DECLARATION OF RESTRICTIONS ON REAL ESTATE

FOR

Wellington Homeowners Association of Polk County, Inc.

THIS DECLARATION, made on the date hereinafter set forth by **COLONY CONSTRICTION COMPANY**, a Florida corporation, with an office at 1330 Palmetto Avenue, Winter Park, Florida 32789, hereinafter referred to as "Developer."

WITNESSETH

WHEREAS, Developer is the owner of certain property located in Polk County, Florida, which is more particularly described as follows:

WELLINGTON PHASE ONE, as per the Plat thereof as recorded in Plat Book 104, Page 40 + 41 of the Public Records of Polk County, Florida: and

NOW THEREFORE, Developer hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Article I
DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meaning:

A. "Properties" shall mean and refer to that certain real property hereinabove described, together with any property annexed thereto pursuant to the provisions of this Declaration.
B. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties.
C. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot.
D. "Developer" shall mean and refer to COLONY CONSTRUCTION COMPANY, a Florida corporation, together with its successors or assigns.
E. "Association" shall mean and refer to the WELLINGTON HOMEOWNERS ASSOCIATION OF POLK COUNTY, INC., a Florida corporation not for profit, its successors and assigns.
F. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1 hereof.
G. "Common Area" shall mean all real property owned by the Association of the common use and enjoyment of the Association Members. The common Area shall generally consist of all those portions of the Properties not located within a numbered Lot or a dedicated road right-of-way.

H. "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, comber, store, absorb, inhibit, treat, use or reuse water to prevent or deuce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

Article II
PROPERTY RIGHTS

Section 1. **Owner's Easements of Enjoyment**. Every Owner shall have a right of easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(A) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) day for an infraction of its published rules and regulations.

(B) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority 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, and no mortgaging of the Common Area shall be effective, unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication, transfer or mortgaging has been recorded.

Section 2. **Owner's Use of Lot**. Use of all Lots shall be limited to residential purposes.

Section 3. **Delegation of Use**. Any Owner may delegate, in accordance with the By-Laws, his right or enjoyment to the Common Area and facilities to the member of his family, his tenants, or his contract purchasers who reside on the Owner's Lot.

Section 4. **Owner's Easement for Ingress and Egress**. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to such lot Owner's easement in ingress and egress.

Section 5. **Conveyance of Common Area to the Association**. The Common Area shall be conveyed to the Association free and clear of all encumbrances before FHA or VA insures their first mortgage within the Properties.

Article III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. **Membership**. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. **Voting Rights**. The Association shall have two classes:

Class A. Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one cote for each Lot owned. Then more than one person holds an interest in any Lot, all such persons shall be

Members. 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 Lot.

Class B. The Class B Member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
b. On January 1, 2000.

Article IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. **Creation of the Lien and personal Obligation of Assessments**. The Developer, for each Lot owned within the Properties hereby covenants; and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees shall also be the personal obligation of the party owning such property when the assessment falls due. The personal obligation for the delinquent assessments shall not pass to such party's successors in title unless expressly assumed by them.

Section 2. **Purpose of Assessments**. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties, including specifically, not by way of limitation, maintenance and care of any conservation and drainage areas and facilities (unless maintenance shall be provided by others), landscape areas, vegetative buffer areas, any walls constructed on any portion of the perimeter of the subdivision, the recreational areas and facilities located within the Common Area, if any, and any subdivision lights and light fixtures other than those included within any Special Lighting District. Such maintenance shall include but not be limited to mowing and trimming of grass and shrubs as necessary. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

Section 3. **Assessment Allocation**. Assessments shall be levied as to each Lot on the basis of the class of membership as hereinafter set forth. The assessment of the Class B membership for any vacant Lot or any Lot superimposed with an unoccupied, unsold living unit structure owned by Developer shall be ten percent (10%) of the annual assessment for a Class A member.

Section 4. **Maximum Annual Assessment**. Until January 1, 1996, the maximum annual assessment for each Lot, payable quarterly or monthly, as determined by the Association, shall be as follows for each class as designated:

Class A - $300.00

Class B – Not less than ten percent (10%) of the annual assessment for a Class A member.

