

# Declaration of Covenants and Restrictions

## ROSE HILL

### ARTICLE I DEFINITIONS

Section 1. The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to the ROSE HILL HOMEOWNERS ASSOCIATION, INC.
- (b) "The Properties" shall mean and refer to the Subject Property.
- (c) "Common Property" shall mean and refer to those areas of land designated on the Plat of Rose Hill as Tract E, Tract F and Tract G and the privacy wall or fence within the Properties located next to Good Homes Road to be devoted to the general use and enjoyment of the Owners of the Subject Property, subject to the conditions and uses set forth on the recorded Plat of Rose Hill and those contained herein.
- (d) "Lot" or "Parcel" shall mean and refer to any plot of land shown on the recorded Plat of Rose Hill which lot or Parcel is identified and designated as a numbered lot, with the exception of Common Property heretofore defined and except Tracts A, B, C and D shown on the recorded Plat of Rose Hill.
- (e) "Living Unit" shall mean and refer to any portion of a building or a single family structure situated upon the Subject Property designed and intended for use and occupancy as a residence by a single family.
- (f) "Owner" shall mean and refer to the Owner of public record, whether one or more persons or entities, of the fee simple title to any Lot or Parcel but notwithstanding any theory of law, the Owner shall not mean or refer to any mortgagee unless and until the mortgagee has acquired title pursuant to foreclosure or a proceeding in lieu of foreclosure.
- (g) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article II, Section 1.
- (h) "Subject Property" or "Rose Hill" shall mean and refer to Rose Hill according to the plat thereof recorded in Plat Book 13, Pages 128 and 129 inclusive of the Public Records of Orange County, Florida.

### ARTICLE II MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. **Membership.**

Except as set forth herein, every Owner shall be a Member of the Association. No person or entity who holds record title of a fee or undivided fee interest in any lot merely as a security for the performance of any obligation shall be a Member. A builder who in its normal course of business purchases a lot for the purpose of constructing a living Unit thereon for resale shall not become a Member of the Association so long as such builder does not occupy the living Unit as a residence. Only those persons who

purchase a lot and improvements thereon after completion of construction or reconstruction. If a builder does occupy the living Unit, and does pay all the assessments required in Article V, the builder shall become a Member.

Section 2. Voting Rights. The Association shall have one classes of voting membership.

**Class A.** Class A Members shall be all those Owners as defined in Section 1. Class A Members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any lot, all such persons shall be Members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

### ARTICLE III

#### PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. **Use of Common Property.** Subject to the provisions of Section 3 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every lot.

Section 2. **Title to Common Property.** The Association shall retain the legal title to the Common Property.

Section 3. **Extent of members' Rights.** The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Property, and in aid thereof, to mortgage said property; and
- (b) the right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure; and
- (c) the right of the Association, as provided in its Articles and By-laws, to suspend the enjoyment right of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- (d) activities on Common Property shall be conducted so as not to interfere with the quiet enjoyment of lot Owners or other activities on the Common Property.
- (e) the right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided, however, that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken; and unless an instrument signed by Members entitled to cast in accordance with Article II, two-thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication, transfer, purpose or condition.

**ARTICLE IV  
EASEMENTS**

Section 1. **Owners' Rights and Duties: Utilities.** The rights and duties of the Owners with respect to electricity, telephone lines and drainage facilities shall be governed by the following:

(a) Wherever electricity, and telephone lines or drainage facilities are installed within the Subject Property, the Owners of any lot served by said connections, lines or facilities shall have the right, and there is hereby reserved to the Association, its successor and assigns, an easement to the full extent necessary therefore, together with the right to grant and transfer the same to the Owners, to enter upon the lots owned by others, or to have utility companies enter upon the lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections, lines or facilities, as and when the same may be necessary as set forth below.

(b) Wherever electricity, and telephone lines or drainage facilities are installed within the Subject Property, which connections serve more than one (1) Lot, the Owner of each Lot served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Lot. In the event that an Owner or a public utility company serving such Owner enters upon any Lot in furtherance of the foregoing, it shall be obligated to repair such Lot and restore it to its condition prior to such entry.

**ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the Owner of such lot at the time when the assessment fell due.

If the Assessments are not paid on the date when due then said assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, thereupon become a continuing lien on the living Unit and lot upon which same is erected which shall bind such living Unit and lot upon which same is erected in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period

and shall not pass to his successors in title unless expressly assumed by them or unless the Association causes a lien to be recorded in the Public Records giving notice to all persons that the Association is asserting a lien upon the living Unit and lot upon which same is erected.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest rate of interest then allowed by the laws of the State of Florida, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the living Unit and lot upon which same is erected, and there shall be added to the amount of such assessment, the stated interest, together with the costs of the action, including legal fees, whether or not judicial proceedings are involved, also including legal fees and costs incurred on any appeal of a lower court decision.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in Rose Hill and in particular for the improvement and maintenance of properties, services, and facilities which have been constructed, installed or furnished or may subsequently be constructed, installed, or furnished, which are devoted to the purpose and related to the use and enjoyment of the Common Property and of the homes situated upon the Subject Property including, but not limited to:

- (a) Payment of operating expenses of the Association;
- (b) Maintenance, improvement and repair of privacy walls or fences adjacent to Good Homes Road for the benefit of the Subject Property;
- (c) Management, maintenance, improvement and beautification of entrance medians, lake, landscape buffers, Tracts E, F and G shown on the recorded plat of the Subject Property and all other Common Property and improvements thereon;
- (d) Repayment of deficits previously incurred by the Association, if any, in making capital improvements to or upon the Common Property, and/or in furnishing the services and facilities provided herein to or for the Owners and Members of the Association.
- (e) Repayment of funds and interest thereon, which have been or may be borrowed by the Association for any of the foresaid purposes.
- (f) Doing any other thing necessary or desirable, in the judgment of the Association, to keep Subject Property neat and attractive or to preserve or enhance the value of the Subject Property or to eliminate fire, health or safety hazards, or, which in the judgment of the Association, may be of general benefit to the Owners.

**Section 3. Initial Contribution, Annual, Maximum Assessments, Transfer Fee and Estoppel Certificates.**

(a) **Original Assessment.** The Initial Contribution assessment shall be Two Hundred Fifty Dollars (\$250.00) per living Unit and shall be paid by the Owner at time of closing on each living Unit. The Association may use any part or all of said initial contribution assessment for the purposes set forth in Section 2 of this Article.

(b) **Annual Assessment.** The annual assessment shall be (Three Hundred Dollars (\$300.00) per living Unit (changeable by board as needed per section 5), payable

semiannually on January 1 and July 1 of each year. This annual assessment shall be in addition to the above mentioned initial assessment and shall be prorated in the year of purchase by the Owner. Said assessment shall be paid directly to the Association, to be held in accordance with the above provisions. The Association may adjust the annual assessment after the end of each Calendar Year to cover anticipated or experienced increases in the funds expended by the Association.

(1) No adjustment shall be made which increases the annual assessment for any year more than fifteen percent (15%) from the previous annual assessment unless approved Two-Thirds (2/3) of the total number of votes authorized to be cast by the membership of the Association at a meeting called and noticed in accordance with Section 4 hereof.

(2) No adjustment shall reduce the annual assessment below the initial annual assessment unless approved by Two-Thirds (2/3) of the total number of votes authorized to be cast by the membership of the Association at a meeting called and noticed in accordance with Section 4 hereof.

(3) The Association shall send a notice to the owner setting forth any adjustment in the annual assessment and the manner of making such adjustment at least thirty (30) days prior to the payment date of the next installment of the annual assessment.

**(c) Transfer Fee.** There shall be a \$100.00 Fee when the parcel changes ownership.

**(d) Estoppel Certificates.** Estoppel certificates shall be provided and signed by an officer or authorized agent of the association stating all assessments and other moneys owed to the association by the parcel owner or mortgagee with respect to the parcel within 15 days after the date on which a request for an estoppel certificate is received or as required in F.S. 720.30851. A fee of Two Hundred Fifty Dollars (\$250.00) shall be charged for an estoppel certificate and the amount of said fee shall be stated on the certificate. The amount may be increased or decreased by a written resolution of the board and in accordance with F.S. 720.30851.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of any capital improvement upon the Common Property, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of Two-Thirds (2/3) of the votes of Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. **Change in Annual Assessments.** In addition to the procedure provided in Section 3 hereof, the Board of Directors of the Association may change the assessments prospectively for any such period.

