

Please Return this Document To:
Benjamin B. Bush
Gardner, Wadsworth, Duggar, Bist & Wiener, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Matter No.: 05.2360

20060108821
THIS DOCUMENT HAS BEEN RECORDED
IN THE PUBLIC RECORDS OF
LEON COUNTY FL
BK: 3390 PG:707, Page1 of 25
10/18/2005 at 04:44 PM,

This document prepared by:
Fred Saxon
508-A Capital Circle, S.E.
Tallahassee, Florida 32301

BOB INZER, CLERK OF COURTS

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PARK CHARLESTON

THIS DECLARATION, is made and executed this 13th day of October, 2005 by TURNER LAND ENTERPRISES, LLC, a Florida limited liability company, whose mailing address is 508-A Capital Circle, S.E., Tallahassee, Florida 32301, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain Properties located in LEON COUNTY, Florida, and more particularly described in "Exhibit A" attached hereto and by reference made a part hereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described in "Exhibit A" attached hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all persons having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to PARK CHARLESTON HOMEOWNERS ASSOCIATION, INC., a Florida nonprofit corporation, its successors and assigns. A copy of the Articles of Incorporation of Park Charleston Homeowners Association, Inc. are attached hereto as **Exhibit "B"**. A copy of the Bylaws of Park Charleston Homeowners Association, Inc. are attached hereto as **Exhibit "C"**.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property described in "Exhibit A" attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Plat of PARK CHARLESTON-PHASE I" shall mean and refer to the Plat of PARK CHARLESTON-PHASE I, recorded in Plat Book 16, Pages 49-51 of the Public Records of LEON COUNTY, Florida, representing the PARK CHARLESTON subdivision.

Section 5. "Lot" shall mean and refer to each lot designated on the Plat of PARK CHARLESTON-PHASE I.

Section 6. "Declarant" shall mean and refer to Turner Land Enterprises, LLC, a Florida limited liability company, or its successors and assigns, if such, successors or assigns should acquire more than one unimproved Lot from the Declarant for the purpose of development and such successor or assign has received written assignment of such Declarant's rights hereunder. "Declarant" shall include the singular and plural as the context may require.

Section 7. "Common Area" shall mean all real property and/or easement rights (including the improvements thereto) owned and held by the Association for the common use and enjoyment

real property and easement rights described in this Declaration and any areas depicted on the Plat of PARK CHARLESTON-PHASE I as Common Areas which have not been dedicated and accepted by the local governmental authority. The Declarant shall deed Common Areas to the Association no later than when ninety percent (90%) of the Lots have been sold and conveyed by the Declarant. Additional real property and or easement rights may be conveyed to the Association for the common use and enjoyment of the Owners as the Properties are developed.

Section 8. "Single-Family Detached Dwelling" shall mean and refer to any single-family dwelling unit constructed on any portion of the Properties that is in no way connected to another dwelling unit.

Section 9. "Duplex" shall mean and refer to any free standing building consisting of two (2) adjoining townhouses built with common or party walls and not connected on either side to other townhouse units.

Section 10. "Townhouse" shall mean and refer to the single-family unit intended to be constructed on any of the Lots. Each townhouse as currently designed may be a part of a duplex of two (2) townhouses with each townhouse sharing a "common" or "party" wall with the adjoining townhouse owner. It is anticipated that Townhouse units will be constructed in PARK CHARLESTON-PHASE II.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS PROPERTY RIGHTS

Section 1. Every owner of a Lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot that is subject to assessment.

Section 2. Board of Directors. The owners shall be allowed to elect all directors of the Association on a one-vote-per-lot basis, and the first election shall be held at such time as ninety percent (90%) of the Lots have been constructed on and deeded to third parties, or earlier at the election of the Declarant.

Section 3. On all issues except election of directors and amendment of this Declaration of Covenants, Conditions and Restrictions, the Association shall have two (2) classes of voting membership:

Class A. Class A member shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant and shall be entitled to nine (9) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership when 90 % of the Lots have been improved with dwelling units and conveyed to third parties, or earlier at the discretion of the Declarant.

Section 4. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of any recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners or to mortgage all or part of the Common Area; provided, however, that no such dedication, transfer or mortgage shall be effective unless an instrument agreeing to such dedication, transfer or mortgage signed by two-thirds (2/3) of the owners has been recorded.

Section 5. Delegation of Use. Any Owner may delegate, in accordance with the By Laws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual and special assessments or charges as provided for hereinafter. Annual assessments shall be on a calendar year basis. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. The Declarant is exempt from assessments for any Lots which are undeveloped or developed but not conveyed to a third party.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the property and for:

- (i). the enforcement of the provisions of this Declaration on behalf of the Association.
- (ii). the maintenance of an entrance sign, posts for street signs, maintenance and landscaping for all common areas, individual lawn maintenance for all lots, fencing owned by the association, berm along the rear of Blocks A and K, landscape islands in the rights of ways and any mail collection areas, if applicable
- (iii). improvements and maintenance of all Common Areas, if applicable
- (iv). street lighting, if applicable

Section 3. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment shall be \$850.00 per lot.

