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**AMENDED AND RESTATED DECLARATION OF  
PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**MYSTIC COVE**

**(INCLUDES ORIGINAL COVENANTS DATED JUNE 10, 1988, RECORDED IN ORB  
791 AT PG 1852, ET SEQ, AS AMENDED BY AMENDMENT DATED JUNE 28, 1989,  
RECORDED IN ORB 869 AT PG 2279, ET SEQ, AND AS  
AMENDED BY AMENDMENT DATED MARCH 31, 2003, AND  
RECORDED IN ORB 1756 AT PG 630 ET SEQ)**

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#### **EXHIBITS**

**Exhibit "A" - Legal Description and Final Development Plan**

**Exhibit "B" - Preserve Area Management Plan**

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**THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS, made and executed this \_\_\_\_\_, 20\_\_, by MYSTIC COVE HOME OWNERS ASSOCIATION, INC., a Florida corporation not for profit, its successors and assigns, hereinafter called Association is as follows:**

**WITNESSETH:**

**WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Mystic Cove, dated June 10, 1988, was recorded in Official Record Book 791, Pages 1852 through 1885, of the public records of Martin County, Florida, and an Amendment to the Declaration dated June 28, 1989, was recorded in Official Record Book 869, Pages 2279 through 2283, of the public records of Martin County, Florida and Amendments to the Declaration dated March 31, 2003, were recorded in Official Record Book 1756, Pages 630 through 634, of the public records of Martin County, Florida. The same Declaration of Covenants and Restrictions is hereby replaced in its entirety by this restated Declaration of Covenants, Conditions and Restrictions for Mystic Cove as amended and as approved by the membership and by written approval by more than a majority of all members (the "Covenants" or "Declaration").**

**WHEREAS, Developer Mystic Cove Associates, a Florida General partnership, was the owner of that real property located in Martin County, Florida, and legally described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and**

**WHEREAS, it was the intent of Developer to establish a general plan and uniform scheme of development and improvement of the Property; and**

**WHEREAS, Developer desired to provide for the preservation and enhancement of property values, amenities and opportunities within the Property in order to contribute to the personal and general health, safety and welfare of the property owners and residents therein, and to maintain the land and improvements therein, and to this end subjected the Property to the covenants, restrictions, easements, reservations, Assessments, charge liens and other provisions that are hereby reinstated and replaced by this document.**

**NOW, THEREFORE, the Association hereby declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, reservations, assessments, charges, liens and other provisions hereinafter set forth in this Amended and Restated Declaration of Covenants and Restrictions.**

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**ARTICLE I**  
**DEFINITIONS**

The following terms, as used in this Declaration, shall have the following meanings:

1.1 **"Architectural Review Board" or "A.R.B."** shall mean and refer to that permanent committee of the Association, created for the purpose of establishing and enforcing criteria for the construction or alteration of Improvements within the Property.

1.2 **"Articles of Incorporation"** shall mean and refer to the Articles of Incorporation of the Association as they may exist from time to time.

1.3 **"Assessment"** shall mean and refer to those charges made by the Association from time to time against each Lot within the Property and against the Boat Slips, for the purposes, and subject to the terms, set forth herein.

1.4 **"Assignee"** shall mean and refer to one who has the exclusive right to use a Boat Slip, as a sub-tenant of the Association, which Boat Slip, as part of the Common Property, is located on submerged lands leased from time to time by the State of Florida to the Association, but shall exclude those having such interest merely as security for the performance of an obligation.

1.5 **"Association"** shall mean and refer to Mystic Cove Home Owners Association, Inc., a Florida corporation not for profit, and its successors and assigns.

1.6 **"Board" or "Board of Directors"** shall mean and refer to the Board of Directors of the Association.

1.7 **"Board Walk"** shall mean and refer to that Improvement designated as such upon the Property, as shown in Exhibit "A", and that said Improvement commences at the parking area and terminates at the "T" of the Boat Slip area.

1.8 **"Boat Slip"** shall mean and refer to any parcel shown as a boat slip upon the Property described in and shown in the Final Development Plan in Exhibit "A," which Boat Slip is for the exclusive mooring of a boat by an Assignee.

1.9 **"By-Laws"** shall mean and refer to the By-Laws of the Association as they may exist from time to time.

1.10 **"Common Expenses"** shall mean and refer to the all expenses incurred by the Association in connection with its ownership, maintenance and other obligations set forth herein.

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1.11 **"Common Property"** shall mean and refer to all of the following portions of the Property which are intended for the common use and enjoyment of the Owners and which are conveyed to the Association by deed or which are dedicated to the Association on any Plat of the Property, and all real, personal or other property which may at any time be acquired by the Association and shall include the Boat Slips which are on State land that is leased to the Association by the State of Florida, except that they are for the exclusive use of Assignees (See Sections 1.4, 1.8 and Article 10 of this Declaration). The following are the designations of Common Property in the Plat and in the Final Development Plan shown in Exhibit "A":

1.11.1 Plat designations:

Streets and Rights-of-Ways  
Landscape Areas  
Water Management Tract  
Upland Native Vegetation Preservation Easements  
(U.N.V.P.E.)  
Preserve Area  
Tract "A" -Parking/Recreation Area  
Utility Easements  
Drainage Easements  
Emergency Access Easement

1.11.2 Final Development Plan Designations:

Common Area Upland Preservation  
Upland Preservation Easements  
Mangrove Wetland  
Upland Preserve  
Retention Area/Transition Zone  
Wooden Boardwalk  
Boat Dock and Boat Slips

1.12 **"County"** shall mean and refer to Martin County, Florida

1.13 **"Declaration"** or **"Covenants"** shall mean and refer to this instrument, and all exhibits hereto, as the same may be amended from time to time.

1.14 **"Developer"** shall mean and refer collectively to MYSTIC COVE ASSOCIATES, a Florida General Partnership, its successors and assigns.

1.15 **"Dwelling"** shall mean and refer to any detached single family dwelling constructed, or to be constructed, on a Lot.

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1.16 "Improvements" shall mean and refer to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, swimming pool, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, recreational or playground equipment, or landscape device or object.

1.17 "Institutional Mortgagee" shall mean and refer to any bank, bank holding company, trust company or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company, or an agency of the United States Government, which holds a first mortgage of public record on any Lot.

1.18 "Landscape Areas" shall mean and refer to properties designated as such on the Plat of Mystic Cove P.U.D.

1.19 "Lot", also referred to herein as a "Parcel," shall mean and refer to any tract of land located within the Property which is intended for use as a site for a Dwelling, and which is designated as "Lot" on the Plat of the Property.

1.20 "Member" shall mean and refer to as member of the Association; also referred to herein as an "Owner" or "Parcel Owner."

1.21 "Mystic Cove" shall mean and refer to that residential subdivision of the same name located in the County; also referred to herein as the "Property."

1.22 "Owner" or "Parcel Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel, excluding, however, any Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure of any proceeding in lieu of foreclosure.

1.23 "Parcel" shall mean and refer to a Lot, and the dwelling located thereon, if any; also referred to herein as "Lot."

1.24 "Plat" shall mean the Plat of Mystic Cove P.U.D. as recorded in Plat Book 11 Page 64 of the Official Records of Martin County, Florida, as it may be amended from time to time.

1.25 "Preserve Area" shall mean and refer to the following within the Common Property, as shown in the Final Development Plan, attached as part of Exhibit "A": Upland Preserve; Mangrove Wetland; Transition Zone; Common Area Upland Preservation; Common Area Upland Preservation/Buffer; and Upland Preservation Easement and, as shown on the Plat of Mystic Cove P.U.D. as: Landscape Area; Upland Native Vegetation Preservation Easement ("U.N.V.P.E."); and Preserve Area which includes the Transition Zone.

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1.26 "Preserve Area Management Plan" or "PAMP" means and refers to that plan, attached hereto as Exhibit "B", used to govern all activities relating to the upland, wetland, transition zone and preserve areas as shown on the Final Development Plan in Exhibit "A" and compliance with which is enforced against the Association by Martin County.

1.27 "Property" shall mean and refer to Mystic Cove, legally described in Exhibit "A" attached hereto and made a part hereof, and such additional real property as may be subjected to the imposition of this Declaration from time to time, pursuant to Article 2 of this Declaration.

1.28 "Upland Native Vegetation Preservation Area" or "U.N.V.P.E." shall mean portions of certain Parcels that are dedicated by the Plat to the Association in perpetuity for preservation and maintenance of native vegetation.

1.29 "Water Management Tract" is defined as an area to store and dispose of storm run-off and is shown in Exhibit "A" and/or on the Plat for the subject Property filed in public records of Martin County.

## **ARTICLE 2**

### **PROPERTY SUBJECT TO THIS DECLARATION**

2.1 Existing Property. The Property subject to this Declaration is identified on the Plat.

2.2 Reserved for future use.

## **ARTICLE 3**

### **ASSOCIATED HOME OWNERS OF MYSTIC COVE**

3.1 Formation. At or about the time of the recording of this Declaration, developer caused the Association to be formed, by filing the Articles of Incorporation of the Association in the office of the Secretary of State of Florida. The Association was formed to operate, maintain and ultimately own the Common Property; to enforce the Covenants, conditions, restrictions and other provisions set forth in this Declaration; and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles of Incorporation and the By-Laws of the Association. Subject to the additional limitations provided in the Declaration and in the Articles of Incorporation and By-Laws, the Association shall have all of the powers and be subject to all the limitations of a not-for-profit corporation as contained in Florida Statutes, Chapter 617, Part I (1982) (the "Florida Not For Profit Corporation Act"), and of a homeowners association in Florida Statutes, Chapter 720 (2009) in

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existence as of the date of recording this Declaration in the public records of the County, as those statutes may be amended from time to time.

**3.2 Membership.** A person or entity shall automatically become a Member of the Association upon acquisition of fee simple title to any Parcel, by recording a deed to the Parcel in the public records of the County. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred and conveyed by operation of law, at which time membership, with respect to the Parcel conveyed, shall automatically be conferred upon the transferee. Membership shall be appurtenant to, and may not be separated from, ownership of Parcel(s) subject to this Declaration. No person or entity holding an interest of any type or nature whatsoever in a parcel only as security for the performance of an obligation shall be a Member.

**3.3 Voting.** The Association shall have one (1) class of voting membership. Each Member in good standing shall be entitled to one (1) vote for each Parcel owned by such Member as to matters on which the membership shall be entitled to vote, which vote may be exercised or cast by the Member in such manner as may be provided in the By-Laws of the Association. Any Member who owns more than one (1) Parcel shall be entitled to exercise or cast one (1) vote for each such Parcel. When more than one (1) person owns a Parcel, all such persons shall be Members and the vote for such Parcel shall be exercised as they, among themselves, determine; provided, however, that in no event shall more than one (1) vote be cast with respect to each Parcel. With respect to each Parcel owned by other than a natural person, or persons, the Owner shall file with the Secretary of the Association a certificate designating the name of an individual who shall be authorized to cast the vote of such Owner. If the certificate is not on file, the Owner(s) shall not be qualified to vote and the vote of such Owner(s) shall not be considered nor shall the presence of such Owner(s) at a meeting be considered in determining whether the quorum requirement has been met. If a Parcel shall be owned by a husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for said Parcel, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the Members, unless, prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Parcel at the meeting in which case the certificate requirements set forth above shall apply.

**3.4 Administration of the Association.** The affairs of the Association shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation and the By-Laws of the Association. The Articles of Incorporation and By-Laws may be amended in the manner set forth therein; provided, however, that no such amendment shall conflict with the terms of this Declaration, and provided further that no amendment, alteration or rescission may be made which affects the rights or privileges of any Institutional

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Mortgagee, without the express prior written consent of the Institutional Mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

**3.5 Suspension of Membership Rights.** No Member shall have any vested right, interest or privilege in or to: the assets, functions, affairs or franchises of the Association, or any right, interest or privilege which may be transferable, or which shall continue after his membership ceases, or while he is not in good standing. A Member shall be considered "not in good standing" during any period of time in which he is delinquent in the payment of any or all Assessments, any charge or interest payment authorized by the Declaration, or in violation of any provision of this Declaration or of any rules or regulations promulgated by the Association.

No member shall have any right to be a candidate for the board of directors, exercise voting privileges or share in any of the rights, privileges and assets of the Association, after his membership ceases, while he is not in good standing for failing to pay any assessments when due or is in violation of the Association Declaration, Bylaws or Rules. The issue of whether a member is in violation shall be determined by the vote of a super majority of the directors, excluding any director who is charged with a violation.

