



THIS INSTRUMENT PREPARED BY  
AND RETURN TO  
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ENGLEWOOD, FL 34224

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR  
HIDDEN WATERS SUBDIVISION**

THIS DECLARATION is made by HIDDEN WATERS HOMEOWNER'S ASSOCIATION, INC., hereinafter referred to as the "Association".

**ARTICLE VIII  
USE RESTRICTIONS**

Section 8.1. The Property Subject to Use Restrictions. In addition to other restrictions, reservations and conditions set forth elsewhere in this Declaration and the Articles of Incorporation and Bylaws of the Association, the Property shall be subject to the following restrictions, reservations and conditions, all of which shall run with the land and with the exception of the developer, be binding upon each and every Owner who shall acquire or own a Lot on any portion of the Property, and shall be binding upon the respective heirs, personal representatives, successors and assigns thereof.

Section 8.2. Single Family Residential uses and Structures Only. The subdivision shall be used and occupied and structures shall be constructed only for the following purposes:

- A. Single family residences (excluding mobile homes and/or modular homes) and appurtenant structures such as decks, lanais, porches and the like;
- B. Noncommercial (private) boat docks, elevated fishing piers and boardwalks thereto;
- C. Noncommercial (private) garages each of which shall be constructed for not less than two (2) vehicles per lot. No sheds or outbuildings are allowed. One story homes shall have side entry garages. Others shall be approved by the Association and the ARB;
- D. Swimming pools;
- E. Tennis Courts;
- F. Gazebos; and

No buildings or structures whatsoever shall be erected or maintained in the subdivision except those to be used for the purposes afore described. Carports are specifically prohibited. No subdivision of any Lot shall alter or limit any of the restrictions herein contained upon such Lot as a whole.

Section 8.3. No Subdividing Lot. No Lot shall be subdivided or divided into any parcels or lots smaller in size than that which was originally conveyed by Developer to the initial Owner thereof.

Section 8.4. Nuisance. Nothing shall be done and no condition shall be allowed to continue which may be or may become a nuisance. All Lots shall be kept free of accumulation of brush, trash or other material which may constitute a fire hazard or breeding place for rodents, snakes and the like and the ground cover of each and every lot (such as, for example, grass or other cover material) shall be maintained at six inches (6") above average grade or less. If any Owner fails to comply with this provision, after fifteen (15) days notice to the Owner or occupant, Association, its successors and assigns, may enter upon the land for the purpose of clearing away any such accumulation or excess growth of ground cover and assess the cost thereof against the record Owner of the land.

**Section 8.5. Architectural Style, Building Materials, and Color Scheme.** The Architectural style and color of all residences, buildings, and structures shall be like or harmonize with the “Old Florida” or “Boca Grande” style. Exterior building materials for wall surfaces from the first living floor up shall be a majority of Hardy Plank, board and batten, vinyl, ship lap, or comparable material. Variations must receive approval by the Architectural Review Board (the “ARB”). The architectural style, building materials, and color scheme are required to be approved by the Association/ARB in accordance with Article IX.

**Section 8.6. Structure Size, Roof Materials, and Stem wall Construction.** No residential structure to be constructed in HIDDEN WATERS SUBDIVISION shall contain an enclosed living area less than two thousand two hundred square feet (2200 sq.ft.) in size, exclusive of screened or open porches, lanais, patios, decks, entryways and garages unless the Association grants a variance in writing at the Association’s sole and absolute discretion. All roofs shall be constructed of metal. All residences, buildings, and structures shall be constructed on a stem wall foundation, piling foundation, or a combination of stem walls and piers. Area below flood elevation shall be fully enclosed in accordance with the applicable building codes. No open area is allowed below flood elevation. Lattice is allowed only if installed on top of a solid wall. Any material other than concrete block or wood framing shall be approved by the ARB.

**Section 8.7. Garage Floor Elevation.** The garage floor elevation shall be at the lowest level above the crown of road as to be in compliance with the Charlotte County building and flood zone regulations or as approved by developer.

