

REVIVED  
DECLARATION OF RESTRICTIONS  
FOR  
WHISKEY CREEK CLUB ESTATES, RE-REPLAT OF PART OF BLOCK A, UNIT 1  
(A/K/A UNDIVIDED LOT A, UNIT 1)

Plat Book 29, Pages 145-146, Public Records of Lee County, Florida.

WHEREAS, U.S. Home of Florida, Inc., the original Developer, did prior hereto on May 7, 1976, record a Declaration of Restrictions for Whiskey Creek Club Estates, Re-Replat of Part of Block A, Unit 1, in Official Records Book 1138, at Page 670, *et seq.*, of the Public Records of Lee County, Florida (the "Previous Declaration"), and those covenants and restrictions expired pursuant to Chapter 712 of the Florida Statutes, also known as the Marketable Record Title Act; and

WHEREAS, the Previous Declaration is titled "Whiskey Creek Club Estates, Re-Replat of Part of Block A, Unit 1", but does not refer to the a plat by plat book and page number; and

WHEREAS, the Plat for Whiskey Creek Club Estates Unit One is recorded at Plat Book 25, Page 71, Lee County Public Records; and

WHEREAS, Block A of Whiskey Creek Club Estates Unit One has not been replatted; and

WHEREAS, Undivided Lot A of Whiskey Creek Club Estates Unit One was replatted at Replat of a Replat of Part of Undivided Lot A, Whiskey Creek Club Estates Unit One, recorded on December 24, 1975, at Plat Book 29, Pages 145-146, Public Records of Lee County, Florida ("Undivided Lot A, Unit One Plat"); and

WHEREAS, based on information in title policies and/or title commitments and/or title searches of the Lots referenced herein, it appears that the intent of the Developer was to subject the six (6) Lots in the Undivided Lot A, Unit One Plat, to the Previous Declaration; and

WHEREAS, the Organizing Committee consisting of:

Graeme R. Hunter, 5240 Fairfield Drive, Fort Myers, FL 33919

Jeffrey LaBounty, 5248 Fairfield Drive, Fort Myers, FL 33919

Gary Proia, 5280 Fairfield Drive, Fort Myers, FL 33919

David L. Scullion, 5272 Fairfield Drive, Fort Myers, FL 33919

has submitted this Declaration of Restrictions for Whiskey Creek Club Estates, Re-Replat of Part of Block A, Unit 1 (a/k/a Undivided Lot A, Unit 1) (the "Revived Declaration") for revival to the parcel owners affected by the Previous Declaration for approval pursuant to Section 712.12, Florida Statutes, and Sections 720.403 to 720.407, Florida Statutes; and

EXHIBIT 1

WHEREAS, this Revived Declaration governs the parcels identified in the Undivided Lot A, Unit One Plat ("Subdivision"); and

WHEREAS, this Revived Declaration governs only the parcels which were originally encumbered by the Previous Declaration and does not contain covenants that are more restrictive on the parcel owners than the covenants contained in the Previous Declaration. The Revived Declaration contains covenants that are less restrictive than the Previous Declaration, omits restrictions contained in the Previous Declaration, and has an effective term of longer duration than the Previous Declaration, as permitted by Section 720.404(3), Florida Statutes; and

WHEREAS, to the extent that the Previous Declaration did not subject the parcels in the Undivided Lot A, One Plat to the Previous Declaration, it is the intent of the Owners of the six (6) Lots in the Undivided Lot A, Unit One Plat to subject such Lots to the covenants and restrictions set forth in the Revived Declaration.

NOW, THEREFORE, the Revived Declaration hereinafter set out shall be applicable to all lots in Whiskey Creek Club Estates, Replat of a Replat of Undivided Lot A, Whiskey Creek Club Estates Unit One, Plat Book 29, Pages 145-146, Public Records of Lee County, Florida, as shown on Exhibit "A" and Exhibit "B" attached hereto and made a part hereof, as evidenced by the Written Consents attached hereto as Exhibit "C" and made a part hereof, and shall run with the land and shall be binding upon all parties and persons claiming under them.

### **DECLARATION OF RESTRICTIONS**

#### **WHISKEY CREEK CLUB ESTATES, RE-REPLAT OF PART OF BLOCK A, UNIT 1 (A/K/A UNDIVIDED LOT A, UNIT 1)**

1. All of the Subdivision shall be known and described as residential property and no more than one detached, single-family dwelling may be constructed on any lot as shown in the Subdivision, except that more than one lot may be used for one dwelling, in which event, all Restrictions shall apply to such lots as if they were a single lot.
2. All structures as defined in the Lee County Zoning Regulations in effect as of the date of recording these Restrictions ("Structures") including, without limitation, tennis courts and swimming pools, must be constructed in the Subdivision in compliance with these Restrictions.
3. No dwelling shall have a ground floor square foot area of less than twelve hundred (1200) square feet, exclusive of accessory building, breezeways, screened areas, open porches, terraces, patios and garages. All dwellings shall have at least one inside bath. All dwellings shall have at least a one-car garage or carport attached to and made a part of the dwelling. No dwelling shall exceed two and one-half (2 1/2) stories nor twenty-five (25) feet in height. All dwellings shall be constructed with concrete, concrete or brick pavers, or asphalt driveways and solid sodded front, side and rear lawns. Gravel may not be substituted for sodded lawns. Each dwelling shall have a shrubbery planting in front of the dwelling. Each lot shall be sodded according to the Restrictions not later than 30 days following completion of construction.

4. All structures shall be erected according to all applicable setback regulations in the Lee County Zoning Regulations in effect as of the date of recording these Restrictions.

