

DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS, AND RESTRICTIONS FOR ORCHARD WALK SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by H. SMITH, INC., a Florida corporation, hereinafter referred to as "Declarant". There are or may be other persons who hold fee simple title or liens against the Properties (as hereinafter defined), who shall not be Declarants, but who shall join in the execution of this instrument now or hereinafter to subordinate their rights in the Properties to the force and effect of the terms hereof. (17)

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of all of the lots described on the Plat of Orchard Walk, according to Plat thereof recorded in Plat Book 47, pages 65 & 65A of the public records of Duval County, Florida.

NOW, THEREFORE, Declarant hereby declares that all of the real property described on the Plat of Orchard Walk, according to Plat thereof recorded in Plat Book 47, pages 65 & 65A of the public records of Duval County, Florida, shall be subject to the terms and conditions of this Declaration upon recordation of this document. The Lots described on the Plat of Orchard Walk according to Plat thereof recorded in Plat Book 47, pages 65 & 65A of the public records of Duval County, Florida, shall be held, sold, conveyed and occupied subject to the following covenants, restrictions, conditions, and easements which easements shall be perpetual in duration unless otherwise provided, all of which are for the purpose of protecting the value and desirability of, and which shall run with the title to, said Lots and shall be binding upon all parties having any right, title or interest in said Properties or any part thereof, their heirs, personal representatives, successors and assigns, and which shall inure to the benefit of the Association and each Owner as those terms are hereinafter defined.

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PREPARED BY H. SMITH, INC.

ONE SAN JOSE PL # 7

JAX, FL 32257

ARTICLE I - DEFINITIONS - PURPOSE

Section 1. ARTICLES. "Articles" shall mean and refer to the Articles of Incorporation of the Association.

Section 2. ASSOCIATION. "Association" shall mean and refer to Orchard Walk Owners Association, Inc., a corporation not for profit, organized or to be organized under the laws of the State of Florida, and its successors and assigns.

Section 3. BOARD OF DIRECTORS. "Board of Directors" shall mean and refer to the Association's Board of Directors.

Section 4. BUILDER. "Builder" shall mean and refer to any person or building contractor or construction company engaged in the business of constructing single family residential dwelling on the Properties.

Section 5. DECLARANT. "Declarant" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions.

Section 6. DECLARATION. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restriction.

Section 7. LAKE AREA. "Lake Area" shall mean the storm water detention area shown on the Plat which Lake Area is for the purpose of directing and containing the flow of excess surface water, if any.

Section 8. DRAINAGE EASEMENTS. "Drainage Easements" shall mean all drainage easements on the Plat.

Section 9. ENTRANCE AREA. "Entrance Area" shall mean and refer to that portion of the Properties consisting of the Southeasterly portion of Lot 1 and the Northeasterly portion of Lot 42, upon which area improvements shall be constructed or placed by Declarant thereon, including but not limited to signage, walls, or fences, curbs, landscaping, berms, lighting, and irrigation systems, which repair and maintenance shall be the obligation of the Association, as hereinafter provided.

Section 10. LOT. "Lot" shall mean and refer to any Lot shown upon the Plat and all other Lots shown on any future recorded replat of the Properties or any other lot created upon real property annexed to this Declaration and brought within the jurisdiction of the Association.

Section 11. OCCUPANT. "Occupant" shall mean and refer to the person or persons other than the Owner in possession of a Lot and the residential dwelling thereon.

Section 12. OWNER. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 13. PLAT. "Plat" shall mean and refer to the Plat of Orchard Walk according to Plat thereof recorded in Plat Book 47, pages 65 & 65A of the public records of Duval County, Florida, and any future recorded Plat of the Properties, as hereinafter defined.

Section 14. PROPERTIES. "Properties" shall mean and refer to the property described on the Plat and such additional property that may hereafter be annexed to this Declaration and brought within the jurisdiction of the Association.

Section 15. STORMWATER MANAGEMENT SYSTEM. "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, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C042, F.A.C.

Unless the context otherwise requires, the use herein of the singular shall include the plural and visa versa; the use of gender shall include all genders; and the use and term "including" shall mean "including without limitation". This Declaration shall be liberally construed in favor of the parties seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the marketability and desirability of the Properties by providing a plan for the development, use and enjoyment thereof. The headings used herein are for indexing purposes only, and shall not be used as a means of interpreting or construing the substantive provisions hereof.

