

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by WJW Company, Inc., hereinafter referred to as “Declarants.”

WITNESSETH:

Whereas, Declarants are the owner of certain property in Hillsborough County, State of Florida, which is more particularly described as:

Bay Port Colony Phase III Unit I, according to
The plat thereof, as same is recorded in Plat
Book 51, Page 25 (1-3), inclusive, Public Records
Of Hillsborough County, Florida.

NOW, THEREFORE, Declarants hereby declare that all of the properties described 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

The following words and phrases when used in the Protective Covenants (unless the context should clearly reflect another meaning) shall have the following meanings:

1. “Plat” means the document described as the “Plat of Bay Port Colony Phase III Unit I, recorded in Hillsborough County, Florida (the “County”) in Plat Book 51, Page 25 (1-3), in which the Subject Property is described and subdivided.
2. “Lot” means one of the numbered parcels of land into which the Subject Property has been subdivided on the Plat.
3. “Owner” means the owner or owners of the fee simple title to a Lot and includes Developer for so long as it is the owner of any lot.

4. "Residence" means the residential dwelling unit constructed upon a Lot in accordance with these Protective Covenants.
5. "Residential Property" means collectively all of the Lots.
6. "Developer" means WJW Company, Inc., its successors and assigns
7. "Declarants" shall mean and refer to WJW Company, Inc., their successors and assigns.
8. "Institutional Mortgagee" means any lending institution having a first mortgage lien upon a lot including any of the following institutions: an insurance company or subsidiary thereof, or a Federal or State Savings and Building and Loan Association, or bank or real estate investment trust, or any other lending institution insured or approved by the Federal Housing Administration or Veterans Administration.

ARTICLE II

LAND USE OF BAY PORT COLONY PHASE III UNIT 1

The Developer declares that the Subject Property, each Lot and any Residence shall at all times be used, constructed, occupied and held subject to the following land use covenants:

Section 1. Residential Use Only: All lots shall be for residential use only and only single family homes approved in accordance with Article III (Architectural Control) may be constructed thereon. No commercial or business occupations may be carried on in Bay Port Colony Phase III Unit I, except for the construction, development and sales or rental of Residences. No structure of temporary character, or trailer, or tent, or other "out-buildings" may be erected or located on a Lot, except for a construction shack or temporary toilet during construction of a Residence, and except for such temporary structures needed or utilized by the Developer in connection with the construction, development, sale or rental of the Subject Property. No temporary structure may be used as a Residence.

Section 2. All cans and containers of any sort used for collection and disposal of refuse, garbage, rubbish or other discarded matter upon the premises must be placed so as not to be displayed in the front of any lot or parcel except on regular days for collection of trash, garbage and rubbish, as may be provided by any sanitary service unit, and then only when such service unit required the container or containers to be placed in the front of any dwelling.

Section 3. No fence shall be erected or maintained on any lot or Lots which shall be in excess of six (6') feet in height, or hedged of shrubbery, which shall not exceed an average height of six (6') feet. Fences located in front of the front setback line are prohibited. Said fences shall conform to and be in keeping with the type and structure and architectural design of the house to which it is appurtenant but in all cases shall be limited to wooden construction.

Section 4. No noxious or offensive activity shall be carried on upon any lot,, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.

Section 5. No trailers, campers, boats, commercial vehicles, junk cars, or cars under repair, of any kind shall be parked on or adjoining the property or public right-of-way, unless inside a covered garage, with the exception of delivery vehicles or service vehicles while in the process of performing their services.

Section 6. No structure of a temporary character, trailer base, tent, shack, garage, barn or other outbuilding or any portion of same shall be used or parked on any lot any time as a residence, either temporarily or permanently. No structure of any kind shall be moved onto any of the lots except temporary buildings used during the construction and promotion of the houses and sales of the lots herein-above described. Structure additions to residences after initial construction by builder must be confined to an area 10' from rear lot, 5' from side lot line, and 15' from front lot line. No structural additions will be permitted without written permit of the Committee.

Section 7. No sign of any kind shall be displayed to the public view on any lot except one sign not more than six square feet advertising the property for sale or rent, provided, however, that these restrictions shall not apply to signs used by a builder to advertise the property during the promotion and construction of the houses and sale of lots.

Section 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lots, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

Section 9. All lawns shall be maintained. If the home is unoccupied or vacant for extended periods of time such as vacations, it shall be the owner's responsibility to insure proper maintenance in his absence.

Section 10. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, building materials or other waste shall be kept in sanitary containers. All incinerators or other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 11. Any house erected or constructed on the above described lots must be connected to the existing water and sewer systems provided by the Developer, its successors and assigns.

Section 12. No trees can be removed from lots once all construction is complete unless it has died. In the event a tree is removed, it will be replaced by the owner of the lot and at his expense in an area with an exposure to public view.

Section 13. No passenger cars shall be parked overnight on lawns.

Section 14. No business or commercial ventures shall be conducted on lots except owners may rent all or a portion of their residences for living in same.

