Sale. The occupancy of any property or dwelling or any portion of a dwelling within the property shall be subject to the provisions set forth in this Section. As used herein, a lot or dwelling is considered to be leased if it is occupied on a temporary or continual basis by parties other than the Owner or Owner's family.

- A. All leases or non-owner occupancy must be in writing and shall each have a minimum term of one (1) year, unless a shorter period is permitted by the Association. At the time of entering into a lease, the Owner and the Owner's tenant shall provide the Association with an executed copy of the lease and pay a review fee as established by the Association.
- B. Each lease shall contain, or shall be deemed to contain the following:
 - 1. The lease shall designate the parties who are entitled to occupy the premises, and shall state that no other parties are permitted to occupy the premises.
 - 2. The lease shall provide that continued violation of any of the provisions of the Notice of Restrictions shall constitute cause for termination of the lease and eviction of the tenants.
- C. In the event of continual violation of these restrictions on a leased or non-owner occupied property, the Board of Director of the Association shall have the right to give notice to the Owner directing Owner to institute proceedings to evict the tenants. In the event that Owner has not initiated and completed eviction proceedings within thirty (30) days, the Association shall have the right, but not the duty, to institute eviction proceedings on behalf of the Owner. For this purpose, each Lot Owner hereby irrevocably appoints the President of the Association as his attorney in fact for purposes of initiating said action. Any court costs or attorneys' fees expended by the

Association pursuant to the eviction action under this provision shall be the responsibility of Owner and shall be paid within thirty (30) days of written notice from the Association requesting payment. In the event said costs or fees are not paid, they shall become a special assessment against Owner's Lot and, if not paid, shall be subject to the lien and foreclosure procedures contained elsewhere in these formal normal assessments. In addition, the non-owner violator shall be required to return all gate openers and keys to the Clubhouse to the Association.

- D. At the time of the sale of any lot, Owner, except Developer, is required to provide Association the following: (i) name, address and telephone number of Buyer; (ii) date of closing; (iii) closing statement of transaction; and (iv) copy of deed transferring

Restrictions - END title.
Article X

ARTICLE XI

WAIVER OF VIOLATION

Where a building is submitted to the ARB for approval or where a building has been erected or the construction thereof is substantially advanced and its construction would constitute a violation of the above covenants or it is situated on any Lot in such a manner that the same constitutes a violation or violations of any of above covenants, said ARB or the Developer, its successors and/or assigns, shall have the right to release such Lot or portion thereof from such part of the provisions of any said covenants as are violated; provided, however, that said ARB or Developer, its successors and/or assigns, shall not release a violation or violations of any of said covenants except as to a proposed waiver they, in their sole discretion, determine to be not seriously detrimental to the neighborhood, or to be positive contribution to surrounding dwellings and the neighborhood. For example, but not by way of limitation, preservation of existing trees might be such a circumstance. Waivers may also be appropriate where a proposed material, design or treatment, while not in strict compliance, is a positive element or is indistinguishable from a permitted material, design or treatment or possess the same visual quality.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Term. The Covenants and Restrictions of this Declaration shall run with and bind the land for a term of fifty (50) years from the date this Declaration is recorded, after which time they

F. **No Liability.** Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the ARB, the Developer thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither Developer, the Association, the ARB, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Developer, the Association, the ARB, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for any claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

VII. **Article X, Section 11** has been deleted in its entirety, and **Sections 1, 4.B., 6, 7, 12, 16, 17, 23, 24, 26, 27, 29 and 30** are amended to read as follows:

Section 1. Land Use and Building Type. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family

Amendment
2012

dwelling having a minimum, air conditioned living area of 1,400 square feet, exclusive of garages, porches, patios, decks and the like.

Lofts, basement rooms or attic rooms shall not be included in calculations to determine whether the dwelling contains the minimum living area. The ARB shall have the option, in its sole discretion, to reduce the minimum required square footage on a lot-by-lot basis if it finds that because of particular site constraints or qualities attributable to a particular lot and proposed house which will otherwise produce a positive influence on the neighborhood, the particular proposed construction with the reduced minimum square footage shall eliminate a hardship peculiar to the particular lot or shall be otherwise compatible in style and design with the other construction on the properties. All dwellings must have a private enclosed garage. Said garage shall be attached to the main dwelling unless specifically otherwise approved by the ARB. No garage may be later used as living area without the construction of garages as specified above to replace the area converted to living area unless approved by the ARB. All dwellings must face to the front of the particular lot. None of the foregoing dwellings shall be more than two stories. Separate guest houses not included in the main dwelling are prohibited without express approval of the ARB.