#### ARTICLE II- MEMBERSHIP AND VOTING RIGHT

Section 1. Members. The Declarant, so long as it shall hold title to one Lot, and every other Owner of Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership from any Lot.

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

Class A. Class A members shall be all Owners of Lots (with the exception of the Declarant until the Class B membership shall cease to exist at which time Declarant shall convert to Class A membership), and such Owners shall be entitled to one vote for each Lot owned. When 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant who 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 equals or exceeds the total votes outstanding in the Class B membership; or

(b) On December 31, 2010.

Section 3. Amplification. The performance of this Declaration may be amplified with the Articles and the Bylaws of the Association: PROVIDED, HOWEVER, no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth herein. In the event of a conflict among this Declaration, the Articles or the Bylaws of the Association, this Declaration shall control.

ARTICLE III -  
COVENANT FOR MAINTENANCE  
ASSESSMENTS AND CAPITAL CONTRIBUTIONS

OFFICIAL RECORDS

Section 1. Creation of the Lien; Personal Obligation, of Assessments, and Capital Contribution. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, 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; (2) charges for capital contributions; and (3) special assessments. Such annual and special assessments and capital contributions shall be established and collected as hereinafter provided. The annual and special assessments and capital contributions, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment and charge for capital contribution is made. Each such assessment and charge for capital contribution, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the party who is the Owner of such Property at the time when the assessment or the charge for capital contribution falls due. In the event there is more than one Owner of any given Lot, all owners of such lot shall be jointly and severally liable for the entire amount of such assessments and charge for capital contributions shall not pass to a successor in title to the Lot unless expressly assumed by them; however, the continuing lien against any portion of the Properties shall not be extinguished or affected by a conveyance thereof, unless otherwise provided herein.

Section 2. Purpose of Annual Assessments and Charge for Capital Contributions. The annual assessments levied by the Association and charge for capital contributions shall be used to enable the Association (1) to provide for improvement and maintenance of the Entrance Area, Lake Area and Drainage Easements as such may be improved from time to time as provided for herein, including without limitation removal of debris and/or vegetation, electrical lighting, signage, irrigation, landscaping, and maintenance and repair of all of the foregoing; (2) To provide for maintenance and operation of all stormwater discharge facilities, stormwater retention and detention storage per plans, specifications and performance criteria as approved by permit from the St. Johns River Water Management District. The Association shall be responsible for the maintenance, operation and repair of the stormwater management system(s). Maintenance of the stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the stormwater management system shall be as permitted, or if modified as approved by the St. Johns River Water Management District. (3) To provide for all expenses of operating the Association, including without limitation, insurance expense, legal and accounting fees, payroll and general office operating expenses and to pay any and all other things necessary or desirable in the judgment of the Board of Directors;

(4) To repay fund, together with the interest thereon, ~~borrowed by the~~ <sup>OFFICIAL RECORDS</sup> Association and used for the purposes referred to herein; and (5) to accumulate reasonable reserves for the foregoing purposes.

It shall not be necessary for the Board of Directors of the Association to allocate or apportion in a line-item budget the funds collected pursuant hereto or expenditures therefrom among the various purposes specified herein and the judgment of the Board of Directors and expenditure of the funds shall be final. The Board of Directors, in its discretion, may hold the funds invested or uninvested and may reserve such portion of the funds as the Board deems advisable for expenditures in the years following the year for which the assessment was made.

Section 3. Maximum Annual Assessment.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment shall be sixty and no/100 Dollars (\$60.00) per Lot.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership as hereinafter provided.

(c) The Board of Directors may fix the annual assessment as of January 1 annually at an amount not in excess of the maximum amount set forth herein without a vote of the membership.

Section 4. Special Assessments - Due Dates

(a) In addition to the annual assessments 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 replacement of any part of the Entrance Area, or the Lake Area together with any and all improvements located thereon maintained by the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Notwithstanding anything in this section 4 to the contrary, the Board of Directors may impose at any time a special assessment necessary in their opinion to comply with the requirements of the St. Johns River Water Management District, or other authorities having jurisdiction over the Properties.

(b) 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 any deficit, projected or actual, of the Association provided that any special assessment shall have the assent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) Special assessments may also be levied against any Owner of a Lot

for expenses incident to the abatement of a nuisance ~~off public records~~ or expenses incurred as a result of enforcing any of the provisions of this Declaration. Such special assessments may be levied at any special or annual meeting of the Board of Directors of the Association.

