

Section 6. Alteration of Existing Improvement. The OWNER who makes exterior additions to, or changes or alterations to, any Improvement or constructs any new Improvements on the Lot after receipt of a Certificate of Approval as described in Section 5 must complete all such work (the "Alterations") in a timely manner and substantially in accordance with all plans and specifications approved by the ARB. The OWNER shall notify the ARB in writing when the Alterations have been completed and the ARB shall, within ten (10) days of receiving such notice, make inspections to verify completion in accordance with the approved plans.

Should the ARB or the DEVELOPER determine that the Alterations have not been completed in accordance with the approved plans and specifications, either the ARB or the DEVELOPER shall notify the Owner in writing citing deficiencies and the OWNER shall within fifteen (15) days after receipt of notice commence correction of the deficiencies and continue in an expeditious manner until all deficiencies have been corrected.

If correction of the deficiencies is not commenced within fifteen (15) days, or if such correction is not continued thereafter in an expeditious manner, the ARB or the DEVELOPER shall be entitled to record in the Public Records a "Notice of Noncompliance" setting forth that the OWNER has not completed the Alterations in accordance with approved plans and specifications and that the ARB or the DEVELOPER has the right to seek legal action to force the OWNER, or any grantee of the OWNER, to complete the Alterations in accordance with the plans and specifications. Said "Notice of Noncompliance" shall contain the legal description of the Lot. Once recorded, the "Notice of Noncompliance" shall constitute a notice to all potential purchasers from the OWNER that the ARB or the DEVELOPER shall have the right to enforce completion of the Alterations against the OWNER, or any grantee of the OWNER.

Should the Alterations not be completed in a timely manner as determined by the ARB or the DEVELOPER, or should the correction of the deficiencies not be commenced within fifteen (15) days after notice and continued thereafter in an expeditious manner until completion, or should the Alterations not be completed in accordance with the plans and specifications approved by the ARB, the ARB or the DEVELOPER shall have the right to seek specific performance of the OWNER's obligation to complete the Alterations as approved by the ARB; or, in the alternative to enter upon the Lot, make such corrections or modifications as are necessary to cause the Alterations to be completed in accordance with the approved plans and specifications, subject, however, to the following provisions. Prior to commencement of any work on a Lot, the ARB or the DEVELOPER must furnish written notice to the OWNER at the last address listed in the records of the ASSOCIATION for the OWNER, notifying the OWNER that unless the specified deficiencies are corrected within fifteen (15) days, the ARB or the DEVELOPER shall correct the deficiencies and charge all costs

thereof to the OWNER. Upon the failure of the OWNER to act within said period of time, the ARB or the DEVELOPER shall have the right to enter in or upon the Lot or to hire personnel to do so to complete the Alterations as approved by the ARB. The cost of the work, including labor and materials, shall be assessed against the Lot upon which the work is performed. The ASSOCIATION or the DEVELOPER shall record a Claim of Lien (upon commencement of the work required or anytime thereafter) against the Lot for the work performed (or to be performed), and it shall be a lien and obligation of the OWNER and shall become due and payable upon the recording of the Claim of Lien and shall be enforced and collected as provided in Article V hereof.

Once the ARB and the DEVELOPER determine that the Alterations have been completed in accordance with the approved plans and specifications, the ARB or the DEVELOPER shall issue to the OWNER a Certificate of Approval in recordable form, which shall make reference to the recorded "Notice of Noncompliance", and be executed by a majority of the members of the ARB with the corporate seal of the ASSOCIATION affixed or by the DEVELOPER. The recording of the Certificate of Approval in this instance shall be conclusive evidence that the Alterations as approved by the ARB have been completed, but shall not excuse the OWNER from the requirement that the plans and specifications for subsequent changes, modifications or alterations to the Improvement be submitted to and approved by the ARB prior to commencement of any work.

Section 7. Subordination of Obligation and Lien to Mortgages. The obligations of the OWNER set forth in Sections 4, 5 and 6 hereof and any Claim of Lien recorded by the ARB as set forth in Section 4 hereof and any "Notice of Noncompliance" recorded by the ARB as set forth in Section 6 hereof shall be absolutely subordinate, junior and inferior to the lien of any first mortgage held by a Lender, either at the time of commencement of the Construction or Alterations, or thereafter. This subordination shall not relieve the OWNER or any future OWNERS from the provisions of Sections 4, 5 and 6.

