

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINDOVER FARMS COMMUNITY ASSOCIATION, INC.

These are the Amended and Restated Declaration of Covenants, Conditions and Restrictions for all properties in Windover Farms Community Association, Inc., Units III through VII inclusive, as recorded in the Public Records Brevard County Florida.

The purpose of these Covenants, Conditions and Restrictions, hereinafter referred to as CCRs, is to preserve the values, amenities and rural atmosphere of all lots within Windover Farms Community Association, Inc. All properties within Windover Farms Community Association sold, conveyed and occupied are subject to the following covenants, conditions and restrictions along with the charges, assessments and liens hereafter set forth and shall run with the real property and be binding on all parties having any right, title or interest in said property or any part thereof, their heirs, assigns or successors and shall inure to the benefit of each owner thereof.

The provisions of these Covenants, Conditions and Restrictions are superior to the By-Laws and Articles of Incorporation for Windover Farms Community Association, Inc., and in instances where the provisions of these Covenants, Conditions and Restrictions conflict with either of the mentioned documents, the provisions of these Covenants, Conditions and Restrictions shall prevail.

These CCRs automatically incorporate amendments made to Florida statutes as amended from time to time.

ARTICLE I: DEFINITIONS

A. "Association" shall mean and refer to WINDOVER FARMS COMMUNITY ASSOCIATION, INC., A Florida corporation, its successors and assigns.

B. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the existing property in Windover Farms Community Association, Inc., Units III through VII inclusive.

C. "Lot" shall mean and refer to the individual parcels of land of Windover Farms Community Association, Inc., Units III through VII inclusive.

D. "Community" Community" shall mean and refer to Windover Farms Community Association, Inc., and shall consist of all land subject to the jurisdiction of Windover Farms Community Association, Inc.

E. " CCRs" shall mean and refer to the covenants, conditions and restrictions of this Declaration.

F. "Board" shall mean and refer to the Board of Directors of Windover Farms Community Association, Inc.

ARTICLE II: PROPERTY RIGHTS

A. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area of WINDOVER FARMS, UNIT III hereinafter referred to as the "Long Lake Recreation Area". The right and easement of enjoyment of said Long Lake Recreation Area shall be appurtenant to and shall pass with the title to every Lot in Windover Farms Community Association, Inc., Units III through VII, subject to the following provisions:

****Substantial rewording- See governing documents for current text****

1. The Association may suspend the right to use of the recreation facilities by an owner for a period not to exceed thirty (30) days for an infraction of the rules of use of Long Lake Recreation Area as posted at the entrance to said area.

2. The Association shall have the right to dedicate or transfer all or any part of the common area to any public agency, authority, non-profit organization or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

B. Delegation of Use: Any Owner may delegate their right of enjoyment, as provided in Section A above, to the common area and facilities to the members of their family, tenants who reside on the property. All provisions of the CCRs and of any rules and regulations or use restrictions pursuant thereto which govern the conduct of Owners, shall also apply to all occupants of Lots within the Association, including but not limited to family, tenants, and guests.

ARTICLE III: WINDOVER FARMS COMMUNITY ASSOCIATION, INC.

A. Membership in the Association: Each Owner of a Lot shall be a member of the Association.

B. Voting Rights: The Association shall have two classes of voting membership with all the rights and duties as described in paragraph 5 A of the By-Laws which are incorporated herein by reference.

C. Annual Membership Meeting: Annual meetings of the Association shall be held at noon on the first Saturday in February at such place as the Board of Directors may provide. A quorum of 20% of the total voting interests attending in person, by proxy or by electronic voting means is required to conduct business at the annual association meeting. Election of Directors may be held in conjunction with the annual meeting or may be held separately as the Board of Directors may choose.

D. Board of Directors and Officers: The Board of Directors is elected for a two year term by the members of the Association. Officers are elected by the Board of Directors at the organization meeting as detailed in paragraph 7 B (3) of the By-laws.

E. Voting and Voting Rights: Each Lot is entitled to one vote. The vote of the Owners of a Lot owned by more than one person or by a corporation or other entity shall be cast by one person who is named on the title of the property or by a named Trustee if the Lot is owned by a trust, or by an officer of the corporation if the Lot is owned by a corporation.

(1) Votes may be cast in person, electronically, if electronic voting is used by the Association or by proxy.

(2) An affirmative vote of a majority of members represented at any duly called membership meeting at which a quorum is present whether in person, by proxy or via electronic voting shall be binding upon the members.

The Association shall have two classes of members:

(1) **Class A members** shall be owners of Lots in WINDOVER FARMS UNIT III through VII.