**Section 8.8. Excavating and Clearing Land.** No bulldozing or clearing of trees on any Lot shall be commenced until plans and specifications showing the nature, kind, shape and location of work to be done and the grading plans of the Lot to be built upon shall have been submitted to and approved in writing by the Association. Land Clearing activities including tree removal may not be done unless the Owner has complied with the Charlotte County Tree Ordinance in effect at the time of such removal.

**Section 8.9. Improvement Completion Time Frame.** Unless specifically excepted by the Association, all improvements for which an approval of the Association or of the ARB is required under this Declaration shall be completed within one (1) year from the date of commencement of said improvements.

**Section 8.10. Rights of Way, Lawn and Irrigation Systems.** Owners shall keep their Lots and any Easements located on the Lots (including front, side, and rear setbacks) mowed at the edge of the pavement, and in a neat, clean and orderly condition at all times. Each Owner shall install an irrigation system on their Lot at the time a residential structure is constructed on the Owner’s Lot. Lawns and shrubbery must be watered and fertilized as necessary in order to keep lawns and shrubbery green and in a stable condition. No excessive weeds or unsightly undergrowth or brush shall be permitted. The Association reserves the right to enter upon a Lot and mow the lawn, trim shrubbery and otherwise clean a Lot if an Owner fails to maintain the lawn and landscaping. Association shall deliver written notice to the Owner demanding reimbursement for the cost of such care. Should the Owner of any Lot, within fifteen (15) days of delivery of such notice, fail to reimburse the Association, the Association shall levy a special assessment against such Owner for reimbursement, pursuant to the provisions of this Declaration.

**Section 8.11. Easements.** Nothing shall be placed on any part of any Lot which is reserved for Roadways, or for Easements and would interfere with the construction, use and maintenance of said Roadways, or Easements. Association may remove any structure, trees or other vegetation which interferes with any construction, maintenance or repair of the Easements, Stormwater System or the Roadways, and the cost thereof shall be paid by the applicable Owner to Association within fifteen (15) days after written notice. If the Owner shall fail to reimburse Association, Association shall levy and collect a special assessment against the Owner for reimbursement pursuant to the provisions of this Declaration.

**Section 8.12. Building Setbacks.** No building, structure or part thereof shall be constructed on any Lot within a minimum of thirty-five (35’) from the front property line, with exception of Lots 1,2,3,17,18 and 19 which shall be a minimum of twenty-five (25’) front yard setback. All lots shall maintain a minimum of fifteen feet (15’) from the jurisdictional line as defined by Charlotte County Zoning Regulations. In the case of a single

ownership of more than one (1) contiguous Lot, these restrictions shall apply to the parcel owned as a whole and not to the interior Lot line of the contiguous Lots under common ownership. For the purposes hereof, the front property line is defined to be the principal street frontage on Lots abutting a street. County zoning restrictions shall be adhered to if more restrictive than these setbacks.

Section 8.13. Boat Docks. Boat landings, docks, piers and mooring posts (herein 'boat docks') shall be constructed only in accordance with local, state and federal laws and regulations applicable thereto. No boathouse shall be constructed on or adjacent to any Lot in the subdivision nor shall any boat canal or slip be dug or excavated in any of the Lots. No vessel or boat shall be anchored offshore in the waterway adjacent to the subdivision so that the same shall in any way interfere with navigation. No boat landing, dock, pier, mooring post or land adjacent thereto shall be used for business or commercial purposes. No live-aboards shall tie up to a boat dock or be anchored offshore in the waterway adjacent to the subdivision.

Section 8.14. Outside Storage. No motor vehicles without current license plates shall be stored and/or parked anywhere on the Property. No items may be hung or otherwise stored on a Lot outside the dwelling thereon, including without limitation scrap metal, any abandoned, wrecked or junked vehicles, appliances, furniture, equipment, unsightly items, building materials, equipment or other items of any type.

Section 8.15. Motor Vehicle Repairs. No Owner of any Lot, nor a member of his family, guests, invitees, licensees, or lessees, shall engage in the construction, reconstruction, repair or maintenance on the Lot of any motor vehicle, regardless whether said motor vehicle is owned by the Lot owner; provided, however, that an Owner may wash said vehicle and/or polish or change a tire. There shall be no repair, assembling or disassembling of motor vehicles, except inside the Owner's garage.