Section 6. **Quorum for any Action Authorized Under Section 4.** The quorum required for any action authorized by Section 4 of this Article shall be as follows:  
At the first meeting called, as provided in Section 4 of this Article, the presence at the meeting of Members, or of proxies, entitled to cast ten percent (10%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4 of this Article, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. **Certificate of Payment.** The Association shall upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage now or hereafter placed upon the living Unit and lot upon which same is erected subject to assessment. This subordination shall not relieve such living Unit and lot upon which same is erected from liability for any assessments now or hereafter due and payable.

Section 9. **Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by any local public authority and devoted to public use; (b) all Common Property as defined in Article I, Section 1 hereof; and (c) all properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments; charges or liens.

Section 10. **Municipal Service Tax Units.** All of the Subject Property shall be included within such Municipal Service Tax Units (hereinafter "MSTU") which is required by the Orange County Board of Commissioners to provide funds for anyone or more of the following purposes: (i) maintenance and operation of street lights that will be installed on the Subject Property and/or (ii) maintenance of the storm water drainage and retention systems on the Subject Property. Each of the lots and living Units within Rose Hill are subject to the restriction and limitations imposed by such MSTU including but not limited to an annual tax for the maintenance of the real and personal property set

forth above. Each of the Owners of a lot or lots in Rose Hill by acceptance of the deed of conveyance agrees to pay such annual assessment and further agrees that such annual assessment shall constitute a lien on the respective lot or lots in such manner as ad-valorem taxes assessed under the laws of the State of Florida. Provided however that the Association shall maintain all common property maintenance of which is not paid for by the MSTU and under no condition shall the Association assess the Owners, lots or living Units for items which are being maintained through funds generated by the MSTU.

## **ARTICLE VI ARCHITECTURAL REVIEW BOARD**

No building, pool, fence, wall or other structure shall be commenced, erected or maintained upon the Subject Property, nor shall any exterior addition to or change or alteration be made to any previous improvement on a lot until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to the Architectural Review Board and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Review Board as hereinafter defined.

Section 1. **Composition.** The Association shall, upon the recording of this Declaration, immediately form a committee known as the "Architectural Review Board", hereinafter referred to as "ARB", consisting of five (5) persons designated by the Association and the ARB shall maintain this composition. The ARB shall be appointed by the Board of Directors of the Association and shall serve at the pleasure of said Board of Directors. The Board of Directors may consider appointing at least one (1) non-Owner architect or professional home designer to the ARB and at least four (4) Owners to the ARB. Neither the Association, the Board of Directors or said Association, nor the Members of the Association, shall have the authority to amend or alter the number of members of the ARB which is irrevocably herein set forth as five (5) members. A quorum of the ARB shall be three (3) members. No decision of the ARB shall be binding without a quorum present and a simple majority vote by the Members present. A member of the Board of Directors may also serve as a member of the ARB.

Section 2. **Planning Criteria.** The Association, in order to give guidelines to owners concerning construction and maintenance of living Units, hereby promulgates the ARCHITECTURAL REVIEW BOARD PLANNING CRITERIA ("Planning Criteria"), for the Subject Property a copy of which is attached hereto as Exhibit A. The Association declares that the Subject Property shall be held, transferred, sold, conveyed and occupied subject to the Planning Criteria set forth on Exhibit A, as amended from time to time by the ARB.

Section 3. **Duties.** The ARB shall have the following duties and powers:  
(a) to amend from time to time the Planning Criteria, or to waive minor violations of the Planning Criteria, at the discretion of the ARB. Any amendments shall be set forth in writing and be made known to all Members and to all prospective Members of the

Association. Any amendment shall include any and all matters considered appropriate by the ARB not inconsistent with the provision of this Declaration;

(b) to approve or disapprove all buildings, fences, walls, pools, antennae, satellite dishes, solar heating devices or other structures which shall be commenced, erected or maintained upon the Subject Property and to approve and disapprove any exterior additions to or changes or alterations therein. For any of the above, the ARB shall be furnished plans and specifications showing the nature, type, shape, height, materials, and location of the same and shall approve in writing as to the harmony of the external design and location in relation to surrounding structures and topography;

(c) to approve or disapprove any such building plans and specifications and lot grading and landscaping plans, and the conclusion and opinion of the ARB shall be binding, if in its opinion, for any reason, said improvement, alteration, etc. is not consistent with the planned development of the property.

