

**DECLARATION OF RESTRICTIONS
FOR
MISTY OAKS SUBDIVISION**

(As Amended - Dec. 8, 2011)

The original DECLARATION was made and executed the 3rd day of January, 1986, by Misty Oaks Development Corp., a Florida corporation, was amended December 7, 1989 to establish the Misty Oaks Owners Association, Inc., hereinafter referred to as Association, and to transfer management responsibilities to the Association. It was further amended on December 7, 1993 to implement Judge Talley's ruling (October 28, 1992) differentiating responsibilities between the Association and Lake owners for retention pond maintenance. It was further amended on April 2, 1997 to comply with requirements of the Telecommunications Act of 1996 and resulting Federal Communications Commission regulations, effective on October 4, 1996, prohibiting home owners associations from restricting certain usage of small Digital Broadcast Satellite dishes. It was further amended on December 7, 2000 to specify indexed maximums on special assessments. It was further amended on December 4, 2003 to clarify setbacks to the lake. It was further amended on December 2, 2004 to add leasing requirements and enforcement provisions. It was further amended on December 8, 2011 to add requirements for Hurricane Protection.

WITNESSETH:

WHEREAS, Developer, to improve, develop and subdivide a tract of land located in Manatee County, Florida, a description of which is attached hereto as Exhibit "A" and thereafter to grant, sell and convey subdivided portions of said tract of land for residential purposes; and

WHEREAS, Developer has platted said tract of land into a subdivision and has established protective covenants covering the development, improvement and usage of the lots and common areas contained in this subdivision for the benefit and protection of the subdivision, Developer, and the purchasers of lots in the subdivision; and

WHEREAS Developer did declare that the land hereinafter described in Article I was bound by the limitations, conditions, easements and agreements set forth in this Declaration and that said property shall be held, used and enjoyed subject to and with the benefit and advantage of the following restrictions, limitations, conditions, easements and agreements, which shall constitute covenants running with the title to said land.

NOW, THEREFORE, the Misty Oaks Owners Association, Inc. does hereby declare the continuation of the restrictions, limitations, conditions, easements, and agreements as established by the Developer and as amended herein, to wit:

**ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION**

The real property which was owned by Developer and henceforth held, transferred, sold, conveyed and occupied subject to this Declaration is located in Manatee County, Florida, and is legally described as follows:

See Exhibit "A" attached hereto

Said property is sometimes herein referred to as "this subdivision" or "the subdivision."

ARTICLE II DEFINITIONS

1. "Association" shall mean and refer to MISTY OAKS OWNERS ASSOCIATION, INC., a Florida non-profit corporation, its successors and assigns.
2. "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 part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
3. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.
5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.
6. "Board" shall mean and refer to the Board of Directors elected by the Owners at its annual meeting in accordance with the By-Laws and who shall represent the Association in all matters except where specifically excepted herein.

ARTICLE III COMMON AREA PROPERTY

1. Owners' Easements of Enjoyment. Every owner shall have a right and 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 provision:

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 a majority of the members.

2. Tract A Described on Plat. The property described as Tract A on the subdivision plat is not intended for development. Tract A is intended to be preserved in its natural state.
3. Additional Common Area. The Association reserves the right to obtain an easement or obtain additional land in order to construct an improvement marking the entry of the subdivision.

ARTICLE IV REQUIRED MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION

In order to effectuate the orderly development of the subdivision and to establish, protect and preserve the quality of this subdivision, the owners of all lots in this subdivision shall be required to become members of Misty Oaks Owners Association, Inc.

The objective of the Association is as follows:

1. Misty Oaks Owners Association, Inc. The primary purpose of the Association is to own, improve, maintain and manage the common needs of the subdivision in accordance with this Declaration of Restrictions and the Articles of Incorporation and By-Laws of Misty Oaks Owners Association, Inc.; to enforce these restrictions wherever applicable and appropriate, so as to establish, protect and preserve the quality of this subdivision; and to perform such other duties as may be assigned to it under this Declaration of Restrictions and the Articles of Incorporation and By-Laws of Misty Oaks Owners Association, Inc. Copies of the Articles of Incorporation and By-Laws of Misty Oaks Owners Association, Inc., are attached hereto as Exhibits "B" and "C", respectively.
2. The Board shall have the right to levy assessments for maintenance purposes and other lawful purposes with the authority to enforce collection thereof by placing liens against property in the subdivision.