Section 8. Subsequent "Certificate of Approval" Not Necessary Unless "Notice of Noncompliance" Recorded. Notwithstanding anything herein to the contrary, the provisions of Sections 4 and 5 shall be applicable to initial construction of an Improvement on the Lot. After the initial construction and the recording of a "Certificate of Approval", it will not be necessary for an OWNER to obtain and record a "Certificate of Approval" for any Alterations unless a "Notice of Noncompliance" is recorded in the Public Records in accordance with Section 6. Subsequent purchasers of an Improvement must only determine that one (1) "Certificate of Approval" has been recorded unless a "Notice of Noncompliance" is also recorded.

Section 9. Architectural Review Board Planning Criteria.

(a) Building Type. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family residence of not less than 1000 square feet of heated/air conditioned living area, not to exceed 35 feet in height, a private and closed garage for not less than two nor more than four cars, and storage room or tool room attached to the ground floor of such garage. Unless approved by the ARB as to use, location and architectural design, no garage, tool or storage room may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior to the main residence. No guest house is to be constructed on any Lot unless the location, use and architectural design is approved by the ARB.

(b) Layout. No foundation for an Improvement can be poured until the layout for the Improvement is approved by the ARB. It is the purpose of this approval to assure that no trees are disturbed and that the Improvement is placed on the Lot in its most advantageous position.

(c) Exterior Color/Material Plan. The ARB shall have final approval of all exterior color plan and each builder must submit to the ARB a color plan showing the color of the roof, exterior walls, shutters, trim, etc. Any material used on the front of the Improvement must wrap around each corner for at least two feet (2). If the Improvement is on a corner Lot, the material must be used on the front and side of the Improvement next to the street and wrap around the corner for two feet (2). The ARB will have final approval of the use of all such material.

(d) Roofs. All roofs shall have a pitch of at least 6/12. Flat roofs shall not be permitted unless approved by the ARB. Such areas where flat roofs may be permitted are Florida rooms, porches and patios. There shall be no flat roofs on the entire main body of an Improvement. The ARB shall have discretion to approve such roofs on part of the main body of an Improvement, particularly if modern or contemporary in design. No built up roofs shall be permitted, except on approved flat surfaces.

(e) Garages. All garages must have a minimum width of twenty feet (20') for a two car garage, measured from inside walls of garage. No carports will be permitted.

(f) Driveway Construction. All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen feet (16) in width at the entrance to the garage. Unless prior approval is obtained from the ARB, all driveways must be constructed of concrete. When curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be acceptable to the ARB.

(g) Dwelling Quality. The ARB shall have final approval of all exterior building materials. Eight inch (8") concrete block shall not be permitted on the front elevated exterior of any house or detached structure. The ARB shall discourage the use of imitation brick and encourage the use of materials such as brick, stone, wood and stucco, or a combination of the foregoing.

(h) Walls, Fences and Shelters. No wall or fence shall be constructed with a height of more than six feet (6) above the ground level of an adjoining Lot, and no hedge or shrubbery abutting the Lot boundary line shall be permitted with a height of more than six feet (6) without the prior written approval of the ARB. No wall or fence shall be constructed on any Lot until its height, location, design, type, composition and material shall have first been approved in writing by the ARB. The height of any wall or fence shall be measured from the existing property elevations. No chain link fences will be permitted. Any dispute as to height, length, type, design, composition or material shall be resolved by the BOARD, whose decision shall be final. Hurricane or storm shutters may be used on a temporary basis, but shall not be stored on the exterior of any Improvement unless approved by the ARB.

(i) Lighting. All exterior lighting of a Lot shall be accomplished in accordance with a lighting plan approved in writing by the ARB.

(j) Swimming Pools and Tennis Courts. Any swimming pool or tennis court to be constructed on any Lot shall be subject to requirements of the ARB, which include, but are not limited to, the following:

(1) Composition of the tennis court to be of material thoroughly tested and accepted by the industry for such construction.

(2) There shall be no lights on a tennis court(s) of the type that would normally be used for tennis play after dark. All other lighting around a tennis court(s) shall be so placed and directed that it does not unreasonably interfere with any neighbors' quiet enjoyment of their Lot.