(d) to require to be submitted to it for approval any samples of building materials proposed or any other data or information necessary to reach its decision;

(e) to require each builder, contractor or owner to submit one (1) sets of plans and specifications to the ARB prior to obtaining a building permit, which set of plans and specifications shall become the property of the ARB. The work contemplated must be performed substantially in accordance with the plans and specifications as approved. All approvals of plans or specifications must be evidenced by the signatures of three (3) members of the ARB on the plans or specifications furnished. The existence of the signatures of three (3) members of the ARB on any plan or specification shall be conclusive proof of the approval by the ARB of such plans and/or specifications.

**Section 4. Enforcement of Planning Criteria.** The ARB, the Board of Directors of the Association, or any Owner, either jointly or severally, shall have the right to enforce the provisions hereof relating to the Planning Criteria, as amended from time to time by the ARB or the Association. Should any Owner fail to comply with the requirements hereof or of the Planning Criteria after thirty (30) days written notice, the ARB, or the Board of Directors of the Association shall have the right to enter upon the lot, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the Planning Criteria, and charge the cost thereof to the Owner. Should the ARB, the Board of Directors or any Owner be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceeding are involved, including the attorneys' fees and costs incurred on appeal of such judicial proceedings, shall be collectible from the Owner. The ARB, and the Board of Directors of the Association, or its agents or employees, shall not be liable to the Owner for any damages or injury to the property or person of the Owner unless caused by negligent action by the ARB, or the Board of Directors.

## **ARTICLE VII EXTERIOR MAINTENANCE**

**Section 1. Exterior Maintenance.** In addition to maintenance upon the Common Property, the Association shall have the right to provide exterior maintenance upon any



vacant lot or upon any living Unit, subject, however, to the following provision. Prior to performing any maintenance on a vacant lot or living Unit, the Association shall determine that said property is in need of repair or maintenance and is detracting from the overall appearance of The Properties. Prior to commencement of any maintenance work on a lot, the Association must furnish thirty (30) days prior written notice to the Owner at the last address listed in the Association's records for said Owner, notifying the Owner that unless certain specified repairs or maintenance are made within said thirty (30) days period the Association shall make said necessary repairs and charge same to the Owner. Upon the failure of the Owner to act within said period of time, the Association shall have the right to enter in or upon any such lot or to hire personnel to do so to make such necessary repairs or maintenance as are so specified in the above written notice. In this connection the Association shall have the right to paint, repair, replace and care for roofs, gutters, downspouts, exterior buildings surfaces, trees, shrubs, grass, walks and other exterior improvements.

**Section 2. Assessment of Cost.** The cost of such exterior maintenance shall be assessed against the lot upon which such maintenance is performed and shall be added to and become part of the annual maintenance assessment or charge to which such lot is subject under Article V hereof; and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner, and shall become due and payable in all respects as provided in Article V hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each living Unit for any assessment year as required under Article V hereof, may add thereto the estimated cost of the exterior maintenance for that year but shall, thereafter, make such adjustment with the Owner as is necessary to reflect the actual cost thereof.

## **ARTICLE VIII RESTRICTIVE COVENANTS**

The Subject Property shall be subject to the following restrictions, reservations and conditions, which shall be binding upon each and every Owner who shall acquire hereafter a living Unit or lot or any portion of the Subject Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns, as follows:

### **Section 1. Land Use.**

(a) No lot (except for Common Property, if any) shall be used except for residential purposes. No building shall be erected upon any lot without the prior approval thereof by the ARB as hereinabove set forth. There shall be only one living Unit per lot.

