

# Summer Brook News

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## Welcome Neighbors Old & New!

The Board of Directors would like to take this opportunity to say "Hello" to all the neighbors and to say we look forward to seeing you at our monthly HOA Board meetings.

Many of us Summer Brook of Melbourne Subdivision residents have had the good fortune of living here since the beginning (1993) while others have lived within the subdivision for many other various periods of time. No matter how long (or short) a period of time one has lived here, it is always beneficial to get an information "refresher" that will make living here a bit more understandable. It always amazes us that over the past (29) years one can always hear long or short term residents exclaim...."I never knew that"; or....."that's something good to know"; or....."where do I find that info"; or.....you should tell everyone that". So, to that end, the following articles are some informational type items (not inclusive) your Summer Brook HOA feels will be very beneficial to you. Some of the info points are those that are most often dealt with such as from your HOA Covenants & Restrictions while most others are just helpful info as to why the HOA does certain things or just plain simple helpful thoughts. They are in no special order.

First, The Summer Brook of Melbourne HOA is NOT just an unofficial group of residents who got together almost (30) years ago and said....."let's form an HOA and run this place". Rather your HOA is an official legal chartered Florida corporation controlled by the State-of-Florida under Title XL, Chapter 720 with all of its' rules and regulations. The HOA was petitioned to be formed in 1993 by the CENTEX Corporation (the developer of this Summer Brook of Melbourne subdivision).

There are (204) residences within the subdivision and state statutes permitted that after 90% of the residences were originally sold the actual home owners can petition the state to take over the HOA from the developer (which was done in 1999). The first home owner-controlled Board-of-Directors was duly elected and formed and the rest is history. To some, an HOA is a bad thing, and it can be if abused, but abundant homeowner involvement can preclude abuse. But foremost an HOA with its' By-Laws, Covenants, Conditions & Restrictions is in place to be an entity to preserve, maintain and help increase your home's value as-well-as trying to prevent "non-harmonious or noxious activity" by ensuring ALL home owners follow & adhere to the governing documents which again are the By Laws, Covenants, Conditions & Restrictions as approved and registered with the State of Florida.

Info Point: our subdivision "Summer Brook of Melbourne" is **NOT** involved or in no way part of the "Summer Brook Preserve" subdivision located directly to the south if you turn right at our entrance STOP sign.

Our subdivision has a web site where a multitude of information can be found. Just enter into your computer "summerbrook.info" and our web page should appear. From the index in the left margin you can look up important Resource Information such as the Covenants & Restrictions, External Architectural Alteration Rules and Guidelines (for making external alterations to your residence), approved house, cement areas, & fence colors, paver & roof rules, Board-of-Director contact info and so on. You can contact us by email via: [sbhoaf1@summerbrook.info](mailto:sbhoaf1@summerbrook.info) or mail: Summer Brook of Melbourne HOA, PO Box 410914, Melbourne, FL 32941.

Monthly HOA Board-of-Directors meeting are held the 2<sup>nd</sup> Monday of the month at 7pm across Wickham Rd at 4676 N. Wickham Rd. and is open to all homeowners.

## **Rules are a Necessary Component of HOA Living**

As a general statement, when a home buyer purchases a home within a subdivision that has a Homeowners Association (HOA), at the final closing of the sale (usually at a Title or mortgage company, Bank, attorney office) they should be advised by the seller, their real estate agent, lawyer, or closing agent (et. al.) that they need to realize they are purchasing a home within an HOA subdivision that is Deed Restricted & has Governing Documents (Rules). To that end, one of the multitude of documents a home buyer signs at a home closing is an affidavit acknowledging the fact that they are aware they are purchasing a home within an HOA subdivision so that there is no future denial that..."I didn't know". Litigation has shown that their signature creates a binding contract to adhere to the Governing Documents. The purchaser is usually given a copy of the Governing Documents. A significant portion of disputes between homeowners & (HOA's) relates to the enforcement of HOA rules & guidelines that have been adopted by an association's board of directors. Such disputes frequently result from the fact that many people purchase property **without reading** the association's governing documents, which include the rules that apply to the homeowners. As a result, they first learn about HOA rules that they are opposed to and then resist complying with after the association commences some action against them for violating the rules (i.e. rules concerning the color a house can be painted). They then become embroiled in adversarial proceedings with their HOA & the individual directors who seek to enforce the rules. The proceedings could possibly have been avoided if (1) the homeowner(s) understood before they purchased their home that the home is within an HOA controlled subdivision, (2) the HOA has Rules & Guidelines, (3) they actually read the Rules & Guidelines.