Section 15. All roofing, paint, and stain colors used on the outside of homes are to be compatible with the trees and other natural characteristics of the property. Therefore, only those approved colors used by the Builders in original construction of the subdivision shall be permitted when rework is done by owners.

Section 16. Mining or Drilling: There shall be no mining, quarrying or drilling for oil or other minerals undertaken within any portion of the Subject Property.

Section 17. Nuisances: No owner shall cause or permit any unreasonable or obnoxious noises or orders and no nuisances within immoral or illegal activities shall be permitted on Subject Property.

Section 18. Clotheslines: Outdoor permanent clotheslines shall be restricted to the rear yard on the Subject Property. Portable rotary type or reel type clothes dryers, will be permitted in the rear yard only. On corner lots such portable dryers, will not be placed within 20' of side street line, and said clothes dryers must be stored when not in use.

Section 19. Increase in Insurance Rates: No owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering any portion of the Subject Property.

Section 20. Antennae and Aerials: No exterior antennas or aerials shall be placed upon Residences. No ham radios or radio transmission equipment shall be operated or permitted to be operated in Subject Property.

Section 21. No Further Subdivision: The Lots shall not be further subdivided.

Section 22. Destruction to Residence: In the event a residence is damaged or destroyed by casualty, hazard or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Residence or promptly clear the damaged improvements and grass over and landscape the Lot in a sightly manner.

Section 23. The exterior architectural design will not be changed by any owner except by written permission from the Committee. This is to include, among other things, the roof lines, color of roofing, exterior trim, windows, doors gates, fences and privacy court walls.

Section 24. The minimum square footage of each residence shall be 1200 square feet with each residence containing a two car carport or garage of similar architectural style as the main residence.

Section 25. All owners of waterfront lots shall be responsible for the proper maintenance of that part of the shore abutting their lot, and for keeping said shoreline free from weeds, debris or any other objectionable substance, and for preventing the erosion or eroding of said lot that might be caused by the rise and fall of the waters. No power boats will be allowed on any lakes within the subdivision.

ARTICLE III

ARCHITECTURAL CONTROL: ARCHITECTURAL COMMITTEE

A. No Residence, fence, wall or other structure shall be commenced, erected or maintained upon the Subject Property, 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 Architectural Committee (the "Committee").

In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, then approval shall be deemed granted and this Article will be deemed to have been fully complied with; provided the size and location of the Residence are not in violation of any other of the covenants and provisions of these Protective Covenants.

B. The “Original Committee” is composed of Walter J. Wright, Timothy H. Powell, and Carl Minieri. A majority of the Original Committee or the “New Committee” may designate one of its members as a representative to act for it. In the event of the death or resignation of any member of the Original Committee or the New Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this Covenant. If at any time, all three of the Original Committee (or their successors) resign the then Owners of a majority of the Lots (the “Majority”) shall have the power to elect a “New Committee,” following which there shall be the Majority designating the names and address of the New Committee.

C. The Architectural Committee may, in its discretion, approve construction of structures lacking not more than ten percent (10%) of the minimum square footage required by Paragraph 2 above, and may waive such other variations from these restrictions as said Architectural Committee deems not to be inconsistent with the general tenor and purpose of these restrictions.

ARTICLE IV

GRANTS AND RESERVATIONS OF EASEMENTS

A. Reservations Granted and Reserved Hereunder by Developer: For a period of two (2) years from the date hereof, Developer hereby grants and reserves the following easements on the Subject Property:

1. An easement or easements to provide, service and repair and maintain the equipment required to provide (which easement may include reasonable rights of access for persons and equipment necessary to accomplish such purposes) utility services including, limited to easement of record, power, light, telephone, cable television, gas, water, sewer, and drainage and any other utility or service upon or for the benefit of any part of the Total Property, provided, however, no such easements will be granted with respect to any part of a Lot lying beneath a Residence after the construction thereof.

2. Easements for installation and maintenance of utilities and drainage areas are reserved as shown on the Plat.

B. Within the easements, no structure, planting or other materials may be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction or flow of drainage canals in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The area of each Lot upon which an easement is located shall be maintained continuously by the Owner of the Lot, except that those improvements which are the property of a public authority or utility company shall be maintained by such authority or utility company.

ARTICLE V

MAINTENANCE OR RESIDENCE

In order to further establish and preserve Bay Port Colony, Phase III, Unit I. the Owners covenant that they shall at all times maintain the exterior portions of their Residence, including lawns, shrubbery, and landscaping, in a neat and aesthetically pleasing and proper condition. In the event that any Owner fails to maintain his Residence pursuant to this covenant (“Defaulting Owner”), the Committee shall have the right upon thirty (30) days written notice, to enter the property of a Defaulting Owner for the purpose of performing such maintenance described in the notice. The cost of performing such maintenance and the expenses of collection, including court costs and reasonable attorneys’ fees, shall be assessed against the Defaulting Owner. Said lien shall be effective only from and after the time of recordation amongst the records of the County, of a written, acknowledged statement signed by a majority of the Committee setting forth the amount due. With full payment of all sums secured by that lien, the party making payment shall be entitled to a recordable satisfaction of lien.

