

This instrument prepared by:
George Jalovecky
Centex Real Estate Corporation
1885 Knox McRae Drive
Titusville, FL 32780

Return to:
Centex Real Estate Corporation
1885 Knox McRae Drive
Titusville, FL 32780

05/12/93

Landy Crawford Clerk Circuit Court
Recorded and Verified Brevard County, FL
Pgs. 16 # Names 5
Trust Fund 850 Rec Fee 65.00
Stamp-Deed _____ Excise Tx _____
Stamp-Mtg _____ Int Tx _____
Service Chg 17.00 Refund _____

City of Melbourne Project SD-92-3

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

SUMMER BROOK

THIS DECLARATION made this 14th day of May, 1993 by CENTEX REAL ESTATE CORPORATION, a Nevada Corporation, authorized to do business in the State of Florida, whose address is 1885 Knox McRae Drive, Titusville, Florida, 32780 (the "Developer").

R E C I T A L S:

A. The purpose of this Declaration is to subject all of Summer Brook subdivision to the Covenants and Restrictions contained in this document. This document is sometimes referred to as the "Covenants". It is intended that Summer Brook be developed in multiple phases/sections. Summer Brook - Section 1 is recorded in Plat Book 39, Page(s) 18, Public Records of Brevard County, Florida (the "Plat"), which property is hereby subject to the Covenants. Additional property to be described as subsequent phases of Summer Brook shall be made subject to these Covenants by recordation of appropriate amendments to this Declaration. Nothing contained herein shall be deemed to require the Developer to develop any additional phases of Summer Brook subdivision.

B. Developer declares that lots within Summer Brook shall be conveyed and occupied subject to all matters set forth in this document and the several plats comprising Summer Brook. These covenants shall run with the land and shall be binding upon the Developer and all parties acquiring any interest in Summer Brook after the recording of these Covenants in the public records.

ARTICLE I

Mutual Benefits and Obligations

The Covenants contained in this document are for the purpose of protecting the value and desirability of Summer Brook subdivision and made for the mutual benefit of each and every owner of a lot in the subdivision. They are intended to be nondiscriminatory. They are also intended to create enforceable rights and obligations in favor of and against each lot, its owner and the Association. Each owner, his or her family, friends, guests and invitees shall comply with the provisions of these Covenants while present within this subdivision.

ARTICLE II

Definitions

Section 2.1: Summer Brook or Summer Brook subdivision. These terms shall mean all the property known as Summer Brook inclusive of all phases thereof as depicted on the recorded Plats, each of which shall be identified as a Section of Summer Brook.

Section 2.2: Board of Directors. The Board of Directors of Summer Brook of Melbourne Homeowners Association, Inc., a Florida not-for-profit Corporation.

Section 2.3: Lot. Each platted Lot in the subdivision, regardless of whether a dwelling has been constructed on such Lot.

Section 2.4: Owner. Each person who owns record title to a Lot, excluding those having such title merely as security for performance of an obligation as described in Section 697.01, Florida Statutes.

Section 2.5: Common Property. Tracts A, B, C, D, E, F, G, H, J, K, L, M and N are intended for the common use and benefit of all Owners of a lot in any phase of Summer Brook, subject, however, to the easements herein granted.

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Section 2.6: Assessments. Annual and special Assessments by the Association against Lots in the subdivision made in accordance with the terms of these Covenants.

Section 2.7: Association. Summer Brook of Melbourne Homeowners Association, Inc., a Florida not-for-profit Corporation.

Section 2.8: Architectural Review Committee. The Committee of Summer Brook of Melbourne Homeowners Association, Inc. charged with duties set forth in Article VII of these Covenants.

Section 2.9: Developer. Centex Real Estate Corporation, a Nevada Corporation, authorized to do business in the State of Florida.

Section 2.10: Stormwater Management System. This term shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity or quality of discharge from the system, as permitted pursuant to Chapters 40C-4, 40C-40 or 40C-42, Florida Administrative Code.

