

KILLEARN ESTATES

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DECLARATION OF COVENANTS AND RESTRICTIONS

STATE OF FLORIDA,  
COUNTY OF LION,

KNOW ALL MEN BY THESE PRESENTS, That this Declaration of Covenants and Restrictions, made and entered into on this 3<sup>rd</sup> day of September, A. D. 1980, by KILLEARN PROPERTIES, INC., a Florida corporation, hereinafter referred to as "Developer",

WITNESSETH:

WHEREAS, Developer is the owner of the real property commonly known as Killlearn Estates and desires to create therein a residential community with permanent parks, lakes, playgrounds, open spaces, and other common facilities for the benefit of the said community; and,

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, lakes, street lights, playgrounds, open spaces, and other common facilities, and, to this end, desires to subject the real property described in Exhibit "A" together with such additions as have been or may hereinafter be made thereto (as provided in Article I) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Developer has incorporated under the laws of the State of Florida, as a non-profit corporation, KILLEARN HOMES ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Exhibit "A", and such additions thereto as may hereafter be made pursuant to Article I hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Leon County, Florida, contains 75.00 acres more or less, and is more particularly described in Exhibit "A" attached hereto.

Section 2. Additional properties in Killlearn Estates may become subject to this Declaration by recordation of additional declarations containing essentially the same substance as the instant instrument in the sole discretion of Developer. Any subsequent Declarations of Covenants and Restrictions shall interlock all rights of Members to the Association to the end that all rights resulting to Members of the Killlearn Homes Association shall be uniform and between all units of Killlearn Estates.

**ARTICLE II  
DEFINITIONS**

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to the Killlearn Homes Association, Inc.
- (b) "Board" shall mean and refer to the Board of Directors of the Killlearn Homes Association, Inc.
- (c) "Building" shall include, but not limited to, both the main portion of such building and all projections or extensions thereof, including garages, outside platforms and docks, carports, canopies, enclosed malls, porches, walls, docks, and fences.
- (d) "Committee" shall mean and refer to the Architectural Control Committee.
- (e) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (f) "Improvements" shall mean and include structures and construction of any kind, whether above or below the land surface, such as, but not limited to, buildings, out-buildings, water lines, sewers, electrical and gas distribution facilities, loading areas, parking areas, walkways, wells, fences, hedges, mass plantings, entrance ways or gates and signs.
- (g) "Living Area" shall mean and refer to those heated and/or air conditioned areas which are completely finished as living area and which shall not include garages, carports, porches, patios or storage areas.
- (h) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.
- (i) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article XXXI, Section 1, hereof.
- (j) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof, or when the density of Living Units exceeds five per acre.
- (k) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any site situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (l) "Site" shall mean a portion or contiguous portions of said property, which accommodate a single use or related uses under single control. After improvement to the site providing for residential use, "site" shall mean each residential living unit and its adjoining property. In areas zoned for single-family use, "site" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.
- (m) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article I, hereof.

ARTICLE III  
GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by The Association, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-Owners of two-thirds of the sites has been recorded, agreeing to change said covenants and restrictions in whole, or in part, provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner, under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by those covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provision which shall remain in full force and effect.

ARTICLE IV  
AMENDMENT OF DECLARATION OF COVENANTS  
AND RESTRICTIONS

The Developer reserves and shall have the sole right (a) to amend these covenants and restrictions for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein, (b) to include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to the said land which do not lower standards of the covenants and restrictions contained herein, and (c) to release any building plot from any part of the covenants and restrictions which have been violated (including, without limiting the foregoing, violations of building restriction lines and provisions hereof relating thereto) if the Developer, in its sole judgement, determines such violation to be a minor or insubstantial violation. With the concurrence of the owners of two-thirds of the property described in Article I, Section 1, the Developer may amend, alter, modify or delete any portion of these covenants and restrictions.

ARTICLE V  
ADDITIONAL COVENANTS AND RESTRICTIONS

No property owner, without the prior written approval of the Developer, may impose any additional covenants or restrictions on any part of the land described in Article I, hereof.

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ARTICLE VI  
ARCHITECTURAL CONTROL

No improvement, as defined herein, 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, and location of the same shall have been submitted in duplicate to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an architectural control committee. The Architectural Control Committee shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and site grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Developer of said land or contiguous lands.