ARTICLE V ARCHITECTURAL CONTROL

1. Approval by Board No improvement or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, tennis court or other game court or structure, screen enclosure, water or sewer line, drain, mailbox, solar energy device, decorative building, landscaping, landscape device or object, or other external improvements shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change or alteration thereof or thereto be made, unless and until the plans, specifications and location of the same shall have been submitted to and approved in writing by the Board. In keeping with Association's intent to assure to each lot owner a neighborhood of quality homes of tasteful design, the Board will evaluate the plans and specifications of all proposed improvements with respect to their external design, appearance, and location in relation to surrounding structures

and topography, their proposed materials and construction standards, and their general aesthetic impact. The Board may, in its sole discretion, disapprove plans and specifications for any reason, including purely aesthetic considerations, but, in order to assist a lot owner in the development of acceptable plans and specifications, the Board shall state with reasonable particularity its grounds for such disapproval. It is not the Association's intent to impose a uniform appearance or limited architectural style in the subdivision, but rather to promote and assure architectural and aesthetic quality and discrimination for the benefit of all owners in the subdivision.

2. Submission of Plans. Two complete sets of all plans and specifications for any such improvement or structure proposed for any lot in this subdivision shall be submitted to and approved by the Board prior to the commencement of construction or placement of such improvement. A landscaping plan shall include: (a) a landscaping scheme which also shows the location and the style of the post lamp that will be installed; (b) a listing of the plant stock included in the scheme; and (c) the site of such stock at the time of planting. A site plan shall include a designation of the location, diameter and species of all existing trees and a designation of all trees to be removed. Plans for the grading of any lot and plans reflecting the proposed elevation of the floor slab of any structure to be built on such lot, and which shall show intended lot drainage, are required to be submitted. Any increase in the elevation of the existing grade of a lot shall be accomplished by the lot owner so as to not increase the surface water runoff from such lot onto neighboring properties. The Board may also require submission of samples of building materials proposed for use on any lot and may require such additional information as reasonably may be necessary for the Board to completely evaluate the proposed structures or improvements.
3. Preliminary Drawings. In order to facilitate the preparation and ultimate approval of construction and landscaping plans, any lot owner may submit preliminary drawings or other writings prior to the preparation and submission of the final working drawings and specifications, and the Board agrees to review and indicate its approval, disapproval or recommendation on the matters reflected thereon.
4. Statement of Approval. If, following its review of the plans and specifications submitted to it, the Board disapproves such plans and specifications, the Board shall advise the lot owner of the portion or items thereof which were found to be objectionable. In the event the lot owner corrects the objectionable portions, he may resubmit the plans and specifications, as corrected, for approval. Upon final approval of an owner's plans and specifications either as originally submitted or as subsequently modified in accordance with the recommendations of the Board, the Board shall indicate its approval in writing on the plans and specifications. One set of such plans and specifications shall then be returned to the owner and one set shall be retained by the Board. Should the Board fail to either approve or disapprove, or request additional information, for the plans and specifications submitted to it by a lot owner within 14 days after their submission, then such approval shall not be deemed to be required in such instance; provided, however, that no building or other structure shall

be erected or be allowed to remain on any lot which violates any of the other covenants or restrictions herein contained.

5. Approval Fees. The Board may adopt a schedule of reasonable fees for reviewing preliminary drawings or plans and specifications submitted to it for approval. The schedule may provide for additional fees for the review of any resubmitted preliminary drawings or plans and specifications. All such fees shall be payable to the Misty Oaks Owners Association, Inc. at the time that the preliminary drawings or plans and specifications are submitted or resubmitted to the Board. These fees will only be charged when it is necessary for the Board to obtain professional services in interpreting drawings and plans. Also these fees will not exceed the amount charged to obtain this professional service.