ARTICLE III Subdivision Assessments

Section 3.1: General Purpose. The Association is organized for the purpose of owning and maintaining the Common Property including drainage and retention areas, landscaping and lighting situated thereon; providing for enforcement of the Covenants, and otherwise engaging in activities which provide for the mutual benefit of the Owners and for all other activities reasonably related thereto. All Owners are members of the Association. Provisions relating to the Association are contained in the Articles of Incorporation and By-Laws of the Association. The Association shall have the right to increase or reduce the services it provides by affirmative vote of the members in accordance with the By-Laws of the Association. In order to pay for these services, the Association will charge Assessments against the Lots and their Owners. Each Owner is personally obligated for Assessments which came due during the time such Owner owned the Lot, provided however, that the Developer shall not be responsible for any assessments on units owned by the Developer.

Section 3.2: Creation of Lien for Assessments. All Lots owned by Owners other than Developer are subject to a continuing lien to secure unpaid Assessments due to the Association in accordance with the provisions of these Covenants. This continuing lien will also secure interest on unpaid Assessments and the cost of collecting unpaid Assessments including reasonable attorney's fees. The Association shall have a right to a lien on each Lot for unpaid Assessments commencing upon the initial conveyance of the Lot to an Owner other than the Developer. The lien will be effective from and after recording a Claim of Lien in the Public Records of Brevard County, Florida, stating the Lot description, the name of the record Owner, the amount due, and the due date. The lien will remain in effect until all sums due to the Association have been fully paid. All Lots shall be sold subject to the terms and provisions of the continuing lien described in this paragraph.

Section 3.3: Assessments. The Association shall fix the amount of the assessment. The assessments shall be payable in one annual installment on January 1st of each year. The Board shall notify the Owners of each Lot of the amount and the date on which the assessments are payable and place of payment. All assessments shall be uniform.

Section 3.4: Date of Commencement of Assessments. The assessment for each Lot shall begin upon conveyance of the Lot to a Class A Member. The first assessment for each Lot shall be made for the balance of the fiscal year of the Association. The first assessment shall be due and payable in advance at place established by the Association at the time of such conveyance.

Section 3.5: Special Assessments. The Association may levy a special assessment to pay in whole or in part for the cost of any major repair or replacement of a capital improvement owned by the Association without concurrence of the Owners. A major repair is a repair made to an existing capital improvement, the cost of which exceeds seventy-five percent (75%) of the reserve fund established as a part of annual assessment. Replacement of a capital

improvement means any replacement of an existing capital improvement. The Association may levy or collect a special assessment to acquire a new capital improvement if the special assessment is approved by a vote of sixty percent (60%) of the Owners.

Section 3.6: Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within fifteen (15) days after due date shall bear a late fee of Twenty-Five Dollars (25.00) and interest from the due date at the rate of eighteen percent (18%) per annum until paid. The Association may bring an action against the Owner of the Lot for payment of the Assessment and may enforce its lien for the Assessment by foreclosure or any other means available under the law. The Association may waive payment of late fees and interest on an Assessment but may not waive payment of the Assessment. No Member may waive or otherwise escape liability for Assessments by non-use of common property or by abandonment of the Lot owned by such Owner. The Association shall be entitled to reasonable attorney's fees and costs for the enforcement of the rights herein.

Section 3.7: Subordination of Lien to Mortgages. The lien of any assessment authorized by these covenants shall be subordinate to the lien of any first mortgage on the Lot. The sale or transfer of any lot pursuant to a mortgage foreclosure proceeding or by a deed in lieu of foreclosure shall extinguish the lien for assessments which fell due prior to the date of such sale, transfer or foreclosure but not for assessments which fall due after such date. The failure to pay any assessment hereunder shall not constitute a default under any mortgage insured by an agency of the United States of America.

Section 3.8: Damage by Owners. The Owner of the Lot shall be responsible for any expense incurred by the Association to repair or replace common property which is necessary by reason of his carelessness, neglect or willful action or by that of his family, his guests, agents, or invitees. Any such expense shall be a part of the Assessment to which the Owner's Lot is subject and payable in the same manner as annual Assessments provided for in these covenants.

