

ionization systems). No owner with a Lot adjoining a lake may utilize the lake to irrigate unless provided by Declarant as part of the original construction, subject to applicable permitting. All maintenance performed by the owner shall be at least up to the Development Wide Standards, as defined in the Master Declaration.

(c) Failure of Owner to Repair. The Association may perform maintenance or make repairs and assess the costs of any required exterior maintenance or repairs to the Owner of any Lot under any of the following circumstances: (i) such Owner does not maintain in a reasonable condition any lawn or landscaped area on such Owner's Lot that the Association is not required to maintain; or (ii) such Owner does not when reasonably necessary replace any glass surfaces or exterior doors on such Owner's Lot; or (iii) any maintenance, repair or replacement, whether upon such Owner's Lot, or any other Lot or Common Area, is required because of any willful act of such Owner or any member of such Owner's family or household or any guest, tenant or other invitee of such Owner; or (iv) any Owner fails promptly to repair or replace, as the case may be, any casualty damage to such Owner's Lot; (v) the Owner fails to comply with any of the maintenance requirements set forth in subparagraph (b) above; and/or (vi) such Owner has failed to undertake the necessary maintenance or replacement within a reasonable period of time following written notice from the Association. Upon the occurrence of the forgoing, and after reasonable prior notice to such Owner, and a reasonable opportunity to be heard, the Association's Board of Directors by a vote of not less than sixty-six percent (66%) of the full Board may undertake such maintenance, replacement or repairs and may assess by specific assessment the costs of such maintenance, replacement or repairs, as the case may be, against such Owner's Lot in the manner provided by this Declaration.

(d) Exterior Maintenance Assessment. An annual exterior maintenance assessment to be used by the Association for the exterior painting and grounds maintenance, repair, servicing, renewal, replacement or improvement of the exterior of each Lot, including replacement of all of the shingles thereon and building painting, all as described in this Section 13(a) of Article II, together with reserves for any and all of the foregoing, shall be assessed against each Lot as more fully described in Article VIII hereof.

ARTICLE III GENERAL PROVISIONS

Section 1. Notice. 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 personally delivered or mailed, postage pre-paid, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

Section 2. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages, and against the land to enforce any lien created by this Declaration or the Association Documents. Failure of the either Declarant, the Association or any Owner or Member to enforce any covenant or restriction herein contained shall, in no event, be deemed to be a waiver of the right to do so thereafter. These covenants and restrictions may be enforced by the Declarants, the Association or any Member or Owner of property which is subject to these covenants and conditions. In the event legal action is taken to enforce the covenants and restrictions provided herein, the prevailing party shall be entitled to recover the costs of such action, including, but not limited to, attorneys' fees relating to such action and any appeals thereto, as well as other appellate costs, if necessary. If any such action is brought by any Owner against any other Owner, neither the Declarants nor the Association shall have any obligation to indemnify or reimburse either party to such action.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 4. Duration. This Declaration, inclusive of all easements reserved by or on behalf of the Declarants or Association, shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Owner of any land subject to this Declaration, their respective heirs, legal representatives, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is filed for record in the Public Records of Hillsborough County, Florida, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then record Owners of all of the Lots has been recorded, agreeing to change this Declaration in whole or in part. This Declaration may be terminated upon unanimous vote of all Owners and mortgagees.

Section 5. Amendment. This Declaration may be amended by an instrument signed by the duly authorized officers of the Association provided such amendment has been approved by at least two-thirds (2/3) of each class of Members. Any amendment, to be effective, must be recorded. Notwithstanding anything herein to the contrary, so long as a Declarant shall own any Lot or have the right to subject additional property to this Declaration, no amendment shall diminish, discontinue, or in any way adversely affect the rights of a Declarant under this Declaration.

Notwithstanding any provision of this Section to the contrary, the Declarants hereby reserve and shall have the right to amend this Declaration, from time to time, for a period of two (2) years from the date of its recording to make such changes, modifications, and additions therein and thereto as may be requested or required by

FHA, VA, Southwest Florida Water Management District, or any other governmental agency or body generally or as a condition to, or in connection with such agency's or body's agreement to make purchase, accept, insure, guaranty, or otherwise approve loans secured by mortgages on Lots, provided any such amendment does not destroy or substantially alter the general plan or scheme of development of the Property. Any such amendment shall be executed by the Declarants and shall be effective upon its recording. No approval or joinder of the Association, any other Owners, any mortgagee, or any other party shall be required or necessary for any such amendment.

Any amendment of this Declaration which would affect the surface water management system, including the water management portions of the Common Areas, must have the prior approval of the Southwest Florida Water Management District, but no record of such approval shall be required to be recorded with the amendment.