Section 4. Exterior Materials.

B. Windows.

The use of hurricane window protection (shutters, panels, etc.) shall be limited to the time that a hurricane watch and/or warning is in effect for Indian River County through a period of time 72 hours following the expiration of the hurricane watch and/or warning or seven (7) days after an actual hurricane has affected Vero Beach. The Board

of Directors shall have the authority to allow hurricane shutters to be “in full use” for a greater length of time as deemed necessary. Use of hurricane window protection shall be defined as full or partial covering of the glass portion of any windows or doors with a material or product designed or used for the purpose of protecting the windows or doors from damage. Hurricane shutters in an open, and secured, position shall not be considered in “use”.

Hurricane window protection shall be limited to the following types of products: working shutters designed to be closed and secured in the event of a hurricane. Panels, corrugated or flat, made of approved material, designed to be attached to the structure using preinstalled threaded rods, or tracks. Roll down or accordion type products. Only professionally manufactured products are approved for hurricane window protection.

The portion of the hurricane window protection system that is permanently mounted to the structure must be of the same color as the portion of the structure it is attached to, or white. The portion of the hurricane window protection system designed to be used only during the “full use” period shall be an appropriate color, or lack of color, based on the design and material of the product. This shall be determined by the Board of Directors.

The ARB shall have the authority to give approval to additional types of hurricane window protection products.

Section 6. Common Improvements. Improvements to the Common Areas described in Article I, Section 1.C. are for the benefit and well-being of the Owners and shall be retained and maintained at the direction of the Homeowners Association. The

Board of Directors of the Association may publish rules and regulations pertaining to the uses, functions and activities for said common area.

Section 7. Signs. No sign of any kind shall be displayed to public view on any Lot or in the window of any Unit. Notwithstanding the foregoing, Owners shall be entitled to display a sign only during an advertised Open House for the sale of a Lot or Unit or when the gates are opened for that purpose, not to exceed four hours per day.

The Board of Directors may post regulatory signs as needed for the safety and welfare of the community.

Section 12. Garbage and Trash Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in suitable trash containers. All containers shall be kept out of sight from the street and adjoining lots and stored in garage, except during pick-up when they are required to be placed at the curb. There shall be no burning of trash or any other waste materials. The Association shall have the right to employ or contract with a refuse collection service and, in such case, each Lot Owner shall use that service to the exclusion of any other. During the time that the Developer is constructing residences on the lots, the Developer shall have the right to stockpile materials on the lots for construction of the residences.

Section 16. Solar Devices and Tanks. No tanks of any type, including without limitation, oil or gas shall be maintained on any lot without ARB approval, providing, however, there shall not be permitted on any lot an above ground tank of any type.

Any solar panels or other devices for the collection of solar energy shall be placed in a manner as approved by the ARB. Any such devices shall be subject to the architectural review requirements contained in Article IX of the Declaration, and the ARB is authorized to prescribe the location, color, and design of such device. The ARB may prescribe a standard design and color, or may prescribe a design and color which will best blend with the dwelling on which the device is to be placed, or both, in its discretion.

Section 17. Vehicles and Repair. No inoperative cars, motorcycles, boats, trucks, trailers or other types of vehicles shall be allowed to remain either on or adjacent to any Lot, provided, however, this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no maintenance or repair (excluding routine washing and waxing) performed on any motor vehicle on or adjacent to any Lot. No vehicles of any type shall be parked on any grass area within Trillium Subdivision so as not to cause any damage to sod or irrigation lines.

If upon the Association's provision of that notice required by Section 715.07, Florida Statutes and applicable County Ordinances, as amended from time to time, an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the Property, the Association shall have the power and right to have the vehicle towed away at the vehicle owner's expense.

Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Section 17 by injunctive and other relief through the courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation and Bylaws. The

Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 17.