Section 3.9: Maximum Assessment. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Twenty Dollars (\$120.00) per Lot for Class "A" members and One Dollar (\$1.00) per Lot for the Class "B" member.

(a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased above ten percent (10%) 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 such purpose.

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

ARTICLE IV Owner's Rights

Section 4.1: Right to Use Common Property. Each Owner and members of such Owner's family residing with the Owner, or the tenant of a non-residential Owner, has the non-exclusive right to use Common Property for the purpose for which it is intended subject, however, to the easements herein granted. This right shall pass with title to the Lot owned by the Owner.

Section 4.2: Utilities. Each Owner may use the utilities constructed in the right-of-ways or other easements as shown on the Plat as the same may be relocated from time to time, subject to regulations and ordinances of City of Melbourne and Brevard County.

ARTICLE V Rights of the Homeowners Association

Section 5.1: Enforcement Rights. The Association, its agents or employees, shall have the right, but not the obligation, to enter upon any lot to cure any violation of these covenants and restrictions, including without limitation, the right to remove any structure which is in violation of these covenants and to enforce maintenance and repair of Lots and improvements.

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Any such removal, curing, maintenance or repair shall be at the expense of the Owner of the Lot on which the violation has occurred or exists which expense shall be payable by such Owner to the Association on demand. Entry to remove and cure any violation of these covenants and restrictions shall not be a trespass and the Association shall not be liable for any damages on account of the entry.

The rights of the Association described in this Article shall not be construed as a limitation of the rights of the Developer or any Owner to prosecute proceedings at law or in equity for the recovery of damages against persons violating or attempting to violate these covenants or for the purpose of preventing or enjoining any violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies provided at law or in equity. The failure of the Association to enforce these covenants, however long continuing, shall not be a waiver of the right to enforce these covenants at a later time.

Section 5.2: Other Assessments. Any amount owed by any Owner to the Association as the result of the Association's abating or curing violations of these covenants or maintaining or repairing Lots or residences shall be due and payable within fifteen (15) days from the date of receipt of the statement for such amounts from the Association. If any of said sums are not paid when due, they shall be added to and become a part of the annual Assessment to which the Lot is subject and enforceable as provided in Article III of these Covenants.

Section 5.3: Common Property Rights. The Association shall have the right:

(1) to adopt reasonable rules and regulations pertaining to the use of the Common Property, the preservation of such property, and the safety and convenience of the other users of the Common Property.

(2) to convey or encumber any Common Property if authorized by two-thirds (2/3) of the Class A members and the Class B member. No dedication or transfer will be effective unless an instrument agreeing to the dedication or transfer, executed by two-thirds (2/3) of the Class A members and the Class B member (until Class B membership terminates), is recorded.

(3) to assess fines for violation of these Covenants which shall be added to the next installment as provided in Article III of these Covenants.

Section 5.4: Common Property. The Association shall be vested with ownership of all Common Property. The Association shall own said premises for the purpose of preservation of existing vegetation, supplemental plantings, drainage, and retention. The Association has the right to impose reasonable rules and regulations concerning the use of Common Property and may use the common areas for ingress-egress, drainage and retention, environmental mitigation, and maintains the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide safe drainage and retention as well as to maintain reasonable standards of health, safety, welfare and appearance.

Section 5.5: Duty to Maintain Entrance Way. The Association shall have the duty to maintain the entrance way to the Subdivision and related property. Said duty shall include the obligation to cut grass, trim shrubbery and otherwise keep said property in safe and attractive condition and maintain reasonable standards of safety and appearance. This obligation shall include the maintenance of any and all structures erected on said Tracts A and B, keeping any painted surfaces clear and attractive and keeping any and all irrigation systems and fixtures in safe and working condition.

Section 5.6: Duty to Maintain Stormwater Management System. The Association shall have the duty to maintain, operate and repair the Stormwater Management System. Maintenance of the Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other stormwater management or surface water capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Stormwater Management System shall be as permitted, or if modified as approved by the St. Johns River Water Management District. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law and equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Stormwater Management System.