ARTICLE VII  
ARCHITECTURAL CONTROL COMMITTEE

**Membership.** The Architectural Control Committee is composed of two members to be appointed by the Developer and a third party to be appointed by the Association. A majority of the committee may designate a representative to act for it. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

**Procedure.** The Committee's approval, disapproval, or waiver as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. At least ten (10) days prior to the commencement of construction, such plans and specifications shall be submitted to the Committee and shall consist of not less than the following: foundation plans, floor plans of all floors, section details, elevation drawings of all exterior walls, roof plan and plot plan showing location and orientation of all buildings and other structures and improvements proposed to be constructed on the building plot, with all building restriction lines shown. In addition, there shall be submitted to the Committee for approval, a description of materials and such samples of building materials proposed to be used as the Committee shall specify and require.

ARTICLE VIII  
LAND USE AND BUILDING TYPE

No site shall be used except for residential and recreational purposes. Except in areas zoned for multi-family use, no building of any type shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height. When the construction of any building is once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. The main residence and attached structures shown on the plans and specifications approved by the Committee must be completed in accordance with said plans and specifications upon each building plot unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies or natural calamities.

**ARTICLE IX**  
**TEMPORARY STRUCTURES**

No structure of a temporary character, basement, tent, shack or other outbuilding of any type shall be located on any site at any time unless of approved construction.

Except in areas zoned for multi-family use, boats, trailers, and other vehicles shall be parked or stored within the garage or placed behind a fence; however, in no event shall the vehicles be visible from the street in front of the property.

**ARTICLE X**  
**SINGLE-FAMILY LOT AREA AND WIDTH**

No dwelling shall be erected or placed on any single-family site having a lot area of less than 80 feet at the place the dwelling is proposed to be erected, and no dwelling shall be erected or placed on any site having an area of less than 12 feet wide.

**ARTICLE XI**  
**SINGLE-FAMILY DWELLING QUANTITY AND SIZE**

The ground floor area of the main structure of single-family dwellings, exclusive of one-story porches, garages, carports, and patios shall be not less than the area specified in Exhibit "B", included herein.

In the event a structure contains more than one story, the ground floor shall contain not less than 1,200 square feet and must be completely finished, and at least 600 square feet of the second floor must be completely finished. However, the total square footage must equal or exceed that of a one story dwelling.

**ARTICLE XII**  
**BUILDING LOCATION**

(a) No building shall be located on any site nearer to the front or rear property line, or nearer to the side street line than the minimum setbacks specified on any recorded plat or site plan. In any event, no building shall be located on any site nearer than 40 feet to the front property line, or nearer than 20 feet to any side property line, or as otherwise specified by the City.

(b) No single-family dwelling shall be located nearer than 15 feet to the rear property line and must be at least 30 feet from an existing adjacent single-family dwelling shall be located on any interior site nearer than 5 feet to the rear line.

(c) No driveway shall be located nearer than 5 feet to an interior property line except a back-up turn-around pad may be located as near as one foot to the property line.

(d) Except as otherwise provided herein, no fence of any kind shall be constructed nearer to the front property line than the building setback from the front corner of the residence, whichever is greater. No fence shall be located nearer than 2 inches to an interior property line.

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(e) No fence or prominent structure of any kind shall be permitted on the rear 50 feet of any site which has a rear property line adjacent to the Golf Course property. No fence or prominent structure of any kind shall be permitted on the rear 50 feet of any site which has a rear property line adjacent to a lake except that a fence may be constructed within 5 feet of and parallel to each side property line and extending to the rear property line.

(f) For the purpose of this covenant, eaves and steps shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon another site.

**ARTICLE XIII**  
**LAND NEAR PARKS AND WATER COURSES**

No building shall be placed nor shall any material or refuse be placed or stored on any site within 20 feet of the property line of any park or edge of any open water course, except that clean fill may be placed nearer, provided that the natural water course is not altered or blocked by such fill.

**ARTICLE XIV**  
**EXTERIOR STRUCTURE MATERIALS**

The exterior structure material of exterior walls of dwellings must be at least two-thirds (2/3) brick or stone masonry, unless specifically waived in writing by the Committee.