Every purchaser or guarantor of any interest in real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.

Section 6. FNMA/FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal National Mortgage Association (FNMA), Federal Housing Administration (FHA) or Veterans Administration (VA):

- (a) Mortgaging of Common Areas;
- (b) Dedication and conveyance of Common Areas;
- (c) Annexation of additional Property;
- (d) Amendment of this Declaration of Covenants, Conditions and Restrictions; or
- (e) Merger, consolidation and/or dissolution of Phoebe Park Homeowners Association, Inc.

Section 7. Notice to Lenders. Upon written request to the Association, identifying the name and address of the mortgage holder, insurer or guarantor and the Lot number and address, any such mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which adversely affects a material portion of the Property or any Lot on which there is a mortgage held, insured or guaranteed by such mortgage holder, insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a mortgage held, insured or guaranteed by such mortgage holder, insurer or guarantor which remains delinquent for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of mortgage holders.

Section 8. Association Information. Upon request during normal business hours or under other reasonable circumstances, the Association shall make available to Owners, mortgage holders, insurers or guarantors of any mortgage, current copies of this Declaration, the Master Declaration, Articles of Incorporation and Bylaws of the Association, any rules and regulations concerning the Property, all amendments thereto, and the books, records and financial statements, for the immediate preceding fiscal year of the Association.

Section 9. Effective Date. This Declaration shall become effective upon its recordation in the Hillsborough County Public Records.

Section 10. Encroachment Easements. In the event that any Lot shall encroach upon any of the Common Areas, or upon any other Lot, or in the event that any Common Areas shall encroach upon on any Lot, then an easement shall exist to the extent of accommodating and abating that encroachment, for so long as the encroachment shall exist.

Section 11. Interrelationship of Documents. In the event of a conflict between the terms and provisions of this Declaration of Covenants, Conditions and Restrictions and the Articles of Incorporation and/or Bylaws of the Association, this Declaration of Covenants, Conditions and Restrictions shall govern. Subject to Article IV, Section 35 hereof, in the event of a conflict between the terms and provisions of this Declaration of Covenants, Conditions and Restrictions and the Master Declaration, the Master Declaration shall govern.

Section 12. Interpretation. When the context in which the words are used in this Declaration indicates that such is the intent, words in the singular shall include the plural and vice versa, and one gender shall include both genders. The table of contents, article or section title, captions and abbreviations contained in this Declaration are for convenience only and shall not be deemed a part of this Declaration.

Section 13. Additional Land. The Declarants reserve the right to annex additional land, and such additional lands shall be included and be subject to the terms, covenants, and conditions of this Declaration without the approval of Class A membership. Upon filing of a supplemental Declaration, the Lot Owners of the annexed real property shall be Members of the Association and Master Association and shall enjoy all the rights and privileges thereto, including the use of Common Areas and recreational facilities, if any.

Section 14. Mortgage or conveyance of Common Area. The Common Areas, or any part of the Common Areas, cannot be mortgaged or conveyed without the consent of at least two-thirds (2/3) of each class of the Members.

ARTICLE IV USE RESTRICTIONS

Section 1. Use. No Lot shall be used except for residential purposes. No building, structure or improvements shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family dwelling not to exceed two (2) stories, patios, porches, garages, a swimming pool, hot tubs, spas, gazebos, landscaping, walls, driveways and sidewalks appurtenant thereto. Carports are not permitted. All such improvements must be approved in writing by the Architectural Review Committee prior to commencement of construction or addition of any landscaping.

Section 2. Outbuildings Prohibited. No structure of a temporary character, trailer, tent, shack, garage or other outbuilding shall be used on any Lot at any time as a residence, temporarily or permanently. No structure, including utility buildings, may be erected on any Lot for other than residential purposes, except a builder's temporary structure. No storage buildings shall be permitted. However, the provisions of Sections 26 and 27 of this Article shall supersede this section.

Section 3. Minimum Residence Size. No dwelling shall be erected or allowed to remain on any Lot unless the living area of the dwelling, exclusive of garage, porches, patios and lanais shall be not less than 1,077 square feet. Living area shall include screened porches with permanent roofs which are constructed as a component of the original roof structure.

Section 4. Minimum Lot Size. No Lot shall be divided, re-subdivided or reduced in size by any method whatsoever, unless all portions of said Lot be used to increase the size of adjacent Lot(s), or other adjacent property, and notwithstanding the foregoing, no Lot shall be divided, resubdivided or reduced in size by any method whatsoever, without the prior written consent of the Declarants. All plots formed as a result of the foregoing, shall thereupon be deemed and treated as original Lots, and may