

**AMENDED DECLARATION OF RESTRICTIONS
AND PROTECTIVE COVENANTS**

This Amended Declaration of Restrictions and Protective Covenants for Oakleaf (herein, "this Declaration") amends, replaces and supercedes that Declaration of Restrictions and Protective Covenants recorded at Official Records Book 2630 Page 819 et seq. of the Public Records of Sarasota County, Florida. This Declaration shall govern and control all property within the Oakleaf Subdivision (herein, "the Property" or "Oakleaf") according to the Plat thereof recorded in Plat Book A, Page 40 of the Public Records of Sarasota County, Florida and according to the following legal description:

WEST ½ OF LOT 10, BLOCK 4, BEE RIDGE FARMS SUBDIVISION,
SECTION 2, TOWNSHIP 37 SOUTH, RANGE 18 EAST; WEST ½
OF LOT 9, BLOCK 4, BEE RIDGE FARMS SUBDIVISION, SECTION
2, TOWNSHIP 37 SOUTH, RANGE 18 EAST; AND EAST ½ OF LOT
9, BLOCK 4, BEE RIDGE FARMS SUBDIVISION, SECTION 2,
TOWNSHIP 37 SOUTH, RANGE 18 EAST

Recitals

Sound practices require that provisions be made for the use of the Property and maintenance of the Common Areas.

Oakleaf Homeowners Association No. 1, Inc. (herein, "the Association") has been incorporated for the purposes set forth in its Articles of Incorporation and Bylaws, which include enforcing this Declaration and operating, maintaining, improving and managing the Common Areas for the benefit of the Oakleaf property owners.

Therefore, the Property is and shall be held, conveyed, encumbered, leased, used, occupied and improved subject to the following limitations, restrictions, conditions, covenants easements and other provisions, all of which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part of it.

ARTICLE I

UTILITIES

Section 1.1 **Utility Easements.** The Association reserves a perpetual easement on, over and under roads, sidewalks and pathways in Oakleaf to erect, construct, maintain and use towers, poles, wires, cables, conduits, mains, lines, ditches, drains, and equipment for the installation, maintenance, transmission and use of utilities including but not limited to, utilities associated with electrical, water, sewer, telephone, television, gas, communication or other services. The Association may assign its rights under this section, under such terms and conditions, as it may deem appropriate, to public or private utilities. Such easements also exist as shown on the recorded Plat of Oakleaf and as otherwise previously granted by the Oakleaf developer.

Section 1.2 **Underground Utilities.** All utility lines and lead in wires, cable, electrical and television lines serving individual residences and located within the confines of any lot shall be located underground, provided however, that a temporary overhead power line to a structure under construction is permissible.

ARTICLE II

COMMON AREAS

Section 2.1 **Definition of the Common Areas.** The Common Areas shall include all of the property not within a lot or public right-of-way, now or later specifically set aside or deeded to the Association for the common use and enjoyment of all owners in Oakleaf. The Common Areas include sidewalks and walkways, lakes, ponds, canals, parks, nature preserves and common open spaces and any other areas set aside for the benefit of all owners of Oakleaf.

Section 2.2 **Use and Maintenance of the Common Areas.** The Association shall maintain, repair, replace and operate and may improve the Common Areas, at its expense. Every owner shall have the nonexclusive right to use those portions of the Common Areas in accordance with the following provisions and in accordance with any rules adopted by the Association Board of Directors that are not inconsistent therewith:

(a) Owners and their respective tenants, guests, invitees and licensees, and the holders of liens on the Property, shall have a nonexclusive perpetual right of ingress and egress over and across all roads, sidewalks and walkways in Oakleaf. This provision shall permit access to portions of the Property by those having a legitimate need for access, including those providing transportation services, utility services, United States mail carriers and representatives of fire departments, police departments, and all other

governmental agencies. The Association may grant similar rights to other parties by instruments recorded in the Public Records of Sarasota County, Florida.

(b) The Association shall have the exclusive right vis-à-vis owners in Oakleaf to control the maintenance of all lakes, ponds, canals and drainage control devices on the Property that are a part of the Common Areas. This provision shall not affect the Association's obligation to comply with all laws and regulations relative to the maintenance and any modification or improvement of lakes, ponds, canals and drainage control devices.

(c) The Association shall have the right to prevent use of portions of the Common Areas by the general public.

(d) Lot owners in Oakleaf, their guests, invitees and/or tenants may use the Common Area lakes and ponds within Oakleaf for such private and recreational purposes as are permitted by law, which do not interfere with the peaceful enjoyment of other lot owners and which are consistent with such reasonable rules and regulations governing such use as may be adopted from time to time by the Association. No commercial use, however, shall be made of any such bodies of water. No boat, craft, or flotation device shall be used. No fixed or floating docks, wharfs, or structures of any type which protrude into any water areas may be installed or maintained without the prior written consent of the Association.