(d) The due dates for any special assessments under this section shall be established by the Board of Directors.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for each Lot, and may be collected on a monthly, quarterly, semi-annually, or annual basis as determined by the Board of Directors of the Association; provided, however, that special assessments may be levied non-uniformly against one or more Owners as provided in Section 4, subparagraph (c) hereof. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Declarant is the Owner of any Lot, the Declarant shall not be liable for assessments against such Lot, provided that Declarant fund any deficit in the annual operating expenses of the Association. Declarant may, at any time, commence paying such assessments as to all Lots that it owns and thereby terminate its obligation to fund deficits in the annual operating expenses of the Association.

Section 7. Date of Commencement of Annual Assessments; Due Dates. 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. Initial annual assessments shall be paid in advance and 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 against each Lot at least thirty (30) days in advance of each 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 specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Initial Capital Contributions - Due Dates OFFICIAL RECORDS  
The charge for initial capital contribution shall be Fifty and no/100 Dollars (\$50.00) for the first conveyance of title to any Lot to any person other than Declarant or a Builder. The charge for such capital contributions shall be due and payable to the Association by the Owner of such Lot at the time of conveyance of title to a Lot to such Owner and such payment shall be accompanied by a copy of the deed evidencing such conveyance. Notwithstanding anything that may be contained to the contrary herein, this provision for capital contribution shall not apply to any conveyance of a Lot by Declarant to a Builder and shall not apply to any person or entity that acquires title to a Lot as a result of foreclosure of a mortgage or any proceedings in lieu thereof, but upon the subsequent initial conveyance of such Lot by such builder or lender the capital contribution shall be due and payable as aforesaid.

Section 9. Effect of Non-Payment of Assessments and Capital Contributions; Remedies of the Association. Any assessment or capital contributions not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum or at the maximum legal rate, whichever is higher, but in no event to exceed the maximum rate of interest allowed by law from time to time in effect. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Property. No owner may waive or otherwise escape personal liability for the assessments or capital contributions provided for herein by abandonment or conveyance of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments and charge for capital contributions provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof related to any first mortgage, shall extinguish the lien of such assessments and lien for capital contributions as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments or charge for capital contributions thereafter becoming due (including costs related to the enforcement thereof) or from the lien thereof.

Section 11. Exempt Property. All properties dedicated to and accepted by a local public authority or private utility provider and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Florida shall be exempt from the assessments and charge for capital contributions created herein, except however that no land or improvements devoted to dwelling use shall be exempt from the assessments and charge for capital contributions created herein, except however that no land or improvements devoted to dwelling use shall be exempt from the assessments and charge for capital contributions created herein (except as described in Section 7 of this Article).

ARTICLE IV - ARCHITECTURAL CONTROL

Section 1. Construction of Improvements. No out building, fence, wall or structure other than a single family residential dwelling shall be commenced, erected or maintained upon the Property; nor shall any radio, television aerial or antennae, satellite dish, or other exterior electronic or electrical equipment or device be installed on the Property; until the plans and specifications showing the nature, kind, shape, height and materials, and location of the same shall have been submitted to and approval in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association.

Section 2. Land Use and Building Type. Unless approval in writing is given by Declarant prior to the cessation of Declarant's Class B membership in the Association, and except as authorized by this Declarant, (a) no Lot shall be used except for residential purposes and for associated purposes such as for easements and for storm drainage; (b) no building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed thirty-five (35) feet in height and private garage for not less than two cars; and (c) no building situate on any Lot shall be rented or leased separately from the rental of the entire Lot. No sheds, carports, or auxiliary structures shall be permitted to exist on any Lot except as approved by the Board of Directors of the Association.

Section 3. Motorists' Vision to Remain Unobstructed. No fence, wall, hedge, shrub, bush, tree or other things, natural or artificial, may be placed or located or maintained on any Lot if the location of same will, in the sole judgement and opinion of the Association, unreasonably obstruct the vision of the motorist upon the streets on the Plat.

Section 4. Minimum Square Footage for any Principal Residence. No residence which is the principal residence on a Lot shall be erected or allowed to remain on any Lot unless the square footage of heated living area thereof, exclusive of porches, garages and storage rooms, shall equal or exceed 1,000 feet.