ARTICLE VI BUILDING AND USE RESTRICTIONS

1. Residential Use. The property subject to this Declaration may be used for single family residential living units and for no other purpose. No business or commercial building may be erected on any lot, and no business, occupation, or profession may be conducted on any part thereof, except that real estate brokers and owners, and their agents, may show dwellings in the subdivision for sale or lease. Notwithstanding the foregoing and notwithstanding any other provision herein to the contrary, such contractors as the Board may approve in writing shall have the right from time to time to construct and operate model homes in the subdivision.
2. No Trailers or Temporary Buildings. Except as may be reasonably necessary for construction work, no tents, trailers, vans, shacks or temporary or accessory buildings or structures shall be erected or permitted to remain on any lot without the written consent of the Board.
3. Water and Sewer. All buildings shall use and be connected to the central water and sewerage system made available by Developer. No well shall be drilled or utilized on any lot for any purpose other than irrigation.
4. Dwellings. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling containing at least 2,300 square feet for lots located on Palm Aire golf course and 2,000 square feet for lots not located on Palm Aire golf course, of enclosed living area (exclusive of open or screen porches, terraces and garages) which dwelling shall not exceed 35 feet in height. Unless approved by the Board in writing as to use, location and architectural design, no garage, tool or storage room, pool house, cabana, gazebo or other structure may be constructed separate and apart from a residential dwelling. No flat roofs and no built up roofs shall be permitted on the main body of any building without the approval of the Board. The composition of all pitched roofs shall be either tile, cedar shake, shingle, slate or such other composition or material as may be approved by the Board. No heat or plumbing vents shall penetrate the roof on the road side of the building

without the approval of the Board. With the exception of brick chimneys, all such vents shall be painted the same color as the roof.

5. Setback Line. No dwelling, building or other structure (which shall be deemed to include a porch, veranda, garage, swimming pool, lanai, screen enclosure, and the like) shall be erected or placed upon any part of a lot such that any portion of said dwelling, building or structure (including eaves or overhangs) encroaches on any easement denoted on the plat of this subdivision or on any easement reserved unto or granted by Developer under the provisions of this Declaration or such that any portion is closer than:
 - (a) 25 feet to any portion of the front lot line (street line);
 - (b) 10 feet from any side lot line, except in the following situations:
 - (i) 25 feet to the shoreline if the side lot abuts a lake; or
 - (ii) 15 feet if a two story structure is constructed;
 - (c) 15 feet from the rear lot line, except when the rear lot line abuts a lake, pond or other body of water in which event no closer than 25 feet to the shoreline.

No building shall be erected on a corner lot so that the setback from the front lot line on which the building faces is less than 25 feet or so that the setback from the side street is less than 25 feet. Notwithstanding any of the above, terraces, patios, low platforms or steps, decks, and similar low, open, unroofed and unscreened construction may be erected within the setback areas, provided that such construction: (1) does not encroach on any of the aforesaid easements, (2) in the opinion of the Board does not interfere with the exposure or view or reasonable privacy of adjoining or facing properties.

6. Garages Required. No dwelling shall be constructed on any lot without provision for an enclosed garage adequate to house at least two large sized American automobiles. All garages must have doors that are to be maintained in a useful, working condition and which are operated by electric door openers. Except when in actual use, garage doors must be kept closed. No garage shall be converted to other usage without the substitution of another garage.
7. Antenna and Other Communication Systems. No aerial or antenna shall be placed or erected upon any lot or affixed in any manner to the exterior of any building in the subdivision, nor protrude beyond the exterior of such building without prior written approval of the Association. A satellite-dish television signal receiver with the smallest diameter adequate to receive direct broadcast satellite service, may be affixed to the exterior of a building if adequately screened or enclosed so that the receiver cannot be seen from the street. No satellite dish shall be larger than thirty-nine (39) inches in diameter, nor be on a free-standing mast. The location, physical

dimensions, and adequacy of screening of any satellite dish installation shall receive prior approval by the Board and the Association reserves the right to restrict the size type, and location of such devices to the maximum extent permitted by law. Basic cable service must be purchased through the master contract between the Association and the cable company.

8. Underground Wiring No lines or wires for communication or the transmission of current shall be constructed, placed or permitted to be placed upon any lot unless the same shall be inside a building or underground. Electrical service meters shall be screened from view from the street.
9. Screening of Air conditioner Compressors, Garbage Containers, or Clothes Drying Area. All equipment servicing a residence shall be located within a totally enclosed or screened area. All garbage or trash containers must be located within totally enclosed or screened areas. No portion of any lot shall be used as a drying or hanging area for laundry of any kind unless the area is shielded from public view by walls or fences. No walls or fences shall be permitted unless approved by the Board. No window or wall air conditioning units shall be permitted on any lot. Air compressors and fans located outside a building shall be similarly screened from view and buffered by walls or shrubbery so as to reduce the noise level resulting from operation thereof.
10. Driveway Construction. All dwellings shall have a paved driveway of stable and permanent construction of at least 16 feet in width at the entrance to the garage. All driveways must be constructed with concrete, unless prior approval of other materials is obtained from the Board. No portion of a driveway shall be located within five feet of the side line of any lot.
11. Games and Accessory Structures. All basketball backboards and any other fixed games and play structures (the installation of which shall be determined within the sole discretion of the Board) shall be located at the rear of the dwelling. No platform, dog house, playhouse or other structure of a similar kind of nature shall be constructed on any part of a lot located in front of the rear line of the residence constructed thereon, and any such structure must have the prior written approval of the Board.
12. Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar materials shall be erected on any lot unless and until the size, location, design, and type of material for said boxes or receptacles shall have been approved by the Board.
13. Fences, Hedges and Walls. The composition, location and height of any fence, hedge or wall to be constructed on any lot shall be subject to the approval of the Board. No tree, fence, shrub, or other landscaping which substantially obstructs the vision of drivers of motor vehicles shall be placed or permitted to remain on any corner lot.