Section 8.16. Trash. No Lot or any part of the Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste (hereinafter referred to as "trash"), all of which shall be bagged, tied and kept in covered sanitary receptacles in the garage or at the side or rear of the dwelling on the Lot so that it is out of sight from the street and adjacent lots and within approved walled-in fenced area, protected from animals, rodents, birds, etc. Burning of trash on the Lot is prohibited. A trash receptacle is allowed during the construction of a home but must be removed as soon as possible when construction is complete.

Section 8.17. Containers and Fuel Tanks. No above ground storage of gasoline, heating or other fuels shall be permitted on the Lot or on any part of the Property, except for up to twenty-five (25) gallons of fuel may be stored on the Lot for emergency purposes or operation of lawn mowers, boats, household tools, generators or other equipment. Propane tanks greater than 25 gallons and up to 250 gallons are permissible provided they are fully buried and all applicable permits have been obtained.

Section 8.18. Pets. No animals, livestock, poultry of any kind, shall be raised, bred or kept on or in any Lot, except for dogs, cats, and house birds may be kept provided that they are not kept, bred or maintained for any commercial purpose. No Owner, tenant or other occupant of a Lot shall keep more than a total of three dogs and cats on a Lot. All pets shall be on a leash or retained at all times when outside the Lot. Dogs not covered by the homeowner's insurance company shall be prohibited. Proof of liability shall be provided to the Association for any dogs upon request.

Section 8.19. Prohibitions. No Owner, tenant or other occupant of a Lot and/or residence in the subdivision shall:

A. Remit loud and/or objectionable noises or obnoxious odors to emanate from his/her Lot nor play any piano, organ or electronically amplified musical instruments or devices which may cause a nuisance to the occupants of the other Lots in the subdivision;

B. Allow anything to remain outside the residence which would be unsightly or hazardous including building materials, block, brick, etc.;

C. Park outside the garage or park overnight or use for a living accommodation commercial vehicles, commercial trucks, boats, campers, trailers, mobile homes, recreational vehicles except during the time they are actually serving the residence;

D. Conduct any motor repair or other repair work to a vehicle nor store any household articles, furnishings or other personal property outside the residence or garage;

E. Place or maintain any mobile home, house trailer, tent, hut shack, portable structure, recreational vehicle or other temporary living quarters on any Lot in the subdivision;

F. Keep any animals, birds or reptiles, other than commonly acceptable domestic pets, on any Lot in the subdivision;

G. Display any signs of any kind whatsoever except that the developer may construct lot number signs. "For Sale" signs shall not be greater than 18" x 24" except that developer, at developer's sole discretion may construct signs to promote the subdivision for the purpose of lot sales;

H. Erect a satellite dish that exceeds thirty-six inches (36") in diameter;

I. Construct a Sea wall on a Lot other than one of a "natural" material such as a "rock revetment." This paragraph is not intended to imply on behalf of the Developer or Association that any type of shore protection will be permitted by the agencies. All local, state, and federal permits must be obtained as required prior to construction.

In addition, nothing contained herein shall prevent each and every Owner, upon obtaining all necessary governmental permits therefore, from constructing boardwalks, docks, and the like.

Section 8.21. Leases.

A. All leases of Lots shall be restricted to single-family residential use under the restrictions set forth herein. All leases shall be in writing and the Association shall have the right to terminate any lease upon default by the lessee by not observing any of the provisions of this Declaration and applicable Rules and Regulations. Each lease shall contain the following provision:

"The lessee hereunder acknowledges that this lease is subject to the Declaration of Covenants, Conditions, and Restrictions of HIDDEN WATERS SUBDIVISION and the Rules and Regulations provided thereunder which lessee has read and agrees to be bound thereby, and that the failure to comply with same may result in certain remedies being invoked by the Association against lessee, including without limitation termination of this lease and personal liability of lessee for damages."

If the foregoing provision is not contained in any lease, it shall be deemed incorporated therein by reference. In the event a lessee, or a lessee's invitee, guest or licensee, occupies a Lot without a written lease, the occupancy thereof shall constitute an acceptance of this Declaration and an agreement to be bound thereby and subject thereto.

B. Owners leasing their Lots shall be responsible for all violations, and all damages or losses to the Roadways and Easements caused by a lessee, or a lessee's invitee, guest or licensee.