Section 5. Set back for All Structures. Unless otherwise approved by the Association in writing or herein provided for, no residential dwelling or other structures shall be located on any Lot nearer than twenty (20) feet to the front Lot line, nor nearer than ten (10) feet to the rear lot line, nor nearer than five (5) feet to one side lot line, provided that combined side yards shall be not less than fifteen (15) feet. In the case of a Lot on a cul-de-sac, the front setback of twenty (20) feet shall be measured at right angles to a straight line joining the foremost points of the side Lot lines.

Section 6. Other Structures. Any equipment, including without limitation any air conditioning equipment, water softener, or similar equipment, located outside the rear yard of any residence on a lot shall be enclosed so that such equipment shall not be visible from any contiguous street or Lot. No other improvements or structure, whether attached or detached, shall be erected or placed on any Lot without the prior written consent of the Association.

Section 7. Resubdividing or Replatting. Subdividing of Lots shall be prohibited except that Declarant reserves the right to resubdivide or replat any Lot or Lots shown on said Plat including, but not limited to, the right to resubdivide or replat any Lot for right-of-ways for road purposes and easements, provided that no residence shall be erected upon, or any resident allowed to occupy, said replatted or resubdivided Lot or fractional part or parts thereof having an area less than the smallest Lot shown on said Plat, subject to the provisions of the Zoning Regulations for the Consolidated City of Jacksonville, Florida. The restrictions, herein contained shall apply to each Lot as replatted or resubdivided except any Lot or Lot or any parts thereof resubdivided for right-of-ways for road purposes or easements.

Section 8. No Overhead Wires. All telephones, electric and other utility lines and connections between the main utilities lines and the residence and other buildings located on each Lot shall be concealed and located underground so as not to be visible, except as platted on Lot 38. Electric service is provided by the City of Jacksonville, Florida, through underground primary service lines running to transformers. The Declarant has provided underground conduits to serve each Lot extending from the applicable transformer to a point at or near a Lot line, and such conduit from the transformer to each Lot shall be, become and remain the property of the Owner of the Lot. Each Lot Owner requiring original or additional electric shall be responsible to complete at his expense the secondary electric service conduits, wires (including those wires in the conduit provided by the Declarant), conductors and other electric facilities from the point of the applicable transformer to the residence or other building on the Lot, and all of the same shall be and remain the property of the Owner of each Lot. The Owner, from time to time, of each Lot shall be responsible for all maintenance, operation, safety, repair and replacement of the entire secondary electrical system extending from the applicable transferor to the residence, building, or other improvements on his Lot.

Section 9. Completion of Commenced Construction. When the construction of any approved building is once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. The owner of any Lot during construction shall be personally liable to repair any and all damage to curbs, gutters, driveways, sidewalks, and pavement within the subdivision caused or occasioned by such construction and all such damage shall be repaired as soon as practicable but no later than within ten (10) days after such damage. Upon the failure of such Owner to timely repair such damage, the Association may cause such repairs to be made under and resort to the remedies provided by Article VII hereof.

Section 10. Fences. No hedges, fences, walls, or similar structures may be erected on a Lot, unless and until the location, quality, style, color, and design have been first approved in writing by the Association. In general, fences, walls, and hedges shall be permitted only from the edge of the front wall of the dwelling to the rear property line of such Lot.

## OFFICIAL RECORDS

The Association shall grant approval for fences, walls, and hedges only when necessary or practicable in the opinion of the Association to provide privacy from highly trafficked streets, parking lots, driveways, and other areas. No fence, wall, or hedge may exceed six (6) feet in height above the natural grade of a Lot. All fences must be maintained to preserve an attractive appearance from the exterior of each Lot as determined in the sole discretion of the Association.

Section 11. Driveways and Sidewalks.

(a) Each Owner of a single family residence upon a Lot shall construct, or cause to be constructed at his expense prior to occupancy of any such residence, a driveway extending from the paved portion of the abutting street to the garage entrance accompanying such residence; no ribbon or strip driveways shall be constructed or utilized without the written approval of the Association being first obtained. All driveways shall be constructed out of concrete unless the written approval of the Association is first obtained.

