

Turkey Creek Homeowners Association COVENANTS

(AS OF DECEMBER 1, 2008)



ABOUT THE TURKEY CREEK COVENANTS...

The Turkey Creek Subdivision is a deed restricted community, which means that all the owners in the subdivision ("Turkey Creek") are subject to a set of documents called "Covenants" or "Deed Restrictions". The Covenants are a set of rules or requirements that each lot in the subdivision is bound by. These Covenants "run with the land", which means that when ownership of the lots in the subdivision change hands, the buyers are as bound by the Covenants as the sellers were. The purpose of the Covenants is to enhance the value of the homes in Turkey Creek.

The original Covenants were put into place when Turkey Creek was created in 1978, and were set to expire or be renewed in 2008. Several years ago, the Turkey Creek Homeowners Association Board of Directors ("Board") and some interested residents decided to form a committee to make proposed amendments to the Covenants. The purpose of the committee was to look carefully at each covenant, bring it up to date if necessary, change it if desirable, leave it alone if was working well, and add new ones if necessary. The Committee held a series of meetings to which all Turkey Creek homeowners were invited, and, after taking input from any interested resident, agreed on a proposed set of new covenants. These new covenants were then submitted to Turkey Creek's lawyer, who made changes necessary to ensure that the new covenants conformed to current Florida law.

Finally, in 2008, each homeowner in Turkey Creek was sent a ballot asking residents to vote yes or no on the covenants proposed by the committee and approved by the lawyer. The new covenants were approved by well over the 50% majority required, and they were recorded in the county land records in November of 2008, just before the old covenants expired in December.

The new covenants are found on this web site in two versions: the first, called "Current Covenants" simply shows the covenants adopted and recorded in December 2008. The second, called "Comparison of Current Covenants w/Expired Covenants" is a marked-up copy showing the specific changes from the original Covenants.

Any Turkey Creek owner who has questions about the new Covenants should contact a Board Member. Board members' contact information is listed on this web site.

**TURKEY CREEK
FIRST AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS, LIMITATIONS, CONDITIONS, AND
AGREEMENTS**

This declaration is made and dated this 1st day of December, 2008 by the Turkey Creek Homeowners Association, Inc. (TCHOA), and supercedes the declaration made by MILTON H. BEVIS, TRUSTEE, on the 15th day of December 1978 and recorded at OR Book 1985, Page 117 of the Public Records of Brevard County.

WITNESSETH:

WHEREAS, the Turkey Creek Subdivision consists of a tract of land legally described as:

SEE EXHIBIT "A" (the "Property")

WHEREAS, the owners of the Property are desirous of amending the existing covenants and restrictions encumbering the Property, said covenants and restrictions running with the title to the Property.

NOW, THEREFORE the owners of the Property, hereby declare to and agree with each and every person who currently is or who shall become owner of any portion of the Property, in addition to the ordinances of the City of Palm Bay and the County of Brevard, Florida, shall be and are hereby bound by the covenants set forth in these presents and that the Property described in these restrictions shall be held and enjoyed subject to and with the benefit and advantage of the following restrictions, limitations, conditions, and agreements, to-wit:

1. DURATION OF RESTRICTIONS: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until December 1, 2038, at which time said covenants shall be automatically extended for successive periods of ten years. These covenants may be changed at any time in whole or in part by the vote, or written consent, or any combination thereof, of two thirds majority of the then owners of the lots.

2. INVALIDITY: Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

3. CONTROL: For the purpose of insuring the development

of the Property as an area of high standards, TCHOA reserves the power to control the buildings, structures, and other improvements placed on each lot.

4. APPROVAL BY TCHOA: For the purposes of further insuring development of the lands in the subdivision as a residential area of high standard, the TCHOA reserves the right to control the buildings and structures placed on each lot.

Whether or not provision therefore is specifically stated in any conveyance of record, the owner or occupant of each and every lot, by acceptance of title thereto or by taking possession thereof, covenants and agrees that no building, building addition, fence, wall, swimming pool, boathouse, dock, pier, piling, aerial antenna or other structure shall be placed upon said lot unless and until a set of building plans, a set of building specifications and a copy of the plot plan have been submitted and have been approved in writing by the TCHOA. Each such building, wall, swimming pool, boathouse, dock, pier, piling, aerial antenna or other structure shall be placed on the premises only in accordance with the plans and specifications and plot so approved. Refusal of approval of plans and specifications by the TCHOA may be based upon any ground, including purely aesthetic grounds which in the sole and uncontrolled discretion of the TCHOA shall be deemed sufficient. No alteration in the exterior appearance of the building or structures shall be made without like approval. The TCHOA has the authority, but not the obligation, to promulgate and amend design standards and specifications to ensure architectural consistency.

Should the TCHOA, its successors or assigns, fail to approve or disapprove the plans and specifications submitted to him by the owner of a lot or lots within the subdivision within sixty (60) days after written request therefore, then such approval shall not be required, provided, however, that no building or other structure shall be erected or be allowed to remain on any lot which violates any of the covenants or restrictions herein contained.