(e) No part of the Common Areas shall be used for hunting or the discharge of firearms, motorcycling, grooming, or the keeping or grazing of animals. No fires shall be lit except in designated picnic areas. No trees, shrubbery, or similar landscaping materials may be cut or trimmed except by the Association or their representatives. No improvements or structures on portions of the Property outside the Common Areas shall be made or erected that will adversely affect drainage of the Common Areas. No improvements or structures other than those built by or approved by the Association shall be constructed on the Common Areas. No discharge of any material, other than natural surface drainage in accordance with drainage designs and plans approved by Developer, may be made into any lake, pond or other water body in the Common Areas. There shall be no alteration of any lakes, ponds or water bodies, or alteration of or interference with water control structures, unless specifically approved by the Association. These provisions shall not affect the Association's or the Owner's obligation to comply with all laws and regulations relative to the subject matter of the approval; and if prior approval by any governmental body or agency is required, this shall first be obtained before approval by the Association may be given.

ARTICLE III

THE ASSOCIATION

Section 3.1 **Membership in the Association.** Every owner (herein, "Owner") of a real property lot in Oakleaf (herein, "Lot") shall be a member of the Association, which shall be a Florida corporation not for profit. Each Owner shall have the voting rights provided in the Articles of Incorporation of the Association.

Section 3.2 **Duties of the Association.** The Association has been organized to operate, maintain, repair and improve the Common Areas of Oakleaf and to enforce the provisions of this Declaration. The Association, in addition to these powers and duties and any powers set forth in its Articles of Incorporation or given to it by law, shall have the power and duty to levy and collect assessments as provided herein.

Section 3.3 **Distribution of Assessments.** The annual assessment and any special assessment shall be levied equally against each Lot.

Section 3.4 **Annual Budget and Assessment.** In the month of November each year, the Association shall establish a budget and levy an annual assessment against each Lot sufficient to fund the budget. Prior to December 1 of each year, the Association shall mail to each Owner at the address registered by the Owner with the Association notice of the amount of annual assessment payable for a Lot, notice that the annual assessment is due and payable by February 1 of the following year and the address to which that payment may be remitted, together with a copy of the annual budget. The annual budget and assessment shall be in such amounts as shall be deemed sufficient in the judgment of the Association's Board of Directors to allow it to carry out its purposes, which may include expenses for any or all of the following:

(A) Ad valorem taxes, if any, assessed against the Common Areas and any other taxes assessed against or payable by the Association.

(B) The operation, maintenance, management, repair and improvement of the Common Areas including, without limitation, lighting, landscaping, security services, irrigation, drainage, aquatic plant control, and signage.

(C) Utility services incurred in connection with the operation of the Common Areas or the performance of any other Association obligation.

(D) Casualty, liability and other forms of insurance determined by the Board of Directors to be necessary or desirable, in such amounts as it may deem appropriate.

(E) Accounting, legal, engineering and other professional and employee services incurred by the Association.

(F) Operating expenses of the Association including reimbursement of actual expenses properly incurred by officers and directors.

(G) Repayment of any funds borrowed by the Association for any of its lawful purposes, including interest on funds borrowed.

(H) A reasonable annual reserve for unanticipated maintenance, repair, replacement or improvement of the Common Areas in the amount equal to ten (10) percent of the remaining annual budget. If at any time the reserve fund is below ten (10) percent of the remaining annual budget, the ensuing year's budgets shall include a minimum of five hundred dollars (\$500.00) to be added to the reserve fund until that fund totals ten (10) percent of the annual budget. The Board will invest reserves in an interest bearing account with a member bank of the Federal Deposit Insurance Corporation.

(I) Any other expenditures necessary or desirable to fulfill the powers and duties of the Association.

Section 3.5 Special Assessments. The Association may, from time to time, levy a special assessment for the purpose of providing funds for any valid Association purpose, provided that any special assessment shall first be approved by the Board of Directors and approved in writing or by votes in person and by proxy at a membership meeting by Owners having at least 2/3 of the voting rights in the Association.

Section 3.6 Collection. The annual assessment, any special assessment shall be paid and collected in accordance with the following procedures:

(A) The due date of each annual assessment shall be February 1 of the year for which that assessment is levied. The due date of any special assessment shall be as specified in the Association's notice of that assessment, subsequent to its approval as provided herein. Any unpaid assessment shall bear interest from the due date until paid at the rate of 18% per annum or such other rate determined by the Board of Directors not to exceed the highest rate allowed by law.

(B) Each assessment shall be the personal obligation of the Owner as well as an obligation that attaches to the Lot as provided herein. If the assessment is not paid within thirty (30) days after the due date, the Association may, in addition to any other remedies it may have, bring an action against the Owner to collect the amount due. The Association shall be entitled to recover all costs and attorneys' fees incurred in seeking collection of the assessment (herein, "charges"), including but not limited to those incurred in any litigation.

(C) Upon request of any Owner or mortgagee of a Lot, the Association shall furnish a certificate in recordable form signed by an appropriate officer showing the amount of unpaid assessments, if any, against the Lot, the year or years for which any unpaid amounts were assessed and levied, and any interest and charges. The information stated in the certificate shall be binding in all circumstances on the Association.

