

PREPARED BY AND RETURN TO:  
LEANNE B. WAGNER, ESQ.  
FRANK WEINBERG & BLACK, PL  
7805 SW 6<sup>TH</sup> COURT  
PLANTATION, FL 33324

**CERTIFICATE OF AMENDMENT  
TO THE DECLARATIONS OF COVENANTS AND RESTRICTIONS  
AND BYLAWS OF  
SUMMER TREES HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT to the DECLARATIONS OF COVENANTS AND RESTRICTIONS AND BYLAWS OF SUMMER TREES HOMEOWNERS ASSOCIATION, INC. is made this 11th day of June, 2013, by the corporation, not-for-profit.

*RECITALS:*

WHEREAS, SUMMER TREES HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association") is a community association with multiple Declarations of Covenants and Restrictions, as amended from time to time, recorded in the official records of Volusia County, Florida as follows:

SUMMER TREES, UNIT I	OR Book 1847, Page 1476
SUMMER TREES, UNIT II	OR Book 2013, Page 0437
SUMMER TREES, UNIT II-A	OR Book 2420, Page 0067
SUMMER TREES, UNIT II-B	OR Book 2565, Page 1219

(the foregoing Declarations of Covenants and Restrictions hereinafter referred to globally and collectively as the "Declarations"); and

WHEREAS, the afore-described Declarations were preserved and extended by virtue of that certain Marketable Record Title Act Notice recorded in Official Records Book 5626, Page 855 of the official records of Volusia County, Florida; and

WHEREAS, the Association's By-Laws, as amended from time to time, are recorded in Official Records Book 2711, Page 1863 of the official records of Volusia County, Florida; and

WHEREAS, the Association has amended the afore-described Declarations and By-Laws as more particularly set forth on the Amendment attached hereto as Exhibit "A"; and

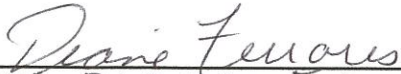
WHEREAS, the Amendment was properly adopted as per the Declarations and By-Laws.

NOW, THEREFORE, each of the afore-described Declarations and By-Laws of SUMMER TREES HOMEOWNERS ASSOCIATION, INC. shall be and are hereby amended to incorporate the attached Exhibit "A."

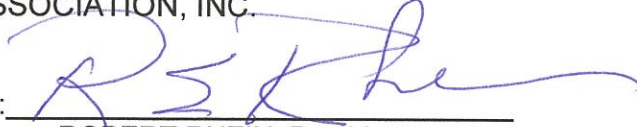
IN WITNESS WHEREOF, the Association has caused these presents to be executed by its duly authorized officer and the seal of the Corporation affixed hereto this 14th day of June, 2013.


WITNESSETH:

  
Print: Thomas Finken

  
Print: Diane Ferraris

SUMMER TREES HOMEOWNERS  
ASSOCIATION, INC.

By:   
ROBERT RHEIN, President

By:   
DONNA CLOMAN, Secretary

STATE OF FLORIDA                     )  
  ) §§  
COUNTY OF VOLUSIA                )

THE FOREGOING INSTRUMENT was acknowledged before me this 14th day of June, 2013 by ROBERT RHEIN, as President, and DONNA CLOMAN, as Secretary, each on behalf of SUMMER TREES HOMEOWNERS ASSOCIATION, INC., both of whom are personally known to me.

My Commission Expires:



  
Notary Public, State of Florida



## EXHIBIT "A"

# 2013 AMENDMENTS TO THE DECLARATIONS OF COVENANTS AND RESTRICTIONS FOR SUMMER TREES

Additions are underlined  
Deletions are ~~stricken~~

2. [DELETED IN ITS ENTIRETY– replaced by the following] The property (hereinafter called the development) affected by these covenants and restrictions was developed as a residential planned unit development in the City of Port Orange, Florida. The development includes certain common areas such as roads, parks, greenways, and buffer areas. The development and common areas shall be managed by a homeowner's association (hereinafter called the association). It is the intent that all homes in the development are bound by this Declaration of Covenants and Restrictions for Summer Trees.

3(d)(3) Deleted

3(h) Water Meters. It is recognized that water meters may be placed outside the dedicated rights-of-way on property owner by the Association, and the duly authorized water meter readers of the ~~City of Port Orange and its successors and assigns~~ applicable utility shall have authority to enter onto such property when necessary solely for the purpose of reading or maintenance of such meters.