**ARTICLE XV**  
**GARAGES AND CARPORTS**

Each Living Unit, except a multi-family structure, shall have a functional carport or garage attached to the residence which shall be screened on sides which are visible from the street, which runs in front of or adjacent to the property, in such a manner that objects located within the carport shall present a broken and obscured view from the outside thereof. All garage and carport entrances shall face the rear property line or a side property line. In no instance shall the entrance be permitted to face the front property line of the property.

**ARTICLE XVI**  
**DRIVEWAY AND WALKWAY CONSTRUCTION**

All driveways shall be constructed of concrete or "hot mix" asphalt. Where curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way to be acceptable to the Committee. Except in areas zoned for multi-family use, all walkways and sidewalks shall be constructed of concrete and have a minimum width of 30 inches.

**ARTICLE XVII**  
**UTILITY CONNECTIONS AND TELEVISION ANTENNAS**

All house connections for all utilities including, but not limited to, water, sewerage, electricity, telephone and television shall be run underground from the property connecting points to the building structure in such manner to be acceptable to the governing utility authority and the Committee.

Exterior radio and television antenna installations must be approved in writing by the Committee.

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ARTICLE XVIII  
WATER SUPPLY

No individual water supply system of any type shall be permitted on any site unless approved in writing by the Committee.

ARTICLE XIX  
SEWAGE DISPOSAL

No individual sewage disposal system shall be permitted on any site unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the State of Florida and the Leon County Health Departments. Approval of such system as installed shall be obtained from such department or departments.

ARTICLE XX  
GARBAGE AND REFUSE DISPOSAL

No site shall be used, maintained, or allowed to become a dumping ground for scraps, litter, leaves, limbs, or rubbish. Trash, garbage or other waste shall not be allowed to accumulate on the property and shall not be kept except in sanitary containers installed in such a manner to be acceptable to the Committee. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

ARTICLE XXI  
WINDOW AIR-CONDITIONING UNITS

No window air-conditioning units shall be installed in any side of a building, and all exterior heating and/or air-conditioning compressors or other machinery shall be located to the rear of the residence and not be visible from the street, in such a manner to be acceptable to the Committee.

ARTICLE XXII  
MAIL BOXES

No mail box or paper box or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar materials shall be erected or located on any building plot unless and until the size, location, design and type of material for said boxes or receptacles shall have been approved by the Committee. If and when the United States mail service or the newspaper or newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to the residence, each property owner, on the request of the Committee, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to the residence.

ARTICLE XXIII  
SIGNS

No sign of any kind shall be displayed to the public view on any site except one sign of not more than five square feet advertising the property for sale or rent. All signs must be approved in writing by the Committee.

ARTICLE XXIV  
PROTECTIVE SCREENING

Protective screening areas are or shall be established as shown on the plat. Except as otherwise provided herein regarding street intersections under "Sight Distance At Intersections", plantings, fences or walls shall be maintained throughout the entire length of such areas by the owner or owners of the sites at their own

expense to form an effective screen for the protection of the residential area. No building or structure except a screen fence or wall or utilities or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for purpose of installation and maintenance of screening, utilities and drainage facilities.

**ARTICLE XXV**  
**SIGHT DISTANCE AT INTERSECTIONS**

No fence, wall, hedge or shrub planting which obstructs sightlines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the property lines extended. The same sightline limitations shall apply within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

**ARTICLE XXVI**  
**EASEMENTS**

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each site and all improvements in it shall be maintained continuously by the owner thereof, except for those improvements for which a public authority or utility company is responsible.

**ARTICLE XXVII**  
**BRIDLE TRAIL USE**

Bridle trail areas, if any, shown on the recorded plats of Killearn Estates, are to be used only for such purpose, and for utility construction and maintenance. Bridle trails are to be kept clear of fences, shrubbery, gates and cattle crossings, leaves, grass trimmings, limbs or other refuse, and are to be kept in a manner to make possible the use of the bridle trails for horseback riding. In no instance shall the bridle trails be used as an access to carports, garages and driveways.

**ARTICLE XXVIII**  
**LIVESTOCK AND POULTRY**

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any site, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, further, provided they are not allowed to wander or roam freely about the neighborhood.

**ARTICLE XXIX**  
**OIL AND MINING OPERATIONS**

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any site, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any site. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, or maintained for any commercial purpose.