Section 3.7 **Lien.** The Association shall have a lien for collection of assessments as provided herein.

(A) Each Lot shall be subject to a continuing lien, until satisfied and released, for the annual maintenance assessment and any special assessment, together with all interest and charges. Upon conveyance or transfer of any ownership interest in title to a Lot by any means, the new Owner and conveying Owner shall be jointly and severally liable to the Association for the payment of any unpaid assessments for the Lot, together with all interest and charges.

(B) If the assessment is not paid within thirty (30) days after the due date, the Association may file a claim of lien in the Public Records of Sarasota County, Florida.

(C) The lien for any assessment levied against a Lot shall be subordinate and inferior only to ad valorem or special assessments levied by governmental entities and the lien of certain mortgages as provided in Subsection (D).

(D) The lien for any assessment shall be subordinate to all bona fide mortgages other than purchase money mortgages given by a buyer to a selling Owner of a Lot, which is placed upon any Lot prior to the recording of a claim of lien by the Association. However, this subordination shall apply only to assessments that were due and payable prior to the sale or transfer of the Lot pursuant to a final judgment of foreclosure or any other proceeding or transfer in lieu of foreclosure. No sale or transfer shall relieve any Lot or the purchaser or transferee from liability for any assessments

thereafter becoming due or from the lien of any such subsequent assessment.

(E) The Association may enforce the assessment lien by a foreclosure action in the same manner as a mortgage or in any other manner permitted by the laws of the State of Florida.

(F) All rights and remedies of the Association in this section are cumulative of any other rights and remedies it may have pursuant to this Declaration or by law. No provisions of this section regarding subordination of the lien for assessments shall relieve an Owner from personal responsibility for payment of the assessments and any costs and fees incurred in collecting it.

Section 3.8 **Indemnification.** The Association shall indemnify its directors, officers and committee members and may indemnify its employees and agents, to the fullest extent permitted by the provisions of the Florida Not-For-Profit Corporation Act, as amended, from and against any and all of the expenses or liabilities incurred in defending a civil or criminal proceeding or otherwise, including advancement of expenses prior to the final disposition of such proceedings and amounts paid as required by judgment or settlement. The indemnification provided herein shall not be deemed exclusive of any other rights of those persons indemnified and shall continue for acts and negligence which occurred while the person was a director, officer, committee member, employee or agent, after that person no longer serves in that capacity.

ARTICLE IV

USE RESTRICTIONS

Section 4.1 **General.** The Property shall be used only for residential, recreational, and related purposes, subject to the provisions hereof and any reasonable rules adopted by the Association Board of Directors not in conflict herewith

(A) **Accessory Structures.** No doghouse or any structure of similar kind of nature shall be placed or constructed on any Lot without the prior written approval of the Association Board of Directors (herein, "the Board"). Such structures and dog runs shall be located so as not to be obtrusive and shall be painted to blend with their immediate surrounding or left to weather naturally. Landscaping shall be required to soften the structures visually. Prefabricated, chain-link dog runs will not be approved unless screened by wood fencing as specified in Article IV, Section 4.1 (AA), or located in a heavily planted area and painted flat black. Sheds for the storage of tools,

equipment or other materials are not permitted on any lot. Playhouses and other play structures shall be allowed only as provided in subsection (R) hereof.

(B) **Air Conditioning Units.** No portable or supplemental window air conditioning unit may be installed in any dwelling or other structure.

(C) **Animals and Pets.** No animals, reptiles, livestock, wildlife, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets may be permitted in a dwelling. Those pets that, in the sole discretion of the Board, endanger the health and safety of Owners and their visitors, make objectionable noise or constitute a nuisance or inconvenience, shall be removed upon the request of the Board. No pets shall be kept, bred or maintained for any commercial purpose. Household pets shall at all times whenever outside the dwelling be confined on a leash held by a responsible person. Owners shall pick up their pets' feces from all Common Areas and from other Lots and shall dispose of them in a sanitary manner within their own Lot.

(D) **Antennas.** No mast, antenna, direct broadcast satellite dishes (DBS), or similar structure shall be allowed except as required by Federal Law. To the extent feasible, all such devices must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other Owners.

(E) **Artificial Vegetation, Exterior Decorations and Similar Items.** No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior decorations, including without limitation, sculptures, fountains, flags, and similar items must be approved in accordance with Article VI of this Declaration.

(F) **Basketball Equipment, Clotheslines, Garbage Cans.** Basketball hoops, backboards, clotheslines, garbage cans, storage tanks, mechanical equipment and similar items shall be located or screened so as to be concealed from view of neighboring Lots and streets, except that containers or bins for garbage, trash, rubbish, lawn trimmings, and recyclable items may be placed near the curb a reasonable time before (including overnight) and after pickup. All rubbish, trash, and garbage shall be stored in appropriate containers with lids and regularly removed from the Property and shall not be allowed to accumulate thereon. No basketball hoop, backboard, clothesline, storage tent, mechanical equipment, garbage can storage structure and similar items shall be placed on any Lot without the prior written approval of the Board.

