

UNIT A

This printout is a **“TRUE COPY”** of the full applicable text of the Declaration of Restrictions for Whiskey Creek Club Estates, Unit A. Should you so desire, you may obtain a complete copy of the original signed and notarized version from the Recording Office of the County Clerk, 2115 2nd Street, Fort Myers, FL.

The complete copy of the Restrictions is recorded in OFF. REC. **755 PG 282 - 294.**

RESTRICTIONS

WHISKEY CREEK COUNTRY CLUB ESTATES UNIT A
Recorded in Plat Book 25, Pages 138-142
Public Records of Lee County, Florida

PART A: PREAMBLE

KNOW ALL MEN BY THESE PRESENTS: That the owner of lots in the subject area of application described herein below, does hereby declare and establish the following as restrictions upon those said tracts of land.

These restrictions are approved in toto by the FIRST DEVELOPMENT CORPORATION OF AMERICA, as developer, and wheresoever the word “developer” is used herein, it shall be construed as referring to the FIRST DEVELOPMENT CORPORATION OF AMERICA, its successors or assigns.

PART B: AREA OF APPLICATION

B-1: The covenants and restrictions, in their entirety, shall apply to the following described property, situate, lying and being in Lee County, Florida, more particularly described as follows, to-wit:

Blocks: E, F, G, H, I and J, Unit A,
as per plat thereof which appears of
record in Plat Book 25, Pages 138-142
Public Records of Lee County Florida.

PART C: RESIDENTIAL AREA COVENANTS

C-1: BUILDING REQUIREMENTS: The lots herein referred to shall be used solely and exclusively for residential purposes, and no lot or parcel shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height; and all garages, carports, patios, screened enclosures and/or other auxiliary buildings shall be attached and made part of the dwelling house. The buildings to be erected or maintained shall be of new and durable materials.

LOT GRADING: Floor levels shall be set sufficiently above street grade to provide proper drainage of the respective lot, and no filling or grading shall be done that will adversely affect the proper drainage of adjacent property. Protective slopes around all buildings shall be provided on every lot by the respective owner, and side lot line swales shall be planned and maintained to prevent standing water in the rear. It shall be the responsibility of each owner to see that his lot conforms to F.H.A. No. 300, “Minimum Property Standards for One and Two Living Units” (Gen. Rev. No. 5), Section No. 1202, Pages 234 to 244 inclusive. This places an especial responsibility on the first builder in any neighborhood to refrain from blocking side lot line easements in excess of the minimum 1% slope toward the street.

C-2: SIZE AND DESIGN OF BUILDING: All buildings are to be of a design and of construction in keeping with those of the surrounding residential area. The main residence building to be erected on any lot adjoining the Golf Course shall have a living area of not less than 1600 square feet, and all remaining lots, a living area of not less than 1400 square feet. Living area shall exclude all screened or open porches, breezeways, garages or carports, utility and/or laundry area, whether finished or unfinished.

ROOF MATERIAL: Glazed tile, cement tile, slate or Bermuda-style cement shall be used for all roofs. Any material other than these must be approved under C-5.

SIDEWALL MATERIAL: Cement block, where used, must be stuccoed or concrete sprayed or veneered with wood, brick or stone. No asbestos shingles or asbestos siding or any type of asphaltic covering shall be used on exterior walls.

C-3: MINIMUM SETBACK LINES, ETC.: Certain minimum setback lines may be indicated on the plat of record, and no structure shall be erected or maintained nearer to the respective property line than said setback line. Buildings and structures shall be erected, altered, and/or used only in accordance with Lee County, Florida, zoning and building regulations from time to time in force. Where no minimum setbacks are indicated on the plat of record, the said county zoning regulations shall govern.

Nothing in these restrictions shall be construed to require all dwellings to be parallel to the defined setback lines.

All measurements shall be to the nearest vertical part of the structure at the interior floor level, exclusive of paved patios or privacy fences. No split-level dwelling or two-story dwelling shall be erected nearer than 11 feet from any side lot line.

EAVES: Eaves on dwellings may overhang in accordance with Lee County, Florida, Zoning and Building Regulations from time to time in force.