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ARTICLE XXX  
NUISANCES

No noxious or offensive activity shall be carried on upon any site, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or tend to damage or destroy either private or public property.

ARTICLE XXXI  
MEMBERSHIP AND VOTING RIGHTS  
IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee, interest in any site which is subject to covenants of record to assessment by the Association, shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. The requirement of membership shall not apply to any mortgagee or third person acquiring title by foreclosure or otherwise, pursuant to the mortgage instrument, or those holding by, through or under such mortgagee or third person. The record owner may, at his option, designate that the occupant of a residential Living Unit be the member in his stead.

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

Class A. Class A Members shall be all those owners as defined in Section 1 with the exception of the Developer. Class A Members shall be entitled to one vote for each single-family site, and, in the case of a multi-family site, one-half ( $\frac{1}{2}$ ) vote for each residential Living Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any site, all such persons shall be Members, and the vote for such site shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such site.

Class B. Class B Members shall be the Developers. The Class B Member shall be entitled to two votes for each site in which it holds the interest required for membership by Section 1, provided that the Class B membership shall cease and become converted to Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, at which time the Class B membership shall be determined to be a Class A membership and entitled to vote as such.

ARTICLE XXXII  
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 4, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every site.

Section 2. Title to Common Properties. The Developer may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same but, notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns, that it shall convey the Common Properties to the Association not later than the 1st day of January 1985.

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Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Developer and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and,

(b) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and,

(c) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and,

(d) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, determination as to the purpose or as to the conditions thereof, shall be effective, unless an instrument signed by Members entitled to cast two-third (2/3) of the votes irrespective of class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety(90) days in advance of any action taken; and

(e) the rights of Members of the Association shall in no wise be altered or restricted because of the location of the Common Property in a Unit of Killearn Estates in which such Member is not resident. Common Property belonging to the Association shall result in membership entitlement, notwithstanding the Unit in which the site is acquired, which results in membership rights has herein provided.

**ARTICLE XXXIII**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, for each site owned by him within the Properties, hereby covenants and each Owner of any site by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collections thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to the

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purpose and related to the use and enjoyment of the Common Properties and of the homes situated upon The Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January, 1981, the annual assessment shall be Fifty Dollars (\$50.00) per site. From and after January 1, 1981, the annual assessment may be increased by vote of the Members, as hereinafter provided, for the next succeeding three (3) years, and at the end of each such period of three (3) years for each succeeding period of three (3) Years. Any Member paying the annual dues on or prior to June 1 of the year in which same becomes due, shall be entitled to pay only the sum of Forty Dollars (\$40.00). From and after June 1 of each year, the annual dues shall be Fifty Dollars (\$50.00). The assessment for any multi-family Living Units shall be one-half ( $\frac{1}{2}$ ) of the assessment specified herein.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, 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 any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds ( $\frac{2}{3}$ ) of the votes of Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum Amount of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum amount and basis of the assessments fixed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of two-thirds ( $\frac{2}{3}$ ) of the votes irrespective of class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum amount and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article I, Section 2 hereof.

Section 6. Quorum for any action authorized under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60) percent of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5 hereof, and the required quorum at any such subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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**Section 7. Date of Commencement of Annual Assessments. Due Dates.** The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement. No assessment shall be due until all promised improvements have been completed by the Developer and Warranty Deeds issued. Assessments for multi-family structures or units will not commence until completion of the construction of the structures.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of April of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

**Section 8. Duties of the Board of Directors.** The Board shall fix the date of the commencement, and the amount of the assessment against each site, for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment thereupon shall be sent to every Owner subject thereto.

The Association shall, upon demand, furnish at any time to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 9. Effect of Non-payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.** If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six (6) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of such action. In the event a judgement is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment. This subordination shall not relieve such property from liability for any assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage as if said lien were a second mortgage, irrespective of when such first mortgage was executed and recorded.

**Section 11. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article 2 hereof; (c) all properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

**ARTICLE XXXIV**  
**EXTERIOR MAINTENANCE**

**Section 1. Exterior Maintenance.** In addition to maintenance upon the Common Properties, the Association shall have the right to provide maintenance upon vacant sites and shall have the right to provide maintenance upon every improved site which is subject to assessment under Article 8 hereof. Such maintenance may include paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements. Such maintenance as to a vacant site may include the mowing of grass and weeds, the trimming of shrubs, or the removal of trash and litter.