(G) **Business Use.** No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a dwelling may conduct business activities therein so long as: (1) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the dwelling, (2) the business activity conforms to all zoning requirements for the Property, (3) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (4) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefore. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Article.

(H) **Decks.** No deck or modification thereof shall be constructed without the prior written approval of the Board. Any deck shall be located at the rear of the dwelling. The design of a deck shall relate harmoniously with the architectural style of the dwelling. Wood decks shall be constructed with rot-resistant wood and may if desired be left to weather naturally. The Board may require that the deck be stained to coordinate with the neighborhood design or to help integrate the deck with the dwelling. A skirt board shall be constructed and landscaped planting shall be provided to screen natural elements and to soften the structure visually.

(I) **Firearms.** The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B guns, pellet guns, paintball guns and other firearms of all types, regardless of size.

(J) **Irrigation.** No sprinkler or irrigation system of any type which draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or surface water within the Property shall be installed, constructed or operated within the Property by any person other than the Association. All Lots shall have underground irrigation.

(K) **Lighting.** No modification may be made to exterior lighting, including any addition or removal, without prior written approval of the Board. All Owners are responsible for the installation and maintenance of their exterior lighting. The Board will adhere to the following guidelines when considering request for modifications to exterior lighting: 1) The proposed exterior lighting changes shall be detailed on an electrical or landscaping plan. 2) Exterior lighting that would create a nuisance to any adjoining Owner shall not be allowed. Lights shall be directed downwards, diffused, shielded or of low wattage. 3) Exterior light shall be buffered from surrounding residences and shall not be directed to any street or roadway. 4) Permanent colored lighting is prohibited. Colored lighting will be allowed for holiday decorations from Thanksgiving through January 10. 5) The lighting fixture design shall be compatible with the architectural design and appropriately located.

(L) **Maintenance of Premises.** Each Owner is responsible for the proper maintenance of the landscaping of the Lot including, without limitation, the trees, shrubs, lawns and flowerbeds, as well as mailboxes, lampposts, and walkways. Proper maintenance includes the removal of weeds, underbrush or other unsightly growth as determined by the Board. Any landscaping, including the grass, which is diseased or dead shall be replaced by the Owner with equivalent landscaping acceptable to the Board, within thirty (30) days. Front yards shall be maintained to the edge of the roadway asphalt, including any unpaved right-of-way. No refuse shall be allowed to be placed or remain on the property. Sprinkler systems and any property structures shall be kept in good, safe, clean, and neat condition. The Owner of any Lot that backs up to a lake bank shall maintain the Lot from the lot line to the water line.

Notwithstanding any other provision of this Declaration to the contrary, the Association shall maintain all unimproved Lots and the cost thereof shall be paid to the Association by the Owner quarterly, by a billing procedure determined by the Association. If any Owner fails to make payment within fifteen (15) days after request to do so by the Association, assessment for the payment requested shall be levied against the Lot and its Owner and enforced in accordance with the provisions of Article IV hereof.

(M) **Maintenance Responsibility.** Each Owner undertakes or must designate a responsible firm or individual to undertake that Owner's maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining the exterior appearance of the Lot and all structures thereon in the manner set forth above; safeguarding for the Lot to prepare for hurricane or tropical storm watches and warnings by, among other things, removing any unfixed items on balconies and lanais, and repairing the structures on the Lot in the event of any damage therefrom. Any Owner

may designate a firm or individual to perform such functions for the Owner, but such designation shall not relieve the Owner of any responsibility hereunder. The name(s) and addresses of such firm or individual must be furnished to the Board or its designees. The designation of such firm or individual shall be subject to the reasonable approval of the Board.

(N) **Nuisances.** No substance, thing, or material may be stored on any Lot that will cause the property to be viewed as unclean, untidy or obnoxious to the eye, nor shall any substance, thing, or material be kept upon the Lot that will emit foul or obnoxious odors. All things, substances, and materials or activities upon the Lot may not disturb the peace, quiet, safety, comfort, health, or serenity of any occupant of a nearby Lot. No noxious, illegal, or offensive activity shall be carried on or upon any portion of the Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted on the Property.

(O) **Occupants Bound.** All restrictions in this Declaration and in rules adopted by the Board shall also apply to all occupants and visitors of any Lot. Each Owner shall cause all occupants of the Lot to comply with the Declaration and rules and shall be responsible for all violations and any damage to the Common Areas caused by such occupants, notwithstanding the fact that such occupants and visitors are fully liable and may be sanctioned for any violation of the Declaration and rules.

(P) **On-Site Fuel Storage.** No on-site storage of gasoline or any other fuel shall be permitted on any part of the Property except that up to ten (10) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Above ground and underground fuel storage tanks are prohibited on any Lot.