(3) The outside edge of any pool wall may not be closer than four feet (4) to a line extended and aligned with the side walls of the Improvement.

(4) No screening of pool area may stand beyond a line extended and aligned with the side walls of the Improvement unless approved by the ARB.

(5) Location and construction materials of tennis court(s) to be approved by ARB.

(k) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently.

(l) Removal of Trees. In reviewing the building plans, the ARB shall take into account the natural landscaping such as trees, shrubs, palmettos, and encourage the builder to incorporate them in his landscaping plan. No trees of six inches in diameter at one foot above natural grade can be cut or removed unless they are in the building pad area or septic area or drain field area, or otherwise approved in writing by the ARB, which approval shall be given when such removal is necessary for the construction of an Improvement.

(m) Landscaping. A landscaping plan for each Lot must be submitted to and approved by the ARB prior to the commencement of construction of any Improvement on that Lot. The landscaping plan must be completed prior to occupancy of the Improvement. After occupancy of the Improvement, any material modification of the landscaping plan must be approved by the ARB. After occupancy the landscaping on each Lot must be maintained to the standard at the time of installation. All lawns must be mowed to the general level of other lawns in Thousand Oaks. The entire yard, front, side and rear must be sodded. Each Improvement must have shrubs on front and side yards. The following are general guidelines for landscaping:

(i) Large shade trees shall not be planted in locations that would immediately or in the future create a nuisance, or screen the view of an adjoining Lot.

(ii) If any portion of the landscaping dies or is damaged at any time after its initial installation, the OWNER must replace such landscaping with material of at least the same quality and amount.

(n) Irrigation. No irrigation system may use a well for water unless a filter is attached to the well pump to keep the water from staining or discoloring any Improvement. Any staining or discoloring which occurs must be removed or painted over immediately. If the ARB allows a pump to be used for irrigation purposes, the location and screening of such pump must be approved. Any pressure tank used with an irrigation system must be located in the garage and the irrigation pump must be screened from view from any street.

(o) Air Conditioning and Heating Equipment. All air conditioning and heating units shall be shielded and hidden so that they shall not be readily visible from any adjacent Street or Lot. Wall air conditioning units may be permitted only upon the prior written approval of the ARB. No window air conditioning units shall be permitted.

(p) Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material 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 ARB. If and when the United States mail service or the newspaper or newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to the Improvement, each OWNER, on the request of the ARB, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to the Improvement.

(q) Windows. No casement windows shall be permitted.

(r) Land Near Parks and Water Courses. No building shall be placed nor shall any material or refuse be placed or stored on any Lot within 20 feet of the property line of any park or edge of any open water course, except that clean fill may be placed nearer provided that the natural water course is not altered or blocked by such fill. Notwithstanding the above, the location of any improvement on a Lot is also subject to all appropriate governmental regulations. No dock or other structure may be built on any lake shore without the prior approval of the ARB.

(s) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in case of a rounded property corner from the intersection of the property lines extended. The same sight line limitations shall apply on any Lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(t) Utility Connections. All connections for all utilities including, but not limited to, water, septic tank, electricity, gas, telephone and television shall be run underground from the proper connecting points to the Improvement in such manner to be acceptable to the governing utility authority.

Section 10. Compliance with the Surface Water Management System. It shall be the responsibility of each property owner within the subdivision at the time of construction of a building, residence, or structure, to comply with the construction plans for the surface water management system pursuant to Chapter 40D-4, F.A.C., approved and on file with the Southwest Florida Water Management District.

ARTICLE VII

ENFORCEMENT OF NONMONETARY DEFAULTS

Section 1. Nonmonetary Defaults. In the event of a violation by any MEMBER or OWNER (other than the nonpayment of any Assessment, Special Assessment or other monies) of any of the provisions of this Declaration (including the Planning Criteria), or the Governing Documents, the ASSOCIATION shall notify the MEMBER or OWNER of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after the receipt of such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the MEMBER or OWNER fails to commence and diligently proceed to completely cure as soon as practical, the ASSOCIATION may, at its option:

(a) Specific Performance. Commence an action to enforce the performance on the part of the MEMBER or OWNER, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

(b) Damages. Commence an action to recover damages; and/or

(c) Corrective Action. Take any and all action reasonably necessary to correct such violation, which action may include, but is not limited to, removing any building or Improvement for which architectural approval has not been obtained, or performing any maintenance required to be performed by this Declaration, including the right to enter upon the Lot to make such corrections or modifications as are necessary, or remove anything in violation of the provisions of this Declaration or the Planning Criteria.