**Section 2. Assessment of Cost.** The cost of such maintenance shall be assessed against the site upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such site is subject under Article 33 hereof and, as part of such annual assessment or charge, it shall be a lien against said property as heretofore defined and limited, and a personal obligation to the Owner, as heretofore limited, and shall become due and payable in all respects as provided in Article 33 hereof.

**ARTICLE XXXV**  
**LAKES, BOATS AND DOCKS**

**Section 1. Boats.** Boats may be powered only by an outboard electric motor having a maximum of three (3) horsepower and shall be maintained and operated at all times in a safe manner according to the safety rules established by the Outboard Boating Club of America, U.S. Coast Guard, or other similar organizations.

**Section 2. Landscaping.** The dumping, filling, excavation, planting of spreading-type vines or other foliage, fencing, or the cutting of trees having a diameter of three (3) inches or more which would change the configuration of the shoreline or disturb the appearance and natural beauty of the shore within fifty (50) feet of the water's edge is prohibited.

**Section 3. Dock Height.** Docks shall be constructed perpendicular to the shoreline of any lake and be not more than one foot above the crest of the bank along the shoreline and in no event higher than two feet above the established water level.

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Section 4. Dock Size and Shape. Docks shall have a flat, unobstructed surface constructed of wood and a rectangular shape not to exceed twenty-five (25) feet in length and six (6) feet in width which shall be supported by either concrete or wood pilings, or as otherwise specified by the Committee.

Section 5. Dock Appearance. All wooden surfaces shall be painted and maintained so as to blend architecturally with the residence and the environment and present a neat, orderly and well-kept appearance in a manner to be acceptable to the Architectural Control Committee.

Section 6. Prohibitions. Diving platforms, floating docks, oil drums, other buoyant objects or materials, ladders, hand railing, overhead electrical wiring, fishing methods employing the use of other than a hand-held device, and boat houses are specifically prohibited on any residential site abutting a lake.

Section 7. Swimming. No swimming shall be permitted from any area deeded to the Killcarn Homes Association, Inc. Any owner of a site or sites abutting upon Lake Killarney, Lake Kanturk or any other lake who swim or permit others to swim from such site or sites shall do so at their own risk. Neither Killcarn Properties, Inc. nor Killcarn Homes Association, Inc. assume any responsibility for the purity of the water in Lake Killarney and Lake Kanturk or any damage resulting from their use.

Section 8. Authority and Responsibility. It shall be the sole responsibility of the Association to maintain the aesthetics of all lakes, the discharge of which jurisdiction shall entitle said Association to go on and upon all lakes for the purpose of performing its responsibilities to the members and contributing owners.

Section 9. Permission to Improve. Permission is given to Killcarn Properties, Inc., its successors or assigns, to enter upon all lakes and install or otherwise construct any docks, ramps, pumping, drainage and well facilities, and to improve all lakes. Permission to undertake such construction is granted by each purchaser of property bordering any lake.

Section 10. For all single family sites fronting on any lake, and for multi-family Living Units which are a part of a tract fronting on any lake, the annual assessment in Article XXXIII shall be one hundred fifty (150) percent of the annual assessment applicable to other sites.

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**BROWARD DAVIS & ASSOC., INC.**

LAND SURVEYING & ENGINEERING & PLANNING  
ENVIRONMENTAL MANAGEMENT  
FLORIDA & GEORGIA & ALABAMA

April 3, 1980

BROWARD DAVIS, P.L.S.  
PRESIDENT

LARRY F. DAVIS, P.L.S.  
VICE PRESIDENT - SURVEYING

JEROME H. HUNTER, P.L.S.  
VICE PRESIDENT - SURVEYING  
REGISTERED PROFESSIONAL SURVEYOR



WALTER A. JOHNSON, P.E., P.L.S.  
VICE PRESIDENT - ENGINEERING

NEVIN C. SMITH, JR., P.E.  
DIRECTOR OF ENGINEERING DESIGN

LEE F. DOWLING, P.L.S.  
DIRECTOR OF SURVEYING

KILLARNEY ESTATES UNIT NO. 24

Boundary

I hereby certify that this is a true and accurate representation of the following described property to the best of my knowledge and belief.

