

This Consolidated, Amended, and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Millhopper Forest is dated as of November 30, 2018.

RECITALS

A. That certain Declaration of Covenants, Conditions, Restrictions, and Easements for Millhopper Forest, executed August 16, 1999, was recorded at Official Records Book 2249, Page 2, in the public records of Alachua County, Florida (as amended and supplemented from time to time, "Original Declaration") with reference to certain lands in Alachua County, Florida developed for residential purposes, said lands being described in Exhibit C, existing property, to this Declaration of Covenants, Conditions, Restrictions, and Easements for Millhopper Forest, ("Declaration"), for the purpose of the preservation, protection, and enhancement of the values and amenities in Millhopper Forest and to insure the residents' enjoyment of specific rights, privileges, and easements in the community properties and facilities described therein.

B. MILLHOPPER FOREST HOMEOWNERS' ASSOCIATION, INC., a Florida not for profit corporation having its principal place of business in Alachua County, Florida, the homeowners association designated by the developer HOWE DEVELOPMENT CORPORATION, to enforce the Original Declaration, and the lot owners of Millhopper Forest, hereby restate said Original Declaration and incorporate the amendments thereto, which are and shall be an encumbrance upon the land described in Exhibit C.

C. The purpose of this Declaration is to continue the preservation, protection, and enhancement of the values and amenities in Millhopper Forest and to insure the residents' enjoyment of specific rights, privileges, and easements in the community properties and facilities described therein.

NOW, THEREFORE, this Declaration consolidates, amends and restates the Original Declaration, including the following supplements and amendments thereto, agreements associated therewith, easements appurtenant thereto and joinders thereto:

Declaration for Annexation, as recorded in Official Records Book 2345, Page 986 of the Public Records of Alachua County, Florida.

Supplemental Declaration, as recorded in Official Records Book 2880, Page 222 of the Public Records of Alachua County, Florida.

Amendment to Declaration, as recorded in Official Records Book 3738, Page 153 of the Public Records of Alachua County, Florida.

Amendment to Declaration, as recorded in Official Records Book 3738, Page 156 of the Public Records of Alachua County, Florida.

The land described in Exhibit C, existing property, hereto is and shall be expressly made subject to this Declaration and all covenants and provisions contained herein shall run with the land described in Exhibit C, existing property, and all improvements thereon and shall bind all present and future owners and the holders of any right, title, or interest therein, and of liens or encumbrances thereon, together with the heirs, devisees, personal representatives, successors, and assigns of such parties.

Copies of the Articles of Incorporation and By-Laws of Millhopper Forest Homeowners' Association, Inc. are attached hereto as Exhibit A and Exhibit B, respectively.

ARTICLE I DEFINITIONS

The following definitions apply wherever the capitalized terms appear in this Declaration. Definitions of other terms may also appear in this Declaration.

1.1 **Articles:** The Articles of Incorporation of the Association filed with the Secretary of State of Florida as amended from time to time. A copy of the Articles are attached hereto as Exhibit A.

1.2 **Assessments:** The collective term for the following charges:

General Assessment: The amount charged to each Member to meet the Association's annual budgeted expenses.

Individual Lot Assessment: A charge to each Member's individual Lot for any charges confined to that Lot.

Special Assessment: A charge to each Member for capital improvements or emergency expenses.

1.3 **Association:** Millhopper Forest Homeowners Association, Inc., a Florida non-profit corporation and its successors and assignees.

1.4 **Board:** The Board of Directors of the Association.

1.5 **Bylaws:** The Bylaws of the Association. A copy of the Bylaws are attached as Exhibit B.

1.6 **Common Property:** Common Property shall include:

a) Those tracts of land deeded to the Association and/or designated on the Plat as Common Area Right-of-Way, Public Utility Easement, Drainage Easement, Easement and Common Area, Wall and Public Utility Easement and Common Area, and Drainage Easement and Common Area or similar designations.

b) The bordering fences constructed by the Declarant or the Association that follow the neighborhood's external boundaries, as shown on the plat.

c) The roadways within Millhopper Forest, which will not be dedicated to Alachua County but will be owned and maintained by the Association.

d) The term "Common Property" also includes any personal property appurtenant to any real property owned by the Association or acquired by the Association if the personal property is designated as such in the bill of sale or other instrument conveying such property.

1.7 **Declarant:** The Declarant, as defined in the original Declaration and as used here for consistency with that original Declaration, was Developer HOWE DEVELOPMENT CORPORATION, a Florida corporation, and its successors and assignees.

1.8 **Declaration:** This Declaration of Covenants, Conditions, Restrictions, and Easements for Mil/hopper Forest and all supplements and amendments to this Declaration.

1.9 **Drainage System:** All drainage rights-of-way, lakes, ponds, water management tracts, drainage facilities, conservation districts, conservation areas, and buffer zones as shown on the Plat, or as otherwise provided for in the development of Mil/hopper Forest. The Drainage System and all open spaces (as shown on the Plat) will be owned by the Association. "Drainage System" also means a system designed and constructed or implemented to control discharges which are necessitated by rainfall events incorporating methods to (i) collect, convey, store, absorb, inhibit, treat, use, or reuse water; (ii) prevent or reduce flooding, over drainage, environmental degradation, and water pollution, or (iii) otherwise affect the quantity and quality of discharges from the system as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42 of the Florida Administrative Code.

1.10 **Lot:** A lot shown on the Plat along with any improvements constructed on the Lot.

1.11 **Member:** A member of the Association. Each Owner of a Lot is a Member.

1.12 **Mortgagee:** The owner and holder of a mortgage made by Declarant encumbering Millhopper Forest or a portion thereof which is recorded in the Public Records and any institutional lender which holds a bona fide mortgage encumbering a Lot. The term "institutional lender" includes, but is not limited to, banks, savings and loan associations, mortgage lending companies, insurance companies, credit unions and the

1.13 **Owner:** The record owner, whether one or more persons or entities, of the fee simple title to any Lot or a life estate in any Lot. "Owner" does not mean a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any deed or proceeding in lieu of foreclosure.

1.14 **Plat:** The plat of Millhopper Forest Development recorded at Plat Book U, pages 60 and 61 of the Public Records of Alachua County, Florida, together with the plats of any additional land from time to time annexed to and made part of Millhopper Forest.

1.15 **Public Records:** The official Public Records of Alachua County, Florida.

1.16 **Rules:** The rules governing the use of the Common Property originally enacted by the Declarant and revised from time to time by the Association. Information regarding the Rules is set forth in Section 5.6.

1.17 **Millhopper Forest:** Millhopper Forest development, recorded in the Plat and any land from time to time made subject to this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

This Article describes the real property of which Millhopper Forest is comprised and provides the method by which additional property may be added.

2.1 **Initial Property:** The property initially subject to this Declaration consists of the property described on the Plat.