3(i) [DELETED IN ITS ENTIRETY– replaced by the following] Nuisances. No owner may undertake any activity that, in the opinion of the Board of Directors of the Association, constitutes a nuisance to the Association.

3(j) Temporary Buildings. No structure of a temporary character, including, without limitation, mobile homes, trailers, tents, shacks, garages, or other outbuilding, shall be placed or erected on any lot at any time, either temporarily or permanently, except temporarily for construction purposes, and then only when specifically approved by ~~the developer or the~~ Association.

3(k) Signs. No signs of any kind shall be displayed to the public view on any lot except a name and address sign and one sign of not more than five (5) square feet in size advertising the property for sale or for rent. Nothing herein shall be construed to prevent ~~the developer or the~~ Association from erecting, placing or maintain such signs as may be necessary by them for the operation of the ~~developer~~ Association. The Association shall have the right to determine the location of any for sale or for rent signage.

3(l) [DELETED IN ITS ENTIRETY– replaced by the following] Antennae. All antennae, satellite dishes and other communication devices shall comply with all applicable governmental codes, ordinances, rules, regulations and laws. The Association may make any rules and regulations regarding antennae, satellite dishes and other communication devices so long as such rules and regulations do not conflict with governmental codes, ordinances, rules, regulations and laws, including rules concerning disconnection of cable for default in Association assessments.

3(n) Occupancy. No dwelling erected on any lot shall be occupied in any manner prior to the time its construction has been fully completed and it has been made to comply with the approved plans for its construction, with the requirements herein, and with all other covenants, conditions and restrictions herein set forth. The construction of each building shall be completed within six months from the start thereof, provided that ~~the developer or the Association~~ may extend such time when in its opinion conditions warrant such extension.

3(o) Approval of Plans. All building plans for any building or structure to be erected upon any lot, and any changes after approval thereof, and any remodeling, reconstruction, alteration or addition to any building or other structure upon any lot shall require the written approval of the Association. Before beginning the construction of any building or any remodeling, reconstruction, or alteration of such building upon any lot, the person or persons desiring to erect, construct, or modify the same shall submit to the Association two complete sets of building plans and specifications for the building or other structure desired to be erected, constructed or modified. No structure of any kind, the plans, elevations and specifications of which have not received the written approval of the Association, and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained upon any lot. Approval of such plans and specifications shall be evidenced by both written endorsement thereon and a separate certificate of such approval, and the certificate together with on copy of the approved plans and specifications shall be delivered to the owner or owners of the lot upon which the prospective building or other structure is contemplated prior to the beginning of such construction. The certificate of approval may be executed by any officer of the Association. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the Association. ~~Neither the developer nor the Association shall not~~ be responsible for any structural defects in such plans or specification or in any building or structure erected according to such plans and specifications. The Association shall record in the public records of Volusia County, Florida, a notice of each violation of the provisions of this paragraph. The failure to record such notice as to any lot within thirty (30) days after construction of the improvement in question has been complete, or, in the alternative, a certificate of compliance, in form suitable for recording in the public records of Volusia County, Florida, executed by any officer of the Association, shall be taken as conclusive evidence that such construction has been completed in accordance with approved plans and specifications. ~~The developer shall be exempt from the requirements of this paragraph.~~

5(b) Membership. Each person hereafter owning a vested ownership interest in ~~the fee simple title to~~ a lot in the development, which interest is evidenced by recordation of a proper instrument in the public records of Volusia County, Florida, shall automatically be a member of the Association as the time of such recordation, and each such membership shall automatically terminate upon recordation of an instrument conveying such interest to another person or persons. Such membership shall be mandatory.

5(d) Mortgagees. Any mortgagee on any unit, and any assignment thereof, must be recorded in the public records of Volusia County, Florida, and any mortgage or assignment not recorded in the public records of Volusia County, Florida, shall be null and void with respect to the Association.



[DELETED IN ITS ENTIRETY-- replaced by the following] 6. Assessments

6.1 Purpose of Assessments. The assessments for common expenses (hereinafter "Assessments") provided for herein shall be used for the general purposes of promoting the welfare, common benefit and enjoyment of the members of the Association, and maintaining the property and improvements thereon, all as may be authorized in this Declaration, the Articles and/or the By-Laws or as may otherwise be determined from time to time by the Board of Directors.