(2) **Class B members** shall be those persons who are not Lot owners of WINDOVER FARMS, UNIT III through VII but who reside in THE HILLS, EAST HILLS, EAST HILLS II, EAST WINDS, WINDOVER FARMS, UNIT I, WINDOVER FARMS UNIT II, and WINDOVER FARMS UNIT IIA and who are members of Long Lake Recreation Area in accordance with the paragraph below.

(3) **Membership in the Long Lake Recreation Area.** All Class A members of WINDOVER FARMS UNIT III through VII shall have membership in the Long Lake Recreation Area. A single membership shall include all residents in the household. Class B members may join the Long Lake Recreation Area by complying with the following terms and conditions:

(a) Payment of an annual membership fee of 67% of the annual assessment for Class A members per year or any portion thereof. Failure to pay the annual membership fee on or before the 30th of January of each year shall cause the membership to automatically terminate.

(b) Class B members may not cast votes for election of members of the Board of Directors nor on any budgetary or governance provision item not directly related to the Long Lake Recreation Area. Class B members are subject to any special assessments specifically levied for repairs, improvements and maintenance of the Long Lake Recreation Area and are entitled to vote on same.

F. Dissolution of the Association: The Windover Farms Community Association may be dissolved by an affirmative vote of the majority (50% plus one) of the members in writing, by proxy, by e-mail or via any electronic voting application as may be in use.

ARTICLE IV: COVENANT FOR ASSESSMENTS

A. Creation of Lien and Personal Obligation for Assessments. The Owner of each Lot by acceptance of a deed thereto is deemed to covenant with and has a duty to pay to the Association the assessments and charges contained in these CCRs. Said assessments or charges, together with interest, costs and reasonable attorney fees incurred in the collection of same shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made and shall also be a personal obligation of the owner of such property at the time the assessment fell due.

B. Purpose of Assessments: The assessments levied and collected by the Association shall be used exclusively to fund the necessary upkeep of the association property and promote the recreation, health, safety and welfare of the Owners in the Community, including but not limited to:

1. Payment of operating expenses of said Association.
2. Undertaking any other program, activity or project whatever, necessary or desirable in the judgment of said Association to preserve or enhance property values, eliminate health or safety hazards or be of general benefit to the Owners or occupants.
3. Ensuring compliance with the CCRs.

4. Care and maintenance of the Long Lake Recreation Area and all properties owned by the Association including plumbing, electricity, water, lawn care and structural repairs or parts replacements.
5. The preservation of a savings account to fund unforeseen costs and for future repairs and replacements.

C. Types of Assessments: There shall be two types of Assessments:

1. Annual Assessment: Beginning on January 1st of the calendar year following adoption of these Amended and Restated Declaration of Covenants, Conditions and Restrictions, the annual assessment is set at \$100 per year per Lot. Increases in annual assessments may be enacted as provided in Article IV. C. 1. a. and Article IV C. 1. b below without requiring amendment to this Declaration. The annual assessment shall be due on January 1st of each year and shall be payable by the Lot Owner no later than January 31st of each year. Any assessment not paid by January 31st shall bear interest at the annual rate of 18% as well as a one- time \$20 late fee. The annual assessment is the funding source for annual operating expenses and is part of the general fund of the Association. The annual assessment shall become a lien upon the property as of January 1st of each year."

a. The amount of the annual assessment may be increased by the Board of Directors up to 15% each year, not to exceed a 45% increase in the most recent five year period. Increases will be addressed at a Board of Directors meeting for which notice has been provided to the members at least thirty days in advance that such assessment increase will be considered by the Board along with rationale for the proposed change. Enactment of such increase shall require an affirmative vote of two-thirds of the Board of Directors and an affirmative vote of the majority of the members in attendance. The results of such vote shall be binding on all lot owners.

b. Any increase of the annual assessment over 15% of the previous year assessment requires approval by a majority of the total voting interests of the Association in writing, by proxy or by electronic voting if such has been enacted by the Board of Directors.

2. Special Assessment: The Board of Directors may levy a special assessment for such purposes as may be deemed necessary. Special assessments are applicable to that year only and do not carry forward into any future year. Special assessments require approval of a majority (50% plus one) of the total voting interests of the Association and consent to such special assessment may be given by each Lot Owner in writing, by proxy, or by electronic voting if such has been enacted by the Board of Directors. Special assessments must have an announced due date.