(b) Each Owner of a single family residence upon Lots adjacent to proposed sidewalks per the sidewalk plan approved by the City of Jacksonville shall construct, or cause to be constructed prior to occupancy of any residence or any such Lots, a concrete sidewalk four feet in width, constructed consistent with standards required by the City of Jacksonville, all in accordance with the sidewalk development plan for the Subdivision, a copy of which plan is on file with the Association. Sidewalk maintenance shall be the obligations of the Owner of each Lot upon which a portion of any sidewalk is constructed, consistent with the requirements of the City of Jacksonville from time to time in effect, or as otherwise required by the Association.

Section 12. Drainage Easements and Storm/Surface Water Management.

Developer has granted Drainage Easements upon portions of Lots located within the platted portion of the Properties, for the purpose of draining the flow of excess surface water, if any, found upon a Lot from time to time. Each Owner of a Lot encumbered with a drainage easement, including any Builder, agrees to maintain these Drainage Easements in accordance with the Neighborhood Grading and Drainage Plan approved by the City of Jacksonville, a copy of which is on file with the Association. Any damage to the Drainage Easements, whether caused by natural or manmade phenomena, shall be repaired and the Drainage Easements returned to their former condition as soon as possible by the Owner(s) of the Lot(s) upon which the Drainage Easements are located. The St. Johns river Water Management District has jurisdiction over this subdivision and has issued Stormwater Discharge Permit No. authorizing construction and operation of a storm and/or surface water management system to serve the subdivision. No alteration to any part of the aforementioned system, including but not limited to, lakes, swales and pipes, will be allowed without the written consent of Declarant and the St. Johns River Water Management District. All clearing, grading and other construction activities must comply with the terms and conditions of the said permit. Specifically, the owners of lots requiring rear lot water treatment are required to install rear lot water treatment at the time of house construction in accordance with the terms and conditions of the said permit and said owners or their heirs, successors or assigns shall be responsible for the continuing compliance with said permit.

In the event that any Owner fails to comply with the terms of the permit, the Association shall have the right to enter upon the premises to bring any Lot into compliance and levy an special assessment against the Lot for any costs incurred as a result thereof.

Section 13. Applications. All applications to the Association must be in writing and accompanied by detailed and complete plans and specifications. If the Association does not approve or disapprove any application in writing within forty-five (45) days after receipt thereof, the Association's approval will be deemed given as to all applications not prima facie in violation of the terms of this Declaration. In all other events, the Association's approval must be in writing.

Section 14. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents, or required approvals by or from the Declarant or the Association, neither the Declarant, the Association members, the Board of Directors, nor the Association shall be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, inspections, consents, or required approvals whether given, granted, or withheld.

#### ARTICLE V - USE RESTRICTIONS

Section 1. No Parking of Wheeled Vehicles, Boats, Etc. No Wheeled vehicles (excluding automobiles and vans bearing no commercial signs) of any kind, including but not limited to, camper trailers, recreational vehicles, motor homes, mobile homes, boat trailers, boats, motorcycles, or any other objects shall be kept or parked on any Lot or street shown on the plat of Hideaway Woods. However, any such vehicles or objects may be kept (i) if completely inside a garage attached to the main residential dwelling, provided, the garage door is closed except for entry and exit or (ii) if within the rear or side yard of a Lot provided the same are totally screened by a privacy fence approved by the Association. No vehicle of any kind may be parked or permitted to remain on the grassed area of any Lot, except in fenced in areas as hereinabove stated. Commercial vehicles may be parked in driveways during the times necessary for pickup and delivery services, and solely for the purpose of providing such service to Lot Owners, their guests, invitees or of the lawful occupants of a Lot. Repairs of wheeled vehicles of any kind, boats and boat trailers, etc., outside of a closed garage, is prohibited. Nothing contained herein shall be construed to prevent any Builder, sub-contractor or supplier to park trucks or other commercial vehicles of any kind on any Lot or street during the course of development of the Property or construction of a residential dwelling.

Section 2. No Sheds, Shacks or Trailers. No shed, shack, trailer, tent, barn, basement, outhouse, or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot; provided, however, a party tent may be erected on any Lot for a period of not more than forty eight (48) hours. However, this paragraph shall not prevent the erection of a temporary office and other buildings during the period of actual construction of the main residence and other buildings permitted hereunder, nor the use of adequate sanitary toilet facilities for

workmen during the course of construction. Without the written approval of the Declarant, no contractor or salesperson shall maintain for longer than eight (8) months a trailer or portable construction shack used in connection with the construction or sale of houses being built in the subdivision on any Lot; all such temporary construction trailers or shacks shall be maintained in an attractive and clean design. The provisions hereof shall not be construed to prohibit the Declarant or any Builder from utilizing any residential dwelling for a model home or sales office.