5. RESIDENTIAL USE: All lots in the subdivision shall be known and described as residential lots. No structure shall be erected, altered, placed, or permitted to remain on any residential building lot other than one single family dwelling not to exceed thirty (30) feet in height above street level, and a private enclosed garage for not less than two (2) nor more than four (4) cars, and a storage room, or tool room attached to

the ground floor of such garage. Any garden or storage shed placed on the property shall be pre-manufactured and of non-metallic materials and be placed adjacent to a wall of the principal dwelling; no part shall be visible from the front of the house. Prior to any installation, the plans for the proposed garden shed shall be submitted to the Architectural Committee for approval. All dwellings must face the front of the lot. No garage, guest quarters, tool or storage room, etc. , may be constructed separate and apart from the residential dwelling. All garage doors shall be required to have automatic openers. New construction or replacement garage doors must meet current Brevard County hurricane codes: doors of lesser quality will not be permitted. All driveways shall be constructed with a concrete type surfacing.

6. SET BACK RESTRICTIONS: No building or structure shall be erected upon any lot so that any part of said building or structure shall be closer to any boundary line of said premises than herein specifically set forth, to-wit:

LOTS	FRONT	CORNER	SIDE	REAR
All lots in subdivision	25 feet	15 feet	10 feet	25 feet

Eaves, roofs, unroofed terraces, or other projections may be erected nearer the front, side and rear setback lines herein established, but in no event shall eaves, roofs, unroofed terraces and other projections extend more than three (3) feet into the minimum front, side and rear setback lines. Where there are two or more lots acquired as a single building site, the side lot lines shall refer only to the lot lines bordering the adjoining and adjacent property.

7. SWIMMING POOLS: The construction and use of swimming pools having an elevation in excess of two (2) feet above normal grade are not permitted. The outside edge of any pool above ground wall shall not be nearer than four (4) feet to the side lines of the house extended to the rear lot line. In cases where the back yard surrounding a pool is not fenced, the pool itself must be enclosed with a fence or other suitable enclosure. Prior to the construction of said pool or fence, approval of design shall be obtained from the TCHOA. Any spas or hot tubs shall be placed on either a rear patio or a pool deck. They shall not be visible from the front of the house.

8. TRAILERS PROHIBITED: No unlicensed, or non-operative motor vehicle may be parked on any lot at any time. No

commercial vehicle shall be parked on any lot except when rendering a service or making a delivery. All vehicles associated with the property owner (either owned by the property owner or their guests) shall be parked either on the street or on the paved driveway with the exception of the owner's special vehicles described below which shall be parked as outlined below. No motor vehicle shall be parked overnight in the public right of way. Special vehicles, boats, trailers, or campers of any type including but not limited to either self-propelled or towed, shall be parked off the driveway to the rear of the lot and shall be screened from view from the street by fence or shrubs. No major recreational equipment shall be parked or stored on any lot except in an enclosed building or to the rear of the front building line and shall be screened from view from the front street level by a fence or shrubs.. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on any lot.

9. SIGNS: No commercial sign of any character (excluding Real Estate for Rent or Sale signs) shall be displayed on any lot.

10. MINIMUM SIZE OF RESIDENCE: No residence shall be erected on any lot containing a floor area of less than 1800 square feet of actual living area. The method of determining the square foot area of proposed buildings, structures or additions or alterations on existing buildings, shall be by multiplying the outside horizontal dimensions of the buildings or structures at each floor level. Garages, unglassed porches, patios, and terraces shall not be taken into account in calculating the square footage. Each residential building must be provided with an attached garage in keeping with the architectural design of said building. No carports shall be allowed. No exposed block shall be used in front of any exposed side of a residence except for decorative purposes and then only with permission of the TCHOA.

11. REGULATION OF WALLS AND FENCES: No boundary wall, fence or hedge of any type or height shall be erected on any lot without first obtaining the written approval of the TCHOA, as to the type, size, color, location and height and materials to be used, and in no event shall any wall, fence or hedge be constructed or maintained with a height of more than six (6) feet.

12. NO SUBDIVISION OF LOTS: No lot as shown on the plat shall be subdivided except that a lot between two (2) other lots

may be subdivided to increase the size of such lots, and such lots of increased size shall each remain as one building site.

13. NUISANCES: Nothing shall be done on any lot which may be or become an annoyance or nuisance to the neighborhood. No horses, cattle, swine, goats, poultry, or fowl shall be kept on any lot. Household pets shall not exceed three (3) in number and shall not be bred for commercial purposes, nor allowed to run loose on the streets. Clotheslines shall be located to the rear of the lot or the side away from a side street. In all instances, said clotheslines shall be screened from view of the adjoining lots and streets. Garbage cans, fuel oil tanks, other storage tanks, swimming pool filters, etc., shall be of the underground type or concealed by hedges, lattice work, or screening acceptable to the TCHOA. They must be placed to the rear of the building. Air conditioning units either central or wall units, or permanently installed generator units, shall be screened from view from the front of the house.