- (a) From and after January 1 of the year the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 20% above the maximum assessment for the previous year without the vote of the membership.
- (b) The maximum annual assessment may be increased above 20% by a vote of two-thirds (2/3) of the Owners who are voting in person or by proxy at a meeting called for that purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of enforcing this Declaration on behalf of the Association or the cost of any construction, reconstruction, repair, or replacement of the entrance sign or an improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the Owners who are voting in person or by proxy at a meeting duly called for this purpose; provided, however, any such assessment shall not require such assent if the assessment is required to fund and pay for reasonable and necessary costs and expenses for maintaining the Common Area.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all Owners not less than 30 days nor more than 60 days in advance of the meeting. At such meeting, the presence of Owners or of written proxies, signed by the respective Owners, entitled to cast a majority of all the votes of the Owners shall constitute a

quorum. The quorum required for any action authorized by the Change in Maximum Annual Assessment provision or Special Assessment provision shall be as follows: At the first meeting called, as provided in those provisions, the presence at the meeting of Owners or of proxies, entitled to cast a majority of all votes of the membership shall constitute a quorum. If the required number is not present at said meeting, another meeting may be called, subject to the notice requirements, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 6. Uniform rate of Assessment and Collection. Except as otherwise set forth herein, both annual and special assessments shall be fixed at a uniform rate for all Lots. Assessments may be collected on an installment basis at the discretion of the Board of Directors.

Section 7. Date of Commencement of Annual Assessments; Due Date. The Board of Directors shall determine the commencement date for the annual assessments. The first annual assessments shall be adjusted according to the number of months remaining in such calendar year. Written notice of the annual assessment shall be sent to every Owner subject thereto.

Section 8. Collection of Assessments; Effect of Nonpayment of Assessments; Remedies of the Association; Any assessment not paid when due shall bear interest at the rate of eight percent (8%) per annum. The Association shall be entitled to collect from the Owner all legal costs, including a reasonable attorneys' fee, incurred by the Association in connection with or incident to collection of any assessment or in connection with the enforcement of the lien resulting therefrom. The Association may bring an action at law against the Owner personally obligated to pay the assessment, interest, fees and costs to foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Except as otherwise provided for herein, the sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Sale or Transfer of a Lot.

(a). Notwithstanding the foregoing provisions, upon the sale or transfer of a Lot in a bona fide transaction for fair and adequate consideration, the lien for any unpaid annual or special assessments against such Lot for any year or years prior to the year in which the sale or transfer occurs shall be extinguished unless a notice of the lien for such unpaid assessments is filed for record in the Public Records of LEON COUNTY, Florida, prior to the recording in these Public Records of the deed of conveyance or transfer from the Owner of the Lot who was the Owner at the time the assessment was levied. The notice of lien shall recite therein the name of the record Owner of the Lot at the time the assessment was levied, the legal description of the Lot affected by the lien and the original amount of the assessment. The failure to file such notice of lien shall not affect the personal obligation therefore as set forth in this Declaration nor shall it affect the lien against the Lot for so long as the Owner of the Lot at the time the assessment was levied retains a record ownership interest in said Lot other than that held as the holder of a security deed.

(b). In the event there is an unpaid annual or special assessment which was levied during the calendar year in which the Lot is sold or transferred prior to such sale or transfer, and no notice of lien was filed prior to the filing of the deed of conveyance or transfer in said Public Records, such assessments shall be prorated as of the date of the sale or transfer and the new Owner's pro rata share of such assessment shall continue as a personal obligation and as a lien on the Lot as otherwise provided for in this Declaration and the remaining portion of said assessment shall not be the personal obligation of the new Owner nor be a lien on said Lot; provided, however, that such remaining portion shall continue as a lien upon such lot if the Seller or transferor retains an ownership interest in the Lot other than that held as the holder of a security deed.

Section 11. Exempt Property. All property dedicated to, and accepted by, a local public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida shall be exempt from the assessments created herein; provided

however, no land or improvements devoted to dwelling use shall be exempt from said assessments. Notwithstanding the forgoing, the Declarant is exempt from assessments for any Lots that are either undeveloped or developed but not conveyed to a third party.

ARTICLE IV EASEMENTS AND DEDICATION

Section 1. Roadway, Utility, Drainage, and Landscape Easements. The Declarant hereby reserves, excepts, imposes, grants and creates nonexclusive, perpetual easements to and on behalf of the Declarant, the Association, the Owners, their grantees, heirs and successors in interest for ingress and egress, utility, drainage and landscape purposes over, across and under each Lot, the Common Areas, the storm water management facility, and the Conservation Easement areas as depicted on the Plat of PARK CHARLESTON-PHASE I.