2.2 **Annexation of Additional Property:**

(a) Additional property may be annexed to Millhopper Forest by the Association.

(b) Procedure: The party effecting the annexation shall record a Supplemental Declaration in the Public Records. The Supplemental Declaration shall be executed on behalf of the Association by an officer of the Association, following approval of the annexation by a

majority of Association Members. The Supplemental Declaration shall contain the legal description of the property being annexed. The Supplemental Declaration may contain special provisions applicable to the property being annexed which limit the applicability of covenants, restrictions, and easements contained in this Declaration or which impose additional or different covenants, conditions, or restrictions to reflect the different character of the property being annexed. The party making the Supplemental Declaration will have sole discretion to determine the special provisions to be contained in the Supplemental Declaration; however, no special provisions may be included which exempt the owners of the property being annexed from equitably sharing in common expenses of Millhopper Forest. Upon recording, the annexed property will become part of Millhopper Forest.

2.3 Further Subdivision or Re-plat of Lots:

Owners may not subdivide or separate any Lot into smaller lots; however, this shall not prohibit corrective deeds or similar corrective instruments. An Owner may, by recording an instrument in the Public Records, combine two or more Lots for a single home site, and thereafter the combined property will be deemed to be a single Lot for all purposes.

ARTICLE III ARCHITECTURAL REVIEW AND CONSTRUCTION REQUIREMENTS

In order to assure that the homes and accessory buildings within Millhopper Forest are harmonious, Declarant established a Committee to approve all construction. Certain requirements are specified; however, the Committee will not be limited to the specific requirements and will have broad discretion.

3.1 Architectural Review Committee

(a) Composition: The Architectural Review Committee (the "Committee" or "ARC") will consist of three or more Association Members appointed by the Board to serve one-year terms. If the Board does not appoint new Committee members, then the terms of the existing Committee members shall automatically renew. Members of the Board may serve on the Committee.

(b) **Professional Advisor** : The Committee may employ subject matter experts, such as architects or land planners, to advise it. The advisor may sit on the Committee as a nonvoting member at the discretion of the other members of the Committee. At the discretion of the Committee, and with the concurrence of the Board, the advisor may be paid a reasonable fee.

3.2 Architectural Review Procedure:

(a) Construction Subject to Review:

(1) All construction, improvements, remodeling or modification on or to a Lot, except interior alterations not affecting the external appearance of the Lot or improvements on a Lot, must be reviewed and approved in advance by the Architectural Review Committee. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows and trim); replacement of roof or other parts of a building; installation of antennas, satellite dishes or receivers, solar panels or other devices; construction of fountains, swimming pools, whirlpools or other pools; construction of privacy walls or other fences or gates; addition of awnings, flower boxes, shelves, statues or other outdoor ornamentation; installation of window coverings; installation of a well; and landscaping and any material alteration of landscaping. This right of approval is general and is not limited to the specific items listed in this Section or in Section 3.4.

(2) Exterior Color and Materials.

(a) The color and materials of all exterior surfaces must be approved by the ARC.

(b) Owners repainting home exteriors must use colors included in the approved color palette. The color palette may be obtained from the Management Company. If the color selected by the owner is among those preapproved by the Association and included in the color palette, no prior Board approval is needed. If the intended color(s) do not appear on the palette, approval must be obtained through the Architectural Review Committee (ARC).

(c) Following its review, the ARC's recommendations will be submitted to the Board for a final determination.

(d) Repainting a home in the same colors as previously approved does not need ARC approval.

(e) The ARC will review and update/change as needed the approved house exterior color palette at least once a year.

(b) Application: The plans to be submitted to the ARC for approval shall include:

- (i) Construction plans and specifications, including all proposed clearing and landscaping;
- (ii) Elevations of all proposed improvements;
- (iii) Lot survey showing current improvements;
- (iv) Any applicable permits obtained from appropriate agencies; or,
- (v) Such other items as the Committee requires.

No construction on any Lot shall be commenced, and no Lot shall be modified except in accordance with the submitted plans. Any modification to the approved plans must also be reviewed and approved in advance by the Committee, and ratified by the Board.

Basis for Decision: In making its decisions, the Committee may consider a range of matters relating to the desirability or suitability of the changes or improvements, from aesthetic and visual, to assessments regarding economic impact on the Association. The Committee will not be limited to the specific restrictions and requirements of this Article in making its decisions. Committee decisions are subject to ratification by the Board of Directors.

(d) **Fees:** If the Committee retains an expert, as authorized in Paragraph 3.1, then the Owner shall reimburse the Association for that expert's fees. The Committee may require an applicant to post a security deposit to assure that all work is effected in accordance with approved plans. The Committee may retain the security deposit until all work has been completed in accordance with the approved plans, and has been approved by appropriate agencies and authorities.

(e) **Notification of Approval:** The Board or its designee or agent must notify an applicant in writing of its decision within thirty (30) days of receiving a complete application. The determination of a "complete application" is made by the Board or its designee or agent following the guidelines of this Declaration. If approval or disapproval is not given within thirty (30) days after submission of a complete application, the application will be deemed approved unless the Board notifies the applicant of circumstances requiring an extension beyond thirty (30) days, which extension can be no more than thirty (30) days.

(f) **Enforcement:** If any construction or modification is undertaken which has not been approved or which deviates substantially from the approved plans, the Board or an Owner may

bring an action for specific performance, declaratory decree or injunction, and the prevailing party will be entitled to recover all costs of such action including attorneys' fees before or at trial or on appeal. Failure to enforce strictly these provisions as to a particular violation or violations will not be deemed a waiver of the right to enforce these provisions as to future or continuing violations.

3.3 **Liability:** Neither the ARC nor Board will be liable to the Owner or to any other party for ensuring that: the proposed plans comply with applicable building codes; that the plans will not result in defects in the improvements; or, that construction is done in accordance with the plans.

3.4 **Specific Restrictions:** The following restrictions shall apply to the Lots; however, the Committee will not be limited to these items when reviewing plans and will have broad discretion in the interpretation of these restrictions.

(a) **Residential Building:** No building may be erected, placed or permitted to remain on any Lot other than one (1) single-family dwelling and, if approved by the Committee/Board, accessory buildings which do not furnish residential accommodations.

(b) **Building Restriction Lines:** No dwelling shall be located nearer to the streets or adjacent Lots than the applicable building setback requirements shown on the Plat.

(c) **Garages:** Each dwelling must have an enclosed garage to accommodate at least two (2) and not more than three (3) cars. No carports or single car garages will be permitted. Without prior approval of the ARC/Board, no garage may be permanently enclosed or converted to another use without the substitution of another garage on the Lot meeting the requirements of this Declaration.

(d) **Driveways:** All Lots must have a paved driveway from the adjacent street to the dwelling. All driveways must be of stable and permanent construction of concrete, asphalt or other approved material.