**3.6 Reserved for future use.**

#### **ARTICLE 4** **COMMON PROPERTY**

**4.1 Title to Common Property.** The Association owns and shall be responsible for the management, maintenance and operation of the Common Property and for the payment of all property taxes and other assessments which are liens against the Common Property, from and after the date of recordation of this Declaration or the original Declaration recorded in 1988.

**4.2 Acquisition and Conveyance of Property.** The Association shall have the power and authority to acquire and convey such interests in real and personal property as it may deem beneficial to its Members, which property shall be referred to herein as "Common Property". Such interests may include fee simple or other absolute ownership interests, leaseholds, or such other possessory use interests as the Association may determine to be beneficial to its Members.

**4.3 Maintenance of Property.**

**4.3.1** The Association shall be responsible for the maintenance and repair of the Common Property as hereinafter set forth.

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Specifically, the property to be maintained by the Association shall include, but not be limited to the following:

4.3.1.1 The entrance wall of MYSTIC COVE, the front gates and the shrubbery and other landscaping located along the entrance wall.

4.3.1.2 The parking area and the board walk as shown in Exhibit A.

4.3.1.3 The lighting located along the entrance wall, the Board Walk and the mail boxes.

4.3.1.4 The drainage retention tracts of MYSTIC COVE as shown on the Plat of the Property.

4.3.1.5 The Preserve Areas, as defined in Section 1.25 of this Declaration, are as shown on the Plat of the Property, and in the Final Development Plan, Exhibit "A". Martin County Land Development Code and Comprehensive Plan requires a Preserve Area Management Plan ("PAMP") to govern all activities relating to upland, wetland and transition zone preservation areas so noted on the Development Plan of Mystic Cove Planned Unit Development. Said plan will assure the viability of all preservation zones within the P.U.D. during construction and post construction activities. The PAMP is attached hereto and incorporated herein by reference as Exhibit "B". The Association is held accountable by Martin County for maintenance of native vegetation, removal of exotic vegetation and all other requirements of the PAMP and the Plat. Accordingly, all maintenance activities within the Preserve Areas including, but not limited to, planting or replacing native vegetation, removal of exotic vegetation, and the like, as required by the PAMP and the Plat, shall be conducted exclusively by the Association. Parcel Owners' activities within the Preserve Areas are restricted to bird watching and enjoying nature and, other than these authorized activities, any other activities within the Preserve Areas that are not authorized by the Association Board shall be deemed to be a violation of these Covenants. Any vegetation planted in the Preserve Areas without the prior authorization of the Board of Directors may, at the discretion of the Board, be removed or destroyed.

4.3.1.6 The Street.

**4.4 Rules and Regulations Governing Use of Common Property.** The Association, through its Board of Directors, shall regulate the use of the Common Property by Members and Owners, and may from time to time promulgate such rules and regulations consistent with this Declaration governing the use thereof as it may deem to be in the best interest of its Members. A copy of all rules and regulations established hereunder and any amendments thereto shall be made

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available to all Members by the Board of Directors. Such rules and regulations and all provisions, restrictions and covenants, including, without limitation, architectural and use restrictions contained in this Declaration, may be enforced by legal or equitable action of the Association.

**4.5 Owners' Easements of Enjoyment.** Subject to the provisions in the Declaration, By-Laws and Rules and Regulations, each Owner shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to, and shall pass with, the title to each Parcel.

**4.6 Extent of Owner's Easement.** The rights and easements of enjoyment created hereby shall be subject to the following:

**4.6.1** The right of the Association to borrow money for the purpose of improving the Common Property and, in connection therewith, to mortgage the Common Property.

**4.6.2** The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

**4.6.3** The right of the Association to suspend the enjoyment rights and easements of any Owner for any period during which the Owner is not in good standing pursuant to Section 3.5 of this Declaration.

**4.6.4** The right of the Association to properly maintain the Common Property, including the responsibility to maintain the Preserve Areas, as required and monitored by Martin County.

**4.6.5** The rules and regulations governing the use and enjoyment of the Common Property, as promulgated by the Association.

**4.6.6** The right of the Association to dedicate or transfer all, or any part, of the Common Property to any governmental or quasi-governmental agency, authority, utility, water management or water control district, or other entity or person.

**4.6.7** Restrictions contained on any plat, or filed separately, with respect to all or any portion of the Property.

**4.6.8** All of the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association and all exhibits thereto, as same may be amended from time to time.

**4.6.9** The Owners' easements of enjoyment shall be subject to easements, hereby reserved over, through and underneath the Common Property, and the Parcels for present and future utility services to the Property,

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including, but not limited to, easements for water pipes, sanitary sewer lines, emergency sewer lines, storm drainage pipes, sprinkler pipes, telephone cables, internet access cables or connections, security wires and street lights. Easements for such utility services are reserved by the Association for all buildings and improvements which have been or may be constructed on the Property and the Association may grant specific easements to utility companies and others as reasonably necessary.

4.6.10 The Association may grant easements over the Common Property for cable television, master internet access, or similar operations. However, the granting of such easements shall be in the sole and absolute discretion of the Association. No easement provided for herein or on any plat of the Property may be used for the above purposes without the consent of the Board, which consent may be made in its sole and absolute discretion.

4.6.11 In case of any emergency originating in, or threatening any Parcel, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association or any other person authorized by the Association, or the management agent under a management agreement, shall have the right to enter such Boat Slip or Parcel and the improvements located thereon, for the purpose of remedying, or abating, the cause of such emergency, and such right of entry shall be immediate, and without recourse to the Board or any of its committees, pursuant to Article 12 of this Declaration.

4.6.12 The Owners' easements of enjoyment shall be subject to the rights reserved by the Association to make changes to the Property in the future. As a material condition for ownership of a Parcel and Boat Slip, each Owner, by accepting a deed to a Parcel and Assignment of the right to use a Boat Slip releases Association from any claim for interference with his quiet enjoyment of his Parcel, Boat Slip or the Common Property, due to changes made to the Property, whether or not construction operations or alterations are performed on the Common Property, and each Owner acknowledges and agrees that the Association shall have the sole right of design, construction, development and improvement of the Common Property, Boat Slips and docks within the Property.

4.7 Continual Maintenance. In the event of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof.

## **ARTICLE 5** **EASEMENTS**

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**5.1 Easement Grants.** The following easements are hereby granted or reserved over, across and through the Property:

**5.1.1** Easements for the installation and maintenance of utilities are granted as shown on the recorded subdivision plats of the Property (provided, however, that this paragraph shall not apply to easement (s) for cable television, or master internet access, which shall be governed by paragraph 4.6.10 of this Declaration). An easement is reserved on each Boat Slip for the installation and maintenance of the service connection from the utilities on the Common Areas of the Property to any Boat Slip. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted or remain, unless such structure, planting or other material was installed by the Developer or by the Association. The Association, utility companies serving the Property, and their respective assigns, are hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

**5.1.2** Easements for the installation and maintenance of drainage facilities are granted to the Association and other entities as shown on the recorded plat of the Property. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels shall be placed or permitted to remain. The Association and its successors and assigns (and any other entity indicated on the Plat) shall have access to all such drainage easements for the purpose of operation and maintenance thereof. The Association and its successors and assigns (and any other entity indicated on the Plat) shall have access to all such drainage easements for the purpose of operation and maintenance thereof. The Association reserves the right to remove any plantings that are necessary to maintain proper drainage function; such costs of vegetation removal shall be the responsibility of the respective Parcel owner.

**5.1.3** The Common Property is hereby declared to be subject to a perpetual nonexclusive easement in favor of the Association, employees and agents of the Association, and of any management entity contracted by the Association, in order that such employees, agents and management entity may carry out their duties and may have reasonable access to all property dedicated to the Association to the recorded Plat of the Property or conveyed to the Association by deed.

**5.1.4** An easement is hereby granted to each Institutional Mortgagee holding a first mortgage upon any portion of the Property, for the purpose of access to the property subject to its mortgage.

**5.1.5** Reserved for future use.

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**5.1.6 Reserved for Future use.**

**5.2 Additional Easements.** The Association shall have the right to grant such additional easements (including, without limitation, easements to private cable television service companies, easements for master internet access and for any other private utility services) and to relocate existing easements throughout the Property as the Association may deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, provided that such additional easements or relocation of existing easements do not prevent or unreasonably interfere with the Owners' use or enjoyment of the Property.

**5.2.1 Easements** are expressly provided for and reserved in favor of Assignees, their guests and invitees, for ingress and egress over and about the Common Property for the purpose of entering and leaving the Boat Slips.

**5.3 Restriction on Owner Easements.** Except as specifically provided in paragraph 5.2 above with respect to the Association, no Owner shall grant any easement upon any portion of the Property to any person or entity, without the prior written consent of the Board.

**5.4 Wetland and Upland Preservation Areas.** These preservation areas exist throughout the entire project, as depicted on the Plat and on the Final Development Plan in Exhibit "A", as they may be amended from time to time, and exist to promote native vegetation in its original form. More specifically, they are variously referred to as Common Area Upland Preservation Buffer, Upland Preserve, Mangrove Wetland, Upland Native Vegetation Preservation Easements ("U.N.V.P.E."), Landscape Area, Transition Zone and Preserve Area. Owners' activities within these Preserve Areas are restricted to bird watching and enjoying nature, as provided in Section 4.3.1.5 of this Declaration. All maintenance of the Preserve Areas shall be conducted solely by the Association.

**ARTICLE 6  
ASSESSMENTS AND LIENS**

**6.1 Authority of Association.** The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.

**6.2 General Assessments.** General Assessments shall be determined annually for the purpose of maintenance and management of the Association and the Common Property and for the purpose of promoting the safety and welfare of the Owners thereof. Without limiting the foregoing, general Assessments shall be used for payment of: operation, maintenance and management of the Association

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and the Common Property, property taxes and Assessments against, and insurance coverage for, the Common Property; legal and accounting fees; management fees, normal repairs and replacements; charges for utilities used upon the Common Property; cleaning services; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against the Members or others; the creation of reasonable reserves; and all other expenses deemed by the Board of Directors of the Association to be necessary and proper for management, maintenance, repair, operation and enforcement. As stated, Assessments shall be for the maintenance and operation of the Common Property. Also, a separate and additional Assessment will be assessed to the Boat Slip Assignees for the docks, piers, pilings and marina basin and channels and for payment of any and all other expenses of operating or maintaining said area and facilities. (See Paragraph 10.4)

**6.3 Basis and Collection of General Assessments.** The Association shall annually estimate the Common Expenses it expects to incur and the period of time involved for those costs to be incurred and shall assess its Members and Assignees sufficient monies to meet this estimate. All Parcels shall be assessed at a uniform rate, to be determined by the Association, so that all Parcels subject to a general Assessment shall be assessed equally. Should the Association at any time determine that the Assessments made are insufficient to pay the Common Expenses, the Board of Directors shall have authority to levy and collect additional general Assessments to meet such needs. General Assessments shall be collectible in advance monthly, quarterly, semiannually or annually, as the Association Board shall determine.

**6.4 Special Assessments.** The Association shall have the power and authority to levy and collect a special Assessment from each Member for payment of the following: the cost of construction of capital improvements to the Common Property; the cost of construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto; and the expense of indemnification of each director, officer and member of the A.R.B. and of the Association. All special Assessments shall be at a uniform amount for each Parcel assessed. A special Assessment shall be collectible in such manner as the Board of Directors shall determine.

**6.5 Emergency Special Assessments.** The Association may levy an emergency special Assessment when, in the sole determination of the Board of Directors, there is potential danger of or actual damage to persons or Property. Emergency special Assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, improvements, repairs or replacements. Events justifying emergency special Assessments include, but are not limited to, hurricanes, floods, and fires. Emergency special Assessments shall be collectible in such manner as the Board of Directors shall determine.

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**6.6 Individual Assessments.** The Association shall have the power and authority to levy and collect an individual Assessment against a particular Parcel for the cost of maintenance, repairs, restoration or replacements within or without the Parcel, including on Common Property, which the Owner or Assignee thereof has caused the need for, or has failed or refused to perform, and which act, failure or refusal has, in the opinion of the Association, endangered or impaired the use or value of other portions of the Property, or for the cost of mowing and clearing Lots of debris and vegetation, pursuant to section 9.1.26.2 of this Declaration. The Association shall have a right of entry onto each Parcel to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. The individual Assessment may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors in its discretion from time to time. All individual Assessments shall be collectible in such manner as the Association shall determine.