Section 5.7: Membership and Voting Rights.

(a) 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.

(b) The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer, 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. The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot it owns. 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:

- (1) When the Developer ceases to be the Owner or ceases to own the Lot as a Developer or otherwise becomes a Lot Owner residing on, or leasing, said Lot and improvements; or
- (2) on February 1, 2001.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed a Class A Member entitled to one (1) vote for each Lot in which it holds interest required for Membership under this section.

Section 5.8: Attorneys Fees. The Association shall be entitled to recover reasonable attorneys fees and costs for the enforcement of any of its rights herein.

ARTICLE VI

Rights Reserved by Developer

Section 6.1: Eminent Domain. If all or part of any easement granted by Developer over property of the Developer is taken for eminent domain, no claim shall be made by the Association or any Owner other than Developer for any portion of any award.

Section 6.2: Easements for Utilities. The Developer reserves a perpetual easement on, over and under the easements and Common Property shown on the Plat for construction, installation and maintenance of electric, telephone, cable TV, gas lines, water mains, sanitary sewers, stormwater pipes, ditches, swales, mitigation, irrigation and other conveniences and facilities. The Owners of Lots subject to the easements reserved in this paragraph shall acquire no right or interest in any of the facilities placed on, over or under the portions of the subdivision which are subject to said easements.

Section 6.3: Drainage Easements. Drainage flow shall not be obstructed or diverted from drainage easements. Developer may, but shall not be required to, cut drainways for surface water wherever and whenever necessary to maintain reasonable standards of health, safety and appearance. Existing drainage shall not be altered or diverted.

Section 6.4: Maintenance Easement. The Developer reserves an easement in, on, over and upon each Lot for the purpose of preserving, maintaining or improving the Common Property.

Section 6.5: Developer Rights to Temporary Structures, Etc. Developer reserves the right to authorize and approve the construction and maintenance of temporary dwellings, model houses and/or other structures upon Lots as approved by the Developer and to erect and maintain or to permit commercial and display signs as Developer, in its sole discretion, deems advisable. Developer reserves the right to do all acts necessary in connection with the construction of improvements on the Lots. Nothing contained in these covenants shall be construed to restrict the foregoing rights of the Developer.

Section 6.6: Further Restrictions. Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and right-of-ways on any Lot in the subdivision owned by Developer and on the Common Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with use of the subdivision Common Property.

Section 6.7: Release of Restrictions, Easements. If a residence is erected, or the construction of the residence is substantially advanced, in a manner that violates the restrictions contained in these covenants or in a manner that encroaches on any Lot line, Common Property, or easement area, Developer shall have the right to release the Lot from the restriction it violated. Developer shall also have the right to grant an easement to permit encroachment by the residence over the Lot line, or on the Common Property, or the easement area, so long as Developer, in the exercise of its sole discretion, determines that the release or easement will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and appearance of the subdivision. This subpart does not effect any right, claim, restriction, ordinance, law or regulation imposed by any United States or State of Florida governmental body or any of their subdivisions.

ARTICLE VII

Use Restrictions and Architectural Control.

Section 7.1: Use Restrictions.