6.2 Creation of Lien and Personal Obligation of Assessments. Each Owner of a lot, by acceptance of a deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual Assessments and operational Assessments, such Assessments to be established and collected as provided in **Paragraph 6.3** hereof; (b) special Assessments, such Assessments to be established and collected as provided in **Paragraph 6.4** hereof; (c) individual or specific Assessments against any particular lots, which are established pursuant to the terms of this Declaration, including, but not limited to, (i) expenses incurred to remedy an Owner's default in a maintenance obligation, or (ii) fines as may be imposed against such lot, in accordance with this Declaration; and (d) any other Assessment. The Assessment and a subsequent Claim of Lien filed on the basis of such Assessment shall relate back to the date that this Declaration is originally recorded for purposes of determining priority of liens. Any such Assessment, together with late charges, interest at the highest rate available at law, and court costs and attorneys' fees incurred to enforce or collect such Assessment shall be an equitable charge and a continuing lien upon the lot, the Owner of which is responsible for payment. Each Owner shall be personally liable for Assessments coming due while they are the Owner of a lot, and such Owner's grantee shall take title to such lot, subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his or her grantor any amounts paid by such grantee therefore. In the event of co-ownership of any lot, all of such co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors.

6.3 Computation of Annual Assessments. It shall be the duty of the Board of Directors, prior to the end of each calendar year, to prepare a budget covering the estimated Common Expenses during the coming year. The Board of Directors shall cause the budget and the resulting proposed total of the annual Assessments for the following year to be levied against each of the Tracts in accordance with its respective percentage share as reflected in the Declaration. Such budget shall be delivered in accordance with this Declaration to each Owner at least fourteen (14) days prior to such meeting. The budget and the annual Assessments shall become effective as per Florida law. If any budget at any time proves inadequate for any reason, then the Board of Directors may call a meeting with the Association for the approval of a special Assessment as provided in **Paragraph 6.4** hereof. The Association shall have the right but not the obligation to create or maintain any reserves for any reason whatsoever.

6.4 Special Assessments. In addition to the annual Assessments authorized above, the Association may levy, in any Assessment year, special Assessments for Common Expenses. The Board of Directors may make such special Assessments payable in installments over a period that may, in the Board of Directors' discretion, extend in excess of the fiscal year in which adopted. In the event that any special Assessment is payable in installments, the installments shall not be deemed due on the lot until that specific installment's due date. It is the intent of the foregoing that no special Assessment payable in installments be considered due and owing on the first due date for a special assessment.



6.5 Individual Owner Assessments. Any expense of the Association arising out of either or both of the following events shall be specially assessed against the appropriate lot, (i) any expenses occasioned by the conduct of fewer than all of the lots; and (ii) any expenses arising out of the provision by the Association of services. The individual Assessments provided for in this Paragraph 6.5 shall be levied by the Board of Directors and the amount and due date of such Assessments so levied by the Board of Directors shall be as specified by the Board of Directors.

6.6 Discretionary Expenses. Notwithstanding anything to the contrary contained herein, in each year Assessments may be divided by the Board of Directors into categories in the manner and for such purposes as the Board of Directors may determine in its reasonable discretion. Without limitation of the foregoing, as to each expense or item of Assessment that the Board of Directors determines, in its reasonable discretion, to have the disproportionate benefit to one or more lot for the applicable year (a "Discretionary Expense"), the Board of Directors shall allocate such Discretionary Expense among some or all of the lots in the manner that the Board of Directors determines, in its sole and absolute discretion, to best reflect the benefits of such Discretionary Expense for such year.

6.7 Liens. All sums assessed against any lot, pursuant to this Declaration, together with court costs, reasonable attorneys fees, late charges and interest as provided herein, shall be secured by an equitable charge and continuing lien on such lot and any personal property therein in favor of the Association. A claim of lien pertaining to said lien stating the description of the lot, the name of the owner, the amount due, and the due date may be recorded in the public records by the Association at such time as an Assessment is not paid when due or at any time thereafter. Such claim of lien shall secure all unpaid Assessments, interest, costs and attorneys' fees, and shall be superior to all other liens and encumbrances on such lot, except only for (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority institutional mortgage. Notwithstanding the foregoing to the contrary, the subordination of Assessments to the lien of such a Mortgage shall only apply to the Assessments which have become due and payable prior to a foreclosure. The unpaid share of Assessments that is subordinated under this Section shall constitute a part of the Common Expenses collectible from all of the owners, including an mortgage holder. Except as otherwise provided in this Declaration, all persons acquiring liens or encumbrances on any lot after this Declaration has been recorded, shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for Assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