The front of all dwellings must face the street, except that owners of corner lots at the intersection of two or more streets may elect to build a dwelling fronting either street, or at an angle to the intersection of said streets. Four-sided corner lots shall be deemed to have two front setbacks and two side setbacks only.

C-4: GARAGES AND CARPORTS: On those lots adjoining the Golf Course each dwelling shall be constructed with an enclosed garage or carport for not less than two cars, and on all other lots each dwelling shall be constructed with an enclosed garage for at least one car, or a carport for a minimum of two cars. No garage or carport shall be erected on any lot prior to the construction of a dwelling. The garage or carport shall be of the same kind of materials as the dwelling, shall be of substantial construction, and shall conform architecturally with the dwelling.

C-5: BUILDING PLANS - APPROVAL: No building shall be erected, placed or altered on any lot until the drawings and specifications for all buildings, alterations, changes and plan showing the location of the structure and other developments for the premises herein described shall be submitted for the approval of the developer, its successors or assigns. One copy of the drawing and specifications of each improvement or alteration shall be filed as a permanent record with the developer, its successors or assigns. At the time such drawings and specifications are approved by the developer, a building permit shall be issued, without cost, and written evidence that such permit was issued must be posted in a conspicuous manner on such forms as the developer, its successors or assigns, may provide, on the property wherein the building, alteration, change or other development is being made. Any such building so commenced under such permit shall be substantially completed and ready for occupancy within a reasonable length of time, and in any event, within one year.

Developer reserves the right to deny a building permit for any structure to be used as a model home or real estate office, and any such use shall be deemed a violation of these restrictions unless specifically authorized by the developer in writing.

C-6: LAWNS, DRIVEWAYS AND LANDSCAPING: All lawns in front of each residence lot shall extend to the pavement line. No gravel, blacktop or paved parking strips are to be allowed, except as shown on the plat plan approved by the developer, its successors or assigns. All driveways from the lot line to the street pavement shall be constructed of reinforced concrete, a minimum of four inches in thickness, with trowel, broom finish.

C-7: WALLS, HEDGES AND FENCES: No wall, hedge, fence or other enclosure of any kind shall be constructed, grown or maintained, except as follows:

- (a) Between street and front setback line: None.
- (b) Along the side lot line between the front setback line and the back lot line:
Not over four feet high.
- (c) Along the back lot line: Not over five feet high.
- (d) When surrounding the immediate perimeter of a terrace or patio area, and when attached to, or adjoining the dwelling house: Not over six feet high within the front, side and rear building set back lines. This restriction does not apply to completely-enclosed screened area attached to the dwelling house.

C-8: OTHER STRUCTURES: No structure of a temporary character, trailer, house trailer or tent, shack, garage, barn, barracks-type structure or other outbuilding shall be erected, maintained or used on any lot at any time, either temporarily or permanently, except that necessary construction sheds may be temporarily maintained during construction of a dwelling, but shall be promptly removed upon completion of such dwelling, and not later than six months after original commencement of the construction of such dwelling.

C-9: NO RE-SUBDIVISION: No lot or group of lots herein described shall be re-subdivided, except, however, an owner of more than one adjoining lot may sell part of one lot to the owner of the adjoining lot, but by so doing, the remaining part of the lot will then become part of said owner's next adjoining lot, and the balance will have to be sold as one tract.

C-10: SANITARY FACILITIES: No outdoor toilets shall be erected or maintained on any of the premises herein described, nor shall any septic tanks be constructed or maintained on any of the premises herein described.

C-11: WATER SYSTEMS: All buildings which are constructed on any of the lots on the premises herein described shall be connected to the water system of Lee County, Florida, its successors and assigns, and shall be subject to installation fee, as well as for charges of water consumed.

All owners of lots within the premises herein described expressly grant to Lee County, Florida, its successors or assigns, a license for any of its agents or employees to enter upon any of the premises herein described for the purpose of installation of water meters, water lines, and for routine reading of meters and servicing maintenance of any part of such installation. No saline or other regenerating solution from water softening equipment shall be discharged into any street right-of-way.

C-12 SEWERAGE SYSTEM: All buildings which are constructed or maintained on any of the lots in the premises described herein shall be connected to the sewer system of Lee County, Florida, its successors or assigns, and shall be subject to connection charges for making connection to such sewer system, and regular charges thereafter for sewer services.