- (a) No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
- (b) No sign of any kind shall be displayed to the public view on any Lot except one sign not more than four square feet advertising the property for sale, or for rent, or sign used by the Developer to advertise the property during the construction and sale period.
- (c) Temporary structures such as trailer, tent, shack, garage, barn or other outbuilding shall not be used on any Lot at any time without the consent of the architectural committee. This shall not apply to the Developer's sales and/or construction trailer.
- (d) No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except household pets, which shall be kept in the residence or within the fenced courtyard area. Owners will be required to clean up after any pet that relieves itself in any area other than their own yard.
- (e) No wall or fence shall be erected on any Lot in the subdivision higher than six (6) feet above finished grade and provided, however, that no wall or fence shall be placed or erected within the front building setback lines (including corner lot setback) of any Lot. No chain link fences shall be constructed on any Lot except along rear lot line of the Lots backing onto retention or conservation areas. All wood fences shall be best side out.
- (f) Any game or play structures other than basketball structure shall be located at the rear of dwelling, or on the inside portion of corner lot. No basketball goals or backboards shall be attached to the front or side of any dwelling. Any basketball goal or backboard shall be free standing and must be maintained in good repair.
- (g) Travel trailers, motor homes, mobile homes, and motor coaches and other recreational vehicles shall not be parked in the subdivision. Boats, campers, trailers exceeding six (6) feet in height, measured from the ground, shall be permitted in the subdivision only if parked in garage or or in the rear or side yard of the Lot completely screened by fences.
- (h) No commercial activity shall be conducted in the subdivision with exception of the Developer's real estate sales office.
- (i) No clothes, sheets, blankets or other articles shall be hung out or exposed on any part of the Lot, except in the rear yards and than only on portable laundry dryers. In all instances it shall not be visible from the from the road right-of-way or the adjoining Lots.
- (j) No swimming pool constructed on any Lot shall have an elevation in excess of two (2) feet above the natural grade.
- (k) No solar panels shall be allowed on any roof visible from the road right-of-way.
- (l) No satellite dish shall exceed ten (10) feet in total height from the ground, and shall not be visible from the street right-of-way and shall have a six (6) feet high fence around.

Section 7.2: Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Lot nor shall any exterior addition or change or alteration therein be made until the plans and specifications showing 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 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.

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ARTICLE VIII
Easements

Section 8.1: Establishment of Easements. All easements, as provided for in this Article shall be established by the one or more of the following methods, to wit:

- (a) By a specific designation of an easement on the recorded Plat of Summer Brook;
- (b) By a reservation or specific statement providing for an easement in the deed of conveyance of a given Lot or Dwelling Unit;
- (c) By this Declaration or by a separate instrument, to be subsequently recorded by the Developer;
- (d) By virtue of the reservation of rights set forth in Section 2 of this Article.

Section 8.2: Easement for Utilities. An easement is hereby granted to City of Melbourne and to Brevard County for installation, maintenance, and operation of all dedicated improvements, which shall include right of access, installation, maintenance and operation of said improvements.

Section 8.3: Easements over Lots. The easement described herein is specifically depicted on the Plat. For so long as Developer is the Owner of any Lot, the Developer hereby reserves unto itself the right to reserve an easement to itself or grant an easement to any other entity over each Lot owned by Developer for purposes of ingress and egress, to include drainage, utility, gas, telephone, cable TV, electrical services and irrigation system. With respect to an easement thus granted, the Developer shall have and does hereby retain and reserve the right to release the Lot from the encumbrance of the easement, provided, however, that Developer shall not have power to release any portion of a utility easement on a Lot without the consent of the utility company providing the utilities served by that easement.

Section 8.4: Easement Restrictions. Easements for installation and maintenance of utilities and drainage facilities are reserved as designated in this Article. Within these easements, no structure, planting or other material shall be placed or permitted to remain which would damage or interfere with the installation or maintenance of the utilities or which may change the direction of flow or drainage channels in the easements. No person shall fence any public utility, public right-of-way, refuse collection area or drainage easement (to include, but not limited to, sewer, water, drainage, gas, cable television, telephone, and electric utilities), unless such person has provided adequate access for any purpose necessary to access the easement, right-of-way, etc. Access shall be provided so that no fence will have to be cut or any wall removed to install, maintain, repair or replace any utility. Any landscaping and fencing within the easement shall be relocated by or at the expense of the Owner if required.

Section 8.5: Construction of Easement Provisions. Any and all parts of this Declaration relating to the reservation and maintenance of easements are to be read and construed as being consistent with each and every other part relating to easements.

Section 8.6: Public Service. Fire, police, health, sanitation, postal and other public service personnel and their vehicles have a permanent and perpetual easement into, out of, and over, the Common Property for the purpose of performing their appropriate and lawful functions.