**6.7 Effect of Non-Payment of Assessments.** All notices of Assessments from the Association to the Members shall designate when the Assessment is due and payable. If an Assessment is not paid on the date when due, it shall then become delinquent and shall bear interest from the date when due until paid and, pursuant to Section 3.5 of this Declaration, the member shall be considered not in good standing. In accordance with Section 720.3085(3), Florida Statutes, ("F.S."), the current allowable interest rate is 18 percent per year. The Assessment, together with interest thereon, the costs of collection thereof, including attorneys' fees, and an administrative fee of \$25 or five percent (5%) of the past due installment, whichever is greater, as authorized by Section 720.3085, F.S., as it may be amended from time to time, shall be a continuing lien against the Parcel against which the Assessment is made, and shall also be the continuing personal obligation of the Owner and/or Assignee thereof. The Association may also record a Claim of Lien in the Public Records of the County, setting forth the amount of the unpaid Assessment, the rate of interest due thereon, and the costs of collection thereof. If any Assessment, or any installment thereof, shall not be paid within thirty (30) days following the due date, the Association may declare the entire Assessment immediately due and payable. The Association may at any time thereafter bring an action to foreclose the lien against the Parcel assessed in the manner in which mortgages on real property are foreclosed, as provided in Section 720.3085, F.S., as it may be amended from time to time, or a suit on the personal obligation of the Owner. There shall be added to the amount of the Assessment the costs of such action, including attorneys' fees, and in the event a judgment is obtained, such judgment shall include interest on the Assessment, as above provided, and attorneys' fees incurred by the Association, together with the costs of the action. Regardless of the date of recordation of any claim of lien, the effective date thereof shall relate back, and it shall take priority, as of the date of recordation of this Declaration. Any successor in title to a Parcel shall be held to have constructive notice of the records of the Association to determine the existence of any delinquency in the payment of Assessments.

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**6.8 Certificate of Assessments and Estoppel.** The Association shall prepare a roster of the Boat Slips, Parcels and Assessments applicable thereto, which shall be kept at a location designated by the Board of Directors and shall be open to inspection by all Members. At the request of an Owner, the Board of Directors shall prepare a Certificate of Assessments and Estoppel signed by an officer of the Association, setting forth whether the Owner's Assessments have been paid or the amount which is due as of the date of the Certificate. When the request for a Certificate of Assessments is in connection with a sale or transfer of a Parcel to a new Owner, or an assignment of a Boat Slip to a new Assignee, the Association may charge a \$100.00 processing fee. As to parties without knowledge of error and who rely thereon, such Certificate shall be presumptive evidence of payment or partial payment of any Assessment therein stated as having been paid or partially paid.

**6.9 Subordination of Lien to Mortgages.** Regardless of the effective date of the lien of any Assessments made by the Association, such Assessment lien shall be subordinate and inferior to the first lien of the mortgage of any Institutional Mortgagee except that, notwithstanding any language to the contrary in the Covenants, pursuant to the provisions of Section 720.3085, F.S., as it may be amended from time to time; first Mortgagees that acquire title by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due before the Mortgagee's acquisition of title, provided that they comply with the requirements of the Florida Statutes, are liable for the lesser of one year's worth of past due Assessments or one percent (1%) of the principal amount of the original mortgage. Such subordination shall, however, apply only to the Assessments which have become due and payable prior to a final sale or transfer of the mortgaged Parcel pursuant to a decree of foreclosure, or in any other proceeding or conveyance in lieu of foreclosure of the mortgage, and provided that they comply with the other requirements of the Florida Statutes. No sale or other transfer shall relieve any Parcel Owner from liability for any Assessment becoming due thereafter, nor from the lien of any such subsequent Assessment. Any delinquent Assessments which are extinguished pursuant to a sale or transfer in connection with the foreclosure of a mortgage, or any proceeding or deed in lieu of foreclosure, shall be reallocated and assessed to all Owners and/or Assignees as a Common Expense. The written opinion of the Association that the Assessment lien is subordinate to a mortgage lien shall be dispositive of any question of subordination.

**6.10 Collection of Rent from Delinquent Leased Units.** During the time that any Owner is delinquent in payment of any Assessment, if the Owner's unit is occupied by a tenant, the Association may demand that the tenant pay to the Association any future Assessments as they accrue related to that particular unit. The demand shall be in writing and shall be continuing in nature. Upon demand the tenant shall pay the regular Assessments as they come due to the Association until the Association releases the tenant or the tenant discontinues

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tenancy in the unit. The Association shall mail written notice to the unit Owner of the Association's demand that the tenant pay Assessments to the Association. The tenant shall not be liable for increases in the amount of the Assessments due unless the tenant was notified of the increase at least five (5) days prior to the date that the rent is due. The tenant shall be given a credit against rents due to the unit owner in the amount of Assessments paid to the Association. The Association shall, upon request, provide the tenant written receipts for payments made. The Association may issue notices under Section 83.56, F.S. and may evict the tenant pursuant to Sections 83.59-83.625, F.S. as if the Association were a landlord under part 2 of Florida Statutes Chapter 83, should a tenant fail to pay any Assessment. However, the Association shall not otherwise be considered a landlord under Florida Statute 83 and shall specifically not have any duty required of landlords pursuant to Florida Statute Section 83.51. The tenant shall not, by virtue of payment of Assessment, have any of the rights of the Owner to vote at any of the elections or examine the books and records of the Association.

**6.11 Reserved for future use.**

**ARTICLE 7**  
**MAINTENANCE OF PROPERTY**

**7.1 Association Responsibilities.** The Association shall be responsible for maintenance of the Common Property, as defined in Section 1.11 of this Declaration, and said responsibilities are more fully described in Section 4.3 of this Declaration.

**7.2 Parcel Owner Responsibilities.** Except as specifically provided in Section 9.1.26.2 of this Declaration, the Owner of each Parcel shall be responsible for maintenance of the interior and exterior areas of his Dwelling and any other improvements constructed upon such Parcel, as well as all exterior areas of his Parcel, including but without limitation, landscaping, patio, terrace, garden areas, but, excluding U.N.V.P.E. preserves that lie within said Parcel, as shown on the Plat of the Property. The expense of any maintenance, repair or construction of any portion of the Common Property, or of any Improvements necessitated by the negligent or willful acts of an Owner, or his invitees, lessees, licensees, family or guests shall be borne solely by such Owner and his Parcel shall be subject to an Individual Assessment for such expense. All repairs and replacements made by an Owner shall be subject to the approval of the Architectural Review Board, as set forth in Articles 8 and 9 of this Declaration.

**ARTICLE 8**  
**ARCHITECTURAL CONTROLS**

**8.1 Architectural Review and Approval.** It is the intent of the Association to perpetuate a general plan and uniform scheme of development of the Property

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and to maintain within the Property a residential community of high quality and harmonious Improvements. Accordingly, the Architectural Review Board (the "A.R.B.") shall have the right to approve or disapprove all architectural, landscaping and location of any proposed Improvements, as well as the general plan for development of all Parcels within the Property. The A.R.B. shall have the right to evaluate all plans and specifications for Parcels as to harmony of exterior design, landscaping, and location of any proposed Improvements, in relation to surrounding structures and topography and as to conformity with such other requirements as shall be adopted by the A.R.B. The A.R.B. may, in its sole discretion, impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning or other local governmental codes. The procedures for the A.R.B. shall be as set forth below.

**8.2 Architectural Review Board Structure.** The A.R.B. shall be a permanent committee of the Association and shall administer and perform the architectural and landscape review and control functions of the Association. The A.R.B. shall consist of a minimum of three (3) voting members appointed by the Board of Directors and who shall hold office at the pleasure of the Board of Directors. The Board of Directors shall have the right: to change the number of members on the A.R.B., provided, however, that the A.R.B. shall at all times consist of at least three (3) members; to appoint all members of the A.R.B.; and to remove and replace all members appointed to the A.R.B. The Board of Directors shall provide for the terms of the members of the A.R.B. and shall determine which member of the A.R.B. shall serve as its chairman and which member of the A.R.B. shall serve as co-chairman. There shall be no requirement that any of the members of the A.R.B. be a member of the Association or an Owner within MYSTIC COVE. A majority of the A.R.B. shall constitute a quorum to transact business at any meeting, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the A.R.B.

**8.3 Powers and Duties of the A.R.B.** The A.R.B. shall have the following powers and duties:

**8.3.1** No Improvement shall be constructed, erected, removed, planted or maintained, including but not limited to landscaping, nor shall any addition to or any change, replacement or alteration therein be made to any Improvement until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme and the location of same shall have been submitted to and approved in writing by the A.R.B.

**8.3.2** As part of the application process, three (3) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person found to be qualified by the A.R.B. shall be submitted for approval by written application on such form as may be provided or required by the A.R.B. The A.R.B. may require submission of samples of building materials

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and colors proposed to be used. All construction shall be done by a licensed general contractor approved in writing by the A.R.B. Pursuant to Section 9.4 of these Covenants, no application for a building permit shall be submitted to Martin County Building Department unless and until the A.R.B. has approved the plans and approved the builder as indicated by the approval stamp used by the A.R.B. Fencing and landscaping design must accompany the final working drawings submitted to the A.R.B., for any proposed Dwelling.

8.3.3 In the event the information submitted to the A.R.B. is, in the A.R.B.'s opinion, incomplete or insufficient in any manner, the A.R.B. may request and require the submission of additional or supplemental information.

8.3.4 No later than fifteen (15) business days after written acknowledgement by the A.R.B. that it has received all information required by the A.R.B. for final review (unless the applicant waives this time requirement), the A.R.B. shall respond to the applicant in writing. The A.R.B. shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons. In approving or disapproving such plans and applications, the A.R.B. shall consider the suitability of the proposed improvements, and materials of which the same are to be built, the site upon which such Improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the A.R.B. fails to respond within said fifteen (15) day period (or such additional time as allowed by the applicant pursuant to a written waiver) the plans and specifications shall be deemed approved by the A.R.B.

8.3.5 Except as otherwise provided herein with respect to the construction of Dwellings, or as specifically excepted by the A.R.B., construction of all Improvements for which the approval of the A.R.B. is required under this Declaration, shall be completed within the time period specified by the A.R.B.

8.3.6 The A.R.B. shall, in all cases, have the right to determine and designate building set back line necessary to conform to the general plan of MYSTIC COVE, in order to preserve the integrity of MYSTIC COVE. In this respect, the A.R.B.'s judgment and determination shall be final and binding.

8.3.7 Upon approval by the A.R.B. of any plans and specifications submitted to the A.R.B., the A.R.B. shall notify the applicant in writing, and furnish a copy of such notification to the Board of Directors, which notification shall set forth any qualifications or conditions of approval. In the event that the A.R.B. disapproves any plans and specifications submitted to the A.R.B., the A.R.B. shall so notify the applicant in writing, and furnish a copy of such notification to the Board of Directors, stating the grounds upon which such disapproval is based. Any applicant may request a formal meeting with the A.R.B. to review the plans and specifications disapproved, said meeting to take place no

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later than thirty (30) days after written request therefor. Upon disapproval, any applicant may appeal the decision of the A.R.B. to the Board of Directors of the Association within thirty (30) days of the A.R.B.'s decision. The Board of Directors shall meet to review the disapproval within thirty (30) days of applicant's written request therefor and shall make a final determination no later than thirty (30) days from such meeting. The Determination of the Board of Directors shall be final and binding upon the applicant; provided, however, that no improvement shall be erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration, or which violates any zoning or building ordinance or regulation.

8.3.8 There is specifically reserved unto the A.R.B., and to any agent or member of the A.R.B., the right of entry and inspection upon any portion of the Property for the purpose of determination by the A.R.B. whether there exists any construction, placement or location of any Improvement which violates the terms of any approval by the A.R.B. or the terms of this Declaration, or any amendments hereto, or of any other covenants, conditions and restrictions to which any deed or instrument of conveyance makes reference. If any Improvement of any nature shall be constructed, placed, located, or altered without the prior approval of the A.R.B., the Owner shall, upon demand of the Association, cause such Improvement to be removed, relocated or restored in order to comply with the plans and specifications originally approved by the A.R.B. The Owner shall be liable for the payment of all costs of such removal or restoration, including all costs and attorneys' fees incurred by the Association. Such costs may also be the basis for an individual Assessment. The A.R.B. is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvement, the Association shall be entitled to recovery of court costs, expenses and attorneys' fees in connection therewith. All costs, expenses, and attorneys' fees of the A.R.B., including those incurred in connection with its enforcement or other powers, as provided herein, shall be borne by the Association; provided, however, that nothing provided herein shall be deemed to negate the Association's right to an award of the Association's and the A.R.B.'s attorneys' fees and costs if the Association is the prevailing party in any administrative or judicial proceeding. In the event that any Owner fails to comply with the provisions contained herein or other rules and regulations promulgated by the A.R.B., the A.R.B. may, in addition to all other remedies contained herein, record against that Owner's Parcel a Certificate of Disapproval stating that the Improvements on the Parcel fail to meet the various requirements of the A.R.B.