Commencing January 1, 1996, the amount of the annual assessment shall be in such amounts as adopted by the Board of Directors, payable in equal installments until the amount of the assessment is changed by action of said Board of Directors. The assessment amount may be changed at any time by said Board from that originally stipulated herein or from any other assessment that is in the future adopted. Notwithstanding the foregoing, any increase during year which results in the assessments exceeding the prior year's assessment by more than ten percent (10%) shall require approval by vote of a majority of Members present at a meeting called for such purpose. The notice for such a meeting shall state that purpose. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

The due date of any special assessment specified herein shall be fixed in the Board resolution authorizing such assessment.

Section 5. **Special Assessment for Capital Improvements of Extraordinary Expenses**. In addition to the annual assessment authorized above, 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, reconstruction, repair or placement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have been approved by two-thirds (2/3) of each class of Members who are voting in person or by proxy at an Association meeting duly called for this purpose. A special assessment may also, by that same procedures, be imposed to defray expenses which are of a nature so as to not to be expected to occur each year, including but not limited to, the cost of enforcing this Declaration.

Section 6. **Notice and Quorum for any Action Authorized Under Section 5**. Written notice of any meeting called for the purpose of taking any action authorized under Section 5 shall be sent to all Members not less than thirty (30) days not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members, or of proxies of each class entitled to cast forty percent (40%) of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be seventy-five (75%) of the required quorum at the proceeding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. **Uniform Rate of Assessment**. Both annual and special assessments must be fixed at a uniform rate of assessment for all Lots within each class of membership, except as provided in Section 4.

Section 8. **Date of Commencement of Annual Assessments: Due Date**. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner other than Developer, provided that Developer shall be permitted to pay its assessments due on each Lot by the furnishing of services, maintenance and materials of not less than like or equal value. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The

Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

Section 9. **Effect of Nonpayment of Assessment: Remedies of the Association**. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate permitted by Florida law. If an assessment or installment thereon is not paid within thirty (30) days after the due date, a late fee may be charged by the Association, and the Board of Directors of the Association may accelerate the remaining installments and declare the entire assessment as to that delinquent Owner due and payable in full as if the entire amount was originally assessed, with interest accruing on said unpaid amount at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. In any action to enforce any assessment made hereunder, the prevailing party shall be entitled to a reasonable attorney's fee, including attorney's fees for appellate proceedings.

Section 10. **Subordination of the Lien to Mortgages**. The lien of the assessments provided for in this Article IV shall be subordinate to the lien of any first mortgage recorded prior to the recordation of a claim of lien for unpaid assessments. The sale of transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of a Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or mortgagee shall hold title subject to the liability and lien of any assessment becoming due after such foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Lot by reason of Provisions of this Section shall be deemed to be an assessment equally divided among all Lots, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 11. **Duty to Enforce**. It shall be the legal duty and responsibility of the Association to enforce payments of the assessment hereunder.

Section 12. **Lots and Exterior Maintenance**. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements or fences situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors and thirty (30) days written notice to the Owner, shall have the right, through its agents and employees, to enter upon said parcel and to repair, clear, trim, maintain and restore the Lot and exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject, which shall be due and payable thirty (30) days from the date said assessment is made. If said assessment is not paid when due and payable, interest shall be charged by the Association at the highest rate permitted by Florida law. The Association, through its agents and employees, after Board of Director approval as hereinabove provided for, shall have the right to enter any Lot to repair and maintain any brick or masonry wall constructed by the Developer or Association on the perimeter of the Properties.

Section 13. **Initial Assessment: Transfer Fee**. In addition to the other assessments provided in this Article IV, an initial assessment of One Hundred Fifty Dollars ($150.00) per Lot shall be paid by the Owner to the Association at the time of purchase of each Lot from the Developer, and a Transfer Fee of One Hundred Fifty Dollars ($150.00) shall be paid by the Purchaser to the Association at the time of transfer of any Lot.

Article V
ARCHITECTURAL CONTROL

No building, fence, wall or other structures, other than those constructed by Developer, shall be erected, placed or altered on any building Lot until the building plans, specifications, plot plan and landscape plan have been submitted to the Architectural Review Committee for approval and approved by the same, said Architectural Review Committee to be comprised of the Developer, its appointees, its successors, and assigns. When there no longer exists a Class B membership, the Architectural Review Committee shall be appointed by the Association. In the event that the said Architectural Review Committee or its successors or assigns fail to approve or disapprove of such building plans, specifications and plot plan within thirty (30) days after the same have been submitted to said Architectural Review Committee, such approval will not be required and this covenant will be deemed to have been fully complied with. Powers and duties of the Architectural Review Committee shall run for twenty (20) years from the year 2010 when it shall be recorded into the Public Records of Polk County, Florida, and shall be automatically extended for four (4) successive periods of ten (10) years each.