(e) **Exterior Color and Materials** The color and materials of all exterior building surfaces (including windows) must be approved by the Committee. The Committee may promulgate a list of approved colors and materials for this purpose.

(f) **Non-Interference with Easements:** No structure, planting or other material may be placed or permitted to remain on a Lot which may damage or interfere with installation or maintenance of any entry way, hedge, planting, tree, grass, fence or other improvement or

landscaping located within the Common Property or Drainage System. Any easement area located on a Lot and all improvements on an easement area shall be maintained by the Owner of the Lot except for those easement areas, the maintenance of which is the responsibility of a public authority, utility or the Association. An Owner may not interfere with maintenance of an easement area on the Owner's Lot. This provision may be enforced by any person or party benefiting from such easements or responsible for their maintenance.

(g) **Utility Connections:** Connections for all utilities, including, but not limited to, gas, water, sewage, electricity, telephone and television must be run underground from the connecting point to the dwelling in such a manner as is acceptable to the respective utility authority or company and the Committee.

(h) **Air Conditioning Units:** No window or wall air conditioning units will be permitted on any Lot.

(j) **Mailboxes:**

(1) **Responsibility.** The purchase, repair, maintenance, and appearance of all mailboxes are responsibilities of the Association once these covenants are adopted. Purchase, repair, and maintenance will be the responsibility of the management company under the direction and guidance of the Board.

(2) **Specifications.** Specifications for make, model, color, and appearance are established by the Board and administered through the ARC. These specifications are reviewed and changed as needed annually by the Board.

(3) **Mailbox decorations.** Owners may decorate or adorn their mailboxes with appropriate seasonal decorations. Such decorations must not alter the permanent appearance of the mailbox, and must be removed after 7 days.

(4) **Common area landscaping.** Landscaping of common areas between the sidewalks and streets adjoining private property shall be trimmed, edged grass.

(k) **House Numbers.** Owners shall place numbers identifying the property address on the building constructed on the Lot. Such numbers must be made of rustproof metal and not be plastic or stickers.

(l) **Antennae and Aerials.** Owner shall be allowed to place an antenna or satellite dish that is one meter or less in diameter on Owner's property in a location so that no part of the antenna or satellite dish is visible from outside the Owner's dwelling unit. In the event that the

indoor installation impairs reception, Owner shall have the right to install the antenna or satellite dish in an area of Owner's Property so that no portion of the antenna or satellite dish is visible from any street or residential unit adjacent to Owner's Property. In the event placement of the antenna or satellite dish in the non-visible location impairs reception, the antenna or satellite dish shall be installed in the least obtrusive location which allows for reception. No antenna or satellite dish of any type may be installed on Common Property. No Owner may install two or more antennas of a single service provider in said Owner's residential unit.

(m) **Signs:** The size, color and design of all signs located on a Lot will be subject to the approval of the ARC. No sign of any kind may be displayed to general view on any Lot (whether freestanding, attached to the improvements on a Lot or displayed in a window) except under any of the following circumstances:

Directional or traffic signs may be installed by the Board.

Entrance or other identification signs may be installed by or with the consent of the Committee;

One "For Sale" sign not more than two square feet (as measured on each side of the sign) may be displayed on a Lot by the Owner or the Owner's agent.

(n) **Fences:**

(1) No fences, except as may be required by law or government regulation, may be erected upon any Lot without the prior written approval of the Committee.

(2) Fences must be approved by the Committee and may be limited as to location, height, materials, and style, and must be in compliance with the fencing policy established by the Association from time to time.

(3) Fences shall be located only where indicated on plans approved by the Committee, but in general will only be permitted in the rear and side yards of a Lot. Accordingly, fences will not be permitted closer to the street than 10.0 feet behind the front face of a dwelling located on a Lot. If the front of a dwelling is irregular in design, the Committee will determine the setback requirement for the fences.

(4) These restrictions will not apply to fences constructed along the boundary lines between Millhopper Forest and other properties or constructed by the Association to enclose any Common Property.

(o) **Sidewalks:**

(1) Owner shall be responsible for constructing a sidewalk within the right of way adjacent to Owner's Property which runs parallel to the street according to the construction guidelines provided by the Association.

(2) The Association shall maintain the sidewalk for safety following construction of the sidewalk by Owner. The Association's maintenance obligation specifically does not include aesthetics.

3.5 Temporary Structures: No structure of a temporary nature, whether a trailer, tent, shack, garage, barn or any other such building, is permitted on a Lot for longer than 48 hours. Recreation or utility vehicles actively engaged in loading/unloading or supporting recreational or improvement activities are authorized to park, subject to vehicle parking guidelines, for no more than 48 hours. This restriction excludes temporary buildings used in connection with and during the construction of a dwelling if approved by the Committee.

3.6 Completion of Construction and Repairs: The improvement of a Lot and the construction, repair or remodeling of any improvement must be diligently and continuously continued once begun and promptly completed. The Committee may impose a fine for each day of violation for work which is not diligently pursued and completed within twelve (12) months from the date of the first delivery of any materials to the site of construction. This is in addition to all other remedies available to the Committee. The Committee may, as a condition of approval, impose a different deadline for completion of construction and impose a fine of an amount not to exceed \$100.00 per day for each day work is not completed within that deadline.

3.7 Destruction or Damage to Subdivision Improvements: Owners will be responsible for any and all damage caused to Common Property or subdivision improvements, including but not limited to, curbs, gutters, roadways, water hydrants, sidewalks, power poles and fences erected by anyone, whether such damage is caused by the Owner or the Owner's employees, agents, invitees, guests, contractors or subcontractors. Such responsibility will be both a personal obligation and an Individual Lot Assessment upon such Owner's Lot.

3.8 Trees:

(a) Beautiful trees and landscaping that complement the natural beauty of our neighborhood are important contributors to both aesthetics and economic value.

(b) Owners must use reasonable care to preserve, in good health, all trees on their property.

(c) Tree removal:

(i) Alachua County Unified Land Development Code (ULDC) regulations state which trees are regulated by the County and who requires a permit. Owners are responsible for their knowledge of and compliance with these regulations. No trees covered by these regulations may be removed, cut down or destroyed without the prior approval of the Committee except where such tree poses an immediate danger to life or property.

(ii) County permits are required prior to removing trees over 20" diameter (~63" circumference) measured at 4.5' above ground level, or Nonnative trees, laurel oaks and water oaks over 30" in diameter (~94.25" circumference) measured at 4.5' above ground level. Owners are required to show proper permitting prior to removing trees subject to county regulations.

(iii) The Committee may require an Owner to replace removed trees with a healthy tree(s) comparable in type to the tree(s) that was removed to help ensure and retain the "forest" character of the neighborhood.