Section 3. Signs.

(a) No sign of any character shall be displayed or placed upon any Lot except for the following: (i) "FOR RENT" or "FOR SALE" signs, which signs must refer only to the particular premises on which displayed, and must be of materials, size, height and design permitted by the City of Jacksonville sign ordinance, and (ii) those signs required by law or statute. The Owner of any Lot violating the provisions of this paragraph shall correct said violation upon notice from Declarant or the Association.

(b) Nothing contained in this Declaration shall prevent the Declarant or any person designated by the Declarant from erecting or maintaining such commercial and display signs and such temporary dwellings, model houses and other structures as the Declarant may deem advisable for development, sales or rental purposes.

(c) Notwithstanding anything contained herein the Declarant, the Association or their designated representatives or any person having the right to enforce this Declaration may enter upon any Lot and summarily remove any signs which violates the provisions of this section and such entry and abatement, correcting or removal shall not be deemed a trespass or make the Declarant, the Association, their designated representatives, or any person having the right to enforce this Declaration, liable in anywise for any damages on account thereof.

Section 4. Pets. Not more than two dogs or two cats or four birds (excluding parrots) or four rabbits may be kept on a single Lot for the pleasure and use of the occupants; no animals shall be kept for any commercial or breeding use of purpose. If any animal becomes dangerous or an annoyance or nuisance in the neighborhood or to nearby property or destructive of wildlife, such animal may not thereafter be kept on the Lot. Birds and rabbits shall be kept caged at all times.

Section 5. Upkeep and Maintenance of Dwelling and Lots. Each Lot Owner shall prevent the occurrence of any unclean, unsightly or unkempt conditions of buildings or grounds of any Lot which shall tend to decrease or adversely affect the aesthetic appearance of the development of specific areas therein.

Section 6. No Offensive Activities. No illegal, noxious or offensive activity shall be permitted or carried on any part of any Lot, nor shall anything be permitted or done thereon which is or may become a nuisance or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any part of any Lot or upon any Lot or Lots contiguous thereto. No other fires or incinerators for burning of trash, leaves, clippings or other debris or refuse shall be permitted to be on any part of any Lot or road right-of-ways. All garbage shall be kept in covered receptacles. No garbage receptacle shall be placed on the roadside of any street for collection

earlier than sunrise of the morning of collection and all <sup>OFFICIAL RECORDS</sup> garbage receptacles must be promptly removed from public view after garbage collection but in no event later than sundown on the day of collection. No clothing or any other household fabrics shall be hung in the open on any portion of any Lot.

Section 7. Windows, Air Conditioning Units and Fans. No window air conditioning units, water to air heat pumps, or other air conditioning devices resulting in water discharge (except condensate water), window fans, or exhaust fans shall be installed or permitted to remain on any residential dwelling constructed on any Lot.

Section 8. Window Coverings. No plastic, foil or similar material shall be permitted on any window of a residential dwelling constructed on any Lot.

Section 9. Well Limitation, Water Service and Sewer Disposal. The City of Jacksonville, or its successors has the sole and exclusive right to provide all water and sewage facilities and service to the property described herein. Irrigation wells may be dug or drilled on any of the Lots to provide water for use upon the Lot; however, no water shall be used within any structure built upon a Lot except potable water which is obtained from the City of Jacksonville, or its successors or assigns. All sewage from any building must be disposed of through the sewage lines owned or controlled by the City of Jacksonville, or its successors or assigns. No water from air conditioning systems, ice machines, swimming pools, or any form or condensate water shall be disposed of through the lines of the sewer system.

Section 10. Water and Sewage Regulations. All Lots and the dwellings thereon are subject to all rules and regulations relative to water and sewage rates, usage, rights, privileges and obligations regarding such service as may be adopted from time to time by the City of Jacksonville.