Article VI
USE RESTRICTIONS

The Properties shall be subject to the following use restrictions. Polk County's permitting regulations may or may not coincide with the use restrictions contained herein.

Section 1. **Land Use and Building Type**. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling having a minimum air-conditioned living area of 1000 square feet. Lofts, garages, basement rooms or attic rooms shall not be included in calculations to determine whether the dwelling contains the minimum living area. None of the foregoing dwellings shall exceed thirty-five (35) feet in height.

Section 2. **Roofs**. Flat, built-up roofs shall be permitted only over Florida rooms, porches or patios at the rear of the residence. Any roof changes are subject to the Architectural control requirements set forth in Article V above.

Section 3. **Signs**. No sign of any kind shall be displayed to public view on any Lot except one professional sign of the builder or contractor and one "For Sale" or "Open House" sign. In any event, no sign shall be larger than 3 square feet. No banners, flyers, or similar items shall be allowed. Notwithstanding the foregoing, Developer shall be entitled to maintain banners during any time it keeps a model home on the Properties.

Section 4. **Game and Play Structures**. No basketball backboards and any other fixed game and play structures will be permitted without express approval by the Architectural Review Committee, and if approved they shall be located at the rear of the dwelling or on the inside portion or corner Lots within the setback lines.

Section 5. **Fences**. No fence or fence wall shall be constructed, erected or maintained on or around any portion of any building Lot that is in front of the front setback line of the dwelling. Any fence or wall must, in the sole discretion of the Architectural Review Committee, be completely and aesthetically acceptable in design, materials and construction. On corner Lots, the building shall be deemed to have two front lot lines for the purpose of this section only. No fence or fence wall shall exceed a height of six (6) feet or be constructed of any material other than masonry, solid wood, or PVC Fencing acceptable to the Architectural Review Committee. Any such fence or wall shall be fully subject to the Architectural Control requirements. If any fence is approved which contains a "finished" or smooth side with vertical or horizontal support boards on the other side, the "finished" or smooth side must face the exterior of the Lot on which the fence in constructed. On lots of the subdivision which abut or are adjacent to the perimeter wall (no matter what the distance is between the perimeter wall and such other wall or fence) and no other wall or fence structure shall be constructed perpendicular to or in any way adjacent to or leading to said perimeter wall which shall exceed a height of five (5) feet or any height which places the top of such wall or fence higher than six (6) inches below the top of said perimeter wall as measured at the point of contact between such wall or fence and said perimeter wall.

Section 6. **Swimming Pools**. Any swimming pool to be constructed upon any Lot shall be subject to review by the Architectural Review Committee. The design bust incorporate, at a minimum, the following:

A. The composition of the materials must be thoroughly tested and accepted by the industry for such construction.

B. Any swimming pool constructed on any Lot shall have an elevation at the top of the Pool not over two (2) feet above the natural grade unless otherwise approved by the Architectural Review Committee. No above ground pool are permitted.

C. Pool cages and screens must be of a design, color and material approved by the Architectural Review Committee and shall be no higher than twelve (12) feet unless otherwise approved by the Architectural Review Committee.

D. Pool screening shall not be visible from the street in front of the dwelling unit. Pool screening shall not extend beyond the sides of the house without express approval by the Architectural Review Committee.

Section 7. **Maintenance of Vacant Lots and Dwellings**. Once a Lot has been sold by the Developer, the same, whether improved or not, shall be maintained in good appearance and free from overgrown weeks and from rubbish. In the event any Lot is not maintained, then the Developer, its successors and/or assigns, including specifically the Association, shall have the right to enter upon said Lot for the purpose of cutting and removing such overgrown weeds and rubbish and the expense thereof shall be charged to and paid for by the Owner of such Lot. If not paid by said Owner within thirty (30) days after being provided with a written notice of such charge, the same shall become a special assessment lien upon said Lot until paid, bearing interest at the highest lawful rate until paid, and may be collected by an action to foreclose said lien or by an action at law, at the discretion of said Developer, its successors and/or assigns, including the Association, in the same manner as any other li8en or action provided in these restrictions.