5. No wall, fence or other structure of any kind shall be constructed or maintained, except as follows: (a) Between street and Front Setback Lines: none. (b) Between street and Side Setback Lines: none. (c) Along the Side Lot Line between the Front Setback Line and the Rear Lot Line: Not over six (6) feet high. (d) Along the Rear Lot Line: Not over six (6) feet high. (e) When surrounding the immediate perimeter of a terrace or patio area, and when attached to, or adjoining the dwelling: Not over eight feet high within the Front, Side and Rear Setback Lines. This Restriction does not apply to completely enclosed screened areas attached to the dwelling. ("Front Setback Line", "Side Setback Line", "Rear Setback Line", "Side Lot Line", and "Rear Lot Line" are as defined or used in the Lee County Zoning Regulations in effect as of the date of recording these Restrictions.

6. A post lantern shall be constructed, maintained and operated for night illumination on or adjacent to the driveway on each lot within 25 feet of the street curb, except that front sidewall lighting may be constructed, maintained and operated for night illumination in lieu of a post lantern.

7. Perpetual easements for the installation and maintenance of utilities and drainage facilities as shown on the Plat are reserved by the Developer who shall have the right to convey such easements on an exclusive or non-exclusive basis to any person, corporation or governmental entity.

8. No tent, shack, garage, barn or other outbuildings shall, at any time, be erected and used temporarily or permanently as a residence or for any other purpose, nor shall any recreation vehicle be used as a residence or for any other purpose on any of the lots in the Subdivision. No structure of any kind shall be moved into any part of the Subdivision except temporary buildings used by contractors in connection with construction work, it being the intent of these Restrictions that all Structures on any lot be constructed thereon.

9. Nothing shall be done upon any lot which may become an annoyance or nuisance to the neighborhood. Every person, firm or corporation purchasing a lot in the Subdivision recognizes that the Developer, his agents or assigns, has the right to conduct construction and sales activities in the Subdivision until all of the lots in the Subdivision have been sold.

10. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that cats, dogs and other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes and provided further that no person owning or in custody of a dog shall allow the dog to stray or to go upon another lot without the consent of the owner of such lot.

11. Except as otherwise provided in this paragraph, no vehicle shall be parked on any part of this property except on paved streets and paved driveways. No trailers, trucks, other than pickup trucks and vans having a manufacturer's Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less, or commercial vehicles, other than those present on business may be parked in the Subdivision. Boats, boat trailers and other recreational vehicles shall be parked inside of garages and concealed from public view. The restrictions of this paragraph, however, shall not prohibit the following: a) the parking of storing of boats, boat trailers, and utility or box trailers, which are used solely for non-commercial purposes, in side or rear yards, but only if they are substantially

concealed from public view by a wall, hedge, solid fence or other structure; and b) the parking of boats, boat trailers, and other recreational vehicles on paved driveways not exceeding twelve (12) times a calendar year and not exceeding a period of seventy-two (72) hours each time.

12. No lot shall be used for the storage of rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers properly concealed from public view, except that sanitary containers may be stored near either side of a dwelling, but not on the front thereof, without being concealed, when not at the curb for pickup.

13. No exterior radio, TV or electronic antennas shall be allowed provided that lightning rods shall not be prohibited hereby, and further provided that TV satellite dishes which are attached to the exterior of a dwelling shall not be prohibited hereby. Excepting such satellite dishes, all such antennas shall be installed so as to be completely concealed from the public view, such as in attics or garages. No clothing or household fabrics shall be hung in the open on any lot unless the same are hung from an umbrella or retractable clothes hanging device which is removed from view when not in use.

14. All owners of lots on which no dwelling has been erected shall, as a minimum, have the grass regularly cut and all trash and debris removed.

15. These Restrictions are to run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of lots in the Subdivision subsequently executed and shall be binding on all parties and all persons claiming under such deeds and conveyances for a period of twenty (20) years from the date hereof and shall be automatically renewed for successive ten (10) year periods unless the owners of a majority of the lots execute and record in the Public Records of Lee County, Florida, an instrument specifically rejecting a subsequent renewal. The Restrictions may not be amended except by unanimous consent of all record owners of lots in the Subdivision until five (5) of the lots in the subdivision have been sold by the Developer after which time sixty percent (60%) of the record owners of lots in the Subdivision may at any time by written agreement amend any or all of the Restrictions, provided that notwithstanding anything to the contrary herein, sixty percent (60%) of the record owners of lots in the Subdivision may at any time amend the Restrictions where necessary to comply with regulations of the Veterans Administration, the Federal Housing Administration or any other governmental agencies exercising jurisdiction over the Subdivision. No amendment of the Restrictions may require a lot owner to remove any Structures or fence constructed in compliance with the Restrictions existing on (i) the date of which the construction of such Structures or fence commenced; or (ii) the date on which such owner took title to his lot if the construction of such Structures or fence commenced within 90 days of his taking title. Any such amendment shall not become effective until the instrument evidencing such amendment has been filed of record. Every purchaser or subsequent grantee of any interest in the Subdivision by acceptance of a deed or other conveyance therefor, thereby agrees that the Restrictions may be amended as provided herein.

16. If any person, firm or corporation, or their heirs or assigns, shall violate or attempt to violate any of these Restrictions, it shall be lawful for any other person or persons owning any lot in the Subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any Restrictions whether such proceeding is to prevent such persons from so doing or to recover damages or other dues for such violation.

17. Invalidation of any one of the provisions contained in the Restrictions by judgment or court order shall not affect any of the other provisions of the Restrictions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Organizing Committee has caused this instrument to be executed this 22<sup>nd</sup> day of November, 2019 and certifies that the requisite number of affected parcel owners have, by written consent, approved this Revived Declaration pursuant to Section 712.12, Florida Statutes, and 720.403, et seq., Florida Statutes.