8.3.9 The A.R.B. with approval of the Board of Directors, is empowered to publish or modify design and development standards for MYSTIC COVE from time to time, including but not limited to the following:

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- 8.3.9.1      **Roof and roof design.**
- 8.3.9.2      **Fences, walls and similar structures.**
- 8.3.9.3      **Exterior building materials and colors.**
- 8.3.9.4      **Exterior landscaping.**
- 8.3.9.5      **Signs and graphics, mail boxes, address numbers and exterior lighting.**
- 8.3.9.6      **Building set backs, side yards and related height, bulk and design criteria.**
- 8.3.9.7      **Reserved for future use.**

**8.3.10 The A.R.B. may grant variances from the requirements contained herein or as elsewhere promulgated by the A.R.B., on a case by case basis; provided however, that the variance sought is reasonable and does not impose a hardship upon other Owners. The granting of such a variance by the A.R.B. shall not nullify or otherwise affect the A.R.B.'s right to require strict compliance with the requirements set forth herein on any other occasion.**

**8.3.11 Any and all alterations, deletions, additions and changes of any type or nature whatsoever to the plans or specifications approved by the A.R.B. shall be subject to the approval of the A.R.B. in the same manner as required for approval of original plans and specifications.**

**8.3.12 Reserved for future use.**

**8.3.13 The A.R.B., with approval of the Board of Directors, may adopt a schedule of reasonable fees for processing requests for approval. Such fees, if any, shall be payable to the Association at the time that the plans and specifications and other documents are submitted to the A.R.B. The payment of such fees, as well as other expenses of the A.R.B. required to be paid shall be deemed to be an individual Assessment, enforceable against the Owner and the Parcel as provided hereinabove.**

**8.3.14 Neither the directors, officers of the Association, the members of the A.R.B., the Boat Slip subcommittee, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any Owner within MYSTIC COVE or any other party whatsoever, due to any mistakes in judgment, negligence or any action of the A.R.B. in connection with the approval or disapproval of plans and specifications. Each Owner and occupant of any property within MYSTIC COVE agrees, as do their successors and assigns by acquiring title thereto or an interest therein, or by assuming possession thereof,**

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that they shall not bring any action or suit against the directors or officers of the Association, the members of the A.R.B., or their respective agents, in order to recover any damages caused by the actions of the A.R.B. The Association shall indemnify, defend and hold harmless the A.R.B. and each of its members from all costs, expenses and liabilities, including attorneys' fees, of all nature resulting by virtue of the acts of the A.R.B. or its members. Neither the directors or officers of the Association, the members of the A.R.B., nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

## **ARTICLE 9**

### **USE RESTRICTIONS**

#### **9.1 Restrictions on Use of Parcels and Common Property.**

**9.1.1 Residential Use.** All Parcels shall be used only as single family, private, residential dwellings and for no other purpose. No business or commercial building may be erected on any Parcel, and no business may be conducted on any part thereof. Written approval of the Board of Directors of the Association is required prior to the execution of any lease or sublease of any Dwelling. The purpose is to ensure that Mystic Cove retains its private, residential character, that any leased Dwelling will be maintained as required by these Covenants, and that no prospective lessee presents a danger, threat, or material incompatibility with the community, so as to constitute a detriment to the well-being or property values of the other owners.

**9.1.1.A Leases.** At least 21 calendar days prior to leasing a property in Mystic Cove, an Owner or lessee shall submit to the Board of Directors an Application for Lease, a copy of the proposed lease, and a \$100.00 processing fee. Application Forms are available at mysticcove.net and from the Board of Directors or from the management company. In the event the board fails to respond within twenty-one (21) calendar days after acknowledgement in writing of the receipt of the application by the Board of Directors, the lease shall be deemed approved by the Board. Once approved, the Owner shall provide the Association a security deposit in the amount of one month's rent for use if needed to maintain the Parcel in accordance with these Covenants.

**9.1.1.B** Leases shall be in writing and include a copy of these Covenants. Occupancy shall be limited to the lessee, members of his family and his social guests. A Dwelling may be rented only in its entirety--no rooms may be rented, no transient tenants are allowed. The lease shall specify who is responsible for maintaining the Dwelling and Parcel. Unless alternate

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arrangements are approved in writing, the Association shall assume responsibility for maintaining the landscaping of leased Parcels, and the cost shall be assessed to the Parcel Owner as an individual Assessment pursuant to Section 6.6 of these Covenants.

9.1.1.C The lessee and all occupants shall abide by all provisions of these Covenants. The Association has the right to terminate any lease upon default by the tenant in observing any of the provisions of the Covenants. The Association, as agent for the landlord/owner, has the power to evict tenants for violations of these Covenants. The owner remains jointly and severally liable to the Association for the acts and omissions of his tenants which are a violation of these Covenants.

9.1.1.D The Board of Directors of the Association shall consider the following criteria in determining whether to approve a lease, but may also consider any applicable special circumstances. Consent shall not be unreasonably withheld.

(1) No Owner shall lease a Dwelling for a period of one year after its initial purchase or receipt of certificate of occupancy, beginning on date the deed is recorded in the Public Records of Martin County, except in hardship cases.

(2) The lease term shall be specified and limited to one lease per year. Lease renewals are subject to the same approval as the initial lease.

(3) All dues and Assessments shall be paid up to date, except in hardship cases when a reasonable payment schedule is provided.

9.1.1.E. Pursuant to Section 720.3085(1)(d), F.S., if the Parcel is rented or leased during the pendency of a foreclosure action initiated by the Association to collect delinquent Assessments, the Association is entitled to the appointment of a receiver to collect the rent to be applied to delinquent Assessments. The expenses of the receiver must be paid by the party who does not prevail in the foreclosure action.

9.1.2 Pets. Parcel Owners may keep as pets: dogs, cats, tropical fish and birds; provided that no more than four (4) pets per Parcel shall be permitted with the exception of tropical fish, and that no such pets are kept, bred or maintained for any commercial purpose. All dogs shall be on a leash under the direct control of a responsible person at all times when the dog is outside of a Dwelling. At no time shall a dog be allowed to enter upon any Parcel other than the Parcel on which the pet is kept. The dog owner shall be responsible at all times for cleaning up and removing all excrement after a dog relieves itself while on the Property and for appropriately disposing of said

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excrement using sanitary containers on said Owner's Parcel. The Board of Directors of the Association shall have the right to order the removal of any pet which is considered a nuisance, in the Board's sole discretion. In such event, the Board of Directors shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the Property.

9.1.3 **Lot Restrictions.** One (1) Lot, as shown on the plat for the Property, shall be the minimum land area upon which a Dwelling may be constructed.

9.1.4 **Floor Area.** Each Dwelling shall have a minimum floor area of 2,000 square feet. A two (2) story Dwelling shall have a distribution of living area among the two (2) stories which shall be approved by the A.R.B. The calculation of square footage of floor area living space shall not include: garages, covered walks, open and/or screened porches, patios, terraces, pool areas or other similar areas. Square footage measurements shall be taken from outside exterior walls of Dwellings.

9.1.5 **Garages.** Each Dwelling shall have an enclosed garage with sufficient space for a minimum of two (2) and a maximum of three (3) passenger automobiles. All garage doors shall be operated by electric door openers. No carports will be permitted. The enclosed garage shall have a minimum of 450 square feet as to provide for sufficient storage space.

9.1.6 **Subdivision of Lots.** No lot shall be re-subdivided to form a lot smaller than a platted Lot; provided, however, that the Owner of two (2) contiguous Lots may apply to the A.R.B. for permission to use such Lots as a site for a single Dwelling; and, upon the written consent of the A.R.B., said contiguous Lots shall then be defined as the "Lot" for purposes of this Declaration, except that the Lots shall continue to be treated as separate and distinct Lots for purposes of voting and Assessment. The Owner of such Lots shall not be required to comply with the side yard setbacks set forth herein, except that such Owners shall be required to comply with the outside Lot lines of the combined Lots.

9.1.7 **Setbacks.** Setbacks shall be as specified in the Final Development Plan for Mystic Cove, as approved by the Board of County Commissioners of Martin County, last modified on July 9, 1996, and as it may be amended from time to time. The current Final Development Plan is in Exhibit "A".

9.1.7.A. Where building or patio setbacks and Preserve Area easements overlap or conflict, the Preserve Area easement shall be the limits of construction.

9.1.7.B. No structure of any kind, including, without limitation, fences higher than six (6) feet, shall be permitted in any building setback area,

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except that air conditioning equipment, water softeners, sprinkler controls and other similar utilitarian devices are permitted provided they do not extend more than four (4) feet into the setback area and provided further that they are properly screened from view in a manner approved in writing by the A.R.B.

9.1.8 Fences, Walls and Hedges. The composition, location and height of any fence, wall or hedge to be constructed on any Lot shall be approved, in advance, by the A.R.B. The A.R.B. shall require the composition of any fence, wall or hedge to be consistent with the material used in the surrounding Parcels, if any. Chain link fencing may not be used.

9.1.9 Swimming Pools. Any swimming pool to be constructed on any Parcel shall be subject to the requirements of the A.R.B., which shall include, but not be limited to, the requirement that all swimming pools shall be permanent, in-ground structures. No temporary or above-ground pools shall be permitted.

9.1.10 Roofs. All roofs shall have a minimum pitch of five and one-half (5 ½) in twelve (12) inches. There shall be no flat roofs. The following roof styles and materials shall be permitted: Cement or clay tile, cedar shake shingles, or metal sheet that meets the following specifications – metal sheets of no less than 26 gauge steel which shall be of the LOC seam style – standing seam, metal roof finish shall be galvalume aluminum-zinc alloy, metal roofing ribbing shall be of no less than 16 inches and no more than 24 inches wide, and metal roof panels shall be mechanically seamed and shall meet SBCCI codes, and UL 90 Uplift Ratings. (Standing “T” commercial grade, 20 gauge metal roofing is also acceptable.) No roof shingles of any other type are allowed. Other roof treatments, such as decks or plexiglass solariums, may be allowed if approved in advance by the A.R.B. and if demonstrated to meet all applicable building and hurricane code requirements, to be consistent with the quality of homes in the neighborhood, and to be amenable to routine maintenance. All roofing shall be approved, in advance, by the A.R.B.

9.1.11 Driveways. All Driveways and parking areas shall have hard impervious, dustless surfaces, constructed of either concrete or approved cement products. Gravel and/or asphalt surfaces are not permitted. Driveways may connect to the Street at only two (2) points and such connections shall provide continuity of the drainage swale and shall blend into the street pavement. No curbside parking areas may be created by extending any portions of Street pavement. All driveways shall be approved in advance by the A.R.B.

9.1.12 Recreational and Commercial Vehicles. No boats, recreational vehicles, trailers or habitable motor vehicles of any kind, commercial vehicles, inoperative or unsightly motor vehicles, or other motor vehicles, except four-wheel passenger automobiles and four wheel pick-up trucks having a payload capacity not in excess of three fourths (3/4) of a ton shall be placed,

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parked or stored upon any Parcel nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Parcel except within a building and totally removed from public view. Notwithstanding the foregoing, service and delivery vehicles may park on a Parcel during regular business hours, as needed for providing services or deliveries to the Parcel, and recreational vehicles may be parked on a Parcel for a period not exceeding eight (8) hours in any twenty-four (24) hour period, while the owner or driver thereof visits the Parcel Owner. In the event of a dispute concerning the type of vehicle, the manufacturer's classification of the vehicle shall control. The Association shall have the right to authorize the towing of any vehicles in violation of this provision, and to collect the costs thereof from Owners, as an individual Assessment.

9.1.13 Temporary Structures. No structure or object of a temporary character such as, but not limited to, house trailers, vans, tents, shacks, sheds, or temporary or accessory buildings or structures, shall be erected, kept or maintained on the Property, or any part thereof.

9.1.14 Insurance. No Owner shall permit or suffer anything to be done or kept within his Parcel, or make any use of the Common Property, which will increase the rate of insurance on any portion of the Property.

9.1.15 Nuisances. No use or practice which is either an annoyance to Owners or an interference with the peaceful possession and proper use of the Property by the Owners shall be allowed. No Owner shall commit or permit any nuisance or any immoral or illegal activity in or about the Property. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet or comfort of the Owners, or allow any such noise or disturbance to be made on his Parcel.