D. Collection of Assessments: Assessments are vital to the operation of the Association. Each Lot Owner has a legal and personal obligation to pay annual or special assessments when due. In each instance where an assessment has not been paid by a Lot Owner by the due date, the Board shall do the following:

1. 30 days after the due date, send a letter via US Postal Service first class mail to the address of the lot owner asking for payment of the assessment and detailing any late payment fee and interest charge to date. Such letter will also offer the opportunity to the lot owner for a meeting with the Board and a suggested payment plan if the lot owner is unable to pay the entire amount due.

2. 60 days after the due date, if no response from the lot owner has been received, a second demand letter shall be sent via US Postal Service first class mail detailing the then current total amount due.

3. 90 days after the due date, if no response has been received from the lot owner, a third demand letter shall be sent to the lot owner detailing the then current amount due. Suspend the voting rights and use privileges for Long Lake Recreation Area of the lot owner.

4. 120 days after the due date, if no response has been received from the lot owner, the Board shall forward the matter to the Association attorney of record for filing of a lien in the Public Records of Brevard County against the property. Such lien shall include accumulated interest, filing fees and attorney fees for preparation of such lien.

E. Effect of non-payment of assessments. No Lot shall be foreclosed on for the reason of non-payment of assessments of whatever amount or duration. The filing of a lien and re-filing of such lien at the intervals defined in Florida statutes along with accumulating interest shall be the primary remedy for non-payment of assessments. Liens for non-payment of assessments may be subject to referral to a collection agent or agency. A filed lien is a matter of public record. As a public record, copies of Liens may also be posted on the Association web site.

F. Subordination of the Lien to First Mortgages. The lien of Assessments, including interest, late charges and reasonable attorney's fees, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the Association's lien. However, the sale or transfer of any Lot pursuant to judicial foreclosure of a first Mortgage, if the Association is named as a defendant therein, shall extinguish the lien of such assessments (but not the personal liability of the prior Owner or any subsequent Owner who is jointly and severally liable for said unpaid assessments pursuant to applicable Florida statutes, as amended from time to time. Notwithstanding anything herein to the contrary, the holder of a first Mortgage who acquires title to a Lot by foreclosure or deed in lieu of foreclosure shall be liable to the Association for the assessments that became due before the Mortgage holder's acquisition of title to the extent provided in Chapter 720 or other provisions of the Florida Statutes, as amended from time to time. No foreclosure, sale or transfer shall relieve the new Owner of such Lot from the personal obligation or liability for the payment of any Assessments (including the right to file a lien for nonpayment thereof) accruing or becoming due after such sale or transfer.

ARTICLE V: DESIGN REVIEW COMMITTEE

A. Composition. The Design Review Committee (or DRC) will consist of between one and three persons appointed by the Board for a term of two years. Members of the DRC are required to be members of the Association. The members of the DRC should have, but are not required to have, experience in lot grading, surface water control and general construction principles.

B. Duties of the DRC. The DRC shall focus on new construction and new modifications to existing properties. The duties of the DRC are restricted to the following:

1. Review of site plans for construction of new homes on undeveloped lots. Ensure lot owner is aware of permitting requirements of Brevard County concerning setbacks, driveway placement, pools, detached garages and environmental concerns such as wells, tree removal, ponds and water abatement. Provide lot owner information on any sensitive areas observed.

2. Review of new home construction plans regarding compliance with square footage requirements and placement of house relative to front and side yard areas and provide feedback to owner on possible areas of non-compliance with county codes.

3. Review of new home construction plans regarding compliance with size of required incorporated garage space and orientation of garage doors away from paved roads and provide feedback to owner on possible sensitive areas.

4. Review of any proposed excavation for the purpose of construction of a pond or water retention area and remind owner that all such areas require Brevard County permits.

5. Review of any proposal to fill any existing pond or water retention area to ensure owner is aware of any county permitting requirements.

6. Review of any proposed fencing on any lot to ensure owner is aware of Brevard County Code on fencing.

7. Review of all proposed new additions to lot such as sheds, detached garages, barns, RV housing structures and any other covered structure. Such review shall be limited to the placement of such structures in regard to drainage easements. All such structures over 100 square feet in ground area require a permit from Brevard County Zoning and Planning Office. The DRC shall provide the lot owner with any necessary information or recommendations on sensitive areas of usage and siting.

8. Review and document any agreement on deviations to lot use restrictions below.

C. Time Limits. The DRC must respond to any submitted requests or plans within ten business days. If the DRC fails to respond within ten business days the submitted request or plans are deemed to be approved by the DRC.

