

ARTICLE XIX

Leasing Restrictions

Section 1. General Purposes of Leasing Restrictions. The Corporation's members recognize that an owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus owner-occupants maintain their property better than renters generally. The Corporation's members wish to insure that the residents within Sunset Cove share the same proprietary interest in and respect of the Lots and the Common Properties. They also want to encourage residents to not only maintain property values but also to improve them and recognize that owner occupants have more incentive to do so compared to non-owner occupants. Thus, the provisions of this Article XIX shall be applicable. Except as allowed by this Article XIX, residents of a Lot can only consist of the Owner(s) thereof and members of their immediate family.

Section 2. Limits on the Number of Leased Lots ("Rental Cap"). No more than twenty (20) of the one hundred thirty five (135) Lots may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Article XIX. The Lots described in Section 3 below shall count toward the twenty (20) Lot "rental cap". If at any time such number of Lots are leased or rented, an Owner who wants to rent or lease his or her Lot which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors or Managing Agent of such fact and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Lot. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Lots may be leased or

whether the maximum number of Lots within Sunset Cove is currently being leased. If the maximum number of Lots is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Section 3. Effective Date of "Rental Cap" on Existing Rentals. Within fifteen (15) days after the date on which this Amendment is recorded in the Office of the Recorder of Marion County (the "Recording Date"), the Board of Directors or Managing Agent shall provide written notice to all Owners setting forth the Recording Date and the then current address of the Managing Agent. The provisions of Section 2 (the "Rental Cap") shall not apply to the Owner of any Lot in Sunset Cove which, as of the Recording Date, is rented or leased by its Owner to a non-owner occupant, so long as the Owner-landlord mails or otherwise delivers to the Managing Agent of the Corporation (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot (or Lots) which is in effect as of the Recording Date. Such lease copies may have the rental amount deleted. The Owners of such pre-Recording Date rented Lots shall not be subject to the provisions of Section 2 herein, but shall be subject to the remaining provisions of this Article XIX. However, when the legal owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such Lot(s) to another Owner after the Recording Date, such Lot(s) shall immediately become subject to the rental cap set forth in Section 2. The failure of any such Owner-landlord of a leased or rented Lot to deliver a copy of such pre-Recording Date lease within said sixty (60) day period to the Managing Agent shall result in said Owner-landlord's Lot being subject to the Rental Cap (from and after the date of expiration of such pre-Recording Date lease). However, in no event shall the Rental Cap apply to any lease executed prior to the Recording Date or to any renewals thereof provided for in any such leases, so long as the Lot continues to be occupied by one or more of the non-owner occupants in possession of the Lot as of the Recording Date. Any Lot that falls under the exception of this Section 3 shall, nevertheless, be counted as one of the twenty (20) maximum Lots that may be rented at any given time even though such maximum does not apply to the Owner of such pre-Recording Date leased Lot.

Section 4. Hardship Exceptions and Waiver. Notwithstanding Section 2 above, if an Owner wishes to rent or lease his or her Lot, but the maximum number of Lots is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and approve a

proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Article XIX. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (a) death, dissolution or liquidation of an Owner;
- (b) divorce or marriage of an Owner;
- (c) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Sunset Cove due to a change of employment or retirement of at least one (1) of such Owners;
- (d) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (e) difficult local real estate market conditions; and
- (f) other similar circumstances.

Section 5. General Lease Conditions.

- (a) All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors.
- (b) A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors or the Managing Agent by the Owner within thirty (30) days after execution.
- (c) No portion of any Lot other than the entire Lot shall be leased for any period.
- (d) No subleasing shall be permitted.
- (e) All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, the Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Corporation;
- (f) All leases shall provide for direct action by the Corporation and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.
- (g) The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease.

- (h) The Owner cannot be delinquent in the payment of any assessments or other charges to the Corporation. If at any time an Owner becomes delinquent, the Board shall have the right to revoke said Owner's right to lease the Owner's Lot, even if during the term of a lease.
- (i) The Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.
- (j) All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home, and also their own address(es).

Section 6. One Year Waiting Period. In addition to all other provisions of this Article XIX, for a period of at least one (1) year after an Owner's acquisition of a Lot, said Owner cannot lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Article XIX are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Corporation. Notwithstanding this Section 6, if an Owner wishes to lease a Lot prior to the end of the one-year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 4 above.

Section 7. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Corporation and the other Owners for compliance with the provisions of the Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Corporation for payments of assessments or any other charges.

Section 8. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article XIX shall be voidable at the election of the Corporation's Board of Directors or any other Owner, except that neither party to such lease may assert the provisions of this Article XIX to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Corporation, or any Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 9. Maximum Number of Lots Owned by a Single Owner. In order to encourage Sunset Cove being and remaining a community where the Owners reside on the property:

- (a) No Owner may own more than two (2) Lots within Sunset Cove at any time. This

restriction shall not apply to any Owner who owns more than two (2) Lots which were purchased or with respect to which there was a binding purchase agreement prior to the recording of this restriction.

- (b) If any Owner is the Owner of more than one (1) Lot, such Owner or the majority of the principals of such Owner shall and must reside in Sunset Cove in at least one (1) of such Lots, unless otherwise approved in writing by the Board of Directors upon a showing by such Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 4 above.

As defined in Article I, Section 1 of the Declaration, "Owner" means the record owner, whether one or more Persons, of the fee simple title to a Lot. As used in this Section 9 above, "Owner" also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Lot and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Lot. As an example, if any person or entity owns or has any interest in the ownership of two (2) Lots, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own a third Lot, whether in his, her or its name only, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Section 10. Institutional Mortgagees. The provisions of this Article XIX shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Article XIX.

Section 11. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased subject to the provisions of this Article XIX and the Owners shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Article XIX, including but not limited to the delivery to the Board of Directors of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this

Article XIX and this Section 11, any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot.

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