9.1.16 Outside Displays. No Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Dwelling, nor shall be placed any furniture or equipment outside the Improvements of the Parcel, except with the prior written consent of the A.R.B. This provision shall neither prohibit holiday decorations nor prohibit the use of patio furniture within the confines of a patio appurtenant to a Dwelling.

9.1.17 Antennae and Other Rooftop Accessories. No radio, television or other electronic antennae, aerial or satellite receiving dish or other reception or transmission device may be erected or maintained anywhere on the Common Property (unless installed by the Association), or the exterior of any Dwelling, without the prior written approval of the A.R.B. Solar apparatus may be placed upon the roof of a Dwelling only after the plans and specifications for the

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installation of such apparatus have been submitted to and approved, in writing, by the A.R.B., which approval may not be arbitrarily withheld.

9.1.18 Clotheslines. No clothesline or other outside drying apparatus may be located on a Parcel, except within an area which is adequately screened from view from the street and from other Parcels. This section is not intended to prohibit clotheslines or other drying apparatus, but is intended to require placement of such items in a manner so as not to detract from the aesthetic appearance of MYSTIC COVE.

9.1.19 Access to Parcels. Whenever the Association is permitted or required by this Declaration to enter any Parcel for the purpose of correction, repair, cleaning, clearing, mowing, or any other required or permitted activity, such entrance shall not be deemed a trespass.

9.1.20 Artificial Vegetation. No artificial grass, artificial plants or other artificial vegetation shall be placed or maintained upon any Parcel without the prior written approval of the A.R.B.

9.1.21 Mailboxes and Postal Stand. All mailboxes and postal stands shall be uniform in design as approved by the A.R.B. and will be required at each lot. Features include: cedar and pressure treated lumber construction, primed and painted, with fluorescent light, photo cell and sand blasted addresses (numbers). An electrician must wire this stand to a circuit breaker so that no switch can interrupt its service. The lights will offer soft and effective security light to the development as well as ease for nighttime guests. After initial installation by Owner, the Association is responsible for maintaining, repairing, and replacing, if necessary, the postal stand and all of the components. Owners are responsible for providing electricity to the stand.

9.1.22 Color of Dwellings. The color of all exterior surfaces of dwellings, including any fencing, must be approved in advance by the A.R.B. No Owner may alter or change the color of the exterior surfaces of his Dwelling without the prior written approval of the A.R.B.

9.1.23 Lawns and Landscaping.

9.1.23.1 Unless a Parcel Owner chooses to landscape a Lot utilizing Florida Friendly landscaping or Xeriscape, which is subject to approval of the A.R.B., all lawns in front of all Dwellings shall extend to the pavement line. No gravel or blacktop or paved parking strips shall be allowed on any Parcel unless such strips were on the original plans and specifications, approved by the A.R.B., or were subsequently approved in writing by the A.R.B. Upon the completion of any Dwelling, the lawn area on all sides of such Dwelling shall be completely sodded with Floratam grass, including swale areas adjacent to a Parcel which may be included in dedicated easements or rights-of-way, it

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being the intent that all completed Dwellings shall be surrounded by a uniform green, luxuriant and well-kept lawn. Landscaping must be completed within thirty (30) days of the issuance of a Certificate of Occupancy for the Dwelling. No alteration or change to completed landscaping may be made without the prior written approval of the A.R.B.

9.1.23.2 Following the sodding of a Parcel, the lawn shall be regularly fertilized and treated for pests and weeds as needed so as to maintain a green, luxuriant and well-kept lawn at all times. Grass growth shall not exceed a maximum of four inches (4") above the ground at any time and all trees and shrubbery shall be appropriately trimmed as needed.

9.1.23.3 Each lot is to have landscaping, including trees and shrubs commensurate with other landscaping throughout the community, which may qualify as Xeriscape or Florida Friendly, as approved by the A.R.B.

9.1.23.4 Automated irrigation shall be required and installed at the time of construction of a Dwelling, and is required to be kept in good working order, and shall be adequate at all times to service all landscape elements, and such system shall include moisture sensing devices to assist in water conservation.

9.1.24 Signs. No signs, advertisements or notices of any kind shall be displayed to the public view on any Parcel except signs for rentals or sales of homes or lots or a sign of a reasonable size provided by a contractor for security services within ten (10) feet of any entrance to the home, as provided by Section 720.304(6), F.S., as it may be amended from time to time.

9.1.25 Easements. With the exception of driveways within utility easements and rights-of-ways and landscaping within utility easements, no building or other Improvements of any kind shall be built or maintained within any easement or right-of-way and said easements and rights-of-ways shall at all times be open and accessible to the persons entitled to the use thereof. Notwithstanding the foregoing, landscaping approved by the A.R.B. within a utility easement shall be conditioned upon the need at all times for persons entitled to use the easements to have access to and to remove if necessary any such landscaping inhibiting access; at the expense of the Owners. Owners shall maintain landscaping approved by the A.R.B. in front of each Parcel to the edge of the pavement of the street and in the rear of each Parcel to the rear of Lot line but excluding U.N.V.P.E. preserves which are maintained by the Association as specifically provided in Section 7.2.

9.1.26. Maintenance of Lots.

9.1.26.1 Maintenance of Parcels, Swale Areas and Drainage Easements. All Parcels shall be kept in a clean and sanitary condition, and no

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rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. All Parcels and all swale areas abutting Parcels, whether or not such swale areas are a part of the Parcel, shall be mowed and edged and kept free of debris and vegetation (including weeds, underbrush and/or unsightly growths) up to the curb of the street abutting the Parcel. Each individual lot owner shall also maintain all drainage easements abutting their lot and located between said lot and the roadway within Mystic Cove in the same condition and manner as the lots are required to be maintained pursuant to this Declaration and to the South Florida Water Management District requirements. In addition, each individual lot owner is required to sod said swale area and install and maintain an adequate automated irrigation system within or upon said swale area at such time as a residence has been constructed upon the abutting lot. In the event an Owner fails to maintain his Parcel, swale areas and drainage easements, as aforesaid for a period of at least thirty (30) days, the Association shall have the right, exercisable in its discretion, to mow, burn or clear any weeds, grass, underbrush or unsightly debris and/or growths from any Parcel deemed by the Association to be a health menace, fire hazard or a detraction from the aesthetic appearance of MYSTIC COVE; provided, however, that at least ten (10) calendar days prior notice shall be given by the Association to the Owner of such Parcel before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then, and in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Florida shall be charged to the Owners as an individual Assessment and shall become a lien on the subject Parcel, which lien shall be effective, have priority, and be enforced pursuant to the procedures set forth in Article 6 of this Declaration.

**9.1.26.2 Vacant Lot Maintenance.** The Parcel owner shall be responsible to mow and keep clear of debris and vegetation (including weeds, underbrush and unsightly growths) his or her Lot that has not had construction of a Dwelling completed on it. Completion of construction shall be defined as issuance of a Certificate of Occupancy for the Dwelling. In the event the Parcel owner does not maintain a Lot in compliance with this requirement, the Association shall have the option, but not the responsibility, to mow and keep the Lot clear of debris, vegetation, weeds, underbrush and unsightly growth and the cost of such mowing and upkeep shall be assessed against the Lot Owner as an Individual Assessment pursuant to Article 6 of this Declaration.

**9.1.27 Refuse Containers and Storage Tanks.** No Parcel shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary refuse containers, which shall be placed underground or in a screened-off area, so that it is not visible from the street or from adjoining Parcels. All oil tanks or bottle gas tanks must be kept underground or placed in a screened-off area so they shall not be visible from the Street or from adjoining Parcels. Trash, refuse or waste materials shall not be burned on any Parcel.

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During construction, a twenty (20) yard roll off dumpster must be used for all construction debris.

**9.1.28 Storage Facilities, Tool Sheds, Garden Houses and Garages.** All storage facilities, tool sheds, garden houses, garages, raised platforms and other similar Improvements shall be attached to the Dwelling so that such Improvements and the Dwelling constitute a single structure.

**9.1.29 Occupancy of Certain Improvements.** No basement, garage, trailer or partially completed building shall be used for human occupancy.

**9.1.30 Guest Facilities.** A guest suite or like facility, without a kitchen, may be included as part of the main Dwelling, but such suite may not be rented or leased except in connection with a lease of the entire Dwelling, and provided, however, that such guest suite or like facility would not result in overcrowding the Parcel. The plans and specifications for any such guest suite must be approved, in advance, by the A.R.B.

**9.1.31 Overnight vehicle parking in streets prohibited.** No vehicle of any kind shall be parked overnight on the Street.

**9.1.32 Siding Requirements.** No T1-11 siding will be allowed. No centers greater than 16" will be allowed on board/batten application. Board-batten shall be no less than 1 x 3.

**9.2 Rules and Regulations.** No person shall use the Common Property, or any Parcel, in any manner contrary to, or not in accordance with, the rules and regulations which may be promulgated by the Association from time to time, whether or not such rules and regulations are restated herein in whole or in part.

**9.3 Reserved for future use.**

**9.4 Approval.** No plans may be submitted to Martin County on behalf of a lot owner until they have first been approved by the A.R.B.

## **ARTICLE 10** **ASSIGNMENT AND USE OF BOAT SLIPS AND DOCK**

**10.1 Establishment of Subcommittee to H.O.A.** A subcommittee of the Mystic Cove Home Owners Association is hereby established to be responsible for the maintenance and operations of the Boat Slips, including but not limited to, docks, utility equipment and pilings. The subcommittee shall be made up of all Assignees of Boat Slips. Each member of the subcommittee in good standing shall have one vote on all matters involving operation and maintenance of Boat Slips and docks. The members shall elect a chairman and vice chairman of the

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subcommittee who shall preside over all meetings of the subcommittee and coordinate the actions of the subcommittee with those of the homeowners Association. The subcommittee is charged with the responsibility of enforcing all rules and regulations and the provisions of Article 10 and Article 11 and other relevant provisions of the Declaration of Protective Covenants, Conditions and Restrictions for Mystic Cove Subdivision.

**10.2 Assignment And Use Of Boat Slips And Docks - Designation of Boat Slips.** Each Boat Slip shall only be assigned to a member in MYSTIC COVE. Members to which Boat Slips have been assigned shall be entitled to make use of, to lease and to further assign their respective Boat Slips as hereinafter set forth. Notwithstanding any other provision of this Declaration, the assignment of a Boat Slip shall only mean the assignment of a right to use the Boat Slip and shall never be deemed to mean that the Assignee has an ownership interest in the Boat Slip.

**10.3 Right of Use of Boat Slips and Dock.** Any Assignee who has been assigned a Boat Slip shall be entitled to the exclusive right of use and occupancy of that Boat Slip and the right of non-exclusive use of the dock adjacent to that Boat Slip, subject to the procedures, conditions, restrictions, rules and regulations herein set forth.

**10.4 Assessments for Boat Slip Assignees and Reassignment of Boat Slips by Board if Boat Slip Assessments are Delinquent.**

**10.4.1.** Boat slip Assignees are obligated to pay Assessments to the Association, general, special, individual and emergency, in the same manner as Parcel Owners are required to pay Assessments except that Boat Slip assessments shall be used only for the maintenance and operations of the Boat Slips. Maintenance and operations of the Boat Slips, includes but is not limited to, lease payments to the State of Florida, expenses to comply with the requirements of the submerged lands lease, maintenance and operation of docks including replacement or repair as may be required from time to time, water and utility charges, utility equipment and pilings, and the like. Special Assessments and emergency special Assessments for the Boat Slips may be charged to Assignees by the Association utilizing the same procedures as described in Article 6 except that utilization of funds derived from Assessments for the Boat Slips is restricted as provided above.

**10.4.2.** In the event that Boat Slip Assignees are delinquent in payment of Boat Slip Assessments for 180 days, or, when they are charged quarterly, for two Assessments, the Board may reassign the Boat Slip to a new Assignee if the Assessments or any portion of the Assessments remain unpaid after 30 days written notice having been given to the last Assignee on record with the Board of Directors; see Paragraph 10.7 of these Covenants. In recognition of the fact that Boat Slip assignments have value, and Assignees have paid for their

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assignments of Boat Slips, the Board shall use its best efforts to reassign Boat Slip assignments in a commercially reasonable manner and shall pay the delinquent Boat Slip Assignee any surplus funds received for the Boat Slip reassignment in excess of the amount of the delinquent Boat Slip Assessments.

**10.5 Vessel to use Boat Slip.** The size of boat allowed in an individual Boat Slip is as authorized by the Florida Department of Environmental Protection Submerged Lands Lease and by approvals or permits issued by other regulatory bodies with jurisdiction, as amended from time to time. The Association reserves the right to disallow and remove any improperly moored or unapproved vessel after proper notification.