#### ARTICLE VI - EASEMENTS

##### Section 1.

(a) The Declarant hereby reserves for itself, its successors and/or assigns, including without limitation the Association, a nonexclusive, perpetual, and alienable easement privilege and right on, over and under (i) the easements, if any, shown on the Plat of Orchard Walk to erect, maintain and use electric and telephone wires, cable, conduits, water mains, drainage lines or drainage ditches, sewer and other suitable equipment for drainage and sewage disposal purposes or for the installation, maintenance, transmission and use of electricity, gas, telephone, lighting, water, drainage, sewage, and other conveniences or utilities (whether such easements are shown on said Plat to be for drainage, utilities or other purposes). Declarant may at any time transfer its easement right and all other rights and obligations under this paragraph to the Association and upon such transfer Declarant shall be released from all maintenance obligations, if any, which may exist hereunder. The Declarant shall have the unrestricted right and power of alienating and releasing the privileges, easements and/or rights referred to in this paragraph. The Owners of the Lots subject to the privileges, rights and easements referred to in this paragraph shall acquire no right, title or interest in or to any wires, cables, conduits, pipes, main lines, landscaping, lighting, or other equipment or facilities placed on, over or under the Property which is subject to said privileges, rights and easements.

(b) Within the aforesaid mentioned easement, no structure, planting

VOL 7452 PG 2091

OFFICIAL RECORDS

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, obstruct or retard the direction or flow of water through drainage channels in the easements or in existing drainage ponds and lakes. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, the utility company or the Association is responsible.

Section 2. Declarant hereby reserves for its benefit and for the Association, its successors and assigns, a perpetual, alienable, and exclusive easement over that portion of Lots 1 and 42, Orchard Walk, located within the Entrance Area for the construction and maintenance of a decorative wall, signage thereon, and lighting, landscaping, berms, irrigation, and other improvements to enhance the visibility and appearance of the entrance to the properties together with the right of ingress and egress from time to time over and across Lots 1 and 42, Orchard Walk, for the purpose of construction, repair, and maintenance of said wall, signage, lighting, landscaping, and other improvements, and the improvement and maintenance of the Entrance Area. Declarant and its successors and assigns shall have the sole and exclusive right to operate and maintain all improvements located within the Entrance Area, including without limitation the right to plant, replant, irrigate, landscape, trim, edge, fertilize, spray with insecticide, and mow all plantings from time to time located within the Entrance Area, whether on the east or west side of the wall or fence at the entrance way.

Section 3. Easements for vehicular and pedestrian ingress and egress and for the installation, operation and maintenance of utilities and drainage facilities are reserved in, under, over and through all streets, roads, drives, courts, lanes, ways and rights-of-way on the aforesaid recorded Plat. These easements shall be terminable in whole or in part by a local public authority or utility of the applicable easement area.

Section 4. Declarant hereby reserves for the Association, its successors and assigns, a perpetual, non-exclusive easement in, under, over and through the Lots for ingress and egress to the Lake Areas and for maintenance of the Storm Water Management System.

#### ARTICLE VII - MAINTENANCE BY ASSOCIATION

Section 1. In the event any Owner shall fail to or refuse to perform any maintenance required hereunder, the Board of Directors of the Association may serve written notice upon such Owner demanding that such Owner perform the maintenance required hereunder within fifteen (15) days after date of notice thereof by certified mail, postage prepaid to such Owner's address as shown by the records of the Property Appraiser of Duval County, Florida. If, after the expiration of such fifteen (15) day period, such Owner has failed or refused to comply with the demands stated in the written notice, then the Association may cause such maintenance to be made, and the Association shall be entitled to levy a special assessment against the Owner of such Lot for the cost of such maintenance. Such assessment shall in every respect constitute a lien as any other assessment levied by the Association and shall also be the personal obligation of the Owner of such Lot.

Section 2. Access for Maintenance. Declarant, Association, their authorized agents and assigns are hereby granted a perpetual easement for ingress and egress over any Lot located in Orchard Walk for the purpose of inspecting and performing maintenance in accordance with the terms of this Declaration or performing any maintenance as required under Section 1 hereof, in the event the Owner of such Lot shall fail or refuse to perform such maintenance.

ARTICLE VIII - GENERAL PROVISIONS

Section 1. Association May Correct Violations. Whenever there shall have been built or there shall exist on any Lot any structures, building, thing or condition which is in violation of any provision of this Declaration, the Association shall have the right, but no obligation, after ten (10) days written notice has been given to the Lot Owner of such violation, to enter upon the Property where such violation exists and summarily to abate, correct or remove the same, all at the expense of the Owner of such Property, which expense shall be payable by such Owner to the Association, on demand, and such entry and abatement, correction or removal shall not be deemed a trespass or make the Association liable in any way for any damages or account thereof.