Subordination of the lien to mortgages: 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 or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become 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 VI

ENFORCEMENT

The enforcement of these Protective Covenants may be by a proceeding at law for damages or in equity to compel compliance with the terms hereof or to prevent violation or breach of any of the covenants or terms herein. Enforcement may be by the Developer, the Committee, or any individual Owner, and should the party seeking enforcement be the prevailing party, then the person against whom enforcement has been sought shall pay reasonable attorney's fees and costs to the prevailing party.

ARTICLE VII

AMENDMENTS

A. The process of amending these Protective Covenants shall be as follows:

1. Until the first anniversary of date of the Protective Covenants (the "Amendment Date"), amendments for the purpose of correcting scrivener's errors may be made by the developer alone without the consent of Owners or Institutional Mortgagees.

2. After the Amendment Date or in the event any amendment materially changes these Protective Covenants, including an amendment requiring the payment of a sum of money as an assessment, these Protective Covenants may be amended only by consent of ninety percent (90%) of all the Owners together with the consent of all Institutional Mortgagees, HUD and VA. The aforementioned consents shall be in writing and affixed to the amendment to Protective Covenants.

3. Notwithstanding the foregoing, no amendment shall be effective which shall impair or prejudice the rights or priorities of any Owner, the Developer, HUD, VA or of any Institutional Mortgagee under the Protective Covenants without the specific written approval of the Owner, Developer, HUD, VA or Institutional Mortgagees affected thereby.

B. An amendment to these Protective Covenants shall become effective upon its recording amongst the records of the County.

ARTICLE VIII

MISCELLANEOUS

A. No Implied Waiver: The failure of the Developer, the Committee or any Owner to object to an Owner's or other party's failure to comply with the covenants or restrictions contained herein shall in no event be deemed a waiver of any right to object to same and to seek compliance therewith in accordance with the provisions herein.

B. Restrictions of Lease: Any and all lease agreements (herein the "Lease Agreement") between an Owner and a lessee of such Owner's Lot and/or Residence shall be subject in all respects to the terms and provisions of these Protective Covenants and that any failure by the lessee under such Lease Agreements to comply with such terms and conditions shall be a material default and breach of the Lease Agreement.

C. Captions: Articles and paragraph captions inserted throughout the Protective Covenants are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit, or in any way affect any of the terms and provisions of these Protective Covenants.

D. Context: Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

E. Severability: In the event any one of the provisions of these Protective Covenants shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect. Further, the invalidation of any of the covenants or restrictions or terms and conditions of these Protective Covenants or a reduction in the term of the same by reason of judicial application of the legal rule against perpetuities shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

F. Term: The Protective Covenants and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein, shall run with and bind the Subject Property and inure to the benefit of Developer, the Owners, Institutional Mortgagees and their respective legal representatives, heirs, successors and assigns for a term of thirty-five (35) years from the date of the recording of these Protective Covenants amongst the Public Records of the County, after which time these Protective Covenants shall be automatically renewed and extended for successive periods of ten (10) years unless at least one (1) year prior to the termination of such thirty-five (35) year term or any such ten (10) year extension there is recorded amongst the Public Records of the County, an instrument (the "Termination Instrument") signed by at least two-thirds (2/3) of all Institutional Mortgagees holding mortgages encumbering Lots (on the basis of one vote of the Institutional Mortgagees per Lot) agreeing to terminate these Protective Covenants, upon which event these Protective Covenants shall be terminated upon the expiration of the thirty-five (35) year term or the ten (10) year extension thereof during which the Termination Instrument is recorded.

ARTICLE IX

COUNTY ZONING REGULATIONS

The enforcement of these Protective Covenants shall be in conjunction with existing County Zoning Regulations for the approved C-U Plan with specific reference to existing County approved setback regulations, which are twenty (20') foot front setback, six and one half (6 ½') feet side setback, and fifteen (15') foot rear setback..

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IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have hereunto set their hands and affixed their seals this 8th day of November, 1979.

Witnesses:

Orally Myers
Richard C. Ireland

WJW Company, Inc.
By: Walter J. Wright
Walter J. Wright
President

State of Florida
County of Hillsborough

I hereby certify that on this day, before me, an officer fully authorized to take acknowledgements, personally appeared Walter J. Wright of WJW Company, Inc., the Corporation named as Declarant in the foregoing instrument, and that he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said Corporation.

Witness my hand and official seal in the County and State last aforesaid this 8th day of November, 1979.

My Commission Expires:

Orally C. Myers
Notary Public
State of Florida at Large

This instrument prepared by:
TAMPA, FLORIDA
WJW COMPANY, INC.
8019 N. HIMES AVE.
SUITE 300
TAMPA, FLORIDA 33614