**10.6 Transfer of Boat Slip to Non-Owner Prohibited.** A Boat Slip shall not be transferable to any person who is not a member of the MYSTIC COVE HOME OWNERS ASSOCIATION INC. The assignment of a right to use a Boat Slip to a person who is not a member of said Association shall be void and of no effect.

**10.7 Assignment of Boat Slips.** The assignment of a Boat Slip shall be in writing, executed by the Assignor and the Assignee, and the Assignee shall promptly notify the Board of Directors of the assignment. The Assignee's right to use the Boat Slip shall terminate automatically upon the termination of the Assignee's ownership of the Parcel in MYSTIC COVE, unless Assignee assigns his Boat Slip to the grantee of his Parcel or to another qualified person as herein set forth; otherwise the provisions of Paragraph 10.8 shall apply.

**10.8 Failure to Assign Boat Slip Upon Transfer of Parcel in MYSTIC COVE.** In the event that an Assignee transfers his Parcel in MYSTIC COVE and is no longer a member of the MYSTIC COVE HOME OWNERS ASSOCIATION, INC., and provided the transfer is made without assigning his right to use his Boat Slip to a qualified person, then the Assignee's right to use the Boat Slip shall be suspended unless and until the Assignee further assigns his right to use the Boat Slip to a qualified person. During the period that the Assignee's right to use the Boat Slip is suspended, he shall be responsible for all charges and expenses assessed against the Boat Slip in accordance with this Declaration. During the period that the Assignee's right to use the Boat Slip is suspended, the Assignee shall not have the right to moor a boat at the Boat Slip.

**10.9 Right to Lease.** An Assignee having a Boat Slip, pursuant to an assignment in compliance with paragraph 10.7 above, shall have the right to lease the Boat Slip, provided that: (i) the Assignee has the written approval of the "lessee" by the Association, which approval shall not be unreasonably withheld; (ii) the lessee shall be an Owner in MYSTIC COVE; (iii) the lease shall terminate automatically upon the termination of the lessee's lease or ownership of a Parcel in MYSTIC COVE or upon termination of lessor's Boat Slip assignment (See Sections 10.4 and 10.8 of this Declaration); (iv) the lease is in writing executed by lessor and lessee, and requires lessee to comply with all of the terms and

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conditions of this Declaration; (v) the lease provides that lessor shall not be relieved of any obligation under this Declaration by virtue of the lease; and (vi) an executed copy of the lease is delivered to the Association.

**10.10 Restrictions on Assignees and Lessees Permitting Use of Boat Slips and Docks by Others.** No Assignee or lessee may permit another person to use his Boat Slip unless such person is another Assignee or lessee of a Boat Slip or a guest of an Assignee or a guest of a lessee of a Boat Slip. Because of the Association's insurance requirements, unless authorized in writing in advance by the Association, only boats owned by or leased by Assignees or lessees may be moored in a Boat Slip. The term "guest" as used in this Declaration shall be limited to those persons who are temporarily residing in the residence of the Assignee or lessee as guests, or who are visiting the Assignee or lessee of a Boat Slip on the guest's vessel; subject to advance written approval of the guest's vessel by the Association.

**10.11 No Warranty of Boat Slips and Docks, etc. by Association - Utilization at Sole Risk of User.** The Association makes no warranty of any kind, express or implied, as to the condition of: the docks and the channel leading thereto, the Boat Slips, walkways, gangways, rampways, pilings, or mooring gear or the safety thereof during storms, high winds or other times. The Association makes no representations or warranty of any kind, express or implied, regarding use of the Boat Slips. All Assignees acknowledge and agree by acceptance of their Assignment that authorization by the Association to use the Boat Slips as a sub-tenant of the Association is not a permanent authorization but automatically renews each year provided that the terms and conditions of the authorization are complied with. The use of the Boat Slips and docks by Assignees, lessees and guests is at the sole risk of those persons, and the Association shall not be responsible for injuries to persons or damage to property occurring therein or thereon.

**10.12 Assignee's Responsibility for damages - Indemnification - Insurance**  
Those persons who have been assigned Boat Slips shall:

**10.12.1** Be responsible to the Association immediately upon demand for any and all damages to docks, Boat Slips, walkways and boat basin, including any electrical and water systems, caused by any act of the Assignee or his guests or lessees, ordinary wear and tear excepted. Any such damage shall be the responsibility of the Assignee(s) of the Boat Slip and may be the subject of an individual Assessment to the Assignee if the Association repairs the damage.

**10.12.2** At all times while utilizing the Boat Slips, docks and waterways, or permitting its use by a lessee or guest, maintain public liability insurance in limits of \$300,000.00 for each accident, and \$100,000.00 for property damage, at the Assignee's own cost and expense. The policy shall be in form satisfactory to the Association and shall cover accident or damage in or about

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the Boat Slip, boat docks and waterways. The Assignee shall furnish the Association with written confirmation of insurance coverage including a copy of the certificate of insurance coverage from the insurance carrier at the time the Assignee is assigned the Boat Slip and at such other times as the Association shall determine.

**10.13 Electricity and Water - Right of Use and Charges.** Electric and water outlets have been provided at various locations adjacent to the docks, walkways and Boat Slips. Assignees having Boat Slips, their lessees and guests, shall have the concurrent right with the Association to use the electricity and water by means of outlets adjacent to their particular Boat Slips. The Association shall make no charge, other than the normal maintenance assessment, for use of electricity for normal boat lighting and other minimal charges, but shall have the right to impose special charges for electrical usage for refrigeration, air conditioning (cooling and heating) and other substantial usages. No special charge shall be made for minimal water usages, but special charges shall be made for substantial usages. The charges in all cases shall be fixed by the Association relative to the apparent proposed usages and may be levied on a daily, weekly or monthly basis to coincide with the period of usage. Notwithstanding the foregoing, in the event that separate meters for electrical or water are installed for each Boat Slip, then the Assignee for such Boat Slip shall be responsible for all charges thereon.

**10.14 Dock and Walkway Areas to be Unobstructed.** The docks and walkway areas shall be unobstructed at all times. The Assignees, their lessees and guests, shall not construct, place or maintain anything on the dock or walkway areas or horizontal walls of the dock or walkway areas unless expressly approved in writing by the Association.

**10.15 Maintenance and Repair of Docks; Obtaining Permits, Licenses.** The Assignees of Boat Slips shall equally share in all costs of maintaining, operating and repairing the Marina, basin and channels, Boat Slips, docks, utility equipment and pilings. Such charges shall be in the form of Assessments to be paid equally by the Assignees. Should any governmental authority require repairs or additions to the docks, or for a permit to be obtained as a condition precedent to allowing continued use of the docks, all Assignees having Boat Slips shall also equally share in paying the cost of the repairs or additions or obtaining the permit. Any fees or other charges required to be paid to any governmental agencies in order to keep the Marina license or leases in effect shall be equally shared and be paid by the Assignees, in the form of Assessments. Any and all taxes on the Marina, the Marina structures or the right to use same shall be equally paid by the Assignees. It is the intent of this Paragraph that any and all expenses of any nature arising from the Marina or the right to use the Marina shall be equally paid by the Assignees, as Assessments, unless specifically provided otherwise herein. In no event shall owners of parcels in MYSTIC COVE who do not have Boat Slips share in the cost of maintenance, repairs or additions

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to the docks, piers, pilings, marina basin and channels or obtaining permits. Expenses under this paragraph shall be common expenses to be Assessments by the Association against Assignees and shall be the personal obligation of the respective Assignees.

**10.16 Association not Responsible for Vessels - Emergency Action Permitted.** The Association shall not be responsible or liable for the care or protection of any vessels, their appurtenances or contents which are brought within the Boat Slips and dock area, nor shall the Association be responsible or liable for any loss or damage of any kind of nature thereto.

Situations may occur, however, which, in the opinion of the Association require emergency action in order to protect the vessels, their appurtenances and contents, the Boat Slips, boat lifts, docks, and persons and property in the Marina or MYSTIC COVE. The Association shall have the right, but not the obligation, to take such action as it then appears appropriate or advisable in order to protect the properties or persons. The Association shall not be responsible or incur any liability on account of such emergency action or inaction.

**ARTICLE 11**  
**RULES AND REGULATIONS FOR THE BOAT SLIPS**  
**AND ITS COMMON AREA**

**11.1 Rules and Regulations.** All Assignees, their lessees, invitees and guests, shall comply with the following rules and regulations and any other rules and regulations as may be promulgated from time to time by the Association.

**11.1.1** The Rules of the Road and the navigation laws of the United States shall apply to all vessels approaching or leaving the Boat Slips and docks. When a vessel enters the Boat Slip and dock area, it shall come under the jurisdiction of the Association and its agents.

**11.1.2** All vessels, and their owners and captains, shall comply with all federal, state, county and municipal laws, ordinances and regulations, and shall strictly adhere to all United States Coast Guard pollution standards; and shall be responsible for any damage done to Association property or to the property of other boat owners.

**11.1.3** All vessels moored in Boat Slips without boat lifts shall be removed from or adequately secured to the Boat Slip and dock area at the time of or before the issuance of hurricane warnings for MYSTIC COVE by the United States Weather Bureau. Boats on boat lifts shall be secured to the boat lift in the highest vertical position of the lift and the lift secured to pilings. Boat owners

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shall be responsible for any damage done to Association property or to the property of other boat owners.

**11.1.4** The speed limit for vessels in the Boat Slip and dock area is idle speed and shall be enforced. There shall be no wake from any vessel.

**11.1.5** Parents are responsible for the actions and safety of their children in the area of the Boat Slips and docks. Children who behave improperly in this area or whose actions endanger themselves or others may be excluded from this area by the Association unless they are accompanied by a parent or responsible adult designated by a parent.

**11.1.6** Pets shall be kept on a leash while in the Boat Slip and dock area. Pets shall be immediately removed from the area at the request of the Association if they disturb other Assignees.

**11.1.7** Noise shall be kept at a minimum at all times. Assignees shall use discretion in operating engines, generators, radios and television sets, so as not to create a nuisance or disturbance.

**11.1.8** No charcoal, barbecue or other cooking fires shall be allowed on the docks.

**11.1.9** No Assignee, lessee or guest shall discharge any waste from any vessel's holding tanks or toilets nor pump any bilge containing oil, spirits or inflammable liquids into the waters around the Boat Slips and docks. Refuse and garbage shall not be thrown overboard. Each Assignee and lessee shall be responsible for the disposal of his own refuse and garbage in a sanitary manner. The Association will not provide refuse and garbage collection service to the Boat Slips and docks.

**11.1.10** No vessel may be utilized for lodging, temporarily or permanently, except with the expressed written authorization of the Association.

**11.1.11** Major repairs or refitting of vessels at docks is prohibited. Minor repairs, mechanical adjustments, electrical work and touch-up painting are permitted with the prior approval of the Association. Disc sanding is prohibited. The Association shall be consulted prior to commencing any work. No repairs shall be made without prior approval by the Association.

**11.1.12** Only marine repair companies or mechanics who have met insurance requirements of the Association shall be allowed to work on vessels in the Boat Slips and dock area unless the Assignee has agreed in writing to indemnify, defend and hold the Association and other unit owners harmless against any loss caused by the work. All work on vessels by outside workmen

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must be performed between the hours of 8:00 A.M. and 5:00 P.M., and must be previously approved by the Association.

11.1.13 Painting, scraping or repairing of gear shall not be permitted on the docks or finger piers.

11.1.14 It shall be the responsibility of Assignees to keep their vessels in such condition that they do not become unsightly or dilapidated or reflect unfavorably on the appearance standards of the facility. Decks of all vessels shall be kept free and clear of debris, bottles, papers, trash or other unsightly materials at all times.

11.1.15 All vessels using the facilities must have capable crew to be able to tie up the vessels.

11.1.16 Reserved for future use.

11.1.17 No boat storage of boats, trailers or accessories shall be permitted on land.

11.1.18 There shall be no commercial vessels nor any commercial facilities such as restaurants, lounges or yacht clubs.

11.1.111 There shall be no fueling facilities.

11.1.20 There shall be no launching or haul-out facilities.

**ARTICLE 12**  
**INDEMNIFICATION OF DIRECTORS, OFFICERS**  
**MEMBERS OF THE A.R.B. AND DOCK SUBCOMMITTEE**

Every director, officer, member of the A.R.B. and Dock Subcommittee of the Association shall be indemnified by the Association against all expenses and liability, including attorneys' fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director, officer, member of the A.R.B. or member of the Dock Subcommittee, whether or not he is a director or officer or member of the Dock Subcommittee or member of the A.R.B. at the time such expenses are incurred, except in such cases where the director or officer or member of the Dock Subcommittee or member of the A.R.B. is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided however, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer or member of the A.R.B. seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

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The forgoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer or director or member of the Dock Subcommittee or member of the A.R.B. may be entitled.

