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INSTR # 2005490957

O BK 15669 PG 0827

Pgs 0827 - 843; (17pgs)

RECORDED 10/25/2005 11:49:49 AM
PAT FRANK CLERK OF COURT
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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
AVONDALE GROVE

THIS DECLARATION, is made this 19 day of October 2005 by AN Development III, Inc., (hereinafter referred to as "Developer"), whose address is 4300 W. Cypress Street, Suite 150, Tampa, Florida 33607.

WITNESSETH:

WHEREAS, the Developer is the owner of certain property in Hillsborough County, Florida (Property), more particularly described as follows:

Avondale Grove, as recorded at Plat Book 105, page 185, of the Public Records of Hillsborough County, Florida.

WHEREAS, Developer is developing the Property into a residential community of single family homes; and

WHEREAS, Developer intends and desires to impose certain covenants, restrictions, easements, conditions, and liens upon the Property and the use thereof, as part of a common plan of development upon the Property, and to protect its value and desirability;

NOW THEREFORE, the Developer hereby declares that the real property described above 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, said real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.
DEFINITIONS

Unless the context expressly requires otherwise, the following terms mean as follows wherever used in this Declaration, the Association's Articles of Incorporation ("Articles"), or the Association's By-Laws ("By-Laws").

Section 1. "Architectural Committee" shall mean the Architectural Committee, provided in Article VII hereof.

Section 2. "Articles" means the Articles of Incorporation of the Association, as maybe amended from time to time, attached hereto as Exhibit "A". The By Laws are attached as Exhibit "B".

Section 3. "Assessment" means the amount of money assessed against an Owner for the payment of the Owner's share of common fees, expenses and any other funds which an Owner may be required to pay to the Association as set out by this Declaration, the Articles or the By-Laws.

Section 4. "Association" means Avondale Grove of Hillsborough Homeowners Association, Inc., a corporation not for profit organized or to be organized pursuant to Chapter 617, Florida Statutes, its successors and assigns.

Section 5. "Board" means the Association's Board of Directors.

Section 6. "Common Area" means all property whether improved or, unimproved, or any interest therein, which from time to time is owned by the Association for the common use and enjoyment of all Owners. The well which provides water for irrigation is part of the Common Area.

Section 7. "Declaration" shall mean and refer to this Declaration, together with any and all supplements or amendments hereto, if any.

Section 8. "Developer" means AN Development III, Inc., and its successors and assigns, if such successors and assigns are designated in writing by the Developer as the successors and assigns of Developer's rights hereunder.

Section 9. "Dwelling" shall mean the residential unit installed upon a Lot.

Section 10. "Lot" means any platted parcel of land shown on the recorded subdivision map or replat as recorded in the Public Records of Hillsborough County.

Section 11. "Maintenance" means the exercise of reasonable care to keep buildings, homes, roads, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden-management practices necessary to promote a healthy weed-free environment for optimum plant growth, and which will, as a minimum, include the mowing of all grass on a Lot.

Section 12. "Member" means every person or entity who holds membership in the Association.

Section 13. "Mortgage" means any mortgage, deed of trust, or other instrument transferring any interest in a Lot as security for the performance of an obligation. "First Mortgage" means any institutional mortgage constituting a valid lien prior in dignity to all other mortgages encumbering the same property.

Section 14. "Mortgagee" means any person named as the obligee under any Mortgage, or the successor in interest to such person.

Section 15. "Occupant" means the person or persons, other than the Owner in possession of a Lot, and may, where the context so requires, include the Owner.

Section 16. "Owner" means the record owner, whether one or more persons, of the fee simple title to any Lot, including contract sellers, but excluding any other person holding such fee simple title only as security for the performance of an obligation. As the context may admit, Owner includes all persons (i) claiming any right, title or interest in a Lot by, through, or under any Owner, or (ii) lawfully upon the Properties with the consent of any Owner, express or implied, such as an Occupant.

Section 17. "Plat" means the final official plat as recorded and shall include the subdivided real property therein described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

Section 18. "Property" sometimes also referred to as Properties herein, means the lands described as Avondale Grove.

Section 19. "Recorded" means filed for record in Hillsborough County, Florida.

Section 20. "Structure" shall mean any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse, bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, sign, signboard, temporary or permanent living quarters (including any home or manufactured home), temporary or permanent improvement, excavation, grading, fill, ditch, diversion, dam, other thing or device which affects the flow of waters, utility shed, detached shed or other activity.