14. Landscaping. Not later than 30 days following completion of construction of a dwelling upon a lot, such lot shall be sodded and landscaped in accordance with the approved landscaping plan. An underground sprinkler system of sufficient size and capacity to irrigate all sodded and landscaped areas must be installed and maintained in good working order on all landscaped lots. A post lamp with a dusk-to-dawn photocell, will be installed between the house and the street line and will be styled to conform to the decor of the house.
15. Trees. No tree, the trunk of which exceeds four inches in diameter at four feet above the natural grade, shall be cut down or otherwise destroyed without the prior consent of the Board.
16. Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any lot, unless approved by the Board.
17. Vehicles. No vehicle shall be regularly parked in the subdivision except on a paved driveway or inside a garage. No trucks or vehicles which are used for commercial purposes, other than those present on business, nor any trailers, may be parked in the subdivision unless inside a garage and concealed from public view. Boats, boat trailers, campers, motor homes, non-passenger vans, motorcycles and other recreational vehicles and any vehicle not in operable condition shall be permitted to be parked in the subdivision only while loading or unloading or while parked inside a garage and concealed from public view. No maintenance or repair of any boat or vehicle shall be permitted upon any lot except within an enclosed garage.
18. Roadways. Except as the Board may otherwise approve in writing, and except as may be otherwise denoted herein or on the plat of the subdivision, no lot or any portion thereof shall be open, dedicated, or used as a street, road, pathway or other thoroughfare, whether public or private. The easement between Lots 21 and 22 identified as an Emergency Egress shall not be permanently obstructed nor shall it be used as normal egress.
19. Sidewalks. As described on the plat of the subdivision, there is a proposed sidewalk which will be located adjacent to the roadway over the following lots: 18-36 inclusive, 42-49 inclusive, 52-56 inclusive, 65 and 66. Subsequent to completion of the residence on the lot, each lot owner where the sidewalk is to be located shall be responsible for paying all costs of its initial construction as well as all future sidewalk improvements. The sidewalk shall be completed in accordance with the plans and specifications provided by the Board.
20. Signs. No sign, flag, or banner of any kind intended to be used as advertising the sale of the property shall be displayed to public view on any lot except as follows:
 - a) Individual, ornamental house name or number plates may be displayed.

- b) One temporary sign not exceeding 24" x 24" overall size utilized in connection with the sale of a lot may be displayed on such lot. The nature, content and location of such sign may be subject to the approval of the Board.
 - c) During the course of construction on a lot, a construction sign not more than four square feet in size identifying the builder may be displayed on the lot. Such sign shall be promptly removed upon the issuance of a certificate of occupancy.
 - d) Other signs, flags or banners may be displayed if such signs, flags or banners are approved by the Board as to size, design, location and content.
21. Animals. No horses, cattle, swine, goats, poultry or other animal or fowl not customarily regarded as a household pet shall be kept on any lot. No pet shall be permitted to roam outside except on a leash.
22. Leasing. Residencies may be leased or rented, provided that the entire residence only may be rented and not subdivided, subleased or sub-rented, and further provided that units may not be leased or rented for a term of less than ninety (90) consecutive calendar days, nor for a term of more than twelve (12) consecutive calendar months. Owners shall not be permitted to lease their residences more than one (1) time in any calendar year. In the event that an owner wishes to renew or extend a tenant=s lease that would result in a tenant occupying the residence for a period of more than twelve (12) consecutive calendar months, the prior written approval of the Association shall be obtained by the owner before such renewal or extension shall be permitted. In the event that a residence is leased, the occupancy thereof shall only be by the lessee, his family and guests. All tenants, occupants and guests shall be required to comply with all of the provisions of the Associations governing documents. Failure of a tenant, occupant, or guest to comply with the Associations governing documents may result in compliance proceedings against the owner and all tenants, occupants, and guests to the fullest extent permitted by the governing documents and Florida law. The prior written approval of the Association shall be obtained by the owner before any leasing or renting shall be permitted. The Board shall be provided with a copy of all executed leases.
23. Hurricane and Severe Weather Protection. Hurricane and severe weather protection, as approved by the Florida Building Code, (hereinafter collectively referred to as "Storm Protection"), shall be regulated as provided below and by rules and regulations established by the Board. All Storm Protection and hardware attached to the house, whether permanent or temporary, shall comply with the following standards and will be strictly enforced by the Association:
- a) The following types of Storm Protection may remain in the closed or installed hurricane/severe weather ready position on the front and/or sides of the house throughout the entire hurricane season from June 1 to November 30 each year, hereinafter referred to as the "Hurricane Season":