(d) Tree pruning:

(i) Trees may be pruned without a permit, however, it is prohibited to excessively prune trees that results in an unnecessary reduction of shade [407.47(d)].

ARTICLE IV

USE OF PROPERTY; INDIVIDUAL LOTS

The provisions in this section regarding the use of Lots help maintain and enhance property values; sustain and improve the neighborhood's quality of life; help ensure the safety and security of its Members and their guests; and, to limit uses which may be a nuisance or have an adverse impact to other Owners.

4.1 Residential Use: No business or commercial building may be erected on any Lot. No business or commercial activity that is detectable from the street may be conducted on any Lot.

4.3 **Leasing:**

(a) For the purpose of this paragraph, the term “lease” or “leases” shall mean a lease, sublease, or similar disposal of interest, even if only on a temporary basis.

(b) Leasing of Lots is permitted but only for terms and renewal of terms of not less than seven (7) months. All leases must be of the entire Lot and all improvements located thereon.

(c) Tenants must agree to be bound by the requirements of this Declaration, the rules and regulations, and other governing documents of the Association and Owners will be liable for any violation of the governing documents by their tenants. The Owner shall provide the tenant(s) and subtenant(s) with a copy of all governing documents, including the rules and regulations. All leases must include a clause or addendum that provides for the tenant(s) or subtenant(s) to receive copies of all association governing documents and amendments thereto and requires tenant(s) or subtenant(s) to comply with the Association’s governing documents. The Association may adopt a form that may be used for this purpose.

(d) Owners must notify the Association or its agent or designee when the lease is signed, provide a copy of the lease, confirm that the lessee has been informed of the covenants and given a copy, and provide appropriate personal information regarding the lessees, e.g., names, address, email, telephone.

4.4 Maintenance of Exteriors: The exterior of all structures, including all fixtures attached thereto, and grounds, including hardscape and landscape, shall be maintained and kept neat and clean, in first class condition and state of repair, and otherwise in accordance with the guidelines established by the Board of Directors. More specifically, the Owner of each residence shall have his or her roof and gutters regularly and competently cleaned and maintained, so as to eliminate dirt, debris, and mildew. The owners of each residence shall also have the residence competently repainted as frequently as necessary to maintain the exterior appearance of each such residence shall be maintained in a fresh and well maintained fashion.

4.5 Noxious Vegetation: No Owner may permit the growth of noxious weeds or vegetation upon the Owner's Lot or upon the land lying between the street pavement and the front lot line of the Owner's Lot. All unimproved areas of a Lot must be maintained in an attractively landscaped and sightly manner. The Association may impose a fine for each day of a violation of this Section 4.5.

4.6 Litter, Trash and Garbage : No garbage, trash, refuse or rubbish may be deposited, dumped or kept on any Lot except in closed sanitary containers. Household trash containers must be kept inside a garage or otherwise hidden from public view except on the day designated for pickup, and promptly returned to the proper storage area after pick-up. Commercial trash containers may only be kept on a Lot in conjunction with interior or exterior modifications and with the approval of the ARC.

4.7 Nuisances:

(a) Members have a right to the enjoyment and use of their property, including the right to the unimpaired condition of the property and to reasonable comfort and convenience in its occupation. Nuisance for the purpose of this section, includes any act that would constitute a statutory or common law nuisance and conduct or actions that constitute the unreasonable, unwarranted, or unlawful use of one's property in a manner that substantially interferes with the enjoyment or use of another Owner's property, without an actual trespass or physical invasion to the land.

(a) Nuisances may include, but are not limited to:

- Domestic violence.
- Failing to clean up after dogs and/or allowing dogs to run around off leash.
- Leaving holiday decorations up for more than two months before or one month after a holiday.
- Loud noises-radio, pets barking, screaming, etc.
- Odors.
- Parking-blocking in neighbors' cars, parking on others' property, etc.

(c) No Owner may cause or permit unreasonable sights, noises, or odors on the Owner's Lot.

(d) No Owner may commit or permit any nuisance, any illegal activity or anything which may be an annoyance or a noxious or offensive activity to the other Owners or their guests.

(e) Soliciting within Millhopper Forest is strictly prohibited without the approval of the Association.

4.8 Parking of Wheeled Vehicles and Boats:

(a) Boats and boat trailers must be kept completely inside a garage when not actually being prepared for use or immediately following recreational use during cleanup and stowage. Boats and boat trailers shall not be parked elsewhere on a Lot or on a street within the Plat.

(b) Private cars or private trucks owned by an Owner or an Owner's guest(s), invitee, tenant, or sub-tenant, or tenant's guest(s), may be parked in the Owner's driveway. These private cars and/or trucks shall not display commercial signs and shall not impede vehicular or pedestrian traffic on the street or sidewalk. Parking in the street should be for special circumstances, e.g., driveway repairs, or other maintenance work that requires more room. Repeated, habitual street parking does impair street access and constitutes a safety hazard. Private cars or trucks that display commercial signs shall be parked completely inside a garage.

(c) Commercial Vehicles may be parked in a street or driveway when necessary for providing services to an Owner, or for pickup and delivery service.

(d) Recreational vehicles, travel trailers, trailers and campers may be parked in the driveway of a Lot for up to a total of forty-eight (48) hours per week for loading and unloading only and never for dwelling purposes. At all other times, recreational vehicles, travel trailers, trailers and campers shall be parked completely inside a garage

(e) No Vehicles may be repaired or maintained on or adjacent to a Lot except within a garage.

(f) Vehicles engaged in construction of subdivision improvements or dwellings on behalf of an Owner or the Association will be permitted within Millhopper Forest.

4.9 Garage Doors: Garage doors shall be kept closed except when in use.

4.10 Pets:

(a) A "household pet" is a dog, cat or other common domestic animal approved by the Committee.

(b) Up to three "household pets" may be kept on a Lot. All other pets and animals are strictly forbidden.

(c) In no event may pets be kept, bred or maintained for any commercial purpose.

(d) Each Owner or tenant will be strictly responsible for the behavior of household pets. An Owner or tenant may not permit a household pet to become a nuisance or annoyance to other Owners.

(e) Each Owner or tenant will immediately collect and dispose of waste and litter from the Owner's pets.

(f) Each Owner or tenant shall comply with all applicable municipal codes or ordinances.

(g) The Association may adopt rules defining the term “other common domestic animal” and other rules regarding household pets, including rules regulating household pets on Common Property, on Lots, and within buildings and structures constructed on Lots.

4.11 Rights of Association to Effect Repair, Maintenance and Removal:

(a) If an Owner fails to undertake the necessary repair, maintenance or removal within five (5) days of notice of a violation of Section 4.5 or 4.6 above, or fails to complete the work within fifteen (15) days of the notice, then the Association may effect the repairs or maintenance to the Owner's Lot in order to preserve the beauty, quality and value of neighborhood, the costs of which plus a fifteen percent (15%) administrative fee shall be payable by the Owner to the Association.