Section 8. **Garbage and Trash Disposal**. No Lot shall be used or maintained as dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers and, except during pick-up, if required to be placed at the curb, all containers shall be kept out of sight from the street. There shall be no burning of trash or any other waste materials.

Section 9. **Nuisances**. No noxious or offensive activity shall be carried un upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall be no solicitations of any kind in the subdivision except by lawful permit obtained from the applicable governmental body.

Section 10. **Temporary Structures**. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently; not shall a temporary structure of any kind be used for storage, utility, tools, workshop or the like.

Section 11. **Livestock and Poultry**. No livestock, horses, poultry or other animals of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets in numbers which do not create a nuisance or health hazard may be kept provided that they are not kept, bred or maintained for any commercial purposes. No kennel or animal shelters shall be permitted. No pet or other animal shall be permitted to leave the Lot on which said pet resides unless under leash and control of its owner.

Section 12. **Clotheslines: Solar Devises**. No clothesline or similar devices shall be permitted to be erected on any Lot or other part of the Properties unless erected and located in such manner so as to be the least visible to any surrounding lots. This provision shall not be interpreted as a prohibition against clotheslines, but rather as a requirement that they be screened so as to not be highly visible to other homeowners.

Any solar panels or other devices for the collection of solar energy shall be placed, subject to the directional requirements of such devices. The Architectural Review Committee shall be informed of any house modifications in the use of any energy efficient upgrades to the exterior of a house. Any modifications for the purpose of the collection of energy shall be installed by licensed professionals to avoid risks to adjoining Lots.

Section 13. **Vehicles and Repair**. No inoperative cars, trucks, trailers, or other types of vehicles shall be allowed to remain either on or adjacent to any Lot for a period in excess of forty-eight (48) hours; provided, however, this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no major repair performed on any motor vehicle on or adjacent to any Lot in the subdivision. No boats, campers or recreational vehicles shall be allowed to be parked for over twenty-four (24) hours in front of the residence or on the side of the residence when said boat, camper or recreational vehicle can be seen from the street in front of said residence or, in the case of a corner Lot, from either street in front of said residence. All operative vehicles must be parked in the garage of on the driveway and not anywhere else on a Lot and not in the street. No additional outside parking area in addition to the driveway shall be permitted

unless specifically approved by the Architectural Review Committee and only then if said additional parking area is in no way visible from the street or any adjoining Lot(s).

Section 14. Easements. Easements for installation and maintenance of landscaping, utilities and drainage facilities are reserved as shown on the recorded plat, or as heretofore granted by said Developer and at this time a part of the public records of Polk 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 the flow or drainage channels in the easements. The easements are of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company or the Association is responsible.

Section 15. Sidewalks and Walkways. All sidewalks and walkways shall be constructed of concrete, stone or brick which shall be four (4) feet wide (except that they shall be five (5) feet wide along both sides of the main boulevard, if any), unless otherwise specifically approved by the Architectural Review Committee. Such committee may disapprove of plans or require modification as it sees fit.

Section 16. Antennas: Satellite Receivers. In accordance with the Telecommunications Act of 1996 each owner of a Lot is assured access to television services provided by direct broadcast satellite. Each Lot may install a direct broadcast satellite which is less than one (1) meter in diameter. Satellite dishes must be placed and maintained in an unobtrusive location on the house and placed in a location that does not hinder the device's function, but makes said device as unnoticeable to other Lots as possible.

Section 17. Boars: Lake Access. None of the Common Area within the Properties shall be permitted to be used for the purpose of ingress or egress to a lake, or for storage of boats. The Association shall not provide or permit any such access over, across or through a Common Area. No boat trailers shall be permitted in the Common Area.

Section 18. Common Area. The Common Area, including any drainage areas, recreation areas, and landscape areas, together with the structures, signs and lights, recreational facilities and irrigation system, if any, and any walls fences, are for the benefit and well-being of the Owners and shall be retained and maintained at the discretion of the Association. The Board of Directors of the Association, if necessary, shall publish rules and regulations pertaining to the uses, functions, and activities of the Common Area.