(b) No business, commercial, industrial, noxious or offensive activity shall be carried on upon the parcel, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood (e.g. on-premise business activities open to the public, other than yard or garage sales, that results in vehicle or foot traffic related to the operation or sales for said business.).

(c) No cows, cattle, horses, hogs, poultry, snakes, ferrets, rodents, reptiles, or any other animals shall be raised or kept on the Subject Property other than domestic dogs and cats which in the aggregate shall not exceed three.

(d) No dogs, cats, or other permitted pets (as determined from time to time by the ARB) will be allowed to run loose on the Subject Property. All dogs, cats, and other permitted pets must be kept inside the living Unit, on a leash, or within a fenced area

**Section 2. Living Unit Quantity and Size.** No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height (basement shall not be considered as a "story"). Such permitted building may include: a private enclosed garage for not less than two (2) standard sized automobiles; servants' quarters; a storage room and/or a tool room. Unless approved in advance by the ARB, both as to the use as well as the location and architectural design, no structure may be constructed separate and apart from the living Unit. Each living Unit shall have a minimum square footage of heatable living area, exclusive of open porches or garages as determined by the ARB Planning Criteria.

**Section 3. Lake Shore Lots.**

(a) On lake shore lots, no more than twenty percent (20%) of the natural existing littoral grasses or lakeshore trees shall be removed

(b) No living Unit constructed upon lakefront lots shall be erected in the Drainage Easement shown on the recorded Plat of Rose Hill.

(c) No motor driven watercraft shall be permitted on Lake Rose Hill nor shall any anchored float or raft be permitted thereon.

(d) No docks or boathouses shall be constructed on any lot or in Lake Rose Hill.

**Section 4. Building Location.**

(a) No living Unit shall be located nearer to the lot lines that the minimum setbacks required by Orange County Zoning Regulations.

(b) On any adjoining lots, the front setback shall vary a minimum of five (5) feet unless an exception is approved by the ARB.

**Section 5. Garages.** No carports shall be permitted and all garages must have inside dimensions large enough to enclose two standard size automobiles. Any garage entrance visible from the street in front of any lot shall be equipped with an aesthetically suitable garage door which shall be shut when not in use. All garages and garage doors must be maintained in a useable condition.

**Section 6. Sewage Facilities.** It shall be the sole responsibility of each living Unit Owner at his, her or their sole expense, to apply for the permits to install, construct and maintain a septic tank or tanks on each individual lot upon which a living Unit is constructed in conformity with the laws of the State of Florida and the County of

Orange, and the rules and regulations of their administrative agencies and officials, now or hereafter in effect with regard to septic tanks, sewage and disposal.

Section 7. **Landscaping.** Landscaping shall be as required by the ARB Planning Criteria.

Section 8. **ARB Authority.** The ARB shall have the authority as hereinabove expressed, from time to time to include within its promulgated residential Planning Criteria other restrictions regarding such matters as prohibitions against window air-conditioning units, mailboxes, temporary structures, nuisances, garbage and trash disposal, vehicles and repair, removal of trees, gutters, easements, games and play structures, swimming pools, utility connections and television and other communication antennas, driveway construction, and such other restrictions as it shall deem appropriate. Said restrictions shall be governed in accordance with the criteria hereinabove set forth for residential planning criteria promulgated by the ARB. However, once the ARB promulgates certain restrictions, same shall become as binding and shall be given the same force and effect as the restrictions set forth herein until the ARB modifies, changes, or promulgates new restrictions or the Association modifies or changes restrictions set forth by the ARB.

Section 9. **Association Rights.** The Association shall have the same rights as set forth in Section 8 immediately preceding.

**ARTICLE IX  
ADDITIONAL COVENANTS AND RESTRICTIONS**

No Parcel Owner, without the prior written approval of the Association, may impose any additional covenants or restrictions on any part of the Subject Property.