ARTICLE VI: RESTRICTIONS ON LOT USES

A. Right to Free Enjoyment: All lots in Windover Farms Community Association, Inc., are zoned by Brevard County as "RR-1 (Rural Residential)". As such, owners are entitled to free use and enjoyment of the larger lots in the Association but are subject to the requirements and limitations of Brevard County Code of Ordinances. A non-comprehensive list of Brevard County Code of Ordinances that may be of interest to lot owners or prospective lot owners may be found at Appendix A and is provided for reference purposes only.

B. Violation of County Ordinances: Suspected violations of Brevard County Ordinances shall be reported to Brevard County Code Enforcement office.

C. Residential Use Only: No Lot shall be used in whole or in part for any purpose other than as a single-family residence. Home offices are permitted but in no case shall a Lot Owner operate a business where the general public is invited onto the Lot for the purpose of selling or buying any product or service on an ongoing or regular basis.

1. In the case of home based businesses, the requirements of Brevard County Code of Ordinances Section 62-1155 shall govern concerning the types of such businesses and sales of "cottage industries" products (as defined in that ordinance).

2. No for-profit animal breeding or boarding facilities that have a detached structure for housing such animals are allowed.

3. Any large gathering at a Lot must be limited to the amount of parking available on that Lot or on neighboring lots if the owners of such Lots consent to such parking. Parking on paved roadways that creates a traffic hazard to the public is not allowed.

D. Lots shall not be subdivided. No lot shall be subdivided or reduced in size. An exception may be made in the instance where a Lot is considered unbuildable due to the existence of wetlands. Such Lot may be subdivided and sold to adjoining Lot Owners by mutual agreement of all adjoining Lot Owners.

Such subdivision shall require recording of all land transfers in the Brevard County Clerk of Courts official records office.

E. Limitations on short-term rental or lease of residences. Brevard County ordinance 62-1102 defines a "resort dwelling" as any residence, or portion thereof rented for a period of less than 90 days. The Brevard County Planning and Development Commission has published an interactive map of where resort dwellings are permitted and prohibited. That map shows all of Windover Farms as being in the prohibited area. The Association adopts these restrictions with the provision that should Brevard County reduce the permitted minimum rental period to less than 90 days, the Association shall retain the minimum rental period of 90 days.

F. No occupation outside of primary dwelling. No dwelling may be occupied until a certificate of occupancy has been issued by the Brevard County Planning and Development Office. No temporary structure, trailer, recreational vehicle, garage, tent or out building shall be used at any time as a residence except as provided in Brevard County Ordinance 62-1842.6 which allows use of a mobile home, travel trailer or RV as a temporary residence during construction of a residence or during major reconstruction of a residence during which time the primary residence is deemed uninhabitable by Brevard County. Such use is limited to a period of two years and must meet the requirements for permitting imposed by Brevard County.

G. Minimum size of dwelling. Each single family residence shall be no less than 1,200 square feet exclusive of garages, porches and other non-living areas.

H. Garages. Each dwelling shall have an incorporated and attached enclosed parking garage of sufficient size to house two full sized automobiles. Garage doors shall be oriented so as to minimize exposure to adjoining paved streets.

I. Attachments to property. All attachments to property shall be installed and sited so as to provide unrestricted access to all easements for the individual Lot as described on the originally recorded site plan.

1. Set backs and size limitations for out buildings shall be in accordance with Brevard County Code of Ordinances Chapter 62, Section 1336(5) a, b and c.

2. Mailbox design. All mailboxes installed along a road right-of-way shall comply with the requirements of the US Postal Service as to location, size and design.

3. Storm protection for individual Lots. The choice of hurricane protection materials for all doors and windows are at the discretion of the individual lot owner, as is the decision on when or if to deploy such protective measures.

J. Removal of trees. Unless diseased or damaged by windstorm, removal of trees on any Lot or on commonly owned property shall be governed by Brevard County Code of Ordinances Chapter 62, Article XIII. Diseased or damaged trees may be removed at the Lot owner's discretion and does not require approval of the DRC.

K. Yard/Garage/Estate sales. Sales of this type, or closely related types of sales, are governed by Brevard County Code of Ordinances Section 62-2111 and are limited to two times in a twelve month period. The Association conducts semi-annual community-wide garage sales and members are encouraged to participate in these events.

L. Signs. Signs, for whatever purpose, may be erected by owners within the boundaries of their individual lots. No sign shall exceed four square feet and shall not exceed four feet in height. Signs for real estate sales or open house events are governed by Brevard County Code of Ordinances Section 62-3317. Signs erected on individual lots may not contain commercial advertising of any nature. Multiple signs may not exceed an aggregate size of four square feet.