Section 19. Surface Water or Stormwater Management System. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater or management capabilities as permitted by the St. Johns River Water Management District. Any

repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

Section 20. Easement for Access and Drainage. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

Section 21. Swale Maintenance. If the Developer has constructed a drainage swale upon any Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time, each Lot owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused y natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) fo the Lot(s) upon which the drainage swale is located.

Section 22. Xeriscaping. Xeriscape Landscape: Homeowners may implement Xeriscaping on their individual Lots by creating a quality landscaping that conserves water and protects the environment by using site appropriate plants, an efficient watering system, proper planning and design, practical use of turf, mulches and stone. Plans for any Xeriscaping project are required to be submitted to the Architectural Review Committee before implementation. This ordinance is in no way to be misconstrued into allowing homeowners to neglect their yards and not maintain turf on any Lots. Xeriscaping must encompass the entire Lot in design and implementation; while compost may be used in Xeriscaping all Sections of Article VI shall be complied with and compost producing a noxious odor shall not be permitted.

Article VII
WAIVER OF MINOR VIOLATIONS

Where a building has been submitted to the Architectural Review Committee for approval or where a building has been erected or the construction thereof is substantially advanced and its construction would constitute a violation of the above covenants or it is situated on any Lot in such a manner that the same constitutes a violation of violations or any of the above covenants, said Architectural Review Committee or the Developer, its successor and/or assigns, shall have the right to release such Lot or portions thereof from such part of the provisions and said covenants as are violated; provided, however that said Architectural Review Committee or Developer, its successors and/or assigns shall not release a violation of any of said covenants except as to violations they, in their sole discretion, determine to be minor and the power to release any such Lot or portions thereof from such a violation or violations shall be dependent on a determination by them that such violation or violations are minor.

Article VIII
GENERAL PROVISIONS

Section 1. **Term**. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date the Declaration is recorded, after which time they shall be automatically extended for four (4) successive periods of ten (10) years each.

Section 2. **Amendments**. This Declaration may be amended from time to time upon the approval of at least two-thirds (2/3) of the Lot Owners. So long as the Developer is the owner of any Lot affected by this Declaration, the Developer's consent to the Amendment must be obtained. As it pertains to setback lines from any front, interior, rear or side Lot line, the said Developer specifically reserves unto itself and its successors and/or assigns the authority to change or waive said setback lines at any time prior to the construction of a residence dwelling, regardless of the number of Lots owned by it in said subdivision. Notwithstanding the foregoing provisions, so long as the Developer is the Owner of any Lot within the Properties, Developer shall have the right, in its sole discretion, to amend this Declaration without the joiner or a vote of any other Lot Owners, and each Lot Owner and all subsequent grantees of the Property grant to Developer their powers of attorney to effect any change, amendment or modification deemed to be required by Developer, its successors and/or assigns. Any amendment to this Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Area, must have the prior approval of the St. Johns River Water management District. Any amendment to this Declaration must have the prior approval of the Federal Housing Administration or the Veterans Administration so long as there is a Class B membership, if this Declaration has been previously submitted to and approved by the FHA and VA.

Section 3. **Enforcement**. If the Owner of Owners of any portion of the Properties or any other person or persons or any of them or any of their heirs, personal representatives, successors or assigns, shall violate or attempt to violate any of the covenants or restrictions contained herein, It shall be lawful for the Association or any Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages, including, but not limited to, attorneys' fees incurred before or during trial and on appeal, or other damages arising from such violation. The St. Johns River Management District shall have the right to

enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

Section 4. **Notice to Lot Owners**. Any notice 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, postpaid, to the Lot address of the person who owns the Lot.

Section 5. **Severability**. Invalidation of any one of these covenants or restrictions on any part thereof by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 6. **Annexation by Developer**. Portions of land (either for residential use or common area) may be annexed to the Properties at the sole discretion of Developer, provided that such additional land is within the property described in Exhibit "A" attached hereto and made a part hereof. Except for applicable governmental approvals, no consent from any other party shall be required, including Class A Members and holders of mortgages encumbering any portion of the Properties. Such annexed lands shall be brought within the terms and conditions of this Declaration by the recording of the document executed by Developer and recorded in the Public Records of Polk County, Florida (the "Notice of Declaration"). The Notice of Declaration shall refer to this Declaration and shall, unless specifically provided otherwise, incorporate by reference all of the terms, covenants and conditions of this Declaration, thereby subjecting said annexed lands to such terms, covenants and conditions as fully as though said annexed lands were described herein as a portion of the Properties. The Notice of Declaration may contain such additions or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed land, and as are not inconsistent with the overall scheme of this Declaration. Except for additions or modifications that are specifically intended to modify this Declaration, no Notice of Declaration shall revoke, modify or amend the covenants and restrictions established by this Declaration.