**ARTICLE X  
AMENDMENT**

Except as to provisions relating to amendments as set forth herein regarding certain specific items and the method of amending or altering same, which is set forth in connection with such particular item, any other provisions, covenants, or restrictions set forth herein may be amended in accordance with this provision. The Owners of at least two-thirds (2/3) of the parcels may change or amend any provision hereof, except as above mentioned, in whole or in part, by executing a written instrument in recordable form setting forth such amendment and having the same duly recorded in the Public Records of Orange County, Florida. A proposed amendment may be instituted by the ARB, the Association, or by petition signed by fifteen percent (15%) of the then Owners of parcels. A written copy of the proposed amendment shall be furnished to each Owner at least sixty (60) days but not more than one hundred twenty (120) days prior to a designated meeting to discuss such particular amendment. Said notification shall contain the time and place of said meeting. The recorded amendment shall contain a recitation that sufficient notice was given as above set forth and said recitation shall be

conclusive as to all parties and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded amendment.

**ARTICLE XI  
DURATION**

The covenants, restriction and provisions of this Declaration shall run with and bind the land and shall inure to the benefit of the Owners, the Association, and their respective legal representatives, heirs, successors and assigns until amended modified or terminated according to the terms of Article X~ hereinabove set forth. These covenants, provisions and restrictions may be terminated in the same manner set forth for amendments in Article X†.

**ARTICLE XII  
ENFORCEABILITY**

Section 1. If any person, firm or corporation, or other entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for an individual Owner, or the Association (a) to prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenants or restrictions, or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenants or restrictions, for the purpose of preventing or enjoining all or any such violations or attempted violations. Should an individual Owner, and/or the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal of such judicial proceedings, shall be collectible from the party against which enforcement is sought. The remedies contained in this provision shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of any individual Owner, or the Association, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

Section 2. The invalidation of any provision or provisions or the covenants and restrictions set forth herein by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

Section 3. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid to the last known address of the person who appears as Member or Owner on the record of the Association at the time of such mailing.

**EXHIBIT "A"**  
**ARCHITECTURAL REVIEW BOARD PLANNING CRITERIA**

1. Building Type and Location. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling not to exceed 35 feet in height, with a minimum of 1600 square feet of heatable living area, exclusive of open porch and garages, a private and closed garage for not less than two cars, and storage room or tool room attached to the ground floor of such garage. The minimum square footage may be increased or decreased by the ARB by amending the ARB Planning Criteria. Unless approved by the ARB as to use, location and architectural design, no structure may be constructed separate and apart from the Living Unit, nor can any of the aforementioned structures be constructed prior to the Living Unit. Approval for the location of any Living Unit on a Lot must be obtained from the ARB prior to the laying of a foundation for the Living Unit. In approving such Living Unit location, the ARB will consider a location of a Living Unit on the Lot which disturbs the least number of trees and position the Living Unit on the Lot to its greatest esthetic authentic advantage.

The exterior color plan for each Living Unit must be submitted to and approved by the ARB prior to commencement of construction, reconstruction, modification or reapplication of existing color(s), such plan to include the color of the roof, exterior walls, shutters, trim, etc.

2. Roofs. Flat roofs shall not be permitted unless approved by the ARB. Such areas where flat roofs may be permitted are Florida rooms, porches and patios. There shall be no flat roofs on the entire main body of a Living Unit. The ARB shall have discretion to approve such roofs on part of the main body of a Living Unit, particularly if modern or contemporary in design. No built up roofs shall be permitted except on approved flat surfaces.

The composition of all pitched roofs shall be cedar shake shingle, fiberglass shingle, slate or concrete construction, tile or other composition approved by the ARB. All pitched roofs must have at least 5/12 slope, unless otherwise approved by the ARB.

3. Garages. In addition to the requirements stated in paragraph 1, all garages must have a minimum width sufficient to enclose two standard size automobiles. All garages must have one or more overhead doors. No carports will be permitted unless approved by the ARB.

4. Driveway Construction. All Living Units shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. Unless prior approval is obtained from the ARB, all driveways must be constructed of concrete; including any extensions along either side of a driveway intended to widen said driveway. When curbs are required to be broken for driveway entrances or for other modifications, the curb shall be repaired in a neat and orderly fashion and in such a way to be acceptable to the ARB.

5. Dwelling Quality. The ARB shall have final approval of all exterior building materials. Eight inch struck joint concrete block shall not be permitted on the exterior of any house or detached structure. The ARB shall discourage the use of imitation brick or stone for front or side

material and encourage the use of front or side materials such as brick, stone, wood and stucco, or a combination of the foregoing on all elevations.