- (i) Hurricane shutters, that are permanently attached to the house, and that can be opened and closed during times of severe weather, and further provided the shutters and hardware are painted in a color to match the house or trim color.
 - (ii) Removable horizontal or vertical panels that are affixed to hardware that is attached to the house, provided such panels are made of materials that are painted to match the house or trim color, or are made of clear, see-through materials designed and constructed for use as impact resistant hurricane protection. .
 - (iii) Storm Protection made of fabric materials that are designed and constructed for severe weather protection purposes, provided such materials are of a color that is comparable, complimentary, or otherwise matches, as closely as possible, the house or trim color.
 - (iv) For periods of time outside the Hurricane Season, the Storm Protection described in this Section “a” shall be installed and removed in accordance with the time frames set forth below in Section “b”.
- b) Hurricane shutters, fabric materials, or removable panels that are of the type that are attached directly to the structure or to hardware attached to the house, that are not described in Section “a” above may only be in the hurricane/severe weather ready position on the front and/or sides of the house when the National Hurricane Center has issued a Tropical Storm or Hurricane Watch or Warning for the Manatee or Sarasota County areas, and must be removed within fourteen (14) days following the lifting of the watch or warning. Such materials may not be closed or installed in a hurricane/severe weather ready position throughout the entire Hurricane Season.
 - c) Temporary Storm Protection, such as plywood, or other materials that are not described in Sections “a” or “b” above, may be installed only when the National Hurricane Center has issued a Tropical Storm or Hurricane Watch or Warning for the Manatee or Sarasota County areas, and must be removed within five (5) days following the lifting of the watch or warning. Such materials may not be closed or installed in a hurricane/severe weather ready position throughout the entire Hurricane Season or otherwise.
 - d) No form of Storm Protection may remain in the hurricane/severe weather ready position for the entire year, and it may only be installed or closed during the period of time described above.
 - e) Storm Protection for the rear of the house as described in Sections “a” or “b” above, may remain in the hurricane/severe weather ready position throughout the entire Hurricane Season, but not for the entire year. Temporary Storm Protection for the rear of the house as described in Section “c” above may only be installed

during the time frame described in Section “c”. Outside of the Hurricane Season, Storm Protection on the rear of the house shall be subject to removal in accordance with the time periods set forth in Sections “a”, “b”, and “c”, as applicable.

- f) At any time of the year, when a tornado watch or other severe weather condition warning has been issued for the locality that reasonable warrants installation of Storm Protection, Storm Protection may be installed or closed into the hurricane/severe weather ready position, and must be removed within five (5) days following the lifting of the watch or warning.
- g) Owners who travel during the summer or owners that do not reside in the home for portions of the Hurricane Season are responsible for making arrangements to have their Storm Protection installed as permitted herein. The duty to make such arrangements and coordinate the installation and removal of the Storm Protection in a timely manner shall be the sole responsibility of the individual owners, and the Association assumes no obligation to facilitate the installation or removal of the Storm Protection, and assumes no obligation or liability in the event that timely installation and/or removal cannot be accomplished by the owner and/or the owner’s tenants or agents.
- h) In the event that an owner wishes to install Storm Protection materials that are not contemplated or described by this provision, the Board of Directors shall have the authority to determine whether such materials are permissible.