M. Fences. All fences shall comply with the requirements of Brevard County Code of Ordinances 62-2109.

N. Portable storage units. In accordance with Brevard County Code of Ordinances 62-2117.5 a 2, no portable storage unit shall remain on a Lot for more than fifteen days from time of delivery to time of pickup.

O. Nuisances. No materials, substance or thing may be kept upon a Lot that emits foul or obnoxious odors or noise. Nor shall any other use that disturbs the peace, quiet, tranquility, safety or serenity of persons of ordinary sensibilities be permitted. Notwithstanding the foregoing, construction activity during daylight hours shall not be deemed a nuisance. The Board of Directors, by a majority vote, shall determine what constitutes a nuisance.

ARTICLE VII: LOT MAINTENANCE

A. Owner Responsibilities.

1. It is the responsibility of each Owner of improved Lots to prevent the development of any unclean, unsightly, unhealthy or unkempt condition of any structure on their Lot which will affect the health, safety and beauty of the Association. Maintenance of each Lot including lawns, shrubs and all vegetation shall comply with Brevard County Code of Ordinances and any applicable Florida statute. If an owner chooses to follow the landscaping guidelines contained in Florida Statute 373.185, also known as "Florida Friendly Landscaping Statute" and also sometimes referred to as "xeriscaping", such landscaping shall be maintained in such a way as to prevent the appearance of an unkempt or overgrown area.

2. Lot Owners have the right to trim back vegetation and tree branches overgrowing their lots from adjoining lots. Such cutting can only go up to the property line. This provision in no way grants a waiver of trespass onto adjoining properties.

B. Health and safety hazards. In the event a Lot Owner fails to maintain their Lot to the extent that it presents a health or safety hazard due to insect or rodent infestation or uncontrolled spreading of poisonous shrubbery or invasive vegetation onto adjoining Lots, the Board of Directors shall issue a letter to the Lot Owner notifying them of the specific condition to be corrected. Such letter shall provide for a 30 day time period within which the condition must be corrected. Such letter shall also provide the Lot Owner the opportunity to provide a written response and such response shall be considered by the Board.

If the condition is not corrected within 30 days, the Association has the right, but not the obligation, to enter the Lot and perform self-help at the Owner's expense. The Board of Directors shall issue a second letter notifying the Lot Owner that the Board of Directors intends to hire a company to perform such actions as necessary to correct the condition at the cost of the Lot Owner and that such cost shall be considered an assessment upon the lot. Such assessment may be recorded as a lien upon the property.

ARTICLE VIII: VEHICLES

A. Vehicles Defined: For purposes of this Article a vehicle shall be considered any automobile, truck, motor home, camper, motorcycle, tractor, boat, boat trailer, utility trailer, horse transport trailer, personal water craft, all-terrain vehicle, go-cart, golf cart or any other type vehicle owned or used by the Lot Owner or a member of his or her family.

B. Vehicle parking and storage. Parking and storage of all vehicles on Lots within the Association shall be governed by Brevard County Code of Ordinances Section 62-2117 (b). All vehicles, including recreational vehicles, parked or stored on an owner's lot must be registered in the lot owner's name or the name of a family member then resident in the lot owner's household.

C. Commercial vehicles. Parking of commercial vehicles on Lots is prohibited pursuant to Brevard County Code of Ordinances 62-2117(c) unless Brevard County has granted a permit for same.

D. Registered vehicles only. No unregistered vehicles may be parked in driveways, front yards or side yards of any Lot. Unregistered vehicles may be kept in rear yards or within enclosed garages or storage buildings as long as they are not visible on the nearest paved road.

E. Vehicle repairs. All vehicle repairs shall be conducted as soon as possible and in no case shall a vehicle under repair be left on raised jacks or jack stands forward of a line even with the front boundary of the primary residence of the lot for more than 72 hours.

F. Junk or abandoned vehicles. Owners are responsible for the removal of all junk or abandoned vehicles on their lots. No such vehicles shall be allowed to remain on any lot unless parked inside a fully enclosed storage building.

ARTICLE IX: AMENDMENTS AND TERM

A. Amendments. These CCRs may be amended by a vote of the majority of the lot owners (50% plus one) in writing voting in person or by proxy, or by recorded vote in an electronic voting application if such has been adopted for use by the Board of Directors. Such amendments shall be recorded in the Brevard County Clerk of Courts public records.

B. Term. These CCRs shall run with and bind the Association for a term of forty (40) years from the date these CCRS are recorded in the Public Records of Brevard County, Florida, after which time they shall be automatically extend for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds of the Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate these CCRS.

****Substantial rewording- See governing documents for current text****