6. Signs. No sign of any kind shall be displayed to the public view on any Lot unless approved by the ARB.

7. Games and Play Structures. All basketball backboards and any other fixed games and play structures shall be located in the rear of the Living Unit. Tree houses or platforms of a like kind or nature shall not be constructed on any Lot.

8. Fences and Walls. Composition must be of Wood, Plastic, Metal (NO chain link) or Concrete, the finish, color, location and height of fences and walls must be approved by the ARB prior to installation. Such fences and walls must be six feet or less. Fences shall not be forward of the front building line nor in the side setback area adjacent to streets unless approved in advance by the ARB.

9. Landscaping. Each parcel must be landscaped. Existing trees may not be removed without the prior approval of the ARB.

(a) Each Living Unit shall have at least two trees not less than six feet in height. Varieties of Oak are preferred.

(b) The plant material shall not include invasive or non-indigenous trees such as spreading bamboo, Chinese Tallow, Ear Tree (*Enterolium Cyclocarpum*), Australian Pine (*Casuarina Equisetifolia*) or Brazilian Pepper (*Schinus Terebinthifolius*). Recommended trees are various types of Oak.

10. Swimming Pools. Any swimming pool to be constructed in any Parcel shall be subject to requirements of the ARB, which include, but are not limited to the following:

(a) Composition to be of material thoroughly tested and accepted by the industry for such construction.

(b) Screening of pools is allowed upon ARB approval, no screen of the pool area may stand beyond a line extended and aligned with the side walls of the dwelling unit unless approved by the ARB. No pool screening may be higher than twelve feet. Screens must be charcoal color. Materials must be approved by the ARB.

11. Garbage and trash disposal. No Parcel 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 pickup, if required to be placed at the curb, all containers shall be kept within an enclosure which the ARB shall require to be constructed with each Living Unit if necessary, otherwise all such containers shall be kept out of sight (e.g. behind a fence or in a garage). The enclosure, if required, shall be located out of sight from the front or side streets. There shall be no burning of trash or any other waste material.

12. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any parcel at any time as a residence either temporarily or permanently.

13. Clotheslines. All clotheslines shall be placed at the rear of and within the area encompassed by a rearward extension of the side lines of said dwelling.

14. Removal of Trees. In reviewing building, reconstruction or landscaping plans, the ARB shall take into account the Natural Landscaping such as trees, shrubs, palmettos, and encourage the builder, contractor or owner to incorporate them in the landscaping plan. No trees can be cut or removed without approval of the ARB, which approval may be given when such removal is necessary for the construction, reconstruction or landscaping of a Living Unit.

15. Window Air-Conditioning Units. No window air-conditioning units shall be permitted.

16. Sod. All lots shall be fully sodded except in wooded areas and in areas near the shoreline of Lake Rose Hill. Exceptions to "fully-sodded" may be permitted (e.g. xeriscaping) provided landscape changes are approved in advance by the ARB utilizing the Florida Friendly Landscaping Principles available via the Florida Friendly Landscape website (<http://www.floridayards.org/>) and as defined in F.S. 373.185. No invasive plants, trees or shrubs shall be permitted.

In addition, all lands forming portions of a public right-of-way between the boundary of a Lot and the pavement installed within the right-of-way shall be sodded by the adjacent and abutting Lot Owner and maintained by the Owner as a portion of the Owner's lawn.

17. Commercial Communication Equipment prohibited. Use of communication equipment for commercial purposes is prohibited.

18. Exterior Antennae. C-Band (6' to 8' diameter) dish antennae are permitted only if located in the rear yard, not visible from the street, and are placed on the Lot so as not to be objectionable to surrounding Lot Owners. All C-Band dish antennae must be secured to the ground. Also, prior to installation of C-Band dish antenna, approval as to size, type and location must be obtained from the ARB. Ku-Band (FTA) satellite dishes that are four feet or less in diameter are permitted provided they comply with all FCC regulations.

Placement of Solar Collectors must be approved by the ARB.