6.8 Effect of Nonpayment, Remedies of the Association. Any Assessment of an owner or any portions thereof which are not paid when due shall be delinquent. Any Assessment delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board of Directors from time to time and shall also commence to accrue interest at the highest rate allowable at law. The Association shall also have the right to charge a late charge equal to the greater of \$50.00 or five (5%) percent of the delinquent Assessment, as such amounts may be adjusted by the Association from time to time without any additional amendment to this Declaration. A lien and equitable charge as herein provided for each Assessment shall attach simultaneously as the same shall become due and payable, and if any installment of the Assessment for such year has not been paid within thirty (30) days, the entire unpaid balance of the Assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full. The continuing lien and equitable charge of such Assessment shall include the late charge



established by the Board of Directors, interest on the principal amount due at the highest rate allowable at law, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment remains unpaid after thirty (30) days from the original due date, the Association, and each owner, by his acceptance of a deed or other conveyance to a lot, vests in the Association and its agents the right and power to bring all actions against the owner(s) personally for the collection of such Assessments as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the lot, at any foreclosure sale and to acquire, hold lease, mortgage and convey the same. No owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his lot, and an owner shall remain personally liable for Assessments, including and late charges which accrue prior to sale, transfer or other conveyance of his lot.

6.9 Certificate. An officer of the Association or its designee shall, within thirty (30) days of a written request and upon payment of such fee as is from time to time reasonably determined by the Board of Directors, furnish to any owner or such owner's mortgagee that requests the same, a certificate in writing signed by said officer or designee, setting forth whether the Assessments for which such owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest and other penalty charges. As to parties without knowledge of error who rely thereon, such certificate shall be presumptive evidence against all but such owner of payment of any Assessments stated therein to have been paid.

6.10 Date of Commencement of Annual Assessments and Operational Assessments. The annual Assessments and operational Assessments provided for herein shall commence to each lot and shall be due and payable in such manner and on such schedule as the Board of Directors may provide.

6.11 Common Areas and Certain Other Property. Unless otherwise provided herein, no Common Areas owned by the Association shall be subject to assessment by the Association. Further, the foregoing exemption shall apply to any land owned by a public agency as long as such land is used for public purposes. In the event of any ambiguity or doubt as to whether any particular open space or other land is subject to assessment by the Association, the determination of the Association shall be final and conclusive.

6.12 Liens. In the event any mechanic's lien is filed against a lot as a result of services performed for or materials furnished to the owner of another lot, such owner shall cause such lien to be released and discharged of record within thirty (30) days of receipt of notice of such lien, either by paying the indebtedness which gave rise to such lien or by posting bond or other security as shall be required by law to obtain such release and discharge. Additionally, the owner permitting or causing such lien to be filed shall indemnify, defend, and hold harmless the any other affected owner(s) of the lot upon which said lien was filed against any liability, loss, damage, costs, or expenses (including reasonable attorney's fees actually incurred and court costs) on account of such claim of lien.

6.13 Mortgages.

6.13.1 For purposes of any right, privilege, or prerogative granted under this Declaration, an institutional mortgage holder must notify the Association of institutional



mortgage holder's status as an institutional mortgage holder immediately, and if the institutional mortgage holder fails to notify the Association of its status as an institutional mortgage holder in a timely manner, the Association bears no duty or responsibility to an institutional mortgage holder to provide any right, privilege or prerogative granted under this Declaration.

6.13.2 A mortgage holder is immediately responsible to the Association for any Assessments due during the period of an open foreclosure if the mortgage holder is not pursuing the foreclosure action with all due diligence.

6.13.3 In the event of a foreclosure, a mortgage holder's obligations to the Association shall be governed by Florida law.

6.14 Obligation. The owner's obligation to pay assessments pursuant to this Declaration is absolute and is not conditioned upon the Association's undertaking of any action pursuant to this Revised Declaration.

7(b) Maintenance Within Units. The owners of the units in each twin home, tri-home, quadrahome, and village home building shall be jointly responsible for the simultaneous painting of the exterior walls and trim of the entire building. The Association shall determine when any painting shall occur, though such reservation of determination shall not preclude the owners of the units from preemptively painting the structure. If the owners of the units in each structure fail to reach agreement on any aspect of painting, the Association shall be the sole arbiter of the dispute. In all other respects, the interiors and exteriors of units shall be maintained and repaired by the record owner of each unit. The colors and specifications of any all exterior painting shall be subject to approval by the Association. If any unit owner fails to maintain the property, the Association may elect any remedy at law or in equity to compel compliance with this section. In the alternative, the Association may elect to perform such maintenance itself and then to assess the owner(s) the costs of such maintenance accordingly.