The undersigned surveyor has not been provided a current title opinion or abstract of matters affecting title or boundary to the subject property. It is possible there are deeds of record, unrecorded deeds, easements or other instruments which could affect the boundaries.

Begin at a concrete monument marking the Northeast corner of Lot 14, Block "A" of Kimberton Unit No. 1, a subdivision as per map or plat thereof recorded in Plat Book 6, Page 5 of the Public Records of Leon County, Florida, said concrete monument being located on the approximate shoreline of a lake known as Lake Killarney and run along said approximate shoreline as follows:

South 75 degrees 29 minutes 44 seconds East 450.26 feet, thence South 73 degrees 06 minutes 34 seconds East 234.07 feet, thence North 65 degrees 44 minutes 07 seconds East 194.54 feet to a concrete monument, thence North 39 degrees 33 minutes 36 seconds East 258.46 feet to a concrete monument, thence North 67 degrees 51 minutes 42 seconds East 172.00 feet to a concrete monument, thence South 86 degrees 11 minutes 06 seconds East 199.10 feet to a concrete monument, thence North 74 degrees 24 minutes 12 seconds East 185.60 feet to a concrete monument, thence North 83 degrees 22 minutes 48 seconds East 195.37 feet to a concrete monument, thence North 89 degrees 37 minutes 48 seconds East 419.28 feet to a concrete monument, thence North 67 degrees 40 minutes 54 seconds East 107.04 feet to a concrete monument, thence North 50 degrees 19 minutes 54 seconds East 177.44 feet to a concrete monument, thence North 62 degrees 55 minutes 18 seconds East 196.71 feet to a concrete monument, thence North 64 degrees 55 minutes 18 seconds East 87.13 feet to a concrete monument, thence North 27 degrees 21 minutes 00 seconds East 181.85 feet to a concrete monument, thence North 69 degrees 00 minutes 24 seconds East 51.12 feet to a concrete monument, thence leaving the approximate shoreline of said Lake Killarney run South 73 degrees 13 minutes 51 seconds East along the Southerly boundary of a canal 208.38 feet, thence leaving said Southerly canal boundary run North 15 degrees 10 minutes 00 seconds East 67.96 feet to the Northerly boundary of said canal and the Southerly boundary of Killarney Estates Unit No. 17, a subdivision as per map or plat thereof recorded in Plat Book 6, Page 35 of the Public Records of Leon County, Florida, run thence along said Northerly canal boundary and along said Southerly boundary of Killarney Estates Unit No. 17 as follows:

EXHIBIT "A"

STREET ADDRESS: 2414 N. W. 11th Avenue, Tallahassee, Florida 32302  
MAILING ADDRESS: POST OFFICE BOX 12007 • TALLAHASSEE, FLORIDA 32302 • (904) 478-4183 OR 477-5900