19. Exterior Light Fixtures. No exterior lighting fixtures shall be installed on any Lot or Living Unit without adequate and proper shielding or fixture. No lighting fixture shall be installed that may be or become an annoyance or a nuisance to the residents of adjacent living Units.

20. Lakefront Parcels. Parcels adjacent to Lake Rose Hill shall be improved so that no more than a maximum of 20% of the shoreline vegetation shall be removed. No shoreline alterations shall be permitted.

21. Vehicles and Repairs. The continuous or repeated parking of any unsightly vehicles or trailers, or commercial vehicles, recreational vehicles or any other non-residential vehicles, as

determined by the ARB is prohibited. Temporary exceptions may be granted if requested from and granted by the ARB. The parking of vehicles, except on public streets, driveways or in closed garages is prohibited. Except where stored in a closed garage or upon a Lot under such terms and conditions as the ARB, in its absolute discretion, may approve in advance on a case by case basis, no boats or boat trailers may be parked on driveways or otherwise on any Lot or on the public streets of the Subject Property. There shall be no repair, except emergency repair, performed on any motored vehicle on or adjacent to any Lot in the Subject Property. It is acknowledged and agreed by all Owners by purchasing said Lot that a violation of any of the provisions of this paragraph shall impose irreparable harm and damages to the other Owners. Said Owners further agree that a reasonable assessment of such damages would be \$100.00 for each day that such violation occurs after notification in writing to the violator by either the ARB or a duly elected representative of the Association. Damages shall not exceed \$1000 and are subject to the conditions and allowances set forth in Chapter 720 of the Florida Statutes. Said Owners further agree that the ARB would be the appropriate party to enforce this paragraph and to whom said damages would accrue, which damages would then be used for the benefit of all Lot Owners.

22. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat, or as heretofore granted by the Developer and at this time a part of the Public Records of Orange County, Florida. 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 flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, or which are or might be prohibited by the public authority to whom said easement is given. 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 is responsible. The easement area may also be used by an abutting neighbor for the maintenance of Trees, Fences and Walls. Such use shall be reasonable in nature as defined by the ARB from time to time.

23. Air Conditioning Units. No air conditioning units shall be placed on the front of any Living Unit. If air conditioning units are located in the side yard on a corner Lot, it shall be screened from view.

24. Chimneys. Any exposed portion of chimney visible from outside of the Living Unit shall be constructed solely of brick, stone, stucco, wood or other material approved in advance in writing by the ARB.

25. Utility Connections. All house connections for all utilities, including but not limited to, water, sewerage, electricity, gas, telephone and television shall be run underground from the proper connecting points to the dwelling structure in such manner to be acceptable to the governing utility authority. All fuel storage tanks shall be located underground or completely screened from view with material approved by the ARB.

26. Trade or Business or Obnoxious Activities. No trade or business, commercial, industrial, or obnoxious or offensive activity shall be carried on upon any Lot or Living Unit nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.



27. Invalidation of Individual Criteria. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

28. Written Approval. ARB approval or disapproval as required by this Planning Criteria shall be in writing. If the ARB disapproves the project within 60 days after the plans and specifications are submitted, the project shall not be commenced. If the ARB approves the project or fails to disapprove the project within 60 days after the plans and specifications are submitted, the project may be built.

29. Enforcement. The commencement of construction, alteration, or modification of any structure or other improvement of whatever nature, without limitation, without first submitting plans and specification to and obtaining the written approval of the ARB and otherwise complying with the provisions of the Declaration of Covenants and Restrictions (including the ARB Planning Criteria), shall be a violation thereof. Upon delivery of written notice of violation to the person so violating the Declaration of Covenants and Restrictions by the Association, the ARB or the Owner of any Parcel, the person so violating the Declaration of Covenants and Restrictions shall within 30 days after delivery of such written notice, remove the said structure or other improvement from the Properties and cause the Lot to be restored to the condition in which it existed immediately prior to the unauthorized commencement of construction, alteration or modification. If such unauthorized improvement is not removed within such 30 day period, the Association, or the ARB, or the Owner of any Parcel shall have the right to enforce the provisions hereof pursuant to Article VI, Section 4 and Article XIII of the Declaration of Covenants and Restrictions.