ARTICLE VII MAINTENANCE OF LOTS

- 1. Nuisances. Nothing shall be done or permitted to be done or maintained, or failed to be done, on any lot which may be or become an annoyance or nuisance to other properties or owners in the subdivision. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board which shall render a decision in writing and such decision shall be dispositive of such dispute or question.
- 2. Maintenance of Lots and Landscaping. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain uncut or unmowed upon any lot, and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon. The owners of the lots in the subdivision shall be responsible for the maintenance of all areas located between their respective lot lines and the pavement of the streets providing access to said lots. All owners shall maintain their hedges, plants, lawns and shrubs in a neat and trim condition at all times. The owners of the lots abutting lakes or ponds shall be responsible for the maintenance of said lots to the waters edge.
- 3. Maintenance of Improvements. Owners shall maintain their residences and all other improvements, including, without limitation, walls, fences, screen enclosures,

driveways and accessory structures, in good appearance and safe condition, and the repair of any damage, deterioration or evidence of wear and tear on the exterior of any building shall be made promptly.

4. Boarding up Residences. Dwellings may be boarded up or otherwise have severe weather protection installed on the windows to the extent provided by Article VI, Section 23.
5. Annual Mowing Fee. In order to insure that unimproved lots do not become overgrown with weeds and other vegetation, the Board shall provide for the periodic mowing of all such lots. Owners of unimproved lots shall reimburse the Association the cost of mowing each time the lots are mowed. The amount of the mowing fee shall be determined between the Board and the provider of the mowing service. Any mowing fee which is not paid within thirty (30) days of the billing date when due shall be subject to a late charge of 5% and shall bear interest from the due date until paid at the maximum rate for individuals permitted by law. As used herein, "unimproved lot" means a lot on which no bona fide construction of a dwelling has been commenced or completed at the time that lot is mowed.
6. Maintenance and Repair Authority by the Association. In the event any owner shall fail or refuse to maintain his residence, lot or other improvements situated on said lot in full compliance with these restrictions, the Board shall have the authority to take remedial action to correct any such deficiencies. Such authority shall include the right of reasonable access to the premises, and any such entry by the Board or its duly authorized agents shall not be deemed to be a trespass. The expense of any such repairs or maintenance shall be chargeable to and paid by the owner to the Association within 30 days after submission of a bill therefor. If any such bill is not paid when due, a late charge of 5% shall be added to the bill and interest shall accrue thereon from the due date until paid at the maximum rate for individuals permitted by law.

ARTICLE VIII EASEMENTS

Perpetual easements for the installation and maintenance of utilities and drainage facilities are hereby reserved unto the Association over all utility and drainage easement areas shown on the plat of the subdivision. A perpetual easement 10 feet in width over and under each lot in the subdivision for the installation and maintenance of utilities, street lights and sidewalks is hereby served unto the Association along such portion of each lot line as abuts a street. Perpetual easements for the installation and maintenance of walls, fences, hedges, plantings and landscaping are hereby reserved unto the Association over all planting strip easement areas shown on the plat of the subdivision. The easement area of each lot and all improvements located within it shall be maintained continuously by the owner of the lot, except for those improvements for which the Association, public authority, or utility company is responsible. No drainage easement or swale may be obstructed, filled in or altered. Any walls, fences, paving, landscaping or other improvements constructed, placed or planted by a lot owner over the easement areas of his lot may be removed, if required, for the installation or maintenance of improvements of facilities related to the purpose for which the easement was reserved, at the

expense of the lot owner, and the lot owner shall be required to replace the same. The Association reserves a ten foot wide perpetual non-exclusive easement along the side and rear of lots 23 through 33 which abut the retention pond within Misty Oaks for the maintenance of the water quality and aquatic weed control.

ARTICLE IX RESUBDIVIDING

No lot or contiguous group of lots shall ever be resubdivided or replatted in any manner which would bring about a greater number of lots than that shown on the plat of the subdivision for the same area. No dwelling or other structure or improvement shall be erected, altered, placed or permitted to remain on any site that does not include at least one platted lot according to the recorded plat of the subdivision. Any such lot may be combined with contiguous lots or parts thereof to form a single building site. In the event that more than one lot is developed as a building site, the provisions of these restrictions shall apply thereto as if it were a single lot; provided, however, that the combination of two or more lots, or parts thereof, shall not alter the liability of any such lot for its share of assessments levied by the Association. If a lot is divided and the parts thereof added to other lots, the share of such lot for voting rights and for assessments levied by said association shall be prorated among adjoining lots on the basis of square footage.

ARTICLE X VARIANCES

The Board of Directors, representing the Association, does not have the authority to grant waivers to these Declaration of Restrictions.

ARTICLE XI ASSIGNMENT BY DEVELOPER

Developer may from time to time assign any or all of its rights, title, interest, easements, powers, duties, obligations and privileges reserved hereunder to Misty Oaks Owners Association, Inc. or to any other corporation, association or person.

