

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WEATHERLY CLUSTER SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by **Archer Road Properties, Inc.**, a Florida corporation, hereinafter referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of certain property in the County of Alachua, State of Florida, which is more particularly Described as:

Lots One (1) through Forty-one (41) of WEATHERLY CLUSTER SUBDIVISION, as per Plat thereof recorded in Plat Book "___", Page ____, of the Public Records of Alachua County, Florida, together with Recreation Area, Drainage Easement and Common Area shown on said Plat.

NOW THEREFORE, Developer hereby declares that all of the properties above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I.
DEFINITIONS**

Section 1. "Association" shall mean and refer to WEATHERLY CLUSTER SUBDIVISION HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association as dedicated on the Plat for the common use and enjoyment of the owners, including without limitation "Common Open Space", "Common Area Easements", "Common Vegetative Buffer", and "Common Wooden Fence Buffers".

Section 5. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties.

Section 6. "Declarant" shall mean and refer to **Archer Road Properties, Inc.** and their successors or assigns if they should acquire more than one undeveloped Lot from the original Declarant for the purposes of development.

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Section 7. "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges of stormwater runoff which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse stormwater runoff to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharge from the system. Any reference in the Declaration to the St. Johns River Water Management District shall also include its Successors if it ceases to exist.

**ARTICLE II
PROPERTY RIGHTS**

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which an assessment against his Lot remains unpaid; and for any period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by a majority of the voting members.

(d) The right of the Association to collect money for the maintenance and repair of stormwater management and surface water facilities.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Easement for access and drainage. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system, for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

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Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership;

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class "A" membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on December 31, 2006, or (c) when Declarant decides to turn over control to the Class A members.

Section 3. In all elections involving general membership voting, the total vote will be the combined vote of all Class A and B shares voted. Each Class B vote shall be equivalent with, and participate in all voting on a basis equivalent to, one Class A vote.

**ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Assessments shall also be used for the maintenance and repair of the surface water or stormwater

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management systems including, but not limited to, work within retention areas, drainage structures and drainage easements.

The Association shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the St. Johns River Water Management District permit number 42-001-81930-1 requirements and applicable District rules, and shall assist in the enforcement of the Declaration of Covenants and Restrictions which relate to the surface water or stormwater management system.

The Association shall levy and collect adequate assessments, against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.

The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

Section 3. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$420.00 per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(d) The Board of Directors are required to establish annual assessments at a rate sufficient to cover annual maintenance. If annual assessments are insufficient, the Board of Directors shall have authority to require a special assessment sufficient to cover such shortfall.

(e) The Board of Directors shall establish the appropriate levels of maintenance.

(f) The Board of Directors may establish fees for the use of various facilities.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast majority of all the votes of each class of membership shall constitute a quorum.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, except that the Board may establish a lower assessment for lots for which a certificate of Occupancy has not been issued for improvements to that lot.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessments shall be adjusted according to the number of the months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessment on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-payment of Assessments. Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum. The Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgage. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale and transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE V
ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated

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committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. No dwelling of one story structure shall be permitted on any of the lots which contain less than 1250 square feet of ground floor area, exclusive of porches and garages, except as shown on the Plat. All lots shall have setbacks as shown on the Plat.

**ARTICLE VI
RESTRICTIONS ON USE OF PREMISES**

In addition to the rules and regulations which may be established by the Association, the following restrictions are placed upon the Property:

(1) Each lot shall be used for residential purposes only. Each residential unit must be built with either a one or two car garage. Carports are not acceptable.

(2) Owners who decide later to convert garage area to living area may do so, but must leave the garage door in place and make no structural changes to the outside front so it will continue to appear as an actual garage.

(3) Boats, trailers, recreation vehicles, trucks or other transportable personal property will not be permitted in the open parking areas or drive, but must be stored only within garages or in the back yard.

(4) Mechanical work on any type of vehicle must be done in the garage only. No disabled or unlicensed vehicles may be kept parked in front of any house.

(5) No motor vehicles shall be parked in the front or side yards except on an improved parking space or driveway.

**ARTICLE VII
GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association or any Owner incurring legal expenses or litigation costs related to successful enforcement of any covenant, restriction, or above items shall be reimbursed whether decided in court or settled out of court. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants, Conditions and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

Section 2. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time the shall be

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automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment to the Covenants, Conditions and Restrictions which alter any provision relating to the surface water or storm water management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns river Water Management District.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of the combined vote of both Class A and B members who are voting in person or by proxy. Additional land may be annexed by the Declarant without the consent of members within ten (10) years of the date of this agreement.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Authority or the Veterans Administration; annexation of additional properties and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Surface Water or Stormwater Management System. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District, and local government jurisdiction. The Association shall be responsible for such maintenance and operation. More specifically, said maintenance and repair, for each retention facility shall include the following: mow grass once a month (March through November), inspect the discharge structures, keep ponds free of trash and debris, inspect berms for washout or erosion, fill and sod any washout or erosion within one week, inspect vertical volume recovery structures for sediment build up and keep free of obstruction, any fences around ponds are to be inspected for continuity and promptly repaired if necessary. Said inspections shall be done on a monthly basis. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District, and local government jurisdiction.