All owners of lots within the premises herein described expressly grant to Lee County, Florida, its successors or assigns, a license for any of its agents or employees to enter upon any of the premises herein described for the purposes of installation or inspection of such sewer lines, and for servicing and maintenance of such facilities.

C-13: UNSIGHTLY OBJECTS: All garbage or trash containers, outside clotheslines, oil tanks, bottled gas tanks and water softening equipment on all residence lots must be underground or placed in walled-in areas, and must be hidden from view by a structural wall or fence, so that they shall not be visible from the adjoining properties, or from the Golf Course. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises herein described, and said premises shall at all times be kept mowed and clear of debris and vegetation that may be either a health or a fire hazard to the neighborhood. In the event the owners of any lot or lots shall fail or refuse to keep the premises free of weeds, underbrush or refuse piles, then the developer, its successors or assigns, may enter upon said lot or lots and remove such refuse or mow or cut such weeds or underbrush and charge the owner for such services, and such entry on the part of the developer, its successors or assigns, shall not be deemed as trespass. Absolutely no burning of trash or garbage shall be permitted on any lot, except during the initial construction period.

C-14: UNLAWFUL USE OF PROPERTY: No unlawful, improper or immoral use shall be made of any of the premises herein described or referred to.

C-15: NUISANCES: No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the neighborhood.

C-16: ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that usual household pets may be kept provided they are not involved in any commercial purpose and they do not constitute a nuisance. Pet owners shall assume full responsibility for all actions of their pets. Vicious or threatening behavior of free-running dogs shall be considered a nuisance. Exposed excrement on lots, lawns or boulevards shall be considered a nuisance.

C-17: SIGNS: No sign of any kind shall be displayed to the public view on any residential lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or a sign not more than ten square feet, but not wider than four feet nor higher than three feet, to be used by a builder to advertise the property for sale during the construction and initial sale period, which construction and initial sale period shall not be longer than one year from the date of issuance of a building permit as provided in C-5 hereof.

C-18: EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are reserved, as shown and described on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot, and all improvements in it, shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Where more than one lot is used as a single building site, only the outside boundaries of said building site shall carry said easements, except for platted maintenance easements which shall run with the land.

All easements noted on the subject plat are hereby reserved for underground and overhead utilities in addition to the purposes specifically mentioned thereon.

Drainage channels in easements on any subject lot shall be kept free of debris and obstructions by the property owner, and no earth fill shall be allowed to encroach upon the slopes of said channel banks. In the event the property owner fails to, or refuses to, carry out his obligation, Lee County, Florida, or the developer, may enter upon the property, execute the necessary work and charge the cost back upon the owner.

C-19: GOLFERS' EASEMENTS: All owners and occupants of any lot adjoining the Golf Course shall extend to any and all golfers lawfully using the golf course, the courtesy of allowing such golfers to retrieve any and all errant golf balls which have taken refuge on any lot in the subdivision, provided such golf balls may be recovered without damaging any flowers, shrubbery or the property in general of the owner of any such lot.

C-20: VISIBLE PARKING OR STORAGE: With the exception of family-type non-commercial automobiles, no vehicle of any kind shall be parked or stored, except inside an enclosed garage. This restriction includes, but is not limited to, trucks, trailers, boats, racing cars or commercial equipment. It does not prohibit the parking of commercial vehicles during the performance of construction, repair or regular performance of service functions of the tradesman, or owners operating same, but such parking must be limited to the actual time during which such services are being performed.

C-21: UNDERGROUND UTILITIES: All utility lines and lead-in wires including, but not limited to, electrical lines and telephone lines, located within the confines of any lot or lots within said premises herein described, shall be located underground, provided nothing herein contained shall prevent an above ground temporary power line to a residence during the period of construction.