(d) Expenses. All expenses incurred by the ASSOCIATION in connection with the correction of any violation, or the commencement of any action against any OWNER, including administrative fees and costs and reasonable attorneys' fees and costs, and attorneys' fees and costs incurred on the appeal of any lower court decision, shall be a Special Assessment assessed against the applicable OWNER, and shall be due upon written demand by the ASSOCIATION and collectible as any other Special Assessment under this Article or Article VI.

Section 2. No Waiver. The failure of the ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by this Declaration or the Governing Documents shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provisions, covenant or condition in the future.

Section 3. Rights Cumulative. All rights, remedies and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this Declaration or the

Governing Documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

Section 4. Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration may be enforced by the DEVELOPER, or the ASSOCIATION, by any procedure at law or in equity against any Person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the Person against whom enforcement is sought, provided such proceeding results in a finding that such Person was in violation of this Declaration. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this Declaration against any Person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees and costs, including reasonable attorneys' fees and costs incurred on the appeal of any lower court decision.

Section 5. Certificate as to Default. Upon request by any MEMBER, or OWNER, or an Institutional Lender holding a mortgage encumbering any Lot, the ASSOCIATION shall execute and deliver a written certificate as to whether or not such MEMBER or OWNER is in default with respect to compliance with the terms and provisions of this Declaration.

ARTICLE VIII

INDEMNIFICATION

Section 1. Indemnification of Officers, Members of the BOARD or Agents. The ASSOCIATION shall indemnify any Person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a member of the BOARD, employee, Officer or agent of the ASSOCIATION, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; or matter as to which such Person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the

ASSOCIATION unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

(a) To the extent that a member of the BOARD, Officer, employee or agent of the ASSOCIATION is entitled to indemnification by the ASSOCIATION in accordance with this Article VIII, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

(b) Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member of the BOARD, Officer, employee or agent of the ASSOCIATION to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized in this Article.

(c) The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of MEMBERS or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the BOARD, Officer, employee or agent of the ASSOCIATION shall inure to the benefit of the heirs, executors and administrators of such a Person.

(d) The ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any Person who is or was a member of the BOARD, Officer, employee or agent of the ASSOCIATION, or is or was serving at the request of the ASSOCIATION as a member of the BOARD, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE IX

RESTRICTIVE COVENANTS

The Property shall be subject to the following Restrictions, reservations and conditions, which shall be binding upon the DEVELOPER and upon each and every OWNER who shall acquire hereafter a Lot or any portion of the Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns.

Section 1. Mining or Drilling. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise undertaken within any portion of the Property. Excepted from the foregoing shall be activities of the DEVELOPER or the ASSOCIATION, or any assignee of the DEVELOPER or the ASSOCIATION, in dredging the water areas, creating land areas from water areas or creating, excavating or maintaining drainage or other facilities or easements, the installation of wells or pumps in compliance with applicable governmental requirements, or for sprinkler systems for any portions of the Property.

Section 2. Clothes Lines. No clothes line, clothes pole, or other device which has as its intended purpose or principal use the hanging of clothes or other articles to dry or air shall be permitted in any location which is visible from the street or any Lot.

Section 3. Antennas, Aerials, Discs and Flagpoles. No outside antennas, antenna poles, antenna masts, satellite television reception devices, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved in writing by the ASSOCIATION. A flagpole for display of the American flag or any other flag shall be permitted only if first approved in writing by the ASSOCIATION, both as to its design, height, location and type of flag. No flagpole shall be used as an antenna.

Section 4. Statues/Windmills/Fountains. No statues, windmills, fountains, or similar items will be allowed which are visible from any Street or neighboring Improvement.

Section 5. Games and Play Structures. All basketball backboards shall be affixed to a free standing pole and may not be affixed to any building, garage or building addition. Treehouse or platforms of a like kind or nature shall not be constructed on any part of the Lot located in front of the rear line of the Improvement constructed thereon or within any setback line.

Section 6. Litter. In order to preserve the beauty of the Property, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept upon any part of the Property except in closed containers, dumpsters or other garbage collection facilities deemed