Each garage must be kept free of materials and debris so that it may be used at all times to park vehicles and so an unsightly condition is not visible when garage doors are open. No garage may be converted to additional living space except pursuant to plans approved by the ARB, which plans must provide for new garage space. The following modes of transportation (as specified on the vehicle's registration) shall be required to be maintained in the Owner's garage from 10 p.m. to 6 a.m.: pickup trucks, motorcycles, boats, trailers, and any vehicle which has any type of commercial sign or lettering on its exterior body. All other automobiles and sport utility vehicles are permitted to be maintained on the lot, but not necessarily in the owner's garage. Overnight parking on the street is prohibited. Recreational vehicles and boats are not to be stored on the lots except (i) in the Owner's garage or (ii) for a four-hour period for loading and unloading, which if violated by Owner would subject Owner to lose privilege of loading and unloading at the sole discretion of Board of Directors or (iii) for the purposes of loading and unloading a motor vehicle, said vehicle shall not extend beyond one's driveway and cannot be left in the driveway for more than twenty-four (24) hours. Moving containers such as a POD must be kept on the paved driveway and shall only be permitted for purposes of loading and/or unloading for a period not to exceed seventy-two (72) hours.

Guest vehicles, regardless of classification, shall be allowed to park in Owner's driveway provided that approval from the Property Manager is obtained. All guest vehicles must fit in the Owner's driveway without protruding into the street.

Section 23. Mailboxes and Coach Lights. Mailboxes must conform to a standard mailbox design to be promulgated and made available by the ARB. Initial mailboxes shall be purchased from or through Developer as part of the initial assessment. The Owner shall be responsible for maintaining any Coach lights in good working order at Owner's expense. Residents are encouraged to keep Coach lights illuminated from dusk to dawn for the safety and security of the community. Any Coach light requiring replacement must conform to the style and color of the fixture being replaced and be approved by the ARB.

Section 24. Exterior Painting. The Association or Developer while in control of the Association, shall have the right to require each residence, including the roof and driveway, to be cleaned and repainted periodically, if in the opinion of the Association or Developer the cleaning or repainting is necessary. If the Association or Developer determines that repainting is necessary, the Owner shall have the right to change the color of the exterior, provided the color is approved by the ARB and any additional costs, as a result of changing the color is paid by the Owner. All approved colors will be set by the ARB and each Townhome and Villa building, containing 4 living Units, will be required to be one color.

Section 26. Review Fees. When an Owner, other than the Developer, submits plans to the ARB for preliminary review or final approval, the submission shall include the "Review Fees" as determined and set from time to time by the Board of Directors. The Review Fee schedule is set forth in the Trillium Subdivision Architectural Guidelines.

Section 27. Statues/Windmills/Fountains. No statues, windmills, fountains, or other ornamental or similar items will be allowed which are visible from any street or neighboring improvement without written approval of the ARB. No screens over exterior doors are permitted unless approved by the ARB.

All temporary and reasonable exterior holiday decorations shall be permitted one (1) month before and two (2) weeks after the holiday.

Section 29. Enforcement of Fines. The Board of Directors may impose fines on lot owners in such reasonable sums as they may deem appropriate, up to the highest amount allowed by law, for violations of the Declaration of Covenants and Restrictions, the Bylaws or lawfully adopted Rules and Regulations by owners, their guests or tenants. Before levying a fine pursuant to this paragraph, the Board of Directors shall afford an opportunity for a hearing before a committee of the Association to the party against whom the fine is sought to be levied, after reasonable notice of not less than fourteen (14) days. This notice shall include: (a) a statement of the date, time and place of the hearing; (b) a statement of the provisions of the Declaration of Covenants and Restrictions, the Bylaws or lawfully adopted Rules and Regulations which have allegedly been violated; and (c) a short and plain statement of matters asserted by the Association. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association. Upon the levy of any fine, the Board may collect such fines like assessments in one or more installments. Each day of violation shall be a separate

violation. The affected lot owner, whether the offending party or not, shall always be given notice of the hearing.

Section 30. Occupancy and Sale.

A. All leases of lots must be in writing and be for a term of six (6) months. At the time of entering into a lease, the Owner and Owner's tenant shall provide the Association with an executed copy of the lease and pay a review fee as established by the Association.

B. Each lease shall contain, or shall be deemed to contain the following:

1. The lease shall designate the parties who are entitled to occupy the premises, and shall state that no other parties are permitted to occupy the premises.
2. The number of parties unrelated by blood, marriage or adoption occupying the premises shall not be greater than the number of bedrooms in the leased premises.
3. There shall be no sub-letting of any premises for which a lease has been entered into by the Owner.
4. The lease shall provide that continued violation of any of the provisions of the Notice of Restrictions shall constitute cause for termination of the lease and eviction of the tenants.