14. WASTE: No lots shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All trash, garbage and other waste shall be kept in sanitary containers underground, or located within a masonry walled enclosure or screened with hedges, shrubs or by other suitable means.

15. EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat of the Property. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage swales in the easements, or which may obstruct or retard the flow of water through drainage swales in the easements, or which are or might be prohibited by the public authority to whom said easement is given. The easement areas of each lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

16. ROOFS: All Roofs or re-roofs shall be approved in advance by the TCHOA. All roofs shall be pitched and composed of either tile, slate, metal, cedar shake shingle, or simulated shake shingle, or of asphalt construction, provided said shingle is minimum 300 pounds per 100 square feet of roof.

17. RIGHT OF WAY: No lot owner shall grant any easement

for ingress or egress to any adjoining lot owner or adjoining property owner without the express written permission of the TCHOA.

18. MAINTENANCE OF UNIMPROVED PROPERTY: All owners of lots located within the Property agree to maintain and keep trim said lot or lots so that the appearance of such unimproved areas shall be neat and orderly. In the event any lot is not so maintained, then the TCHOA shall have the right to enter upon said lot for the purpose of maintaining said lot. All expenses thereof shall be charged to and paid by the owner of said lot.

19. GAME AND PLAY APPARATUS: All basketball backboards and any other game and play apparatus shall not be permanently affixed to the property.

20. SOD AND TREES: All lots shall be sodded, including the area reserved for the right of way to the rear lot line of the house. No sod or top soil shall be removed from the land without the approval of the TCHOA.

It shall be required of every lot owner that there be a minimum of four (4) trees to each lot being no less than ten (10) feet high or less than four (4) inches in diameter.

21. MAINTENANCE: The TCHOA is to have strict control over the plantings permitted within the right of way. No shrubs shall be allowed, only trees shall be permitted, and the type and spacing shall be specified by the TCHOA. Each lot owner shall be responsible for the maintenance of the right-of-way.

The landscaping and improvements on the lots shall be maintained in a manner that is consistent with the prevailing standards of the Property. The exterior of the house shall be clean, properly painted or finished, in good condition, and have no visible signs of deterioration such as torn or missing screening, hanging shutters, peeling paint, or damaged exterior structure. Furthermore the lawn and shrubbery shall be maintained regularly and kept trimmed properly. Lawns shall be kept green and cut with a minimum of visible weeds.

22. SPRINKLING SYSTEMS: All lots shall be required to have an underground sprinkling system including that area in the right-of-way. Deep wells shall be to the rear of the front line of the building and properly screened or enclosed. These systems shall be maintained to be functioning and be used properly to maintain a healthy (green) lawn.

23. PROPERTY OWNERS ASSOCIATION (TCHOA): Membership in the TCHOA, whether corporate or otherwise, shall be mandatory for all property owners in the Property. In addition to the Purposes herein above set forth, the TCHOA shall be responsible for maintaining the lights contained in the entrance way approach and shall also be responsible for the maintenance of the entrance. TCHOA will be empowered to levy and collect annual assessments to defray common area costs and expenses, and each property owner agrees to pay a proportionate part for the costs thereof upon demand by the TCHOA.

24. REMEDIES FOR VIOLATIONS: For a violation or a breach of any of these restrictions by any owner or occupant claiming by, through, or under the owner, the owner, the TCHOA, or the lot owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof, or to prevent the violation or breach of any of them. The failure promptly to enforce any of the restrictions shall not bar their enforcement. The invalidation of any one or more of the restrictions by any court of competent jurisdiction in no way shall affect any of the other restrictions, but they shall remain in full force and effect. In any legal action to enforce the covenants and restrictions, if the TCHOA prevails, it shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action, including costs and fees on appeal.

25. EXISTING LOTS AND HOMES AFFECTED BY FIRST AMENDED AND RESTATED DECLARATIONS: It is not the intent of the owners of lots in the Property nor the TCHOA to impose undue financial hardship on any owner who, solely by virtue of the adoption of this First Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements ("New Covenants"), becomes immediately in violation of such New Covenants. Therefore, owners who were in compliance with the original covenants affecting the Property before adoption of the New Covenants, who are rendered out of compliance solely by reason of adoption of the New Covenants, shall have no obligation to modify their homes or lots in order to become compliant with the New Covenants. However, in no event shall any owner or lot not in compliance with the original covenants be excused from compliance with the New Covenants as a result of this paragraph

Dated this _____ day of _____, 200_.

Signed, sealed and delivered
in the presence of:

**TURKEY CREEK HOMEOWNERS
ASSOCIATION, INC.**

Pat L. Naughton
Signature of Witness

Print Name Pat L. Naughton

Pat Howlett
Signature of Witness

Print Name Pat Howlett

By: *Richard Cloutier*
President

Print Name: Richard Cloutier

Address: 254.3 Lemon St. N.E. Palm Bay 32905

By: *Marilyn Howard*
Secretary

Print Name: Marilyn Howard

Address: 255 2 King St NE Palm Bay 32905