(b) If the Owner fails to make this payment within five (5) days of demand, the costs and fee will constitute an Individual Lot Assessment against the Owner's Lot.

(c) Each Owner grants the Association and its respective contractors, employees and agents a perpetual easement to enter upon the Owner's Lot to carry out the work and releases said parties from all liability with respect to such work.

(d) In addition, the Association may impose a fine for each day of a violation of Section 4.4, 4.5, 4.6, 4.7, and 4.9.

ARTICLE V COMMON PROPERTY

The Association will own and maintain the Common Property for the benefit of all Members and, when necessary, improve, convey or lease the same.

5.1 Title to Common Property:

(a) Ownership: The Common Property will be owned by the Association for the benefit of all Owners.

(b) Conveyance: The Association is authorized to buy or lease real or personal property to be added to the Common Property. The Association may sell or lease any part of the Common Property with the approval of fifty percent (50%) of the Members; however, membership approval is not needed for the Board to sell personal property or to grant easements on real property.

(c) **Dedication:** If the governmental body having authority over Millhopper Forest requests the Association to convey title to or dedicate the Common Property or a portion of it to the public, the Association will be authorized to make such conveyance or dedication but only with the approval of the Members. Upon such dedication, all obligations of the Association regarding the property so dedicated will cease except for requirements imposed as conditions of the dedication.

5.2 Maintenance: Management Contracts:

(a) **Association Responsibility:** The Association will be responsible for the management, control and improvement of the Common Property and must keep it attractive, clean and in good repair in accordance with this Declaration and applicable governmental regulations.

(b) **Management Agreements:** The Association may contract as appropriate and needed for the performance of all or any portion of the management of the Association and the Association's maintenance and repair obligations. Management costs will be included within the General Assessments.

The property manager for the Association, its employees, officers, contractors and assignees will have the right to use the Common Property without liability for Assessments or other charges as more particularly specified in the Management Agreement.

5.3 Capital Improvements: The Association may make capital improvements to the Common Property and may modify the uses of the Common Property, subject to approval of fifty percent (50%) of the Members.

5.4 Damage or Destruction of Common Property by Owner: If any Owner or the Owner's guest, tenant, licensee, agent, employee, family member or pet damages any of the Common Property as a result of negligence or misuse, as determined by the Board, the Owner hereby authorizes the Association to repair the damage. The cost of repair will be the responsibility of the Owner and will become an Individual Lot Assessment payable by the Owner.

5.5 Compliance with Laws: Lots and the Common Property may be used and must be maintained in accordance with all applicable laws, ordinances and regulations, including, without limitation, all regulations and requirements of the St. Johns River Water Management District, the local government jurisdiction and the Florida Department of Environmental Protection.

5.6 Rules for Use of Common Property:

(a) Members will have the right to use the Common Property in accordance with rules and guidelines established by the Association.

(b) The Rules may establish limitations on use of the Common Property by a Member's guests and lessees and provide for the imposition of a fee or charge for use of certain facilities, provided such fee or charge is uniformly assessed.

(c) No Member will be entitled to any rebate or reduction in the Member's Assessments as a result of any restrictions imposed on the Member's use of the Common Property.

(d) The Rules will be kept by the one designated by the Association to maintain the records of the Association, and copies will be made available to any Member requesting them. The Association may collect a reasonable charge for such copies.

5.7 Drainage System Located in Common Property: The Association will be responsible for maintenance of the Drainage System. Maintenance means the exercise of practices which allow the system to provide drainage, water storage, conveyance and other storm water management capabilities as permitted by the St. Johns River Water Management District and the local government jurisdiction. The Association will be responsible for such maintenance and operation but only as it may pertain to the Common Property. Any repair, modification or reconstruction of the Drainage System shall be only as permitted by the St. Johns River Water Management District and the local government jurisdiction.

ARTICLE VI: GRANT AND RESERVATION OF EASEMENTS

Every Owner has the benefit of certain easements and the responsibility for others.

6.1 Owner's Easement of Enjoyment of the Common Property: Every Owner will have a right and easement of enjoyment of the Common Property, subject to the restrictions imposed in this Declaration and the Rules. This easement will be appurtenant to and shall pass with the title to every Lot. Any Owner may delegate, subject to the provisions of this Declaration, the Articles, the Bylaws and the Rules, the Owner's right to enjoyment of the Common Property to the Owner's family, tenants and guests.

6.2 Easements in Favor of the Association: The Association reserves for itself and its successors and assignees the following perpetual easements.

(a) **Utilities:** Easements for ingress, egress, installation, replacements, repair and maintenance of all public and private utilities and conveniences upon all property subject to Public Utility Easements as shown on the Plat; across, over, through and under the Common Property; and five feet (5') in width along the front, rear and side line of each Lot. This easement shall automatically be deemed abandoned as to the interior side Lot lines where two (2) or more Lots are combined into a single Lot.

(b) **Police Powers:** Security: A blanket easement throughout Millhopper Forest for police powers and services supplied by the local, state and federal governments and for any security services which may be provided by the Association.

(c) **Fences:** Easements for ingress, egress, installation, replacements, repair and maintenance of all Association installed fences and walls; across, over, through and under the Common Property; and ten feet (10') in width along the rear and side line of each Lot. Provided, however, that the Association is only responsible for maintaining the bordering fences constructed by the Declarant or the Association that follow the neighborhood's external boundaries, as shown on the plat.

ARTICLE VII: ASSOCIATION ORGANIZATION

7.1 **Existence and Membership:** The Association will be a Florida non-profit corporation of perpetual existence. Every Owner is a mandatory Member of the Association. Membership is appurtenant to and may not be separated from the title to any Lot.

7.2 **Exercise of Vote:** When more than one (1) person holds an interest in any Lot, all such persons shall be Members; however, Members will only be entitled to one (1) vote per Lot, and any Members who together own a Lot must determine among themselves how the vote may be exercised. Corporations, partnerships and other entities must notify the Association of the natural person who will be considered a Member of the Association and be entitled to exercise its vote.

7.3 **Board of Directors:**

(a) **Number:** The affairs of the Association shall be managed by a Board of not less than three (3) directors. In the event that the number of directors is changed, such change in number shall be implemented in such a manner as to have as nearly equal in number as possible the number of directors whose terms expire in any given year.

(b) **Term of Office:** Members shall elect the directors for a term of two (2) years each, as provided in the Articles of Incorporation. Each director shall hold office for the term for which said director is elected and until said director's successor shall have been elected and qualified or until the director's earlier resignation, removal from office or death.

(c) **Qualifications:** Each director must be a Member. If a director ceases to be a Member during his/her term of office, such person will automatically be removed from the Board effective upon such occurrence.