ARTICLE XII ASSESSMENTS BY MISTY OAKS OWNERS ASSOCIATION, INC.

1. Annual Assessments. The Association shall have the right to levy an annual assessment against all lots in this subdivision, in such amounts as may be deemed appropriate by said Association's Board of Directors for the management and operation of the Association and for the general purposes and objectives of the Association as set forth herein and in its Articles of Incorporation and By-Laws.
2. Special Assessments. The Board shall have the right to levy special assessments from time to time against the lots in the event the budget adopted for any fiscal year is insufficient to pay the costs and expenses of operations, maintenance and management; in the event of emergencies; or in the event the Association's reserves are

insufficient to cover expenditures for capital improvements or replacements. All special assessments of an amount greater than twice the annual assessment (excluding lot-specific fees, which includes, but is not limited to: cable TV, lake maintenance, vacant lot mowing, etc.) must be approved by a vote of more than fifty percent (50%) of the members.

3. Assessments Levied Pro Rata. All assessments, whether annual or special, shall be on the basis of 1/66 per lot so that each owner of a lot shall bear an equal pro rata share of the expenses of the Association.
4. Payment of Assessments. Procedures for the adoption of an annual budget, mailing of notices of the annual assessment, and collection of such annual assessment shall be as set forth in said Association's Articles of Incorporation and By-Laws. Payment of any special assessment levied by the Board shall be due upon 30 days written notice thereof on the date and in such installments as the Board may specify. Any assessment, whether annual or special, which is not paid when due shall be subject to a late charge of 5% and shall bear interest from the due date until paid at the maximum rate for individuals permitted by law.

ARTICLE XIII

LIEN RIGHTS OF MISTY OAKS OWNERS ASSOCIATION, INC.

1. In the event any owner fails or refuses to pay when due membership fee, mowing fee, cable fee, or other legitimate expense billed to him by the Board or any assessment levied by the Board against his lot, the Board shall have the right to file a Claim of Lien against any lot or lots in this subdivision owned by such owner. Said Claim of Lien shall be filed in the Public Records of Manatee County, Florida, and a copy thereof shall be mailed to such owner at his last known mailing address. If such lien is not paid within ten days after the filing thereof, the Association shall have the right to foreclose the lien in the same manner as a mortgage or mechanics' lien foreclosure or in such other manner as may be permitted by law. In addition to recovery of the amount of the unpaid fee, expense or assessment, the Association shall be entitled to recover from the owner any late charges and interest due thereon and all costs, including reasonable attorneys' fees (including attorneys' fees for appellate proceedings), incurred in preparing, filing and/or foreclosing the lien, and all such costs, late charges, interest and fees shall be secured by said lien.
2. Costs associated with filing and/or foreclosing a lien against a lakeside owner for failure or refusal to pay a lake maintenance fee shall be borne by lakeside owners.

ARTICLE XIV

ENCLOSED RETENTION POND WITHIN MISTY OAKS

1. Maintenance of Enclosed Retention Pond. It is the responsibility of each lot owner whose lot is located on the enclosed retention pond to maintain that lake that is within the area of his lot as may be outlined on plat maps. To facilitate the management of lake maintenance, a Lake Maintenance Committee shall be established whose Chairman shall be appointed by the President, Misty Oaks Owners Association, from among the lakeside owners. The Lake Maintenance Committee Chairman shall be responsible for the coordination, and control of, the water quality and control of aquatic weeds and other necessary lake maintenance activities. He shall be empowered to sign necessary contracts for lake maintenance activities. If the Lake Maintenance Committee Chairman is not an elected member of the Board, he shall attend Director meetings only with the advance agreement of the President but shall not participate in any non-lake Board activity. He shall determine lake maintenance costs as an item for the annual budget. The Treasurer shall collect lake maintenance fees from lakeside lot owners only and shall maintain separate accounting for the collection and disbursement of monies from this account. Individual lakeside lot owners shall maintain appropriate insurance for any potential liabilities.
2. Motorized Crafts. No motorized crafts shall be permitted in any lake or pond.