(Q) **Parking.** Vehicles shall be parked only in the garages or on the driveways of the Lots. Notwithstanding the above, not more than three (3) vehicles may be parked in any driveway on a regular basis and under no circumstances are vehicles allowed to block a sidewalk. For purposes hereof, a car shall be deemed parked on a "regular basis" if parked in the driveway for more than seventy-two (72) hours in any seven day period without prior written approval of the Board. No overnight on-street parking or parking on lawns shall be permitted. Owners shall keep their garage doors closed at all times except during ingress and egress or while any person is in the garage for any purpose.

(R) **Playground, Play Equipment, Strollers, Etc.** All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible from streets or property adjacent to the Lot. No such items shall be allowed to remain on the Common Areas or on any Lot so as to be visible from adjacent property when not in use. Notwithstanding the above, the Board may, but shall not be obligated to, permit swing sets and similar permanent playground equipment to be erected on Lots upon approval in accordance with Article V hereof. Any playground or other play areas or equipment furnished by the Association or erected within the Property shall be used at the risk of the user and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to the use thereof. Tennis courts will not be permitted. Playhouses, if approved, must be placed in rear yard within set back lines and must be in scale with the size of the yard and consistent with the Unit. Permanent playhouses will not be permitted.

(S) **Pools.** No above-ground pools shall be erected, constructed or installed on any Lot except that above-ground spas and jacuzzis may be permitted as approved in accordance with Article VI hereof.

(T) **Prohibited Vehicles.** Commercial vehicles (that is, vehicles with commercial writing on their exteriors and vehicles primarily used or designed for commercial purposes), trucks exceeding a Gross Vehicle Weight Rating of 7,500 pounds, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, motorcycles, boats and other water craft, and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on any Lot except within enclosed garages. For purposes hereof, a vehicle shall be considered "stored" if it is put up on blocks, or covered with a tarpaulin or car cover and remains on blocks or so covered for fourteen (14) consecutive days. Maintenance and repair of any vehicle, other than normal cleaning, shall be performed inside the garage. Notwithstanding the foregoing, service and delivery vehicles may be parked in the driveway of a Lot during daylight hours for such period of time as is reasonably necessary make a delivery to the Lot or otherwise provide service.

(U) **Sight Distance at Intersections.** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

(V) **Signs, Flags and Flagpoles.** No sign, billboard or advertisement of any kind including, without limitation, those of real estate agents, contractors and subcontractors, shall be erected within the Property without the prior written consent of the Board, except as may be required by law. Under no circumstances shall signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Property be permitted within the Property. No sign shall be nailed or otherwise attached to trees. Signs shall conform to additional standards provided by Board rule. Any owner may display one portable, removable American flag in a respectful manner.

(W) **Subdivision of Units and Time Sharing.** No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board. The Board may permit a division in ownership of any Lot intended for a single family detached residence as shown on a Plat, but solely for the purpose of increasing the size of the adjacent Lots. In the event of a division in ownership of any Lot, the Owners among whom the Unit is divided shall be treated as Co-Owners of the divided Lot for purposes of voting and shall be jointly and severally liable for all assessments against the Lot hereunder. No Lot shall be made subject to any type of timeshare program, ownership interval or similar program whereby the right to exclusive use of the Lot rotates among multiple Owners or members of the program on a fixed or floating time schedule over a period of years.

(X) **Tents, Trailers and Temporary Structures.** Except as may be permitted under Article VI hereof during initial construction within a Lot, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon any Lot.

(Y) **Tree Removal and Prohibited Trees.** No tree, other than diseased or dead trees that must be removed to promote the growth of other trees or for safety reasons, shall be removed unless approved in accordance with Article IV hereof. Prior written Board approval is required if the Owner does not intend to replace any tree that is removed. Nine (9) specific exotic plants are prohibited in Oakleaf: Earleaf Acacia, Ear Tree, Australian Pine, Brazilian Pepper, Punk Tree, Downey Rosemyrtle, Carrotwood, Chinaberry, and Chinese Tallow.

(Z) **Utility Lines.** No overhead utility lines, including lines for cable television, shall be permitted within the Property, except for temporary lines as may be required during construction and high voltage lines if required by law or for safety purposes.

(AA) **Walls and Fences.** Except as otherwise permitted by the Board, the NCC or MC (as such terms are hereinafter defined) the following provisions shall apply to all walls and fencing on the Property. All walls and fencing must be located within the setback of the house. If two adjoining owners agree, a fence may be constructed to the side lot lines no further toward the street than the point twenty (20) feet back from the front of the garage. Fences and walls must be approved by the NCC prior to installation. Decorative entry walls, entry gates, courtyard walls, and privacy walls surrounding and abutting pools or decks are considered structures appurtenant to the residence and may be allowed within the building setback.

No wall or fence outside the setback of the house may exceed four (4) feet in height exclusive of pillars or ornaments, measured from the first finished floor elevation. Walls and fences within the setback of the house may not exceed six (6) feet in height. All walls shall be designed and constructed of material identical or compatible with the materials, colors, finishes, textures, and architectural style of the dwelling and shall be approved in writing by the NCC prior to construction.