(d) **Voting Procedure:** At each annual meeting, the Members will elect the directors to replace the directors whose term of office is then expiring. No cumulative voting will be permitted. The candidate(s) receiving the highest number of votes will be declared elected.

(e) **Removal:** Any director may be removed from office, with or without cause, by at least a majority vote of the Members. In the event of the death, resignation or removal of a director, the director's successor shall be selected by the remaining directors and shall serve for the unexpired term of the director's predecessor.

(f) **Vacancies: Replacement of Directors:** Any vacancy occurring on the Board may be filled for the remainder of the term by a majority vote of the remaining Board members. If the remaining Board members do not constitute a quorum, a special meeting of the Association to elect new members to the Board may be called by any officer or Member.

(g) **Compensation:** Directors will receive no compensation for their services unless approved by the Members.

7.4 Relationship to Articles and Bylaws: The Articles and Bylaws will govern all matters of the Association not set forth in this Declaration. The terms of this Declaration will prevail over any conflicting provisions in the Articles and Bylaws.

ARTICLE VIII

OPERATION OF ASSOCIATION AND BOARD

Most day-to-day decisions about the maintenance of the Common Property and enforcement of the Declaration are the responsibility of the Board acting on the Members' behalf. For those decisions requiring Members' approval, the Association Meeting provides an opportunity for public discussion.

8.1 Annual Meeting:

(a) **When Called:** The Annual Meeting will be called every year for the election to the Board of the class of directors whose term then expires and for other business requiring approval of the Members. The meeting date shall be as determined by the Articles and Bylaws.

(b) **Quorum:** Voting at an annual meeting requires the presence of Members (in person or by proxy) representing thirty percent (30%) of the total votes.

(c) **Notice:** Notice of the annual meeting shall be given by (i) mailing a notice to each Member at the last address furnished to the Association; (ii) delivering a notice to the Member's dwelling or Lot; or (iii) posting conspicuous notices for the meeting at a place designated by the Association. Notice shall be given at least fourteen (14) days prior to the annual meeting.

8.2 Board Members:

(a) **Board's Responsibility:** Except as specifically provided in this Declaration, the Board is delegated the power and has the authority to act on behalf of the Association in all matters.

(b) **Quorum:** Voting at a Board meeting requires the presence of at least one-half (1/2) of the directors (in person or by proxy). Except as prohibited by law, action required to be taken by vote of the Board may be taken in the absence of a meeting by obtaining the written approval of a majority of the Board.

(c) **Notices:** Notices of all meetings of the Board shall be emailed to all Members who have consented, in writing, to electronic notice, and posted in a conspicuous place as designated by the Association forty-eight (48) hours in advance, absent an emergency. If the Board desires to levy an assessment at a meeting, the notice must include a statement describing the assessment being considered. All meetings must be open to the Members except for meetings permitted by law to be closed.

8.3 Record Keeping: The Board shall keep a record of all meetings of the Board and of the Association. For each action taken, the record must state the vote, a description of the action approved and, where applicable, the reasons why the action was considered necessary. The record must be available for inspection by any Member except for records of closed meetings of the Board. Officers of the Association shall be elected by the Board which may be by secret ballot.

8.4 **Special Members' Meetings:** Special meetings of the Members may be called by any one of the following persons or groups:

- (a) A majority of the Board of Directors, or;
- (b) The holders of not less than one-fourth (1/4) of all of the votes entitled to be voted at the meeting.

ARTICLE IX: ASSOCIATION BUDGET

To fulfill its obligation to maintain the Common Property, the Board is responsible for the fiscal management of the Association.

9.1 **Fiscal Year:** The fiscal year of the Association will begin January 1 of each year and end on December 31 of that year. The Board may select another fiscal year. The Board must prepare an annual budget (the "Budget").

9.2 **Budget:** One copy of the Budget must be provided to each Member, or a notice must be given to the Members that one copy of the Budget is available upon request and without charge. The Budget will estimate the total expenses to be incurred by the Association in carrying out its responsibilities during the year. The Budget must include:

- (a) The cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required or permitted under this Declaration;
- (b) Reasonable amounts for working capital for the Association and for reserves;
- (c) Fees for professional management of the Association, legal counsel, and accounting;
- (d) Taxes, if the Common Property is taxed separately from the Lots; and,
- (e) An estimate of revenues from the General Assessment.

9.3 **Reserves:** The Association shall accumulate and maintain adequate reserves for working capital, contingencies and replacements to be included in the Budget and collected as part of the annual General Assessment. Extraordinary expenses not included in the Budget will be charged first against the reserves for repairs or replacement of particular items for which the reserves were established. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose.

If an excess of reserves exists at the end of a fiscal year, such excess may be used to reduce the following year's assessments.

Reserves shall not be commingled with Association funds. All other sums collected by the Board with respect to Assessments and charges of all types may be commingled in a single fund.

9.4 Preparation and Approval of the Budget:

(a) Budgets will be prepared at the direction of the Board at least one (1) month before the end of the fiscal year. The Budget and annual General Assessment must be adopted by a majority of the Board.

9.5 Effect of Failure to Prepare or Adopt Budget: The Board's failure or delay in preparing or adopting the Budget for any fiscal year will not waive or release a Member's obligation to pay General Assessments whenever the amount of such assessments is finally determined. In the absence of a Budget, each Member shall pay the Assessment at the rate established for the previous fiscal period until notified otherwise.

9.6 Financial Reporting: The Board shall prepare an annual financial report for the Association within sixty (60) days of the close of the fiscal year and provide each Member with a copy of the report or a notice that a copy is available without charge. The report must be in the form required by §617.303(7), Florida Statutes.

9.7 Capital Improvements: The Board shall determine whether capital improvements should be paid from General Assessments or by Special Assessment. If the cost of all capital improvements to be paid within a single year totals more than twenty-five percent (25%) of the Association's Budget, the capital improvements must be approved by majority vote of the Members. Any repair or replacement of existing improvements will not be considered a capital improvement.

9.8 Amendment of Budget: The Board may amend the Budget during any fiscal year and increase the amount of the annual General Assessment for such year if it appears that income will be insufficient to meet the obligations of the Association. If such action is taken, then the Membership will be notified, in writing, within fifteen (15) days of the date such action is taken.

ARTICLE X: COVENANTS TO PAY ASSESSMENTS

The cost of fulfilling the Association's financial obligations is divided equitably among the Members by means of Assessments. To assure the Association of a reliable source of funds

and to protect those Members who contribute their equitable share, assessments are mandatory and are secured both by a lien on the Lot and the Member's personal obligation.

10.1 Obligation for Assessments: Each Owner, by acceptance of a conveyance of a Lot, is deemed to covenant to pay to the Association its share of the following assessments (collectively, "the Assessments"):

- (a) General Assessments for expenses included in the Budget;
- (b) Special Assessments for the purposes provided in the Declaration; and,
- (c) Individual Lot Assessments for any charges to that Lot.