Section 2. Approval of Declarant. Wherever in this Declaration the consent or approval of the Declarant is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing by the Declarant. Such request shall be sent to the Declarant by Registered Mail with return receipt requested. In the event that the Declarant fails to act on any such written request within thirty (30) days after the same has been submitted as required above, the consent or approval of the Declarant to the particular action sought in such written request shall be presumed; however, no action shall be taken by or on behalf of the person or persons submitting such written request if the request violates any of the provisions in this Declaration.

Section 3. Declarant May Designate a Substitute. The Declarant shall have the sole and exclusive right at any time, from time to time, to transfer and assign to, and to withdraw from, such person, firm or corporation as it shall elect, any or all rights, powers, privileges, authorities and reservations given to or reserved by the Declarant by any part or paragraph of this Declaration or under the provisions of said Plat. If at any time hereafter there shall be no person, firm or corporation entitled to exercise the rights, powers, privileges authorities and reservations given to or reserved by the Declarant under the provisions hereof, the same shall be vested in and be exercised by the Association. Nothing herein contained, however, shall be construed as conferring any right, powers, privileges, authorities or reservations in the Association except in the event aforesaid.

Section 4. Amendment-Releases by Declarant. The Declarant reserves and shall have the sole right (a) to amend this Declaration, (b) to include in any contract or deed or other instrument hereafter made any additional covenants, restrictions, and easements applicable to a particular Lot. PROVIDED, HOWEVER, that any amendments or additions to this Declaration shall conform to the general purposes and standards of the provisions herein contained, and (c) to release any Lot from any of the provisions of this Declaration which have been violated (including without limiting the foregoing, violations of building restriction lines, setback lines, and provisions hereof relating thereto) if the Declarant, in its sole judgment, determines such violations to be minor and insubstantial.

Section 5. Amendment with Consent of Owner and Effective Period. In addition to the rights of Declarant as set forth in Section 4 above, this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners and by Declarant until the Class B membership of the Declarant in the

Association shall cease, and thereafter by instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded. OFFICIAL RECORDS

Section 6. Amendment Requiring Approval. Any amendment to the Covenants and Restrictions which alter the stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

Section 7. Legal Action on Violation. If any person, firm, corporation or other entity shall violate or attempt to violate any of the provisions of this Declaration, it shall be lawful for Declarant, the Association or Owner to (a) prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate the provisions of this Declaration; and (b) prosecute proceedings in equity for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Declarant, the Association or any Owner to enforce any covenant or restrictions or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed as a waiver if the right to enforce the same thereafter as to the same breach or violation thereof occurring prior or subsequent thereto. Declarant and Association shall not have any liability to any Owner, mortgagee, or tenant for failure to enforce any of the provisions of this Declaration shall be obliged to pay a reasonable attorney's fee to the successful plaintiff in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon. All provisions of this Declaration shall be deemed several and independent. The invalidity of any of the provisions of this Declaration shall in no way impair the validity of the remaining provisions or any part hereof.

The St. Johns River Water 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 stormwater management system.

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IN WITNESS WHEREOF, this Declaration has been executed on the 9th day of November, 1992, by Declarant, acting by and through its undersigned officer who is thereunto duly authorized.

Signed, sealed and delivered in the process of:  
Barbara W. Seaman  
Barbara W. Seaman

H. Smith, Inc.  
A Florida Corporation  
By: V. Hawley Smith, Jr.  
V. Hawley Smith, Jr.  
President

Mary Louise Crowe  
Mary Louise Crowe

"Declarant"

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 9th day of November, 1992, by V. Hawley Smith, Jr. as President of H. Smith, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me and has produced Florida Drivers License as identification.

NOTARY PUBLIC

Barbara W. Seaman  
Barbara W. Seaman

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES  
SIGNED THIS

173/MLC2nd disk

92-0135033  
FILED AND RECORDED  
IN PUBLIC RECORDS  
OF DUVAL COUNTY FLA

92 NOV 10 PM 1:26  
RECORD VERIFIED  
Theresa P. [Signature]  
CLERK OF CIRCUIT COURT