Section 2. Maintenance and Interference. The Association shall maintain each easement provided for herein unless and until such time as the property encumbered by the easement has been dedicated and accepted by local governmental authority and local governmental authority has assumed such maintenance. The local governmental authority shall not have responsibility for maintenance of the streets and street related drainage facilities located on the Properties unless and until the local governmental authority accepts such maintenance responsibility. Within the roadway, utility, access and drainage easements, no structure, planting or other material, which may interfere with the use and purpose of the easements, shall be placed or permitted to remain, unless approved by governmental authority.

Section 3. Drainage. A nonexclusive easement shall exist in favor of Declarant and the Association, and their designees, over, across and upon the Properties for drainage and water management purposes. An easement for ingress, egress and access shall exist for such parties to enter upon and over any portion of the Properties (including Lots and Homes) in order to construct, maintain or repair, as necessary, any water management areas and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage of the Properties and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through the Properties and/or water management areas and facilities or otherwise interfere with any drainage and/or easement provided for in this Article or the use rights set forth elsewhere in this Declaration. Lot setbacks, described in Article VIII of this Declaration, shall serve as prescriptive drainage cross-easements allowing uphill and adjacent properties stormwater access to the master stormwater facilities as shown as Tracts A on the plat to be dedicated to the local governmental authority. Each Owner shall use reasonable efforts to direct storm and surface water from such Owner's Lot to the stormwater management facility without increasing the stormwater impact to adjacent Lots.

ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall, outbuilding or other structure or improvement shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, location and all other reasonable detail of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an architectural committee composed of no less than three (3) but not more than five (5) representatives named in this Article or subsequently appointed by the Board of Directors of the Association (the "Architectural Committee"), as hereinafter provided. In the event the Architectural Committee fails to approve or disapprove the plans and specifications within thirty (30) days after the complete plans and specifications have been submitted to them in accordance with this Declaration, approval will not be required and this Article will be deemed fully complied with. The initial Architectural committee shall be Douglas E. Turner, Daron Bridges, and Fred Saxon. With the exception of the initial members, each member of the Architectural Committee must be a representative of Declarant or an Owner. Thereafter, all shall serve at the pleasure of the Board of Directors of the Association.

The Architectural committee may issue "Builder Guidelines" in order to more specifically identify the building requirements.

**ARTICLE VI
SUBDIVISION OF LOT**

Except as set forth below, no Lot shall be re-subdivided. This provision shall not, however, be construed to prohibit any Owner from conveying part of his Lot to the Owner of an adjacent Lot, and provided that the Declarant has approved such conveyance in writing by local governing authorities. Such approval shall be at the sole discretion of the Declarant.

**ARTICLE VII
DWELLING SIZE**

The heated and cooled square footage of any Single Family Detached Dwelling and any Townhouse shall not be less than 1,700 square feet.

**ARTICLE VIII
BUILDING, DRIVEWAY AND FENCE LOCATION
AND SIGHT RESTRICTIONS**

Building locations shall be approved by the Architectural Committee; provided, however, no building shall be located on any Lot: nearer than twenty (20) feet to the front Lot line; nearer than twenty five (25) feet to the rear Lot line; nearer than seven and one-half (7.5) feet to a side-interior Lot line; (or any combination of setbacks that equate at least fifteen (15) feet provided that no such setback shall be less than five (5) feet for Single Family Detached Dwellings and no side setback for any Townhouses); nor nearer than fifteen (15) feet to a side street. For the purposes of this Article, eaves and steps shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of a building to encroach upon another site. No driveway shall be located nearer than five (5) feet to an interior lot line except a back-up or turn around pad may be located as near as one (1) foot to an interior Lot line. No fence shall be located nearer to the front lot line than the rear corners of the primary building. The Architectural Committee in accordance with the provisions of this Declaration must approve the location and design of any fence. Fencing shall start at the rear corner of a building and proceed to the side and rear yard. No fence shall be located on any Lot unless the Architectural Committee has approved the installation, color and design of the fencing. The residence shall face the street. No landscaping or other improvement which obstructs horizontal sight lines shall be placed or permitted to remain on any Lot within any triangular area formed by street lines and a line connecting them at points twenty five (25) feet from the intersection of street lines, which distance, in the case of a rounded corner, shall be measured from the point formed by the extension of the street line to form an angle instead of a curve. The same obstruction of sight line provisions shall apply to the area of every lot within the ten (10) feet radius emanating from the intersection of any boundary line of a Lot with the edge of the driveway pavement. Trees may be planted and maintained within any of these areas if the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines. The Architectural Committee may, in its sole discretion, grant variances to the restrictions provided for in this Article.

**ARTICLE IX
NUISANCES**

No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. This provision also applies to the Common Area.

**ARTICLE X
GARAGES AND CARPORTS,
TEMPORARY STRUCTURES**

Each dwelling constructed on a Lot indicated on the Plat of PARK CHARLESTON-PHASE I shall have a functional garage attached thereto which shall be designed to accommodate the parking of at least two (2) automobiles. The Owner of each Lot shall ensure that the garage door is kept closed at all times except when entering or exiting the garage. The Declarant will allow one or more homes at any given time to be used as sales models, which may have the garage enclosed for use as a sales office, which shall be converted to a functional garage, when the respective sales model is sold and closed.