### **Authority for Adopting and Enforcing HOA Rules**

The authority for adopting rules is found in state & federal laws & the governing documents that are created for an HOA by the original developers such as the Articles of Incorporation, Bylaws, & Declaration of Covenants, Conditions & Restrictions. The authorization grants an HOA the power, acting through its board of directors to enact and enforce rules.

The process of adopting rules includes procedures for enforcing the rules through the imposition of fines and/or discipline on violators of the HOA rules.

### **Procedure for Adopting Rules**

Once vested with the authority to adopt rules, the applicable statutes and/or the HOA's governing documents will set forth the required procedures or the process that must be followed by the directors in order to adopt the rules. Any rules that are adopted by an HOA's board of directors cannot be in conflict with the provisions contained in the HOA's Articles of Incorporation, Bylaws, or CC&Rs.

### **An Association's Rules Must be Reasonable**

Rules that are adopted by an HOA's board of directors must be reasonable (fair, proper, just, moderate, and suitable under the circumstances). The determination of reasonableness is made by reference to the common interest development as a whole, and not by reference to facts that are specific to any one particular homeowner.

Enforceable rules typically meet the following criteria: The rule is within the authority of the board of directors and does not conflict with provisions in statutes or the HOA's governing documents. The rule is adopted in good faith, is reasonable and in writing

### **Members' Rights Relative to Rules**

The authority to adopt rules is typically exclusive to an HOA's board of directors. Absent provisions in the HOA's governing documents that empower the members to vote on rules, the members have no power to make or change rules that have been properly adopted by the HOA's board of directors.

Homeowners should become involved in the management of their HOA in order to have a voice in the decisions being made by the HOA's board of directors. HOA members can request a rule change or an individual waiver, but whether or not it's granted is left to the discretion of the board of directors. Association members can however, indirectly have an influence on the adoption of rules by actively participating in their association and electing future board members who have similar interests concerning rules, and/or serving as a member of their HOA's board of directors.

## HOA ANNUAL DUES

Payment of your annual HOA Dues Assessment within the allotted payment time frame is extremely important (pay by February 2<sup>nd</sup> each year, late penalty after February 17<sup>th</sup>). Every home owner needs to pay their fair share on time as there are a multitude of expenses the HOA, as a working corporation, must pay in order to maintain operations. When your fellow neighbors do not pay, guess where the money has to come from to meet expenses.....increased dues! The following are examples of expenses you may not be aware: monthly Common Area grounds maintenance (the equivalent area of approximately (77) residential Lots without a house upon it like your Lot has), monthly Aquatic Pond maintenance (we have **(7) ponds !!**), two monthly electric bills for sprinkler system and lights, sprinkler maintenance (we have hundreds of sprinkler heads), subdivision Liability Insurance, subdivision property damage insurance, payment of federal taxes, HOA federal tax form 1120-H prep fee, Common Area sidewalks & curbs pressure washing (we have (3) such areas containing hundreds of feet of concrete.....your personal concrete surfaces need to be kept clean and so does the HOA's), Off-site storage rental unit for HOA bulk items, Post Office Box rental, Postage for at least (6) mailings per year for (204) homes, Printer costs for Newsletters (3-4) times per year & Friendly Reminders twice per year, monthly rental of Board-of-Directors meeting site, Stationary supplies (envelopes, labels, file folders, tote boxes to keep records for seven years), Welcome Packages for new home owners, Berm maintenance, storm damage clean-up, tons of miscellaneous items that crop up day-to-day just like your household, and oh yeah.....State-of-Florida annual HOA corporate Filing Fee.

## YOUR HOA and YOU

Your HOA is **YOU!!** Hence the name....Home Owner's Association. If you are the home owner, then you are part of the HOA. Don't sit back and complain if you don't like something or want something changed. Show up at the monthly Board-of-Directors meeting and ask to speak. The Board will communicate with you, or take the matter for review. Also, attend Board meetings just to learn how **your** Board works. Better yet, run for a Board-of-Director slot as various director positions become available each year. Take an active part in the operation of **your** HOA. Be a part of the solution of things and NOT just complain to your neighbors. The Board-of-Directors are **your** friends & neighbors and have **volunteered** their time to ensure the HOA continues to be managed by actual resident home owners and **NOT** have to be turned over to a management company that doesn't know you as a fellow neighbor, your names, kid's names, pet's names or waves & talks to you on evening walks. Without **ALL the past & current** volunteer board members your HOA would need to hire an outside management company, which is not cheap, resulting in your annual assessment dues having to be substantially increased. As a sad commentary, over the past (23) years of having a homeowner controlled HOA, out of (204) homes and hundreds & hundreds & hundreds of home owners available to serve on the Board & various committees, it has been about the **same** (30) homeowners who have cycled in-and-out volunteering to serve on the Board-of-Directors, ARC Committee, Holiday Party Committee, Landscape Committee, Welcoming Committee, Cleanup Committee, Front Entrance Holiday decorating committee, etc.. For about the past (5) years about (6-7) homeowners have taken on all these tasks. At least (5) of these folks **have full time jobs as well!** We always hear...."I don't have time" but in reality being on the Board takes about (2) hours per month!! Please consider serving your HOA either on the Board, attending monthly Board meetings or serving on a committee. Remember, the tasks performed by your HOA are NOT done by Keebler Elves in the middle of the night.....they are performed by the volunteer efforts of your fellow neighbor home owners.