10.2 Division of Assessments: The General Assessments and Special Assessments shall be assessed among all Lots.

10.3 General Assessment: Establishment by Board: The Board will set the date or dates the General Assessment will be due and may provide for payment in monthly, quarterly, semiannual or annual installments.

10.4 Special Assessment: In addition to the General Assessment, the Board may levy a Special Assessment in any fiscal year as follows:

(a) **Capital Improvements:** The Board may impose a Special Assessment for any capital improvement approved in accordance with this Declaration.

(b) **Emergency Assessment:** By a two-thirds (2/3rds) vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration requires the Association to pay (including, after depletion of reserves, unexpected expenditures not provided for in the Budget and unanticipated increases in the amounts budgeted).

10.5 Individual Lot Assessments: The Association may at any time levy an Individual Lot Assessment against any Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot or any other charge designated in this Declaration as an Individual Lot Assessment. An Individual Lot Assessment may be levied on account of any legal expenses (including those incurred at trial or on appeal) and costs incurred by the Association in enforcing this Declaration or in enforcing any other declaration the Association is authorized to enforce.

10.6 Effect of Nonpayment of Assessment Remedies:

(a) **Personal Obligation:** All Assessments, together with any late fees, interest and costs of collection when delinquent, including reasonable attorney's fees (including those incurred at

trial or on appeal) whether or not suit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Lot at the time the Assessment Charge was levied and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) **Creation of Lien:** The Assessment Charge shall also be a continuing lien in favor of the Association upon the Lot against which the Assessment Charge is made, which lien is effective upon recording of a claim of lien but relating back to and having a priority as of the date of this Declaration. The lien will secure the Assessment Charge which is then due and which may accrue subsequent to the recording of the claim of lien and prior to entry of final judgment of foreclosure. The lien is subject to the subordination provisions of Section 10 (d).

(c) **Suit for Payment:** Foreclosure of Lien: The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, may foreclose the lien or may do both. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such lien foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

(d) **Subordination of the Lien to Mortgage:** The lien of the Assessment Charge will be inferior to the first mortgage lien of any Mortgagee. Sale or transfer of any Lot pursuant to foreclosure of such a mortgage, including a deed in lieu of foreclosure, shall extinguish the lien as to payments which became due prior to the sale or transfer but shall not affect the right of the Association to proceed personally against the Owner. The purchaser or transferee of such Lot shall be liable for any assessments due after the sale or transfer.

(e) **Other Remedies:** The Board may assess fines, late fees and interest and suspend the voting rights and right to use the Common Property by an Owner for any period during which any Assessment against the Owner's Lot remains unpaid but only as permitted by law.

10.7 Certificate of Payment: The treasurer of the Association or the manager of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board or by the manager, if authorized by the Board, stating whether any Assessments are owed by that Owner. The Board may establish a reasonable fee for such certificate. Such certificate will be conclusive evidence of payment of the Assessment through the date of the certificate.

ARTICLE XI: INSURANCE AND INDEMNITY

Insurance is essential to protect the interests of the Owners and to insure that funds will be available for rebuilding after a casualty; however, because insurance costs may increase significantly or new types of coverage may be available, this Article gives some flexibility to the Board to select insurance coverage which is reasonable for the conditions which exist at that time.

11.1 Review of Coverage: At least annually, the Board shall assess and review the types and limits of coverage needed.

11.2 Casualty Insurance: If any improvements are constructed on the Common Property, the Board shall maintain fire insurance coverage as appropriate. Endorsements for extended coverage, vandalism, malicious mischief and windstorm shall be obtained where available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy but in any event not less than eighty percent (80%) of the insurable value (based upon replacement) of the improvements constructed on the Common Property.

11.3 Public Liability: The Board shall obtain public liability insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Property. Wherever practical, such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board or other Owners.

11.4 Director Liability Insurance: The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board and the Officers in performing their duties. Such insurance shall be of the type and amount determined by the Board at its discretion.

11.5 Other Insurance: The Board shall maintain worker's compensation insurance if and to the extent necessary to meet the requirements of law and such other insurance as the Board may deem prudent.

11.6 Repair and Reconstruction After Fire or Other Casualty: If fire or other casualty damages or destroys any of the Common Property, the Board shall arrange for and supervise the prompt repair and restoration of the improvements. The Board shall obtain funds for such

restoration first from insurance proceeds, then from reserves for the repair and replacement of such improvements, then from any Special Assessments which may be necessary after exhausting insurance and reserves.

11.7 **Cost.** The cost of all insurance contemplated by this section shall be an expense of the Association or as part of the budget.

ARTICLE XII: AMENDMENT

12.1 This Declaration may be amended by consent of Owners of fifty percent (50%) or more of the Lots as evidenced by recording in the Public Records an instrument effectuating such amendment.

12.2 **Mortgagee's Consent to Amendments:** This Declaration contains provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions are to be construed as covenants for the protection of Mortgagees on which they may rely in making loans secured by mortgages on the Lots. Accordingly, no amendment or modification of this Declaration impairing the rights, priorities, remedies or interests of Mortgagees shall be adopted without prior written consent of Mortgagees holding liens on thirty percent (30%) or more of the Lots encumbered by the mortgages. Each Mortgagee agrees that it will either consent to a proposed amendment or give notice of refusal to consent by written notice to the party requesting such consent within thirty (30) days after the request is received. If a Mortgagee does not respond within such time, the Mortgagee's consent will be deemed given, and an affidavit to such effect (including documentation proving receipt of the request to the Mortgagee) recorded in the Public Records by the party requesting the consent will be sufficient evidence of such consent in order to make the requested amendment effective. This Section shall not apply to or be construed as a limitation upon those rights of Declarant, the Association or the Owners to make amendments which do not adversely affect Mortgagees.

ARTICLE XIII: ENFORCEMENT

This article sets forth the enforcement mechanisms available to the Association including the imposition of fines.

13.1 **Remedies.** If any person or entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for any Owner or the Association to: (a) prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenant or restriction, or (b) maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenant or restriction, for the purpose of preventing, or enjoining all or any such violations or attempted violations.

(c) The remedies contained in these provisions shall be construed as cumulative of all other remedies now or hereafter provided by law or this Declaration. Such enforcement may also be by official act of the St. Johns River Water Management District, in accordance with the permit issued by said agency at the time of platting Millhopper Forest. The failure of the Association or an Owner, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

13.2 **Lessees to Comply with Declaration, Articles and Bylaws: Effect on Non-Compliance.** All tenants shall be subject to the terms and conditions of this Declaration, the Bylaws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner. Each Owner agrees to cause said Owner's lessee, occupant, or persons living with such Owner or Owner's lessee to comply with the Declaration, Bylaws, Articles and the rules and regulations promulgated thereunder, and is responsible and liable for all violations and losses caused by such tenants or occupants notwithstanding the fact that such occupants of the Lot are also fully liable for any violation of the documents and regulations.