Section 21. "Surface Water Management System Facilities" shall mean: the facilities including, but not limited to all inlets, ditches, swales, (including but not limited to the rear lot drainage easements), culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.

ARTICLE II. PROPERTY RIGHTS AND COMMON AREA

Section 1. "Easements and Enjoyment". Each Owner has a nonexclusive right and easement of enjoyment in and to the Common Area that is appurtenant to, and will pass with, the title to every Lot, subject to the following:

- a. Fees. The Association's right to charge reasonable fees for the use, safety and maintenance of any common facilities from time to time situated on the Common Area; and to manage the Association.
- b. Suspension. The Association's right to suspend such Owner's right to use any facility owned or controlled by the Association for the period of unpaid assessments; or to suspend any Owner's right to use any such facility for any infraction of the Association's valid rules and regulations for a period not to exceed 60 days. No such suspension shall interfere with the Owner's access to the Lot owned.
- c. Delegation of Use. Subject to such limitations as may be imposed by the By-Laws or reasonable rules and regulations adopted by the Association, each Owner may delegate his right of enjoyment in and to the Common Area, and accompanying facilities, if any, to members of his family, his guests, tenants and invitees.
- d. Rules and Regulations. The Association's right to adopt, alter, amend, rescind and enforce reasonable rules and regulations governing the use of the Common Area.
- e. Mortgage. The right of the Association to borrow money for the purpose of improving the Common Area or acquiring additional common area property; provided however, the Common Area cannot be mortgaged without the consent of the Members entitled to cast two-thirds (2/3) of the total votes able to be cast at any regular or special meeting of the Members duly called and convened.

Section 2. **Permanence.** The benefit of all rights and easements granted by the Declaration constitutes a permanent appurtenance to, and will pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as nonexclusive, its benefit, nevertheless, is exclusive to all Lots granted such benefit by this Declaration unless this Declaration expressly grants such benefit to additional persons. In no event does the benefit of any such easement extend to the general public except as provided in the next Section. The burden of all rights and easements granted by this Declaration constitutes a permanent servitude upon the lands affected.

Section 3. **Easements.** Developer has dedicated and conveyed or will dedicate or convey to the Association utility, drainage, wall and landscape easements, together with a right of ingress and egress over and across the easement areas for such purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, drainage structures or walls, or which may impede the flow of water through drainage structures in the easements.

Easement areas within a Lot and all improvements in it, shall be maintained continuously by the Owner of the Lot, unless maintained by the Association. Each Owner is responsible for maintenance of the drainage easements on his Lot, and if not maintained by the Owner, the Association has a right to maintain pursuant to Article V Section 4 herein. Each Owner is responsible for damage to or destruction of the easement area and all improvements on it caused directly or proximately by the acts or omissions of such Owner and any guests, invitees, residents, or other persons occupying or present upon said Lot.

Section 4. **No Partition.** There shall be no judicial partition of the Common Area, nor shall Developer, or any Owner, or any person acquiring any interest in the Properties or any part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in cotenancy.

Section 5. **General Restrictions.** Except with the Association's prior written consent or in accordance with the Association's rules and regulations:

- a. Obstructions. There will be no obstruction of the Common Area, nor will anything be kept or stored on the Common Area except items installed by Developer as part of the subdivision improvements, and their replacement.
- b. Alterations. Nothing will be altered on, constructed upon, or removed from the Common Area except with the specific approval of the Association's Board of Directors.
- c. Activities. All uses and activities upon or about the Common Area are subject to the Association's rules and regulations.

Section 6. **Streets, Walls and Landscaping.** Any subdivision improvements such as wells, walls and attendant landscaping constructed as part of the subdivision improvements or otherwise, shall be kept and maintained by the Association in condition and appearance as constructed as long as the Developer continues to own a Lot, unless the Developer otherwise consents.

ARTICLE III. GENERAL USE RESTRICTIONS

Section 1. **Use of Lots.** Each Lot may be improved and used for residential purposes only and only single family units approved in accordance with Article VII may be constructed or installed thereon. No trade, business, or profession of any kind, or any activity other than that of single family residence may be conducted on any Lot. No billboards or advertising signs shall be erected or displayed thereon, except for the business of the Developer and its transferees in developing the Properties and advertising signs in furtherance thereof. No building or other improvements on a Lot shall be rented or leased separately from the rental or lease of the entire Lot, and no part of any Dwelling may be used for the purpose of renting rooms or for transient accommodations. No duplex, garage apartment, or apartment house shall be erected, converted, or allowed to remain on any Lot.