## **Summer Brook of Melbourne HOA Annual Meeting and Election**

**Aug 4, 2022 at 7:00 PM**

**The Summer Brook of Melbourne HOA Annual Meeting will be held at the Brevard Alzheimer's Foundation address 4676 N. Wickham Rd across from our sub-division on Thursday August 4<sup>th</sup> at 7:00pm**

The purpose of the annual meeting is to elect individuals to the Board of Directors. There will be at least two (2) open positions to be filled at this election. As a reminder, the term for all elected positions is (2) years. You may resign your position at any time with (30) day notice. If you wish to run for a 2-year position on the board please contact a current Board member or the HOA board at [SBHOAFL1@summerbrook.info](mailto:SBHOAFL1@summerbrook.info)

We will ensure your name is listed on the ballot. As always, nominations may be made from the floor at the meeting. Included with this newsletter (BACK OF THIS PAGE) is a Limited Proxy Form. If you are not able to attend the meeting, please complete the proxy form and return it to the SBHOA as directed on the form. This will help establish the required quorum which for Summer Brook of Melbourne needs to be (10%) or (21) attendees or Proxies combined so it is imperative that you either attend in person or send in your Proxy. Please keep in mind that the election is on a Thursday, and if you mail it, please ensure its' arrival to the BOARD by Wednesday Aug 3rd, 2022 by allowing for (3) business days for mail delivery otherwise we may not get it. The Board encourages everyone to make an effort to attend this year.

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**ANNUAL VOTING PROXY ON REVERSE SIDE **

Summer Brook of Melbourne Homeowner's Association  
Limited Proxy Form  
2022 Annual Meeting and Election of Board-of-Directors

Thursday, August 4<sup>th</sup>, 2022 at 7:00pm  
Located at Brevard Alzheimer's Center  
4676 N. Wickham Road - Melbourne, FL 32935

THIS PROXY IS USED TO ESTABLISH A QUORUM OF MEMBERS IN ORDER TO HAVE AN OFFICIAL ANNUAL ELECTION MEETING

If you are **NOT ABLE TO PERSONALLY ATTEND** the meeting, **PLEASE FILL OUT THIS PROXY FORM AND RETURN IT**. You may return it one of three (3) ways:

1. Give to any Board Member
  2. Give it to someone who will be attending the meeting & will turn it in
  3. Mail To: Summer Brook of Melbourne HOA  
PO Box 410914  
Melbourne, FL 32941
- NOTE: ALLOW (3) BUSINESS DAYS TO ARRIVE BY WEDNESDAY, AUG 3<sup>rd</sup>**

**NOTE !! ONLY (1) VOTE ALLOWED PER LOT ADDRESS REGARDLESS OF NUMBER OF NAMES LISTED ON DEED-of-RECORD**

**Please choose ONLY ONE (1) of the following three (3) choices:**

\_\_\_\_\_ The undersigned hereby designates the Secretary of the Board-of-Directors as my representative to vote on my behalf at the Summer Brook of Melbourne HOA Annual Meeting on all matters.

\_\_\_\_\_ The undersigned hereby designate (enter printed name) \_\_\_\_\_ to represent Me and vote on my behalf at the Summer Brook of Melbourne HOA Annual Meeting on all matters.

\_\_\_\_\_ I hereby authorize this Proxy for establishing a Quorum only.

Signature of Homeowner: \_\_\_\_\_

Printed Name of Homeowner: \_\_\_\_\_

Address of Home Owned Within Summer Brook: \_\_\_\_\_

Dated: \_\_\_\_\_

**IN NO EVENT SHALL THIS PROXY BE VALID FOR A PERIOD LONGER THAN NINETY (90) DAYS AFTER THE DATE OF THE FIRST MEETING FOR WHICH IT IS GIVEN**