Section 8.7: Conservation Easement, Conservation Area. "Conservation easement" or "Conservation area" shall mean and refer to all such areas so designated as such upon any recorded subdivision Plat or Plats of the Properties described aforesaid. The Conservation Areas shall and are hereby declared to be subject to a Conservation Deed Restrictions in favor of the Developer, its successors and assigns, for the purpose of retaining and maintaining the Conservation Areas in their predominantly natural condition as a wooded water recharge, detention and percolation and environmental conservation area. In furtherance of this, each of the following uses of the Conservation Areas are hereby prohibited and restricted without the prior written consent of the St. Johns River Water Management District, to wit:

- (a) The construction, installation or placement of signs, buildings, fences, walls, roads or any other structures and improvements on or above the ground of the Conservation Areas; and
- (b) The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials; and

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- (c) The removal or destruction of trees, shrubs or other vegetation from the Conservation Areas; and
- (d) The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Areas; and
- (e) Any use which would be detrimental to the retention of the Conservation Areas in their natural condition; and
- (f) Acts or uses detrimental to such retention of land or water areas.

The Conservation Areas hereby created and declared shall be perpetual.

The Developer, its sucesors and assigns and St. Johns River Water Management District shall have the right to enter upon the Conservation Areas at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

The Developer, and all subsequent owners of any land upon which there is located any Conservation Area shall be responsible for the periodic removal of trash and other debris which may accumulate on such parcel.

The prohibitions and restrictions upon the Conservation Areas as set forth in this paragraph may be enforced by the St. Johns River Water Management District by proceedings at law or in equity including, without limitation, actions for injunctive relief. The provisions in this Conservation Area restriction may not be amended without prior approval from St. Johns River Water Management District.

All rights and obligations arising hereunder are appurtenances and covenants running with the land of the Conservation Areas, and shall be binding upon, and shall inure to the benefit of the Developer, and its successors and assigns. Upon conveyance by the Developer to third parties of any land affected hereby, the Developer shall have no further liability or responsibility hereunder, provided the deed restriction including the Conservation Area are properly recorded.

ARTICLE IX General Provisions

Section 9.1: Duration and Amendment. These covenants shall run with and bind the land submitted or subjected hereto and shall be and remain in effect for a period of twenty (20) years after which time they will be automatically extended for periods of ten (10) years, and shall inure to the benefit of and be enforceable by the Developer, the Association, the Owners and their respective legal representatives, heirs, sucesors and assigns, unless modified or terminated by a duly recorded written instrument executed in conformance with the requirements as described below. These covenants may be modified or terminated only by a duly recorded written instrument executed by the President and Secretary of the Developer until the Developer no longer owns any Lots, and thereafter by the President and Secretary of the Subdivision Association upon affirmative vote of two-thirds (2/3) of the Owners, provided however, no such amendment shall affect the right or lien of any institutional mortgagee without such mortgagee's express consent. The Developer specifically reserves the absolute and unconditional right so long as it owns any Lots to amend the Declaration to conform to the requirements of Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the purchase and sale of home loan mortgages or to clarify the provisions herein, without the consent or joinder of any party. Notwithstanding anything in these covenants to the contrary, the provisions of these covenants affecting the rights or duties of the Developer shall not be amended or terminated at any time while the Developer owns a lot, without the consent in writting of the Developer. Any amendment to these Covenants which alters the Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Areas and Conservation Areas, must have the prior approval of the St. Johns River Water Management District.

Section 9.2: Notices. Any notice required to be sent to any person pursuant to any provisions of these Covenants will be effective if such notice has been deposited in the United States mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence or to such other address as may be furnished to the Secretary of the Association. The effective date of the notice shall be the date of mailing.

Section 9.3: Severability. Whenever possible, each provision of these Covenants shall be interpreted in a manner that is effective and valid. If any of these Covenants is prohibited or held invalid, the prohibition or invalidity shall not effect any other provisions which can be given effect. To this end, the provisions of these Covenants are declared to be severable.

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Section 9.4: Assignment by Developer. Developer shall have the sole and exclusive right to transfer to such persons, firms, or corporations as it shall select, any or all of the easements and rights whatsoever given to or reserved by Developer in these Covenants. All easements and rights reserved in these Covenants shall be for the benefit of the Developer, its successors and assigns.