Section 2. **View Obstructions.** The Association or the Developer shall have the right, but not the obligation, to remove, relocate, or require the removal or relocation of any fence, wall, berm, hedge, shrub, tree or other thing, natural or artificial, placed or located on any Lot if the location of the same will, in the sole and exclusive judgment of the Association, obstruct the vision of a motorist upon any road within the Subdivision.

Section 3. **Dwellings.** Only one Dwelling may be constructed or installed on any Lot, of at least 1200 square feet exclusive of garages, carports, porches, and breezeways. All driveways and sidewalks shall be of masonry, or brick if approved by the Architectural Committee. All roofs shall be shingled. Attached carports, wood decks, patio covers, and other improvements must be approved by the Architectural Committee. An additional non-habitable structure may be installed constructed on the Lot providing the structure is of the same materials as the Dwelling or is in harmony with the Dwelling and is approved by the Architectural Committee.

Section 4. **Screening.** Except for regular collection and disposal, no receptacles for rubbish, trash, garbage or other waste material or accumulations, or mechanical or other equipment, may be kept, stored erected or permitted anywhere within the Properties. All receptacles must be kept hidden from the street at the rear of the home. All air conditioner units must be screened from the street, through landscaping, fencing or approved method by the Architectural Committee.

Section 5. **Temporary Structures.** No structure of a temporary character, tent, shack, garage, barn or other outbuilding or any portion of the same, or any structure of any kind which extends more than four feet above the surface of the ground and which is detached from the Dwelling, shall be constructed or parked on any Lot at any time, except for a construction shack, security trailer, temporary structure or temporary toilet during construction of a Dwelling.

Section 6. **Building Restriction Lines.** Any Dwelling placed on a Lot shall be in accord with the front yard, side yard and rear yard setback requirements set forth in the Hillsborough County Zoning Regulations, and the Architectural Committee. No variances will be permitted without written permission from the Architectural Committee, in addition to zoning requirements.

Section 7. **Vehicular Parking.** Lot Owners shall park vehicles only in their garage or driveway. Only motorized wheeled vehicles approved below or in the rules and regulations shall be kept or parked on a concrete driveway on a Lot. Private automobiles of guests of the Occupants may also be parked in such driveway or concrete parking area, and except further that other vehicles may be parked in such driveway or concrete parking area during such times necessary for service or maintenance of the Dwelling or Lot or pickup and delivery service, provided that permission for such parking is granted by the Lot Owner solely for the purpose of such service. No inoperative or unlicensed vehicles shall be parked, repaired or maintained anywhere on the Property. No overnight parking is permitted on the Common Areas, including streets, except in areas specifically designated by the Association's Board of Directors for parking. No boat, boat trailer, camper, mobile home, motor home, travel trailer, collector car, van or truck with a capacity in excess of one and one-half ton, trailer, or other similar motor vehicle shall be permitted to remain on any Lot or public street unless inside a garage or otherwise parked, stored or located in such a manner and location on a Lot so as not to be visible from the public streets or neighboring Lots.

Section 8. **Lot Plates.** A plate showing the street number of the Lot may be placed on each improved Lot, and, at the option of the Owner, a nameplate showing the name of the Owner may also be placed on such improved Lot. The size, location, design, style, and type of material for each plate shall first be subject to approval by the Architectural Committee.

Section 9. **Window Air Conditioners, Fans, and Solar Devices.** Unless the prior approval of the Architectural Committee has been obtained, no window air conditioning units, window fans, exhaust fans, or solar heating devices shall be installed on any side or roof of a Dwelling.

Section 10. **Residential Use.** No garage, or any outbuilding of any kind shall at any time be used as a residence, either temporarily or permanently.