ARTICLE XV COMPLIANCE WITH LOCAL ZONING CODE AND LAND DEVELOPMENT

Pursuant to the Manatee County Comprehensive Zoning and Land Development Code (the "Code"):

- (a) A right of entry upon the Common Area and to the Misty Oaks emergency egress located between lots 21 and 22 is hereby granted to Manatee County law enforcement officers, health pollution control personnel, emergency service personnel and fire fighting personnel while in pursuit of their duties.
- (b) Notwithstanding anything herein contained to the contrary the Association shall not be dissolved, nor shall the Association dispose of any common area by sale or otherwise except to an organization conceived and organized to own and maintain the common areas, without first offering to dedicate the same to Manatee County or other appropriate governmental agency.
- (c) No lands in the common area shall be denuded, defaced or otherwise disturbed in any manner at any time, except for maintenance or repair, without the prior written approval of the Manatee County Planning and Development Director.
- (d) In the event the Association or any successor organization shall fail to maintain the common area in reasonable order and condition, the provisions of the Code allow Manatee County, upon notice and hearing, to enter upon the common area for purposes of maintaining same. Such entry shall not vest the public with a right to use the common area. The cost of maintenance by the county shall be assessed pro-rata

against the lots and shall be a charge on the lots. Such charges shall be paid by the owners within 60 days of the receipt of the statement therefor and shall become a lien on the property if not paid at the end of such period.

ARTICLE XVI GENERAL PROVISIONS

1. Duration. The covenants and restrictions of the Declaration shall run with the title to each of the lots in this subdivision and shall inure to the benefit of and be enforceable in accordance with its terms by the Association, or the owner of such lots, and their respective legal representatives, heirs, successors and assigns, for a term of 25 years from the date hereof, after which time said covenants and restrictions shall automatically be extended for successive periods of 25 years each unless prior to the commencement of any such 25 year period an instrument signed by the then owners of more than fifty percent (50%) of the lots in the subdivision terminating said covenants and restrictions in whole or in part has been recorded.
2. Remedies for Violation. The violation or breach of any condition, covenant or restriction herein contained shall give the Board, or any lot owner, in addition to all other remedies provided herein or by law, the right to such condition, covenant or restriction and to prevent the violation or breach of any of them, and the costs of such violation if such proceedings result in a finding that such owner was in violation of these covenants and restrictions. Such costs shall include reasonable attorneys' fees, including attorneys' fees for appellate proceedings, incurred by the Association but not attorneys' fees incurred by any lot owner in bringing an action against another lot owner. Failure by the Board or any lot owner to enforce any of said covenants or restrictions upon breach thereof, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or with respect to any other breach occurring prior to or subsequent thereto. Failure of an Owner, tenant, guest or invitee to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, all to the extent of the Owner or violating party's liability under applicable law. It is the Association's absolute right to elect the most appropriate remedy to enforce any violation. The Association is not required to have a hearing prior to initiating a court action to enforce any violation, except to the extent required by law. The Association shall have the right to assess fines, suspend the violating party's rights of use of Common Area(s) as further provided herein, and/or suspend voting privileges to the maximum extent permitted by law. The Association shall also have the right to disconnect cable TV service, contracted for by the Association, if any owner fails or refuses to pay assessments or fines. The Association shall have the authority to promulgate fining procedures, and to appoint fining committees when the Board determines that a fine is deemed appropriate. A committee of three (3) members constituted for the purpose of levying and imposing such fines, shall be impartial, and shall be composed of members as set forth in Florida Statute 720. The opinion of the fining committee shall be unanimous in order for a fine to be imposed

on a member. Copies/transcriptions of all correspondence between the Association (including the Board) and the violating party(s) (including but not limited to, written, verbal, electronic media, etc.) shall be provided to the fining committee. Such fines shall be due as set forth by the Board of Directors. Fines shall be levied in amounts not to exceed One Hundred Dollars (\$100.00) per day per violation, as each violation may be defined by the Board of Directors by duly adopted rule from time to time. A fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing. The Association's fine for each specific violation shall not exceed the lesser of One Thousand Dollars (\$1,000.00) in the aggregate or a maximum total fine not exceeding twice the reasonable estimated cost to remedy the violation and shall be so stated in the fining notice or the maximum aggregate amount permitted by Florida Statute. Violating parties shall be given verifiable notice of the violation with reasonable time to respond prior to any fine being imposed, and shall receive notice of any required hearing as required by Florida Statutes. No purely punitive fines shall be levied.

3. Severability. Invalidity of any of the covenants and restrictions herein contained by stipulation, agreement, judgement or court order shall in no way affect the other provisions hereof, which other provisions shall remain in full force and effect.
4. Amendment. This Declaration may be amended at any time and from time to time upon the recordation of an instrument executed by more than fifty percent (50%) of the members.
5. Usage. Whenever used herein the singular shall include the plural and the use of any gender shall include all genders.