Only on-site custom-built fencing shall be permitted. The fencing contractor and fencing materials must be approved in writing by the Board prior to construction and installation.

Fencing finished on only one side must be constructed with the finished side facing out. The top of all fences must be maintained level. If the ground slopes, the fences must be stepped. If there is a horizontal trim piece at the bottom of the fence, it too must be maintained level. Vertical members must be plumb and, generally, the tops of the posts and boards must be in line.

Fences facing any street, other than gated openings, shall be landscaped to soften their visual impact. Whenever possible, fences shall be located so that trees do not have to be removed. All electrical and mechanical equipment and other utilitarian devices must be fenced, walled or landscaped. They may not extend into any setback without prior written Board approval.

Each wall or fence built as a part of the original construction on the Lots which shall serve and separate any two (2) adjoining Lots shall constitute a party wall for the general rules of law regarding party walls and liability for property damage due to the negligence or willful acts or omissions shall apply thereto.

Notwithstanding the foregoing, no fence of any kind shall be permitted on Lots bordering lakes or ponds.

(BB) **Wells and Drainage.** No private water systems shall be constructed on any Lot. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstruction or debris may be placed in these areas. No person, other than the Association, may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. The Association reserves for itself a perpetual easement across the Property for the purpose of altering drainage and water flow.

(i) **Drainage Areas.** For the purposes of this Declaration, "Drainage Areas" means those portions of the Common Areas designated as surface water management areas, drainage areas, basins, drainage easements, water management tracks, canals or canal easements (collectively "Drainage Areas") which are reflected on the plat of the Property, and any amendments thereto, or as are described in this Declaration or otherwise designated by the Association as "Drainage Areas," and which shall be kept and maintained by the Association for irrigation, drainage, storm water retention and detention and beautification and for the installation, maintenance, construction or repair of utility facilities in a manner consistent with the original design thereof by the developer, and in accordance with the requirements of all applicable governmental authorities. The Drainage Areas are an integral part of a master drainage system that is for the benefit of the Property. The Association shall maintain the Drainage Areas and master drainage system in a manner consistent with the original design thereof by the developer and in accordance with the requirements of all applicable governmental authorities.

(ii) **Wetlands, Lakes and Ponds.** Wetlands, lakes and ponds means those Common Areas so designated on the development plans filed with Sarasota County, this Declaration, the Plat, any addendum thereto, or otherwise designated by the developer and which are areas subjected to permanent or prolonged periods of inundation or saturation, or which exhibit vegetative communities or soil types characteristic of such hydroperiods. The boundaries of wetlands, lakes and ponds shall be subject to accretion, relocation, or other natural changes. Wetlands, lakes and ponds shall be kept and maintained by the Association together with any adjacent shoreline in an ecologically sound condition for water retention drainage and water management purposes in compliance with all governmental requirements. Graded lakes shall be maintained with a productive littoral zone in compliance with governmental requirements.

No activity may be undertaken or performed in preserved wetlands, created wetlands, upland buffers to wetlands or upland preservation areas which are contained within the preservation area and described in the recorded plat of Oakleaf unless prior written approval is received from the Southwest Florida Water Management District (SWFMD) pursuant to Chapter 40D-4, F.A.C. Prohibited activities within preserved wetlands, created wetlands, upland preservation areas and upland buffers adjacent to wetlands include the removal of native vegetation, excavation, placing or dumping of soil, trash and land clearing debris; and construction or maintenance of any building, residence or structure.

It is the Owner's responsibility not to remove native vegetation that became established within the wet detention ponds abutting their property and to comply with all governmental regulation restricting that removal. Removal includes pulling, dredging, cutting and the application of herbicide.

(iii) **Landscape Buffers.** An eight (8) foot landscape buffer has been provided along the eastern property line (Lots 5 thru 16) and is depicted on the final plat of the Property. All existing vegetation within the buffer area shall be preserved. The existing vegetation shall be supplemented with a minimum of two (2) canopy trees and six (6) understory trees, as defined in Section 13 of the Zoning Ordinance, for each 100 linear feet of the buffer area. Said supplemental plantings shall occur in locations where the existing vegetation is the least opaque. The Board shall notify each Lot owner upon submission of landscape plans what landscaping is required to meet Section 13 of the lot submitted for approval. No structure including berms, fences or walls shall be located within the eight (8) foot buffer. Additionally, Lots 40-49 shall comply with the landscape buffering requirements of the Sarasota County Zoning Ordinance.