Section 11. **Signs.** No signs of any type shall be erected on any Lot or displayed to the public on any Lot except a real estate sign as described below. A real estate sign shall contain only the notation "for sale", "for rent", or "for lease", the telephone number, and the name of the agent and/or real estate broker or "by owner", as applicable, and shall not be more than four square feet in area. No other signs may be erected or maintained on any Lot, and no sign may be erected or maintained on any Lot which contains any language, drawing, or any material other than the words noted above. This restriction shall not apply to signs used by the Developer at the entrance of the subdivision to identify and advertise the subdivision as a whole, nor to signs to advertise Lots and/or houses by Developer or other licensed builders engaged in the business of construction and sale of houses, during the construction and development period and provided such signs are approved by the Architectural Committee. All signs permitted by this subsection are subject to the Association's rules and regulations and the approval of the Architectural Committee, provided however that these restrictions shall not apply to signs used by Developer or his assigns to advertise the Property during the promotion and construction of Dwellings and sale of Lots. Developer or

the Association may enter upon any Lot and summarily remove and destroy any signs which do not meet the provisions of this section, and are hereby granted an easement for this purpose.

Section 12. **Aerials.** No exterior radio or television mast, tower, pole, wire, aerial, antenna, dish or appurtenances thereto, nor any other exterior electronic or electric equipment, structures, devices or wires of any kind shall be installed or maintained on the exterior of any structure located on a Lot or on any other portion of a Lot, unless approved by the Architectural Committee. No satellite dish shall be permitted except those of less than one meter in diameter, and any such satellite dish must comply with standards of the Architectural Committee. The Architectural Committee created pursuant to Article VII shall adopt standards for the placement of such satellite dishes.

Section 13. **Electrical Interference.** No electrical machinery, devices or apparatus of any sort shall be used or maintained in any structure located on a Lot which causes interference with the television or radio reception in any structures located on other Lots.

Section 14. **Animals.** No animals, livestock, or poultry may be raised, bred or kept anywhere within the Properties, except that dogs, cats and other customary household pets, limited to a maximum of four (4), as defined in rules and regulations which do not affect adjoining properties in any way, may be kept upon any Lot so long as they are not kept, bred or maintained for any commercial purpose. Each Owner shall have the responsibility to clean up the waste produced by his or her pet immediately, and all pets shall be properly leashed and controlled in whatever manner is most practical whether it is located upon or off a Lot, and shall be subject to all applicable local ordinances existing at the time and rules and regulations.

The keeping of a dog or other pet on the Property is not a right of an Owner, but is a conditional license. This conditional license is subject to termination at any time by the Association upon a finding that a dog or other pet is vicious, is annoying to other residents, or has in any way become a nuisance. The owner of a pet assumes liability for all damage to persons or property caused by the pet or resulting from its presence on the Property.

Section 15. **Nuisances/Trash.** No illegal, noxious, or offensive activity shall be permitted or carried out on any part of the Property, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Property, nor upon any lands contiguous thereto. No fires for the burning of trash, leaves, clippings, or other debris or refuse shall be permitted on any part of the Property, except by the Developer. No bicycles, tricycles, scooters, wagons, carriages, shopping carts, chairs, benches, tables, toys, or other such items shall be parked or permitted to stand for any period of time on the streets or other portions of the Common Area, except in accordance with the Rules and Regulations.

Section 16. **Trees and Surface Conditions.** No Owner shall plant or place any shrubbery, hedges, trees or other plantings on any part of the Property lying outside of the Owner's Lot. No living tree having a diameter greater than three (3) inches measured at a height of four (4) feet above ground level, maybe cut on any of the Property without first obtaining the written consent of the Architectural Committee. No sod, topsoil, or shrubbery shall be removed from the Property, no change in elevations shall be made, and no change in the condition of the soil or the level of the land shall be made which result in any permanent change in the flow and drainage of surface water which is not approved by the Architectural Committee.

Section 17. **Maintenance.** Each Owner must repair, replace and maintain the roofs, gutters, downspouts, lawns, shrubs, landscaping, walks, fencing, exterior building surfaces, windows, doors, trim members, driveways, and other exterior improvements and attachments from time to time situated on such Owner's Lot. Each Owner's duty of maintenance includes any and all easement areas upon such Owner's Lot as set out in Article II, Section 3. No Owner may permit any waste to the exterior portions of such Owner's Lot. Each Owner must make all repairs, maintenance and replacements necessary to attachments and appurtenant driveways, if any, in a safe, sanitary and reasonably attractive condition. All exterior surfaces shall be kept clean and free of all mildew. Should an Owner fail to meet the minimum standards for maintenance, then the Association may perform or have

performed the necessary required maintenance and thereafter specifically assess such Owner for such costs pursuant to Article VI, Section 4 hereunder.