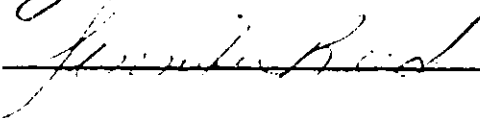
Section 9.5: Disputes and Construction of Terms. In the event of any dispute arising under these Covenants, or in the event of any provision of these Covenants requiring construction, the issue shall be submitted to the Board of Directors of the Association. The Board of Directors shall give all persons having an interest in the issue an opportunity to be heard after reasonable notice. The Board shall, when appropriate, render its decision in writing, mailing copies thereof to all parties who have noted their interest.

Section 9.6: Rights of Developer to Modify: The Developer retains the right to change, alter or modify these restrictions in any manner, at any time prior to the sale of the last Lot in the subdivision, provided however, so long as there shall be a Class B Member (the Developer), the Developer shall obtain the prior written consent of the Federal Housing Administration and/or the Veterans Administration with regard to the annexation of any additional property to the subdivision or the dedication of the Common Property if the subdivision is expanded beyond 250 Lots which is the buildout of Summer Brook subdivision, inclusive all phases. Further, the Developer reserves the right to subject additional property to be described as subsequent Sections of Summer Brook subdivision to this Declaration. The Owners of any Lot in the subdivision, inclusive of all phases, shall enjoy the rights and privileges and be subject to the restrictions and obligations herein imposed provided however, nothing herein shall be deemed to require the Developer to develop additional phase of the subdivision.


IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set their hand and seal the day and year first above written.

Signed, sealed and delivered
in presence of:





CENTEX REAL ESTATE CORPORATION
a Nevada Corporation authorized
to do business in State of Florida

By: 
Patrick P. Gallo
its Division

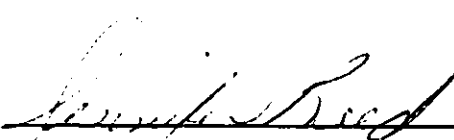
(CORPORATE SEAL)



STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 14th day of May, 1993, by Partrick P. Gallo, as Division President of Centex Real Estate Corporation, a Nevada Corporation authorized to do business in the State of Florida, on behalf of the corporation. He is personally known to me or has produced driver's license as identification and did take an oath.





Notary Public
State of Florida at Large

CERTIFIED CORPORATE RESOLUTION

I, Art Thorn, duly elected and acting secretary of Summer Brook Homeowners' Association, Inc. a Florida Not-for-Profit corporation, do hereby certify that I have access of the records and minutes of the proceedings of the Board of Directors of said corporation; that the resolution set forth below was duly adopted by the Unanimous Written Consent of said Board of Directors as of May 10, 1993; that said resolution and the adoption thereof are consistent with the laws of said State, and with the Articles of Incorporation and the Bylaws of said corporation; and that said resolution have not been revoked or amended and is now in full force and effect.

EXHIBIT A

RESOLVED, that any member of the Board of Directors of Summer Brook Homeowners' Association, Inc. shall have authority limited to the matters relating to the ordinary course of business of the corporation of which they are directors; and further

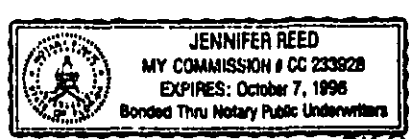
RESOLVED, that any member of the Board of Directors of said corporation is hereby individually authorized on behalf of this corporation to execute and deliver with or without a corporate seal applications, preliminary or final plats and maps, development agreements, maintenance agreements, and all other documents which are relevant to the development and maintenance of the Summer Brook - Section 1.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of said Corporation this 10th day of May, 1993.

Art Thorn
Art Thorn
Secretary
Summer Brook Section 1
Homeowners' Association, Inc.

STATE OF FLORIDA)
BREVARD COUNTY) SS:

The foregoing instrument was acknowledged before me this 10th day of May, 1993, by Art Thorn, as Secretary of the Summer Brook Section 1 Homeowners' Association, Inc., a Florida Not-for-Profit Corporation, on behalf of the corporation. He is personally known to me or has produced driver's license as identification and did take an oath.