(iv) **Environmental Restrictions.** As provided in Sarasota County Resolution 89-130, where wetland-fringing hammocks are adjacent to a watercourse or a wetland, a fifty (50) foot setback is to be maintained from the top of the bank of the watercourse or wetland and disturbance within this setback area is prohibited. No fill may be placed within such setback area nor shall trees or understory be removed. Building in or filling of wetland areas shall be prohibited without an approved plan and permit from the Sarasota County Natural Resources Department or such other department of Sarasota County that has jurisdiction of the matter at that time. The environmental restrictions established in this paragraph shall be enforceable by the Association or by Sarasota County, and in the event any such enforcement action is commenced, the prevailing party shall be entitled to reimbursement from the opposing party for all court costs and attorneys fees, including negotiation, investigation, trial and appellate proceedings.

No owner of the property within Oakleaf may construct or maintain any building, residence, or structure, or undertake or perform any activity in the maintenance easement or the grass swales described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District as required by law.

(CC) **Windows, Doors, Awnings and Shutters.** Unfinished aluminum, bright finished, or bright plated metal or exterior doors, windows, frames, screens, louvers, exterior trim or structural members shall not be permitted. Metal frames shall be either anodized in flat non-shiny colors or electrostatically painted, and be in harmony with the exterior color and texture of the residence. Wood frames shall be painted, sealed or stained.

Screen doors may not detract from or alter the appearance of the entryway. The screen door shall be painted to match the color of the door it fronts, or in some situations, painted to match the color of substantial door trim. The use of reflective tinting or mirror finishes on windows is prohibited. Jalousie windows and doors shall not be permitted.

Awnings, canopies, and shutters shall not be permitted or affixed to the exterior of a dwelling without prior approval of the Board. They shall have straightforward design and be consistent with the architectural style of the dwelling to which they will be attached. The color of any fabric shall be compatible with the existing building colors and any exposed frames shall be painted to match the trim or the dominant color of the building. If an awning is removed, any and all exposed frames supporting the awning shall be removed as well. All attachments shall be removed and the remaining holes shall be filled and painted to match the exterior of the dwelling. Metal, vinyl or other plastic fabric shade material shall not be permitted. Approved awnings, canopies, and shutters shall be regularly cleaned and maintained.

Shutters that are functional and operational will be allowed on a case-by-case basis, on dwellings of a style appropriate for them. Shutters shall be properly proportioned and sized to match the windows or doors. The color of the shutters shall be coordinated with the colors of the dwelling. Shutters shall remain open and windows and doors uncovered except during the time period beginning at the time of issuance of a hurricane or tropical storm watch and ending forty eight (48) hours after the "all clear" announcement has been given by the weather and emergency authorities.

Section 4.2 **Leasing of Units.**

(A) **Definition.** "Leasing" or "renting", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons

other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or other valuable consideration.

(B) Leasing Provisions.

(1) **General.** Lots may be rented only in their entirety and no fraction or portion may be rented. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing. No Lot may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term.

(2) **Compliance.** The Owner shall provide a copy of this Declaration and any Rules of the Association to each tenant of the Unit. Each unit lease shall provide that the tenant and all occupants of the Lot shall comply with this Declaration and any Association Rules and shall be responsible for all violations and losses to the Common Areas caused by such tenant and occupants, notwithstanding any concurrent responsibility of the Owner. The Owner shall provide a copy of any lease to the Board of Directors together with a written statement by the lessee that the lessee has received a copy of the Declaration and any Rules. The Owner shall inform the Association of the Owner's permanent address while the Lot is leased and otherwise.

(3) **Professional Lawn Care.** Any Owner who is leasing the Lot shall provide professional lawn and garden care, including fertilizing and pest control in addition to mowing, pruning, edging, and general yard cleanup, during the period that the Lot is leased. This cost may be passed on to the tenant in the form of increased rent but the responsibility may not be passed on to the tenant in the lease.

Section 4.3 **Exculpations and Approvals.** The members of the Board, the NCC, the MC and their agents may grant, withhold or deny their consent, permission or approval in any instance when such consent, permission or approval is permitted or required at their sole discretion and without liability of any nature or kind to an Owner or any other person for any reason whatsoever and they shall be indemnified and held harmless by the Association from any and all damages resulting there from, including, but not limited to, court costs and reasonable attorney's fees. Every consent, permission or approval the Board, the NCC, the MC or their agents under this Declaration shall be, in writing, and binding upon all persons.

Section 4.4 **Association Rules.** The Board shall have the right to adopt and amend Association Rules concerning the use and operation of the Common

Areas and Lots, provided that such Rules are reasonable and do not conflict with any provision of this Declaration.

ARTICLE V

ARCHITECTURAL STANDARD AND REVIEW

Section 5.1 **Architectural Standards.** No construction (which term shall include within its definition staking, clearing, excavating, grading and other site work), no exterior alteration or modification of existing improvements and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met and until the approval of the appropriate committee has been obtained pursuant to subsections (a) and (b) below. The Board may establish a reasonable fee to be charged by the committees on behalf of the Association for review of an application for approval hereunder, which fees, if established, shall be paid in full prior to review of any application hereunder. All structures constructed on any portion of the Property shall be built in accordance with the plans and specifications provided to the Association as set forth herein.

This article shall not apply to construction on or improvements or modifications to the Common Areas made by or on behalf of the Association. The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees established in this Article V.