C. No lease shall be for a term of less than four (4) months. No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby right to the Lot rotates among members of the program on a fixed or floating time schedule.

Section 8.22. Fences. No fence, other than that constructed by the Developer, shall be erected, constructed or placed on any lot in the subdivision unless approved by the Association. The Developer has the right to erect a fence, wall or other structures, prior to the selling of the final lot in said subdivision. No alterations are allowed to the walls and fences constructed to the benefit of the Subdivision without the prior approval of the Association.

Section 8.23. Landscaping. No shrubbery, trees, plants, or irrigation systems on any Lot in the Property shall be installed without the prior written consent of ARB. Owners may, however, replace dead shrubbery or add additional shrubbery within existing landscaped areas, without prior approval, if compatible with landscaping previously utilized by the Owner. Lawns shall be sodded. All landscaping shall be in compliance with any landscaping plans or guidelines furnished by the ARB to the Owner at the time of purchase of a Lot or as otherwise established at anytime thereafter by the ARB. No stone, mulch or shell yards shall be allowed. An irrigation system is required to be installed by each lot owner to serve the lawn and landscaped areas.

Section 8.24. Clotheslines. Hanging or dusting garments, rugs or any other materials from the windows, balconies or from the exterior of any Lots is prohibited. Clotheslines and drying yards shall be located and landscaped so as not to be visible from off-premises.

Section 8.25. View Protection. The ARB reserves the right, but not the obligation, to reasonably restrict the placement of structures, landscaping or other impediments to the enjoyment of views from and of adjoining Lots.

Section 8.26. Elevation. No changes in the elevation or drainage characteristics of the land shall be made without prior written approval of the ARB or Association nor shall any fill be used to extend the Property beyond the property line or to encroach upon the storm water management easements. Each owner is responsible during the final grading of his lot to make sure all grades in the retention swales are per the Southwest Florida Water Management District (SWFWMD) and Charlotte County Stormwater Permit for said drainage system. A Professional Surveyor and Mapper or Professional Engineer, registered in the State of Florida, shall prepare an as-built drawing (record drawing) of the retention swales and shall submit it to the Association when these swales are completed. No deviations from the approved stormwater plans on file with Charlotte County and SWFWMD are allowed. Any minor deviations shall be reviewed by a professional engineer and certification provided to the Association that they will not affect the ability of the stormwater system to function properly.


Section 8.27. Garages. Each dwelling in HIDDEN WATERS SUBDIVISION shall include a fully enclosed attached garage for at least two (2) but not more than four (4) vehicles. A detached garage may be allowed but must have approval of the ARB.

Section 8.28. Quiet Enjoyment Free of Nuisances. In addition to all other Covenants and restrictions set forth in this Article, no noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may become any annoyance or nuisance to the Property, nor shall any disturbance be permitted which will interfere with the rights, comforts or convenience of other Owners and their respective guest, invitees or lessees. Owners shall be prohibited from doing anything or conducting any activity which would detract or in any way deter from the beauty or natural aesthetics of the Property.

Section 8.29. Right to Enter the Property. The Developer, the Association or its employees, agents, or assigns, after giving an Owner reasonable notice and opportunity to cure a violation of this Declaration, may enter upon a Lot (but not within a residential structure) for the purpose of curing the violation, but shall have no liability to the Owner, whether for trespass or otherwise as a result of such entry upon the Lot.

Section 8.30. Legal Proceedings for Violations. If any person shall violate or attempt to violate or in any way fail to abide by this Declaration, or any Rules and Regulations, it shall be lawful for the Association, or any other person(s) owning any Lot in the Property to conduct such legal proceedings as are available to enforce compliance therewith, to prevent further or continued violation by injunctive relief and to recover damages, attorneys fees, court costs and litigation costs and expenses for such violation or attempted violation.

Section 8.31. Developer Exempt. The Developer shall be exempt from the restrictive provisions of this Article during the time period in which the Developer is selling lots in HIDDEN WATERS SUBDIVISION.

  
MARY E. SPRAGUE, PRES.  
HIDDEN WATERS P.O.A.

6-26-2014  
DATE  
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