Section 18. **Rules and Regulations.** The Association may adopt reasonable rules and regulations concerning the appearance and use of the Property, including Lots, the Common Area, water usage, and type of irrigation systems for individual Lots, and may be amended from time to time by the Association in the manner provided by the Articles and By-Laws. The Association shall provide copies of the regulations and amendments thereto to all Owners and residents. The rules and regulations shall be binding on all Owners and residents after such copies are furnished. No Owner, invitee, or person residing within the Properties may violate the Association's rules and regulations for the use of the Properties. All Owners and other persons residing within the Properties, and their invitees, at all times will do all things reasonably necessary to comply with such rules and regulations. The Association may impose reasonable monetary fines and other sanctions for violations of the rules which may be collected by liens and foreclosure as provided herein. Wherever any provision of this Declaration restricts or prohibits any activity, condition or structure within the Properties except as permitted by the Association's rules and regulations, such restriction or prohibition is self-executing until the Association promulgates rules and regulations expressly permitting such activities. Without limitation, any rule or regulation will be deemed "promulgated" when mailed to all Owners at the address shown on the Association's books or when posted at a conspicuous place on the Properties from time to time designated by the Association for such purpose. All rules and regulations may be initially promulgated by the Board, subject to amendment or rescission by a majority of voting interests present and entitled to vote at any regular or special meeting of members. The Association's procedures for enforcing its rules and regulations shall provide the affected Owner with reasonable prior notice and a reasonable opportunity to be heard, in person and through representatives of the Owner's choice.

The Association may impose fines against any Member, tenant, guest, or invitee, for violation of the provisions of this Declaration or the standards of the Architectural Committee. Such fines shall not exceed \$100 per day per violation, not to exceed \$1000.00 in the aggregate, and may be imposed only after a hearing before a committee of three Members appointed by the Board who are not related to officers, directors, or employees of the Association, with 14 days notice to the person sought to be fined.

Section 19. **Mining.** No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 20. **Activities of Developer.** Notwithstanding any other provision of the Declaration, until the Developer has completed all subdivision improvements and the sale of all Lots, neither the Association nor any Owner shall interfere with the completion of sales of the Lots. Developer may make such use of the unsold Lots as may facilitate sales, including maintenance of a sales office and model homes, construction and use of parking lots, the showing of Lots and the display of signs.

Section 21. **Fences.** Only fences permitted with the approval of the Architectural Committee shall be installed. The Architectural Committee created pursuant to Article VII hereof shall adopt uniform standards for the design and placement of fences. All fences shall comply with County regulations.. No fence shall be placed any closer to the street than the rear wall of the dwelling.

Section 22. **Replacement.** In the event a Dwelling is damaged or destroyed by casualty, hazard or other loss, then within six (6) months after such incident, the Owner thereof shall either rebuild or replace the damaged Dwelling or promptly clear the damaged improvements and regrass and landscape the Lot in a sightly manner.

Section 23. **Utility Lines.** All telephone, electric, cable, and other utility lines and connections between the main or primary utility lines and the Dwelling or other buildings located on a Lot shall be located underground and concealed from view. The Owner of a Lot shall be responsible for all maintenance, operation, safety, repair and replacement of the entire secondary underground utility system from the applicable transformer or supply to the residence and other buildings on the Lot. The size, location and flow capacity of the irrigation system, including but not limited valves, timers, and lines must be approved by the Architectural Committee prior to

installation or modification. Each Owner as part of the application to the Architectural Committee must provide a certification that the irrigation system meets the rules and regulations.

Section 24. **Basketball / Recreation Hoops.** Basketball hoops, backboards, or pole structures shall not be permitted unless approved by the Architectural Committee. All exterior recreation and play equipment, including but not limited to basketball goals, swing sets, jungle gyms, tennis courts, soccer goals, etc. shall not be permitted without the written approval of the Architectural Committee. In reviewing such applications, the Architectural Committees shall ensure that the materials of said equipment shall be a solid color or clear and be void of advertisement. The Board of Directors may require Basketball or Recreation Equipment be removed if it disturbs the neighbors.