(a) **New Construction Committee.** If formed by the Board, the New Construction Committee ("NCC") shall have exclusive jurisdiction to review and approve all original construction on any portion of the Property.

The NCC shall prepare and, on behalf of the Board, shall promulgate design and development guidelines and application and review procedures ("Design Guidelines"). Copies shall be available from the NCC for review. The Design Guidelines shall be those of the Association and the NCC shall have sole and full authority to prepare and to amend them. It shall make the Design Guidelines available to Owners, builders and developers who seek to engage in development of or construction upon all or any portion of the Property and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. In the event that the NCC fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within forty-five (45) days after submission thereof, the plans shall be deemed approved.

(b) **Modifications Committee** The Board may act as the Modifications Committee or the Board may establish a Modifications Committee ("MC") to consist of at least three (3), but not more than nine (9), persons, all of whom shall be appointed by the Board. Members of the MC may include architects or similar professional who need not be Owners. The MC, if established, shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing Lots and structures thereon. Until establishment of the MC, the NCC shall have jurisdiction over all improvements and modifications in accordance with this Section.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice ("Modification Guidelines"), consistent with those of the NCC. In the event of any conflict, the ruling of the NCC shall be controlling. In addition thereto, the following shall apply. The MC may delegate this authority to the appropriate Board or Committee subsequently created so long as the MC has determined that such Board or Committee has in force, review and enforcement practices, procedures, and appropriate standards substantially similar to the Modification Guidelines.

Plans and specifications showing the nature, kind, share, color, size, materials, and location of such modification additions or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of the dwelling or to paint that interior any color desired, provided that any modification to the interior of a screened porch, patio or similar portions of a dwelling which are visible from outside the dwelling shall be subject to approval as provided herein. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

Section 5.2 **No Waiver of Future Approvals.** The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any rights to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or other matter whatever subsequently or additionally submitted for approval or consent.

Section 5.3 **Variances.** The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental

considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall: (a) be effective unless in writing, or (b) estop the NCC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 5.4 **No Liability.** No review or approval by the Board, the NCC, or the MC shall imply or be deemed to constitute an opinion by NCC or the MC, nor impose upon the NCC, the MC, the Association or the members of any of the foregoing or any other party, any liability for the design or construction of building elements, including, but not limited to, structural integrity or life and safety requirements. The scope of any such review and approval by the NCC or the MC is limited solely to whether the respective plan or work meets certain requirements, standards, and guidelines relating to aesthetic and the harmony and compatibility of proposed improvements in the Community. No review or approval will be for any other person or purpose, no person other than the NCC or the MC shall have any right to rely thereon.

Section 5.5 **Compliance.** Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the NCC or MC may be excluded by the Board from the Property without liability to any person, subject to the notice and hearing procedures contained in the Bylaws.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1 **Enforcement.** The Association or any Owner may enforce this Declaration by an action at law or in equity against any person violating this Declaration, for damages, injunctive relief or both. The prevailing party shall be entitled to recover reasonable costs and attorney's fees.

Section 6.2 **Notices to Owners.** Any notice required to be sent to any Owner under the provisions of this instrument shall be properly sent if mailed by certified mail, return receipt requested, to the last known address of the person who appears as the Owner on the records of the Association at the time of the mailing. It shall be the responsibility of the Owner to notify the Association in writing of any change of address.

Section 6.3 **Interpretation.** The provisions of this Declaration, as amended from time to time as provided herein, shall be deemed covenants running

with the land. Titles, captions and paragraph headings have been used for convenience only and shall not be used in interpreting this instrument.

Section 6.4 **Term.** This Amended Declaration shall remain in force and effect for a period of thirty (30) years from the date hereof and shall be automatically renewed for successive ten (10) year periods unless the Owners of two-thirds of the Lots in the Subdivision execute and record in the Public Records of Sarasota County, Florida, an instrument specifically rejecting a subsequent renewal.

Section 6.5 **Amendment.** This Amended Declaration may be amended at any time by the written consent of the Owners of a majority of the Lots in the subdivision.

Section 6.6 **Invalidity.** The invalidation of one or more of the provisions of this instrument by a final order of a court of competent jurisdiction shall not affect or modify any other provision, which shall remain in full force and effect. Failure by any party to enforce any of the provisions of this instrument shall not be deemed to be a waiver of the right to do so in the future.

Section 6.7 **Effective Time and Date.** This Amended Declaration and any amendment hereto shall take effect at the time and on the date that it is recorded in the Public Records of Sarasota County, Florida.

Section 6.8 **Access.** The Association shall have the right to access on any Lot or any improvements constructed on a Lot, between the hours of 9:00 a.m. and 5:00 p.m., upon reasonable advance notice to the Owner, to determine whether or not an Owner has complied with the provisions of this Declaration.

Section 6.9 **Discretion.** Whenever the provisions of this Declaration require approval of the Association, that approval may be either granted or denied in the sole discretion of the Board.