**ARTICLE 13**  
**GENERAL PROVISIONS**

**13.1 Assignment.** All of the rights, powers, obligations, easements and estates reserved by, or granted to the Association may be assigned by the Association to an eligible Florida corporation. After such assignment, the assignee shall have the same rights and powers, and be subject to the same obligations and duties as were the Association, prior to the assignment, and the Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates.

**13.2 Amendment.** This Declaration may be amended upon the recordation of an appropriate instrument in the Public Records of Martin County, subject however, to the following provisions:

**13.2.1** The amendment must be approved by a vote of majority of the Members.

**13.2.2** Reserved for future use.

**13.2.3** Unless authorized by law, no amendment or change to this Declaration or to the exhibits hereto shall be effective to affect or impair the validity or priority of a first mortgage held by an Institutional Mortgagee, encumbering a Parcel or to affect or impair the rights granted herein to Institutional Mortgagees, without the written consent thereto by the Institutional Mortgagee owning and holding the mortgage encumbering the Parcel, which consent shall be executed with the formalities required for deeds and recorded with the amendment.

**13.2.4** Any duly adopted amendment to this Declaration shall run with and bind the Property for the same period and to the same extent as do the covenants and restrictions set forth herein.

**13.3 Duration.** All of the covenants, restrictions and other provisions of this Declaration shall run with and bind the Property for a term of fifty (50) years from the date of recordation of this Declaration, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument executed by at least seventy-five (75%) of the votes of the membership then existing, and by all Institutional Mortgagees, has been recorded, agreeing to change or terminate these covenants and restrictions.

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**13.4 Covenants Running with the Property.** The agreements, covenants, conditions, restrictions, assessments, liens and other provisions contained herein shall constitute a servitude upon the Property and each portion thereof, shall run with the Property, shall be binding upon the Owners of any portion thereof, and shall inure to the benefit of the Association and the Owners.

**13.5 Enforcement.** Subject to the requirement for non-binding mediation pursuant to Section 720.311, F.S., as it may be amended from time to time, before any covenant enforcement action may be brought by an Association or any action brought by an Owner to challenge a Board action, enforcement of the covenants, restrictions, conditions, obligations, reservations, rights, powers, Assessments, liens and other provisions contained herein may be by a proceeding at law or in equity against any persons or entities violating or attempting to violate same and/or against the Property subject hereto to enforce any lien created by this Declaration. The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. In addition, the Association may levy reasonable fines, not to exceed \$100 per violation, against any Owner or any tenant, guest, or invitee, pursuant to Section 720.305, F.S. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. No fine shall exceed \$1,000 in the aggregate. In the event that the Association fails to enforce the terms of this Declaration then any Member may do so. The failure or refusal of the Association or any Member to enforce any of the provision of this Declaration shall in no event be deemed to constitute a waiver to the right to do so thereafter.

**13.6 Reserved for future use.**

**13.7 Plat.** In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in any reservations and other terms and provisions set forth in any Plat of the Property recorded in the public records of the County, or approved site or development Plan, which covenants, restrictions, reservations and other terms are hereby incorporated by reference to the same effect as if fully setout herein.

**13.8 Gender and Number.** The use of the singular herein shall include the plural, and the use of any gender shall include all genders.

**13.9 Severability.** Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no way affect any other provision hereof, which shall remain in full force and effect.

**13.10 Captions.** The captions used in this Declaration and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto.

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13.11 **Effective Date.** This Declaration shall become effective on upon its recordation in the Public Records of the County.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name by its President and Secretary and its corporate seal affixed this 18 day of February, 2010.

**WITNESSES:**

[Signature]  
Witness #1 Signature

ROBIN SECOR  
Witness #1 Name Printed

[Signature]  
Witness #2 Signature

CAROL A. PREW  
Witness #2 Name Printed

[Signature]  
Witness #1 Signature

ROBIN SECOR  
Witness #1 Name Printed

[Signature]  
Witness #2 Signature

CAROL A. PREW  
Witness #2 Name Printed

[Signature]  
Witness #1 Signature

ROBIN SECOR  
Witness #1 Name Printed

[Signature]  
Witness #2 Signature

CAROL A. PREW  
Witness #2 Name Printed

STATE OF FLORIDA  
COUNTY OF MARTIN

MYSTIC COVE HOME OWNERS  
ASSOCIATION, INC.

By: [Signature]  
Ron Daugherty, President

By: [Signature]  
Lee Worsham, Secretary



The foregoing instrument was acknowledged before me on the 18 day of Feb, 2010, by RON DAUGHERTY and LEE WORSHAM as President and Secretary, respectively, of MYSTIC COVE HOME OWNERS ASSOCIATION, INC., [ ] who are known to me, or [✓] who produced FL. D.C.L.C. as identification.

[Signature]  
CAROL A. PREW  
NOTARY PUBLIC

**NOTARY SEAL**



Print, type or stamp name of notary public  
My Commission expires:

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CERTIFICATE

MYSTIC COVE HOME OWNERS ASSOCIATION, INC., by its duly authorized officers, hereby certifies that the Amendments to the Declaration of Protective Covenants, Conditions and Restrictions for Mystic Cove, a copy to which this is attached hereto, were duly and regularly adopted and passed by written approval by more than a majority of all members of the Association.

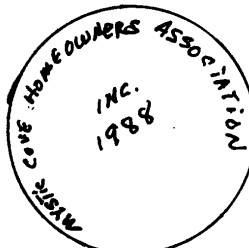
WITNESSES:

[Signature]  
Witness #1 Signature  
ROBIN SECON  
Witness #1 Name Printed  
Carol A. Prew  
Witness #2 Signature  
Carol A. Prew  
Witness #2 Name Printed  
ROBIN SECON  
Witness #1 Signature  
ROBIN SECON  
Witness #1 Name Printed  
Carol A. Prew  
Witness #2 Signature  
Carol A. Prew  
Witness #2 Name Printed

MYSTIC COVE HOME OWNERS  
ASSOCIATION, INC.

By: [Signature]  
Ron Daugherty, President

By: [Signature]  
Lee Worsham, Secretary

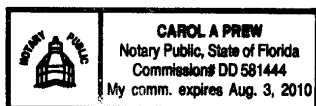


STATE OF FLORIDA  
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me on the 18 day of Feb, 2010, by RON DAUGHERTY and LEE WORSHAM as President and Secretary, respectively, of MYSTIC COVE HOME OWNERS ASSOCIATION, INC., [ ] who are known to me, or [ ] who produced FL. D.R. Lic as identification.

[Signature]  
Carol A. Prew  
NOTARY PUBLIC

NOTARY SEAL



Print, type or stamp name of notary public  
My Commission expires:

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## **EXHIBIT "A"**

### **Legal Description**

Mystic Cove PUD(r), a P.U.D. - Being a Replat of Lot 9, Gomez Grant & Jupiter Island as Recorded in Plat Book 1, Page 80, Public Records of Palm Beach (Now Martin) County, Florida. This Replat is Recorded in Plat Book 11, Page 64, Public Records of Martin County, Florida.

#### **More Specifically Described as:**

Lot 9, of Gomez Grant, Township 38, 39, 40 and 41, Range 41, 42 and 43, as per plat filed by the Indian River Pineapple and Coconut Association, October 6, 1893, in the Public Records of Dade County, Florida, Book "A" of Plats, Page 17.

Subject to restrictions or easements of record, if any, and taxes for the current year.



# **Site Data**

Total Site Area	26.01	
Total Dwelling Units	35	
Gross Site Density	1.35	
	Acres	%
Impervious Area	6.15	23
Pervious Area/Open Space	20.11	77
Residential Area	10.21	39
Right-Of-Way	2.08	8
Retention Area	1.25	5
Recreation Area /Common Areas	2.31	9
Wetlands	10.16	39
Total	26.01	100

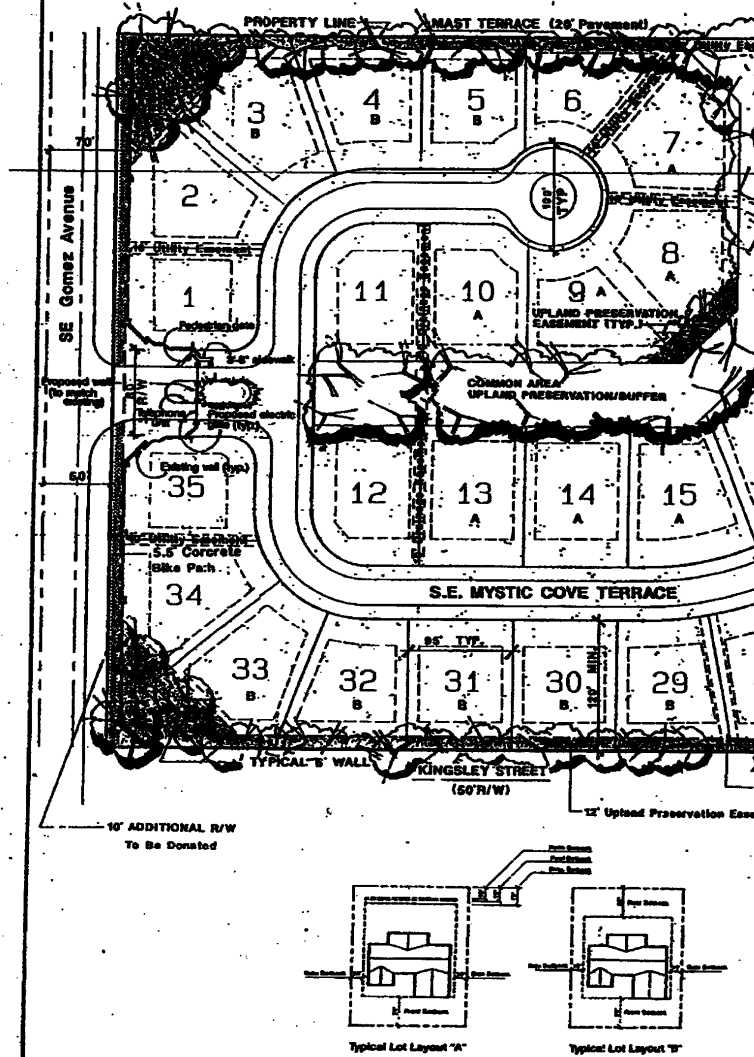


EXHIBIT "A-1"



## Landscape Data

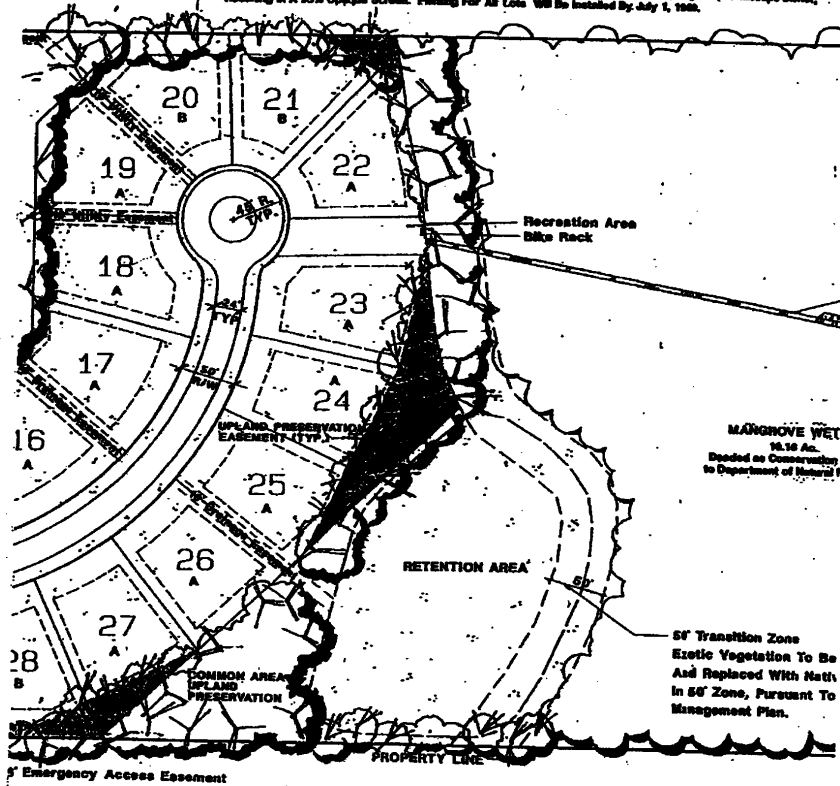
- Wetland And Upland Preservation Areas Will Not Be Altered Without Permission Of Martin County, Under The Guidelines Of The Preserve Area Management Plan.
- Wetlands To Have 50' Minimum Perimeter Upland Transition Zone.
- Transition Zone To Be Restored With Native Plant Material.
- Site Landscape Shall Conform To Martin County Landscape Ordinance 23-50 Through 57, Where Applicable.
- One Tree Per 3000 Sq. Ft. Of Developable Area (Lots) - 148 Trees Required.
- Each Lot To Have A Minimum Of Four Trees



- Delineates Common Areas Of Upland Vegetation (2.24 ac) Will Remain Undisturbed Per Martin County Code 23-54(c).
- Remaining Requirement To Be Accommodated On Individual Lots (0.6 ac. in easements) 26.0 (total acreage) - 10.16 (wetland acreage) - 1.65 (retention/non-native plant association) - 14.20 (upland acreage) x .3 (40% x 50%) = 2.34 (upland preserve acreage)

NOTE: 48% Of The Upland Property Shall Be Open Space

The Rear (North side) Of Lots 9-6, 20, & 21 Shall Be Planted With A 6' High, 12" Wide, Trifoliate, Landscape Buffer, Resulting In A 50% Open Screen. Planting For All Lots Will Be Installed By July 1, 1988.