Section 25. **Clotheslines.** No clotheslines or devices for the air-drying of clothing may be constructed in any location on a Lot which is visible from any street; or without approval from the Architectural Committee.

Section 26. **Swimming Pools.** Above-ground or in-ground swimming pools may be constructed or installed on any Lot with the approval of the Architectural Committee. A screen enclosure or fence must be used to enclose all pools. Pool and enclosure construction are subject to review by the Architectural Committee pursuant to the terms of Article VII.

Section 27. **Window Treatments.** No reflective foil, sheets, newspaper or other similar material shall be permitted on any windows or glass doors. Drapes, blinds, verticals and other approved window covering visible from outside a residence shall have white, beige or similar approved light color.

Section 28. **Firearms.** The use of firearms within the Property is prohibited. This includes BB guns, pellet guns, bow and arrows, and all other firearms.

ARTICLE IV. OPERATION, MAINTENANCE AND MONITORING OF DRAINAGE FACILITIES

Section 1. The Association shall maintain, or cause to be maintained, as part of the common elements, the Surface Water Management System Facilities for the Properties and comply with conditions of the permits from the Southwest Florida Water Management District (referred to hereinafter as the "District") for the drainage system. If the Association fails to comply with the conditions of such permits, the District may pursue any available remedies at law and in equity in order to compel the Association to bring the Surface Water Management System Facilities into compliance. The Association, shall, when requested by Developer, accept transfer of the District permit. The conditions of the permit may include monitoring and record keeping schedules, and maintenance.

Section 2. No Owner of Property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements and swales described in the approved permit and recorded Plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District Tampa Regulation Department.

Section 3. Water quality data for the water discharged from the permittee's Property or into the surface waters of the state shall be submitted to the District as required. Parameters to be monitored may include those listed in Chapter 17-3 of the Florida Administrative Code. Analysis shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by American Public Health Association of Methods for Chemical Analysis of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the permittee shall provide data as required on volume of water discharged, including total volume discharged during the days of sampling and total monthly discharge from the Property or into surface waters of the State.

Section 4. The Association agrees to operate, repair and maintain the Surface Water Management System Facilities, and shall maintain sufficient ownership so that it has control over all water management facilities

authorized. If the Association ceases to exist at any time in the future, then all Owners shall become jointly and severally responsible for the operation, repair and maintenance of the Surface Water Management System Facilities in accordance with the conditions of the District permits until such time as an alternate entity assumes such responsibilities.

Section 5. The Association shall at all times properly operate and maintain the systems of treatment and control (and related appurtenances) that are installed or used to achieve compliance with conditions of the permit, as required by the District. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by District rules.

Section 6. The Association, specifically agrees to allow authorized District personnel, upon presentation of credentials or other documents as may be required by law, access to the premises, at reasonable times, where the permitted activity is located or conducted; for the purposes of inspection and testing to determine compliance with this permit and District regulations, such as:

- a. Having access to and copying any records that must be kept under the conditions of the permit;
- b. Inspecting the facility, equipment, practices, or operations regulated or required under the permit;
- c. Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with the permit or District rules; and
- d. Gathering of data and information.

Reasonable time may depend on the nature of the concern being investigated.

Section 7. It shall be the responsibility of each Owner within the subdivision at the time of construction of a building, residence, or structure, to comply with the construction plans for the Surface Water Management System Facilities pursuant to Chapter 40D-4, F. A. C., approved and on file with the District.

Section 8. The Property includes areas that have been designated as wetland mitigation lands. Pursuant to District regulations, the wetland mitigation lands require ongoing monitoring and maintenance. The Association shall allocate sufficient funds in its annual budget to cover the cost of monitoring and maintaining the wetland mitigation lands. Such monitoring and maintenance shall be an annual responsibility of the Association until the District determines that such work is no longer necessary.

ARTICLE V. THE ASSOCIATION

Section 1. **Membership.** Every Owner of a Lot is a Member of the Association. If title to a Lot is held by more than one person, each such person is a Member. An Owner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and it is transferred automatically by conveyance of title to that Lot and may not be separated from ownership of a Lot. No person except an Owner may be a Member of the Association, and a membership in the Association may not be transferred except by transfer of title to a Lot.