Section 7. **Annexation by Owners**. At such time as Class B membership has ceased pursuant to the provisions of the Declaration, additional residential property and common area located between two or more lots may be annexed to the Properties with the consent of two-thirds (2/3) of the then existing Owners. Any land so annexed shall be subject to the general plan theretofore approved by FHA or VA. Common Area expressly adjoining to one Lot shall be annexed into the care of said Lot owner if requested by the Lot proprietor with a unanimous vote of the Board of Directors. This provision shall not apply to common areas which connect to currently developed recreational common areas.

Section 8. **FHA and VA Approval**. As long as there is a Class B membership, any amendments to this Declaration of Restrictions of Real Estate, dedication of Common Area, or annexation of additional land will require the prior approval of the Federal Housing Administration or the Veterans Administration if this Declaration has been previously submitted to and approved by the Federal Housing Administration or the Veterans Administration.

Section 9. **Declarant's Rights**. Notwithstanding any provisions contained in the Declaration to the contrary, so long as the construction of improvements and sale of Lots shall continue, and to the extent permitted under the ordinances, rules and regulations of Polk County, Florida, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and

activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the improvement or sale of such Lots, including, but not limited to, business offices, signs, model units, and sale offices, and the Declerant shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitations, the right to use Lots owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

Section 10. Maintenance of Street Right-Of-Way. Lot Owners shall be responsible for maintaining the street right-of-way along their respective Lots, form the curb to the Lot line and the Association shall be responsible for maintaining the street right-of-way along the Common Area, from the curb to the property line.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 28th day of July, 1997.

Signed, sealed and delivered
In the presence of:

A. Myshel Webb
Theresa Ayotte

COLONY CONSTRUCTION COMPANY,
a Florida corporation

By: Larry Godwin, Chairman

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 29th day of July, 1997 by LARRY GODWIN, as President of COLONY CONSTRUCTION COMPANY, a Florida corporation, of behalf of the corporation, who is personally know to me.

NOTARY PUBLIC
Melissa Meloon
STATE OF FLORIDA AT LARGE

NOTICE OF DECLARATION – WELLINGTON PHASE TWO

THIS NOTICE OF DECLARATION is made as of the 18th day of June, 1998, by COLONY CONSTRUCTION COMPANY, a Florida corporation ("Colony"), with an office at 1330 Palmetto Avenue, Winter Park Florida 32789.

RECITALS

A. Colony executed and recorded that certain Declaration of Restrictions on Real Estate of Wellington (the "Declaration") in Official Records Book 3883, Page 2226, as amended by First Amendment to Declaration of Restrictions of Real Estate recorded in Official Records Book 3958, Page 1234, Public Records of Polk County, Florida, pertaining to the Properties described therein as shown on the Plat of Wellington Phase One, recorded in Plat Book 104, Pages 40 – 41, Public Records of Polk County, Florida.

B. Article VIII, Section 6, of the Declaration provides that additional land may be annexed to the Properties from time-to-time.

C. Colony is the Owner of all of the Lots in Wellington Phase Two according to the Plat thereof recorded in Plat Book 106, Pages 24 – 25, Public Records of Polk County, Florida (the "Additional Properties").

D. Colony makes this Notice of Declaration so as to add the Additional Properties to the Properties which shall be subject to the Declaration.

NOTICE OF DECLARATION

NOW, THEREFORE, Colony does hereby declare that the Additional Properties described above is hereby added to the Properties and shall be held, sold and conveyed subject to the covenants, restrictions, easements, charges, liens, terms and conditions of the Declaration.

IN WITNESS WHEREOF, the parties hereto have executed this Notice of Declaration as of the day and year first above written.

Witness:

Rebecca C. Hansford
A. Myshel Webb

COLONY CONSTRUCTION COMPANY, a Florida Corporation

Douglas A Shively, Jr. – President