7(c) Insurance. Each unit owner shall maintain in full force and effect a policy of insurance against loss by fire, with extended coverage, including vandalism and fire legal liability coverage, in an amount equal to at least ninety percent (90%) of the insurable value of his unit. Each such policy shall name the holder of any mortgage on the unit covered by the policy as an additional loss payee as the interest of such mortgagee may appear. Unless prohibited by law, the Association also shall be named as an additional loss payee on each such policy as its interest may appear. Each such policy shall provide for at least ten (10) days advance notice to the mortgagee, if any, and to the Association of the lapse or termination of such insurance. The Association may request at reasonable times proof of such insurance. If the unit owner fails to provide proof of insurance, the Association may elect to procure such insurance on the unit owner's behalf which such cost shall be deemed an assessment against the unit. In the alternative, the Association may elect any other remedy, at law or in equity, to achieve compliance with this section. The Association shall maintain a policy of public liability insurance with respect to all property owned by the Association providing minimum coverage of \$300,000.00 in an amount to be determined by the Board of Directors for the Association, but in no event shall such amount be less than \$300,000.

[DELETED IN ITS ENTIRETY– replaced by the following] 7.(f) Roofs. Each owner is liable to repair, replace and maintain their portion of the roof to the extent that the roof (or that portion of the roof) is the owner's. For any multi-family unit structure (e.g., twin homes, tri-homes, quadrahomes or village homes), for all other portions of the roof, all owners who share a roof system shall be jointly and severally liable for all roof maintenance, replacement and repairs.



which shall be jointly agreed upon and paid by all affected owners. In the event that the owners do not agree upon a maintenance or repair schedule, then in such event the Association, in the Association's sole discretion, shall decide the maintenance and repair schedule. In the event that an owner fails to pay all or a portion of maintenance or repair costs for the roof, the Association shall have the power, on behalf of the other affected owners, to lien for such amounts.

8. Deleted

10. Duration of Restrictions. All of the foregoing covenants, conditions and restrictions shall continue and remain in full force and effect at all times as against the owner of any lot in the development, regardless of how he acquired title, until the commencement of the calendar year 20036, on which date these covenants, conditions and restrictions shall terminate and thereafter be of no further legal or equitable effect with respect to the property or any owner thereof; provided, however, that these covenants, conditions and restrictions shall be automatically extended for a period of ~~ten~~ thirty years, and thereafter for successive ~~ten~~ thirty-year periods, unless on or before the end of one of such extension periods or the base period the owners of seventy-five percent of the lots in the development shall be the written instrument duly recorded declare a termination of the same. Each covenant, condition and restriction herein contained shall run with the land and shall be binding upon all parties and all persons claiming under them for the period of their duration. This Section does not abrogate or replace any other law affecting the validity of this Declaration; it is the intent that this Declaration shall run concurrently with the Marketable Record Title Act.

11. Enforcement.

(a) Enforcement of these restrictions shall be by action against any person or persons violating or attempting to violate any of them, either to restrain the violation or to recover damages. The prevailing party shall be entitled to recover, in addition to costs and disbursements otherwise allowed by law, his reasonable attorney's fee whether it be in the trial court and on appeal or if no lawsuit was filed. No delay or omission on the part of the owners of other lots in the development in exercising any rights, powers or remedies hereby provided, in the event of any breach of the covenants, conditions or restrictions herein contained, shall be construed as a waiver thereof or acquiescence therein.

(b) The Association shall have the power to fine unit owners as per Florida Statute 720.305 and its successors statutes may be amended from time to time.

(c) The Board of Directors shall have the power to assess any attorneys' fees and costs incurred by the Association for the unit owner's violation against the offending unit owner regardless of whether the matter is settled or reduced to a fine or any other action by the Association. Notwithstanding the foregoing, the Association shall have the power and the option to file a suit against the offending unit owner in a court of law for an injunction to prohibit the unit owner from taking the offending act and may seek whatever damages the Association deems necessary, including but not limited to attorney's fees and costs.



## **2013 AMENDMENTS TO THE BY-LAWS FOR SUMMER TREES**

4.1 The affairs of the Association shall be managed by a Board of Directors consisting of seven (7) persons elected to ~~represent five (5) districts and with two (2) directors serving at-~~ large, all of whom must be lot owners of record.