Section 2. **Voting.** The Association shall have two classes of voting membership:

Class A. So long as there is Class B membership, Class A Members shall be all Owners, except Developer, and shall be entitled to one vote for each Lot owned. Upon termination of Class B membership, Class A Members shall be all Owners, including Developer so long as Developer is an Owner, and each Owner shall be entitled to one vote for each Lot owned. If more than one (1) person owns an interest in any Lot, all such persons are Members: but

there may be only one (1) vote cast with respect to such Lot. Such vote may be exercised as the Owners determine among themselves: but no split vote is permitted.

Class B. The Class B member shall be the Developer and as long as there is a Class B voting membership the Developer shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership and any Class B Lots then subject to the terms of this Declaration shall become Class A Lots upon the happening of any of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, including Class B votes for the Property annexed or planned for annexation by the Developer), or
- b. on January 1, 2012, or
- c. When the Developer waives in writing its right to Class B membership.

Section 3. Common Area. Subject to the rights of Owners set forth in this Declaration, the Association has exclusive management and control of the Common Area, its improvements if any, and all related furnishings, equipment, fencing and other personal property, if any. The Association's duties with respect to the Common Area include the management, and operation of, improvements, equipment and personal property installed by the Developer on the Common Area, so as to keep all of the foregoing in good, clean, substantial, attractive, sanitary, safe and serviceable condition, order and repair; the payment of all taxes validly levied, assessed, or imposed with respect to the Common Area; and the maintenance of adequate public liability and property insurance with respect to the Common Area.

Section 4. Exterior Maintenance. The Association has no duty of exterior maintenance with respect to any Lot; and each Owner must maintain such Owner's Lot, including any appurtenant driveways, in a safe, sanitary and reasonably attractive condition. If:

- a. any Owner refuses or fails to make any repairs, maintenance, or replacements required by Article III, Section 17, above; and
- b. as a result, any condition on or adjoining such Owner's Lot becomes a hazard or nuisance to any other Owner, or diminishes or impairs the value or marketability of any other Lot, or is visually objectionable to persons lawfully upon the Properties; and
- c. at least seventy-five percent (75%) of the members of the Board find that the Owner was provided reasonable notice of the failure of repair, maintenance or replacement and the Board's consideration thereof, and was given an opportunity to be heard by the Board;

then, upon the occurrence of all of the foregoing, the Association may make or perform such repairs, maintenance, or replacements as reasonably are necessary to correct such condition and assess all costs so incurred against such Owner's Lot as provided in Article VI, Section 4, below.

Section 5. Access By The Association. The Association has a right of entry onto the exterior portions of each Lot to the extent reasonably necessary to discharge its duties of exterior maintenance, if any, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted by this Declaration or by any applicable Supplemental or Amended Declaration. Such right of entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of its Owner or Occupant for any purpose, except pursuant to Court order or other authority granted by Law. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right of exterior maintenance if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees and contractors.

Section 6. **Services.** The Association may obtain and pay for the services of any person to manage its affairs to the extent the Board deems advisable, as well as such other personnel as the Board determines are necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. Without limitation, the Board may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration, or the Articles, By-Laws, or rules and regulations.

Section 7. **Capital Improvements.** Except for replacement or repair of items installed by Developer, such as the perimeter wall and landscaped entry features, and except for any personal property related to the Common Area, the Association may not authorize capital improvements to the Common Area without the prior approval of Developer, while there is a Class B Member, and seventy-five percent (75%) of the Association Members present and voting in person or by proxy at a meeting duly convened for such purposes.

Section 8. **Amplification.** The provisions of this Declaration may be amplified by the Articles of Incorporation and By-Laws of Avondale Grove of Hillsborough Homeowners Association, Inc., but no such amplification shall alter or amend substantially any of the rights or obligations of the Owners set forth in the Declaration, or any Supplemental Declaration. The Developer intends that the provisions of this Declaration and any Supplemental or Amended Declaration, on the one hand, and the Articles of Incorporation and By-Laws on the other hand, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration, or any Supplemental or Amended Declaration, control anything to the contrary in the Articles of Incorporation or By-Laws.