Jennifer Reed
Notary Public
State of Florida at Large
My Commission Expires: 10/7/96

BY-LAWS OF
SUMMER BROOK OF MELBOURNE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION. The name of the Corporation is SUMMER BROOK OF MELBOURNE HOMEOWNERS ASSOCIATION, INC. referred to as the "Association". The principal office of the corporation shall be located at 1885 KNOX McRAE DR., TITUSVILLE, FL but meetings of members and directors may be held at such places within the State of Florida, County of BREVARD as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to SUMMER BROOK OF MELBOURNE HOMEOWNERS ASSOCIATION, INC. its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may be hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the 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 6. "Declarant" shall mean and refer to Centex Real Estate Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of Public Records of BREVARD County, Florida.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III
MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least

15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise noted provided in the Articles of Incorporation, the Declaration, or these By-laws. If, however such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

ARTICLE IV BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) directors, who need to be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect two directors for a term of one year, two directors for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect directors for any vacancies, directors to serve for two years.

Section 3. Removal. Any director may be removed from the Board with or without cause by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may tender to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI
MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the common area and facilities, and their personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration to:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period; and

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(d) Procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) Cause the Common Area to be maintained.

(h) Accept such other functions or duties with respect to the properties including architectural control, in addition to maintenance responsibilities as are determined by the majority of the Board of Directors to be proper;

(i) delegate to and contract with a mortgage company or financial institution, or other responsible third party, responsibility for collection of the assessments of the association.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be president and vice-president, who shall at all times be members of the board of directors; a secretary, a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of who shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

• Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of the Article.

Section 8. Duties. The duties of the officers are as follows:

PRESIDENT

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deed and other written instruments and shall co-sign all checks and promissory notes.

VICE PRESIDENT

(b) The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

SECRETARY

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses and shall perform such other duties as required by the Board.

TREASURER

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; at the direction of the Board, cause an annual audit or review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the members.

ARTICLE XI
COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate to carry out its purpose.

ARTICLE X
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-laws of the Association shall be available for inspection by any member at the principal office of the Association where copies may be purchased at reasonable cost.

ARTICLES XI
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing

lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waiver or otherwise escape liability of the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

ARTICLE XII
CORPORATE SEAL.

The Association shall have a seal in circular form having within its circumference the words: SUMMER BROOK OF MELBOURNE HOMEOWNERS ASSOCIATION, INC.

ARTICLE XIII
AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, We, being all of the directors of SUMMER BROOK OF MELBOURNE HOMEOWNERS ASSOCIATION, INC. have hereunto set our hand this 26th day of FEBRUARY, 1993.

Patrick P. Gallo

PATRICK P. GALLO
Phillip Gribbons

PHILLIP GRIBBONS
Art Thorn

ART THORN

STATE OF FLORIDA
COUNTY OF BREVARD

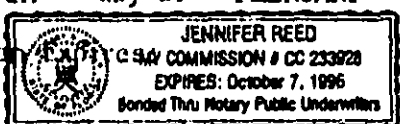
I HEREBY CERTIFY that on this day personally appeared before me the undersigned authority, the following named persons, to wit:

PATRICK P. GALLO, PHILLIP GRIBBONS and ART THORN

All to me known and personally known to me to be the persons of those names, and who executed the foregoing instrument and they acknowledged before me that they executed the said instrument as their free and voluntary act and deed for the uses and purposes therein set forth and expressed, and each did take an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this 26th day of FEBRUARY, 1993.

My Commission



Jennifer Reed

Notary Public
State of Florida at large

CERTIFICATION

I, the undersigned do hereby certify: THAT, I am the duly elected and acting secretary of the Summer Brook of Melbourne Homeowners Association, Inc., a Florida not-for-profit Corporation, and, THAT the foregoing By-laws constitute the original By-laws of said Association as duly adopted at a meeting of the Board of Directors thereof, held on 25th day of FEBRUARY, 1993.

Art Thorn

ART THORN