*Atypic*  
AT HOBE

FINAL DEVELOPMENT

EXHIBIT "A-2"

# LOT REQUIREMENTS

## Setbacks (Various)

Setbacks: Lots 1-10, 12-15, 20-27

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Lots 1, and 20 (except lots) and 2, 3, 4

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Lots 9 through 10, 20, 21 & Lots 26 through 27

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Lots 11 and 22 (except lots on upland property)

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Lot 6

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Front: 25'  
Side: 10' (each)  
Rear: 10'  
Yard: 10'

Minimum lot area: 1/4 acre

20' of lot for building setback

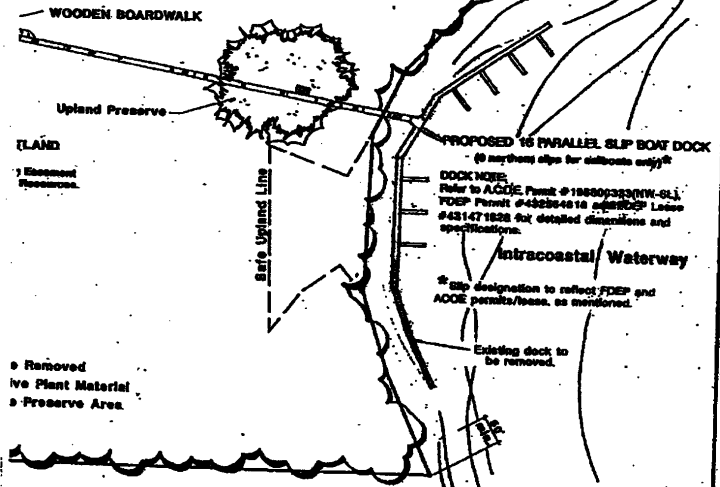
Minimum building height: 10' (0-10')

50% of lot to be left in building setback area

50% of lot to be left in building setback area

50% of lot to be left in building setback area

Dock/Boardwalk Construction is Proposed by Developer in Configuration Shown On Site Plan At This Time. However, it is Recognized That Layout And Number Of Slips May Be Modified During The Agency Review/Permit Process. No Approval Is Granted by Martin County At Time Of Preliminary Development Plan Approval But Option Of Constructing Solid Or Similar Facilities is Hereby Allowed, Provided That All Applicable Permits Are Obtained. All Construction Will Comply With Section 8-2 Of The Comprehensive Plan & Section 33-74 Of The Land Development Code.



*Handwritten signature*

SOUND

T PLAN

Job No.: 57199.00  
Date: 12.22.07 14.00 3.15.00 4.12.00  
Scale: 1" = 60' 4.25.00 5.2.00  
Urban design studio  
12345 Main St.  
Suite 100  
Tampa, FL 33601  
Phone: 813.555.1234  
Fax: 813.555.1234  
Email: info@urbandesignstudio.com

EXHIBIT "A-3"

# **LOT REQUIREMENTS**

## **Setbacks (Variances)**

Setbacks: Lots 7-10, 13-19, 22-27

Front: 25'  
Side: 1 story: 10'/25' (interior/corner)  
2 story: 20'/25' (interior/corner)  
Rear: 15'  
Pool: 12'  
Patio: 10'

Lots 1, and 35 (corner lots) and 2 & 34

Front: 25'  
Side: 1 story: 10'/25' (interior/corner)  
2 story: 20'/25' (interior/corner)  
Rear: 25'  
Pool: 12'  
Patio: 12'

Lots 3 through 5, 20, 21 & Lots 26 through 33

Front: 25'  
Side: 1 story: 10'/25' (interior/corner)  
2 story: 20'/25' (interior/corner)  
Rear: 25'  
Pool: 12'  
Patio: 10'

Lots 11 and 12 (corner lots on upland preserve)

Front: 25'  
Side: 1 story: 10'/25' (interior/corner)  
2 story: 20'/25' (interior/corner)  
Rear: 15'  
Pool: 12'  
Patio: 10'

Lot 6

Front: 20'  
Side: 1 story: 10'/25' (interior/corner)  
2 story: 20'/25' (interior/corner)  
Rear: 20'  
Pool: 20'  
Patio: 20'

Where setbacks overlap preservation easements, minimum setbacks shall be 5 ft. from preservation easement edge.

Minimum Lot Size: 11,000 Square Feet

30% of lot in building coverage

Maximum Building Height: 30' (2-story)

50% of lot allowed in building w/amenity(s) coverage (e.g. patios, pools, walks, etc.).

Prior to conveyance of individual lots, all clearing will be limited to that necessary for roadways, building pads, drainage and utilities.

EXHIBIT "A-4"

EXHIBIT "B"

MYSTIC COVE P.U.D.

PRESERVE AREA MANAGEMENT PLAN

The following management plan shall be used to govern all activities or concerns relating to upland, wetland and transition zone preservation areas noted on the development plan of Mystic Cove Planned Unit Development. Pursuant to the Martin County Community Development Department and Development Review Committee conditions as stated in the April 7, 1988 staff analysis, the plan will conform to the Martin County Land Development Code and Comprehensive Plan objectives regarding preservation and incorporation of native plant ecosystems into residential development.

The basis of the plan is to assure the continued viability of all preservation zones within the P.U.D. during construction and post-construction activities. The following information will address the upland, wetland, and transition preservation areas and concerns common to each:

A. Delineation & Surveying Specifications:

All preserve areas shall be field surveyed based on the Final Development Plan Approval preservation delineation to maintain compliance with required area calculations and preservation limits. No offset staking shall be allowed in preservation areas to describe any survey line. No plant material will be removed from preservation areas to facilitate surveying. All required preservation areas shown on the Final Development Plan will also be reflected on the plat to insure compliance of required quantity of preservation.

B. Removal & Management of Exotic Vegetation & Debris:

Exotic vegetation in upland and transition zone areas will be mechanically eradicated, with remnant stumps or roots chemically treated to halt regrowth. Exotics currently within wetland preservation will be chemically treated and left standing to avoid disturbance to native species. It is recommended that a periodic eradication program be established to monitor possible exotic re-establishment. No debris (i.e.: garbage, plant clippings, wood scraps, etc.) will be allowed in any preservation areas.

C. Revegetation With Compatible Native Vegetation:

Within preservation areas, any revegetation necessitated by exotic removal or site construction activity shall consist of native plant species indicative of the natural plant community of that location to insure continuity of indigenous plant associations.

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D. Potential Species For Revegetation:

Wetland	Upland	Transition
Avicennia germinans	Myrica cerifera	Acer rubrum
Laguncularia racemosa	Pinus clausa	Conocarpus erecta
Rhizophora mangle	Pinus elliotti	Spartina bakeri
Spartina patens	Ilex cassine	Persea borbonica
Juncus roemerianus	Ilex vomitoria	Acrostichum danaeaeifolium
Iva frutescens	Quercus virginana	Iva imbricata
Annona glabra	Serenoa repens	Juncus effusus
Acrostichum danaeaeifolium	Lantana depressa	Borrchia frutescens
		Sabal palmetto

Herbaceous material shall be installed using liner or 2" nursery stock with 18"-24" on-center spacing. Woody material shall be 4' to 10', with on-center spacing to mimic natural association (i.e. informal massing, curvilinear planting arrangement, staggered heights, mixed species, etc.)

E. Preserve Area Protection:

All preservation areas shall be provided with protective wooden barriers to restrict any activity within these areas during construction. The barriers, constructed of 2"x4" or 4"x4" wood, will be located on the outer edge or canopy dripline of each preservation area and will be conspicuous to equipment operators. No building materials will be placed within this area.

Excavation in preservation areas necessary for utilities will only be within the 10' easements shown on the development plan. Each easement will be flagged or roped-off to visually indicate to the Contractor the limits of construction.

All grade changes will be engineered so that any cut or fill will meet existing elevation prior to encroaching on any preservation area.

Contractors responsible for site work will be informed of the significance of preserve area protection prior to undergoing construction activity in order to avoid site damage resulting from soil compaction, unnecessary cutting of roots, carelessness with tools and equipment or any other mechanical or chemical injuries.

#### NATIVE PRESERVE ALTERATION

The only alteration or activities allowed in preserve areas will be the following, and are subject to written approval from Martin County:

1. The removal of dead or diseased plant material.
2. The removal of exotic plant material and refuse.
3. The removal of vegetation in preservation areas due to excavation of drainage and utility easements. Native vegetation in the form of groundcovers or shrubs will be used in restoring the impacted area to its pre-construction degree of cover.
4. The construction of a privacy fence or wall on the outside edge of a preserve area necessitating minor construction activity.
5. Planting of compatible vegetation.
6. Low impact recreational activities.

#### TRANSITION ZONE

The Mystic Cove transition zone presently contains significant native vegetation in its northern section. Maple, Bay, Cabbage Palm and associated understory is the upland preserve. The southern transition area is a Brazilian Pepper grove that is to be eradicated and restored with native species indicative of this zone. A mixture of salt-tolerant and upland herbaceous and woody vegetation will be planted on the retention berm and interface of existing mangroves (see attached plan and cross section). Plant materials that can be transplanted to these locations from other on-site developable areas will be used; to enhance nursery stock plantings; to reduce purchase price of materials; to create immediate effect by using native plants; to make use of available significant on-site material that would otherwise be destroyed due to development.

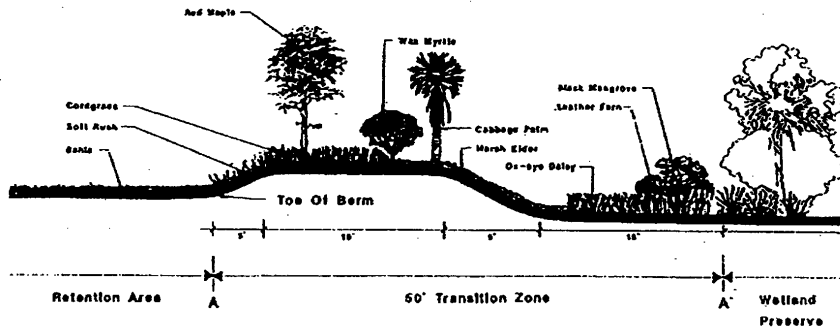
Due to the uncertain availability of this type of plant material, substitutions may become necessary prior to commitment to a plan of action. Any such substitutions shall first be approved by the Landscape Architect and Martin County.

No adverse hydrological impacts will be created by the proposed activity. The construction in this area will be limited to clearing of noxious vegetation and regrading of terrain in conformance with the site engineering specifications. The restoration of this zone will provide a vegetative cover that will serve as erosion control, wildlife habitat and water purifier.

All surface water control measures shall conform to South Florida Water Management District and Martin County Engineering Department criteria. Storm water collected in the grassy retention basin will be discharged through a 6" PVC bleeder pipe into the replanted area. Ten (10) year storm events will exceed capacity of the bleeder pipe and will overflow the eastern retention berm into the restored transition area. Sand bags will be used to deflect any discharge of water to avoid soil erosion. Erosion matting will be used on the berm to assist in the stabilization of fill and establishment of plant material.

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# Cross - Section



## 50' TRANSITION ZONE Revegetation Plan