END —

VIII. **Article XII, Sections 2 and 4** are amended to read as follows:

Section 2. Amendments. This Declaration of Restrictions on Real Estate of Trillium Subdivision may be amended, altered or rescinded only by a seventy-five percent (75%) vote of the total votes cast by the members at an Annual Members'

purposes of altering design aesthetics, approval must be obtained by submitting a comprehensive plan to the ARB for approval.

Trees and palms planted by the Lot Owner that require any extensive pruning or root service required to prevent or correct for damage to a house and its structures (including: screen enclosure, pool, driveway, walkway, mailbox, irrigation, sewer, electrical, telephone/cable utility service components or connections) is the sole responsibility of the Lot Owner.

II. **ARTICLE IX, ARCHITECTURAL CONTROL Section 1 deleted, Section 4** amended as follows:

Section 4. Composition of ARB. It is recognized that the Association shall have an ARB to review plans in accordance with architectural criteria and standards of the Declaration of Restrictions on Real Estate for Trillium Subdivision. The ARB shall be appointed by the Board of Directors and shall consist of a Board Chairperson and no more than five (5) committee members who shall be appointed by the Board to serve for a one (1) year term.

III. **ARTICLE X, Sections 2, 4.B, 7, 12, 17, 26, 30.A, 30.B.5** are amended as follows:

Section 2. Roofs. Without specific ARB approval, no flat, or built up roofs shall be permitted. No mansard roofs shall be permitted. All other roofs shall be composed of dimensional asphalt shingles of a color consistent with the original roof color and approved by the ARB.

Section 4. Exterior Materials.

B. Windows.

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The use of hurricane window protection (shutters, panels, etc.) shall be limited to the time that a hurricane watch and/or warning is in effect from Palm Beach County to Brevard County through a period of time ten (10) days following the expiration of the hurricane watch and/or warning or ten (10) days after an actual hurricane has affected Vero Beach. Use of hurricane window protection shall be defined as full or partial covering of the glass portion of any windows or doors with a material or product designed or used for the purpose of protecting the windows or doors from damage. Hurricane shutters in an open, and secured, position shall not be considered in "use".

Hurricane window protection shall be limited to the following types of products: working shutters designed to be closed and secured in the event of a hurricane. Panels, corrugated or flat, made of approved material, designed to be attached to the structure using preinstalled threaded rods, or tracks. Roll down or accordion type products. Only professionally manufactured products are approved for hurricane window protection.

The portion of the hurricane window protection system that is permanently mounted to the structure must be of the same color as the portion of the structure it is attached to, or white. The portion of the hurricane window protection system designed to be used only during the "full use" period shall be an appropriate color, or lack of color, based on the design and material of the product. This shall be determined by the Board of Directors.

The ARB shall have the authority to give approval to additional types of hurricane window protection products.

Section 7. Signs. With the exception of home protection signs no larger than 12 inches by 12 inches, no sign shall be displayed to public view on any Lot or in the window of any Unit.

Section 12. Garbage and Trash Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in suitable trash containers. All containers shall be kept out of sight from the street and adjoining lots and stored in garage, except during pick-up when they are required to be placed at the curb. Trash and recycling containers shall not be put out prior to 5:00 p.m. the day before pickup and shall be returned to garage no later than 11:59 p.m. on the day of pickup. There shall be no burning of trash or any other waste materials. The Association shall have the right to employ or contract with a refuse collection service and, in such case, each Lot Owner shall use that service to the exclusion of any other.

Section 17. Vehicles and Repair. No inoperative cars, motorcycles, boats, trucks, trailers or other types of vehicles shall be allowed to remain either on or adjacent to any Lot, provided, however, this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no maintenance or repair (excluding routine washing and waxing) performed on any motor vehicle on or adjacent to any Lot. No vehicles of any type shall be parked on any grass area within Trillium Subdivision so as not to cause any damage to sod or irrigation lines.

If upon the Association's provision of that notice required by Section 715.07, Florida Statutes and applicable County Ordinances, as amended from time to time, an offending vehicle owners does not remove a prohibited or improperly parked vehicle

from the Property, the Association shall have the power and right to have the vehicle towed away at the vehicle owner's expense.

Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Section 17 by injunctive and other relief through the courts; and/or any other remedy conferred upon the Association by law or the Declaration, Articles of Incorporation and Bylaws. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 17.

Each garage must be kept free of materials and debris so that it may be used at all times to park vehicles and so an unsightly condition is not visible when garage doors are open. No garage may be converted to additional living space except pursuant to plans approved by the ARB, which plans must provide for new garage space. The following modes of transportation (as specified on the DMV registration or VIN number) shall be required to be maintained in the Owner's garage from 10 p.m. to 6 a.m.: pickup trucks, commercial vans, motorcycles, boats, trailers, vehicles with open cargo beds and any vehicle which has any type of commercial sign or lettering on its exterior body. All other automobiles and sport utility vehicles are permitted to be maintained on the lot, but not necessarily in the owner's garage. Overnight parking on the street is prohibited. Recreational vehicles and boats are not to be stored on the lots except (i) in the Owner's garage or (ii) for a four-hour period for loading and unloading, which if violated by Owner would subject Owner to lose privilege of loading and unloading at the sole discretion of Board of Directors or (iii) for the purposes of loading and unloading a motor vehicle, said vehicle shall not extend beyond one's driveway and cannot be left in the

driveway for more than twenty-four (24) hours. Moving containers such as a POD must be kept on the paved driveway and shall only be permitted for purposes of loading and/or unloading for a period not to exceed seven (7) consecutive days.

Guest vehicles, regardless of classification, shall be allowed to park in Owner's driveway provided that approval from the Property Manager is obtained. All guest vehicles must fit in the Owner's driveway without protruding into the street.

Section 26. Review Fees. When an Owner submits plans to the ARB for preliminary review or final approval, the submission shall include the "Review Fees" as determined and set from time to time by the Board of Directors. The Review Fee schedule is set forth in the Trillium Subdivision Architectural Guidelines.

Section 30. Occupancy and Sale.

- A. All leases of lots must be in writing and be for a term of six (6) months.
1. No lot owner may dispose of a lot or any interest in a lot by lease without approval of the Association.
 2. A lot owner intending to make a bona fide lease of their lot or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as said Board of Directors may reasonably require, a transfer fee in an amount to be determined by said Board of Directors, and an executed copy of the proposed lease.

3. Within thirty (30) days after receipt of such notice and information, the Association must either approve or disapprove the proposed lease. If approved, the approval will be stated in a certificate executed on behalf of the Association.
 4. If the Association shall disapprove a lease, the lot owner shall be advised of the disapproval in writing, and the lease shall not be made.
 5. If the above required notice to the Association is not given, then at any time after receiving knowledge of a lease of a lot, the Board of Directors at its election and without notice may approve or disapprove the lease. If said Board disapproves the lease, it will proceed as if it had received the required notice on the date of such disapproval.
- B.** Each lease shall contain, or shall be deemed to contain the following:
1. The lease shall designate the parties who are entitled to occupy the premises, and shall state that no other parties are permitted to occupy the premises.
 2. The number of parties unrelated by blood, marriage or adoption occupying the premises shall not be greater than the number of bedrooms in the leased premises.
 3. There shall be no sub-letting of any premises for which a lease has been entered into by the Owner.

4. The lease shall provide that continued violation of any of the provisions of the Notice of Restrictions shall constitute cause for termination of the lease and eviction of the tenants.
5. A criminal background check will be required for all potential renters, and anyone else 18 years of age and older, who are listed on the lease as residents or who subsequently reside in the leased premises. The background check will be requested by the Association's management company through a local law enforcement agency. All costs will be the responsibility of the homeowner. A lease application may be denied based on the result of a felony conviction history. Failure to provide information needed to run the check or providing false information will result in the denial of the application.

END —

IV. **ARTICLE XII GENERAL PROVISIONS, Section 2** is amended as follows:

Section 2. Amendments. This Declaration of Restrictions on Real Estate of Trillium Subdivision may be amended, altered or rescinded only by a seventy-five percent (75%) vote of the total votes cast by the members at an Annual Members' Meeting or a Special Members' Meeting called for that purpose. Further, for an amendment to be effective, a Certificate certifying that a Resolution approving the amendment, attached to the Certificate, shall be executed by the President and Secretary of the Association and shall be recorded in the Public Records of Indian River County, Florida. No amendment or termination shall require the consent or joinder by any mortgagee or lienholder holding a lien upon all or any portion of any lot.