Section 7. Declarant shall have the right to erect and maintain signs and a model or models for sales purposes anywhere on the property.

Section 8. Dissolution. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

Section 9. Existence and Duration. Existence of the Association shall commence with the filing of these Article of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

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**ARTICLE VIII
RESTRICTIONS**

1. Access to common and conservation areas is limited to members of the Association and immediate members or their family and to those persons maintaining any drainage or public utility easements or structures within such areas.

2. Members of the Association may bring guests into the common area provided such guests are accompanied by a member.

3. Members who bring non-members onto the common/conservation areas are required to assume full responsibility and liability for their acts, safety, and well-being.

4. Members who bring non-members into the common/conservation areas agree to hold the Association harmless for any injuries a non-member guest receives.

5. Persons not permitted access under 1 or 2 above are not allowed in the common/conservation areas and are to be considered trespassers on the property.

6. The Association Board of Directors shall establish restrictions on hours of use of various parts of the common/conservation and recreation facilities.

7. Minor age children whose parents are not members of the Association may not occupy the common areas at anytime except in the company of a member of the Association who assumes guardian responsibility for all acts or injuries that might result from use of these areas.

8. Each member of the Association and all members of their family with legal authority to use common/conservation areas must do so at their own risk. The Association cannot assume responsibility for safety and security of members usage. A member of the Association does hereby waive all claim of liability against the Association and holds the Association harmless for all usages members make of the common/conservation area.

9. Members may reserve portions of the common/conservation areas for various group meetings within guidelines provided by the Association Board of Directors.

10. No swings, ropes, ladders, treehouses, or structures may be erected or attached to any trees in the common/conservation area.

11. No one may climb trees or inflict damage to trees in the common/conservation area.

12. No weapons may be brought onto common/conservation areas by members or non-members. This shall include, but is not limited to, all air guns, BB guns, knives, clubs, sling shots, bow & arrows, darts, or any device that is primarily a weapon or tool for hunting.

13. No hunting, trapping or fishing is allowed in the common/conservation areas.

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14. No unauthorized removal or cutting of any plants or trees in the common/conservation area is permitted.

15. The Association may set regulations restricting the hours when garbage cans and trash containers may be set out in front of a residence for garbage/trash collection.

16. Fences may not be constructed in the front yard of a residence.

17. All fencing location size, and materials shall be allowed only with the approval of the Association which may prohibit the use of certain fencing.

18. No satellite dishes, antennas, or such other electronic transmitting or receiving devices may be installed anywhere outside a house on a lot unless approved by the Architectural Control Committee.

19. Outside storage buildings can only be in the back yard and subject to the architectural review of the Association.

20. If grass is left uncut, or other yard maintenance effecting appearance of the neighborhood is left undone by any member on a private residence, or if such residence is unoccupied or in foreclosure, the Association may arrange for cutting whenever the grass is in excess of 8 inches tall or have needed maintenance done and may bill the property owner. Such bill shall become a lien against the property if left unpaid for thirty days.

21. No signs are permitted on the private property or common areas of the property other than For Sale, Garage Sale and political candidate signs; messages are limited to necessary information only. This restriction does not supersede Article VII section 7.

22. The exterior improvements on each lot must be kept in good repair at all times. If damaged by accident or the elements, repairs must be commenced within ninety (90) days and completed in a timely manner.

23. No business that requires on-site employees, visits by clients and/or related business traffic may be operated out of any house/garage unless approved by the Architectural Control Committee.

24. Basketball goals may not be erected in public right-of-way of cul-de-sacs or any other street.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto signed this Declaration this 12th day of April, 2002.

Signed, sealed and delivered In our presence as witnesses:

Archer Road Properties, Inc., a Florida corporation

Diana L. Hayslip

Witness

Diana L. Hayslip
Printed Name

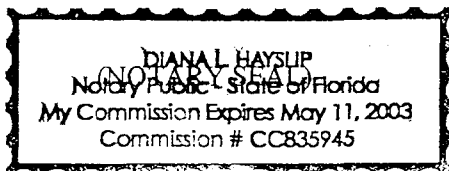
By: Thomas W. Williams, Jr. (CORPORATE SEAL)
Thomas W. Williams, Jr., President

Witness

Printed Name

STATE OF FLORIDA
COUNTY OF ALACHUA

I HEREBY CERTIFY that on this 12th day of April, 2002, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared **Thomas W. Williams, Jr., the President of Archer Road Properties, Inc., a Florida corporation**, who executed the foregoing instrument on behalf of said corporation, who acknowledged before me that he executed the same, and who (~~is~~) personally known to me or who () presented _____ as identification.



Notary Public

My Commission Expires:

Diana L. Hayslip
May 11, 2003