In the event that a lessee, occupant, or person living with the lessee violates a provision of the Declaration, Bylaws, Articles or rules and regulations adopted pursuant thereto, the Board shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity.

13.3 **Enforcement By St. Johns River Water Management District:** The covenants and restrictions contained in this Declaration may be enforced by any Owner or Mortgagee in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or suit seeking damages, injunction, specific performance or any other form of relief against any person, firm or entity violating or attempting to violate any covenant or restriction herein. Failure

by any party to enforce any covenant or restriction shall in no event be deemed a waiver of such covenant or restriction or of the right of such party to enforce it thereafter. The prevailing party in any such litigation shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The St. Johns River Water Management District and the local governmental agency having jurisdiction over Millhopper Forest will have the right to enforce, by proceedings at law or in equity, the provisions contained in this Declaration relating to maintenance, operation and repair of the Drainage System. Each party agrees that any dispute shall be determined by a judge and not a jury and waives its right to a jury trial in any litigation arising out of this Declaration.

13.4 Additional Enforcement Provisions.

(a) **Compliance by Owners.** Each Owner and the Owner's tenants, guests and invitees are governed by, and must comply with, applicable law and the governing documents of Millhopper Forest, and the rules of the Association.

(b) Procedure.

(1) Any Owner who wishes to report a violation of these restrictions or of the rules and regulations shall do so in writing to the Board.

(2) The complaint should include as much of the following information as feasible to help facilitate the Board's review: date/time of alleged violation; violation situation/circumstances; data, nature and circumstances of the alleged violation; description of the facts to include who was involved in the violation; a description of the alleged violation; the location of the alleged violation; the time and date that the violation was discovered or occurred; the specific covenant, rule, or regulation being violated the name and address of alleged violator; and the name and address of complainant.

(3) The Board shall investigate the complaint and assess the circumstances of the allegations and the extent to which they constitute a violation of the Association's covenants, rules, and restrictions.

(4) If the complaint is determined to be well founded, the Board shall write a letter to the offending Owner, tenant, guest or invitee. Such letter shall set forth the infraction and a time period within which such Owner shall comply with these restrictions and/or rules and regulations.

(5) In the event the Owner does not comply by the date set forth in the Board's letter, the Board may take any of the enforcement actions set forth herein.

(c) **Suspension and Fines.** In addition to the means for enforcement provided in the Declaration, Bylaws or rules of this Association, or by law, in the sole discretion of the Board, suspension of use rights to use Common Property and facilities as provided by law, and levy a fine or fines may be imposed upon an Owner for failure of an owner, Owner's family, guests, occupants, licensees, invitees, tenants or employees, or both, to comply with any covenants, restriction, rule or regulation, provided the following procedures are followed:

(1) **Notice.** A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person or entity sought to be fined or suspended, and the Association shall notify the Owner of the infraction or infractions. Included in the Notice shall be the date and time of the next Board meeting at which time the Owner shall present reasons why penalties should not be imposed.

(2) **Hearing.** The non-compliance shall be presented at a hearing before a committee of at least three (3) Members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. The requirements contained herein do not apply to the imposition of suspensions or fines upon any member because of the failure of the Member to pay assessments or other charges when due as authorized by Article X of this Declaration.

(3) **Fines.** The association may levy reasonable fines. A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the non-prevailing party as determined by the court.

(4) **Payment of Fines.** Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of penalties.

(5) **Collection of Fines.** A fine of less than \$1,000.00 may not become a lien on a parcel. A fine is subject to the provisions for collection of assessments and enforcement of liens, if applicable, as set for in Article X herein.

(6) **Application of Fines.** All monies received from fines shall be allocated to the reserve for replacement funds of the Association.

(7) **Non-Exclusive Remedy.** These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled.

ARTICLE XIV: GENERAL PROVISIONS

14.1 **Incorporation of the Declaration:** Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

14.2 **Release from Minor Violations:** The Board shall have the right but not the obligation, by written instrument, to release a Lot from minor violation(s) of this Declaration or the Plat including, without limitation

- (i) Encroachments into easements;
- (ii) Encroachments over building restriction lines.

14.3 **Release from Other Violations:** The Board shall have the right, by written instrument, to release a Lot from a violation or violations of this Declaration or Plat if enforcement of the provision herein violated conflicts with the Americans with Disabilities Act or any other federal, state, or applicable local statute.

14.4 **Notices:** Notices shall be deemed to have been given or made as to Owners when posted at the Owner's dwelling, or mailed first-class, postage prepaid to the Owner's address maintained by the Association, or when posted at the Common Property if the notice is applicable to all Owners.

14.5 **Captions and Statements of Purpose:** The Statement of Purpose, the captions and the Article summaries immediately following each Article caption are intended as a matter of

convenience and for reference only, and such statement, captions and summaries shall not define, limit or in any way affect any of the terms or provisions of this Declaration.

14.6 Gender and Plural Terms: Wherever the context so requires, any pronoun may be deemed to mean the correspondingly masculine, feminine or neuter form; and the singular form of any noun or pronoun may be deemed to mean the correspondingly plural form thereof and vice versa.

14.7 Severability: Governing Law: Amendment to Laws: In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, such judicial determination shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect. Without limiting the foregoing, the invalidation of any of the covenants, restrictions, terms or conditions of this Declaration or a reduction in their term by reason of the legal rule against perpetuities shall not affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to choice of law rules.

14.8 Duration and Renewal: This Declaration (but excluding the easements herein created which are perpetual) and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein, including, without limitation, the provisions for assessment of Lots, shall run with and bind all of the Lots and inure to the benefit of the Owners and their respective legal representatives, heirs, successors and assignees for a term of ninety (90) years from the date hereof, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such ninety-year (90-year) time or of each ten-year (10-year) extension, as the case may be, an instrument signed by a majority of all Owners and of all Mortgagees is recorded in the Public Records terminating the Declaration, upon which event this Declaration shall be terminated upon the expiration of the ninety-year (90-year) or ten-year (10-year) extension during which such instrument was recorded, as the case may be.

Notwithstanding the above, the Declaration may not be terminated unless the Drainage System has been dedicated to and accepted for maintenance by the appropriate unit of government or otherwise transferred to and accepted for maintenance by an approved entity. Dedication or approval must be authorized by the St. Johns River Water Management District

and the local government jurisdiction through modification of any and all permits or authorizations issued by the St. Johns River Water Management District or the local government jurisdiction. Such modification shall be made under the lawfully adopted rules of the St. Johns River Water Management District and the local government jurisdiction in effect at the time of application for such modification.