C-22: STREET LIGHTING: There will be a system of street lights established throughout the premises aforesaid. All costs for maintenance, administration and upkeep and for the electricity to operate same shall be borne by the respective lot owners on a prorata basis, as hereinafter set forth. All said costs shall be prorated equally among all the lots on a calendar year basis. Developer may assign to any association or organization of property owners within the premises herein described all its right, title and interest in and to said system and all its rights and duties in connection with maintenance, administration and upkeep of said system and collection of charges aforesaid, including its lien rights and the right of enforcement of said lien as herein provided. The provisions of this paragraph shall continue in full force for 20 years from the date hereof or until such earlier time as a governmental body undertakes the operation of said system. Each lot owner shall use his best efforts to further the establishment of a "Street Lighting District". Upon the formation of said district or upon another governmental agency undertaking the operation of said system, Developer shall forthwith assign to said district or governmental agency all its right, title and interest in and to said system and all its rights and duties in connection with maintenance and upkeep of said system and collection of charges aforesaid; provided, however, said district or governmental agency shall have only those lien rights provided by law. Nothing in these restrictions shall be construed as a guarantee by the Developer that he will continue the administration of the STREET LIGHTING system beyond the term of one year from the date of this instrument, nor does the Developer assume responsibility for STREET LIGHTING expenses.

C-23: BOATS, BOATHOUSES AND ANCHORAGE: Boat landings, docks, piers and mooring posts shall be constructed only in accordance with the plans and specifications therefor approved in writing by the Grantor or Association. The owners and occupants of land in the subdivision shall have an easement for the purpose of navigation, on all waterways. Docks, piers or mooring posts shall not be constructed so as to extend beyond the distance of ten (10) feet from the lot line or as provided by governmental authority. However, Dolphin pilings may be installed beyond said distance, not to extend beyond a distance of eighteen (18) feet from the lot line. No boathouse shall be constructed on or adjacent to any other waterfront lots in said subdivision, nor shall any boat canal or slip be dug or excavated into any of the waterfront lots unless the same is approved in writing by the Grantor or Association. No vessel or boat shall be anchored off shore in any of the waterways adjacent to the subdivision so that the same shall in any wise interfere with navigation.

PART D: GENERAL PROVISIONS

D-1 ENFORCEMENT: If the owner of any lot in the above described subdivision shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other lot owner within said subdivision to prosecute any proceedings at law or in equity against the person violating or attempting to violate any such covenants, either to restrain him from such violation or to recover damages therefor, or both. Although Developer may enforce the covenants contained herein it shall not be obligated to do so. Any person, including Developer, who shall bring successful legal proceedings to enforce said covenants shall be entitled to recover his costs and reasonable expenses of such proceedings, including a reasonable attorneys' fee, including appellate proceedings, from any person found to be in violation of said covenants, provided the violator shall have first been given written notice of his violation and at least 30 days in which to correct it.

D-2: LIENS: Developer shall have a lien against the property of a defaulting owner in said subdivision to secure the payment of all charges incurred as a result of any defaults hereunder, including but not limited to defaults under paragraphs C-18 and C-22. Said lien shall exist and take priority only from the time of the recording of a notice of such lien in the Public Records of Lee County, Florida, specifically describing the lots covered by the lien and the amount of nature of the unpaid charges claimed. All charges shall bear interest at the rate of 10% per annum from the date incurred, whether a lien is filed or not. In the event it becomes necessary to employ legal counsel to collect said charges through foreclosure or otherwise, Developer shall be entitled to all costs and expenses reasonably incurred, including reasonable attorneys' fees, including appellate proceedings.

D-3: BINDING EFFECT: All the covenants and restrictions herein shall run with the land and be binding upon the heirs, executors, administrators, legal representative, successors, and assigns of the respective parties hereto, and shall remain in effect for a period of 20 years from date hereof and shall be automatically renewed for successive 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 word "Owner" herein shall include the singular and plural, and the masculine, feminine and neuter genders, whenever and wherever the context so admits or requires. The word "Developer" herein include, Developer, its successors and assigns.

D-4: AMENDMENTS: These restrictions and covenants may be amended as follows:

- (a) By the Developer or Trustee so long as either owns one or more lots in said subdivision, or
- (b) By written consent of the owners of a majority of the lots in the subject unit of the subdivision.
- (c) Said modifications shall take effect when duly executed and recorded in the Public Records of Lee County, Florida.
- (d) Paragraph C-22 may be amended only with the consent of the Developer, so long as it retains an interest in the street lighting system.

D-5 INVALIDATION: Invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.