ARTICLE VI. ASSESSMENTS

Section 1. **Assessments Established.** For each Lot owned within the Properties, Developer covenants, and each Owner of any Lot by acceptance of a deed thereto, whether or not it is so expressed in such Deed, is deemed to covenant and agree, to pay to the Association:

- a. An annual assessment, as provided in Section 2 of this Article; and
- b. Special assessments, as provided in Section 3 of this Article; and
- c. Specific assessments, as provided in Section 4 of this Article; and
- d. All excise taxes, if any, that from time to time may be imposed by law upon all or any portion of the assessments established by this Article; and
- e. Interest and costs of collection of such assessments, including reasonable attorney's fees, as provided in this Declaration; and

All of the foregoing are a continuing charge on the land and secured by a continuing lien upon the Lot against which each assessment is made, as provided in Section 7, below. Each such assessment or rental payment, together with excise taxes, interest and all costs and expenses of collection, including reasonable attorney's fees, also is the personal obligation of the Owner of such Lot when such assessment fell due. Such personal obligation will not pass to an Owner's successors in title unless assumed expressly in writing, however.

The annual or special assessments on Class B Lots shall be 50% of the corresponding assessments for Class A Lots. As an alternative in lieu of such assessments, Developer may pay the excess expenses of the Association, including reserves, which exceed the amounts collected from Class A Lot assessments. Each Class A Lot shall be assessed a proportional share of the common expenses, which share is equal to a fraction the numerator of which is one and the denominator of which is the total number of Lots subject to assessment under this Declaration.

Section 2. **Annual Assessment.** The annual assessment must be used exclusively to promote the recreation, health, safety and welfare of the residents within the Properties, including (i) the operation, management, maintenance, repair, servicing, renewal, replacement and improvements of the Common Area and the establishment of reserve accounts therefor; (ii) the cost of labor, equipment, materials, management and, supervision of the Common Area; and (iii) all other general activities and expenses of the Association.

Section 3. **Special Assessments.** In addition to the annual assessment, the Association may levy a special assessment payable in one or more installments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, renewal, repair or replacement of a capital improvement upon the Common Area or other extra ordinary expense, provided such assessment first is approved by seventy-five percent (75%) of the members present and voting in person or by proxy at a meeting duly convened for such purpose and Developer, while there is a Class B Member.

Section 4. **Specific Assessments.** Any and all accrued, liquidated indebtedness of any Owner to the Association, including fines, arising under the provision of this Declaration, or by contract expressed or implied, or because of any act or omission of any Owner or person for whom such Owner is responsible, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay it within thirty (30) days after written demand. This shall include costs of the Association for water and wastewater use which are attributable to such Owner's Lot.

Section 5. **Amount.** Until December 31, 2005, the annual assessment will not exceed \$150.00 per Lot. At least thirty (30) days before the expiration of each fiscal year, the Board will prepare and distribute to each Owner a proposed budget for the Association's operations during the next ensuing fiscal year. If such budget requires an increase in the annual assessment of 15% or less over the previous year's assessment, the assessment so proposed will take effect at the commencement of the next ensuing fiscal year without further notice to any Owner. If such budget requires an annual assessment that is either more than a fifteen percent (15%) increase over the annual assessment then in effect, the Board must call a membership meeting on not less than fifteen (15) days prior notice for the purpose of approving such increase. An approval of the Developer while there is a Class B Member, and a majority of the votes of those Members present and voting, is required for such approval, and the assessment approved will take effect at the commencement of the next ensuing fiscal year without further notice to any Owner. If the proposed assessment is disapproved, a majority of the votes and the approval of the Developer while there is a Class B member, will determine the annual assessment for the next ensuing fiscal year, which may be in any amount not exceeding that stated in the meeting notice. Each annual assessment may be payable in such number of installments, with or without interest, as the Board determines. In the absence of any action by the Board or the membership to the contrary prior to the commencement of any fiscal year, the annual assessment then in effect automatically will continue for the ensuing year.

Section 6. **Commencement.** The assessments provided by this Article will commence as to all Lots on the first day of the first month following Developer's first conveyance of title to any Lot to a Class A Member and will be prorated on the basis of the number of months then remaining in the Association's fiscal year.

Section 7. **Assessment Lien.** All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a continuing lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any First Mortgage encumbering such Lot; but all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Declaration, whether or not such consent is set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority. The Association may, but is not required to, from time to time, record a Notice of Lien to further evidence the lien established by this Declaration.

Section 8. **Association Remedies.** Any assessment not paid within thirty (30) days after its due date bears interest at the maximum rate of interest allowed by law at the time. The Association may sue the Owner personally obligated to pay such assessment for a money judgment, or it may foreclose its lien against such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or