KILLEARN ESTATES UNIT NO. 24  
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South 74 degrees 50 minutes 00 seconds East 50.00 feet, thence South 72 degrees 27 minutes 40 seconds East 30.02 feet, thence leaving said Northerly canal boundary and said Southerly boundary of Killlearn Estates Unit No. 17, run South 15 degrees 10 minutes 00 seconds West 70.07 feet to said Southerly canal boundary, thence South 70 degrees 51 minutes 18 seconds East along the Southerly boundary of said canal 161.79 feet, thence South 09 degrees 11 minutes 54 seconds West 265.88 feet, thence North 88 degrees 45 minutes 00 seconds West 5.46 feet to a point of curve to the left, thence along said curve with a radius of 1153.79 feet, through a central angle of 01 degree 14 minutes 06 seconds, for an arc distance of 24.87 feet, thence leaving said curve run South 22 degrees 22 minutes 24 seconds West 87.06 feet, thence South 04 degrees 47 minutes 09 seconds West 212.69 feet, thence North 86 degrees 25 minutes 25 seconds West 80.16 feet, thence South 06 degrees 26 minutes 58 seconds West 115.73 feet, thence South 15 degrees 25 minutes 09 seconds East 351.74 feet, thence South 29 degrees 28 minutes 40 seconds East 121.62 feet to the Northerly boundary of Killlearn Estates Unit No. 16, a subdivision as per map or plat thereof recorded in Plat Book 7, Page 9 of the Public Records of Leon County, Florida, and run South 61 degrees 27 minutes 30 seconds West (bearing base) along said boundary 432.88 feet to a concrete monument, thence South 28 degrees 32 minutes 30 seconds East along the Westerly boundary of said Killlearn Estates Unit No. 16, a distance of 150.00 feet to a concrete monument, thence South along said boundary 107.66 feet to a concrete monument, thence South 12 degrees 04 minutes 30 seconds West along said boundary 848.17 feet to a concrete monument, thence South 40 degrees 51 minutes West along said boundary of Killlearn Estates Unit No. 16 and along the Northwesterly boundary of Killlearn Estates Unit No. 11, a subdivision as per map or plat thereof recorded in Plat Book 6, Page 19 of the Public Records of Leon County, Florida, a distance of 347.67 feet, thence leaving said boundary of Killlearn Estates Unit No. 11, run North 47 degrees 03 minutes 37 seconds West 193.52 feet to a point on a curve concave to the Northwesterly, thence from a tangent bearing of North 42 degrees 56 minutes 23 seconds East run Northeasterly along said curve with a radius of 1056.47 feet, through a central angle of 07 degrees 21 minutes 33 seconds, for an arc distance of 135.69 feet, thence North 54 degrees 25 minutes 10 seconds West 80.00 feet, thence North 59 degrees 57 minutes 01 second West 297.95 feet, thence North 00 degrees 00 minutes 45 seconds West 336.00 feet, thence North 74 degrees 06 minutes 43 seconds East 124.56 feet, thence South 77 degrees 52 minutes 52 seconds East 166.72 feet, thence North 13 degrees 50 minutes 09 seconds East 207.88 feet, thence North 07 degrees 26 minutes 35 seconds East 60.05 feet, thence North 02 degrees 43 minutes 21 seconds East 168.77 feet, thence North 71 degrees 20 minutes 32 seconds West 50.14 feet, thence North 31 degrees 01 minute 52 seconds West 436.47 feet, thence North 47 degrees 53 minutes 55 seconds West 223.73 feet, thence North 67 degrees 09 minutes 59 seconds West 226.77 feet, thence North 86 degrees 34 minutes 34 seconds West 117.21 feet, thence South 79 degrees 33 minutes 45 seconds West 235.66 feet, thence South 67 degrees 17 minutes 55 seconds West 60.06 feet, thence South 53 degrees 22 minutes 22 seconds West 518.14 feet, thence South 112.00 feet, thence South 41 degrees 21 minutes 50 sec-

STREET ADDRESS 2414 MAHAN DRIVE (EASTWOOD OFFICE PLAZA)  
 MAILING ADDRESS POST OFFICE BOX 12387 • TALLAHASSEE, FLORIDA 32300 • (904) 878-4193 OR 877-5800



ENTRY NO. \_\_\_\_\_ CONT

KILLBARN ESTATES UNIT NO. 24  
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and West 211.85 feet, thence South 53 degrees 58 minutes 21 seconds West 108.81 feet, thence South 72 degrees 07 minutes 16 seconds West 195.44 feet, thence North 16 degrees 36 minutes 00 seconds West 276.52 feet, thence North 01 degree 46 minutes 16 seconds West 87.54 feet thence North 70 degrees 57 minutes 32 seconds West 774.16 feet to a concrete monument on the Easterly boundary of said Kimbaron Unit No. 1, thence along said boundary as follows: North 19 degrees 01 minute 30 seconds East 219.78 feet to a concrete monument, thence South 70 degrees 56 minutes 36 seconds East 100.00 feet to a concrete monument, thence North 18 degrees 53 minutes 18 seconds East 326.45 feet to the POINT OF BEGINNING; containing 75.96 acres, more or less.

  
LEE F. DOWLING  
Registered Florida Land Surveyor, No. 2661

BPD #64-424  
PSR #6806

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**EXHIBIT "B"**  
**DWELLING QUANTITY AND SIZE**

Pursuant to the provisions of Article XI, the ground floor area of a single-story structure shall not be less than the following:

- |  |                   |
|--|-------------------|
| (a) Lots 55-59 in Block BQ and<br>Lots 15-10 in Block AV | 1,600 square feet |
| (b) All lots in Block CL                                 | 2,000 square feet |
| (c) Lots 42-43 in Block CO                               | 2,000 square feet |
| (d) All other lots                                       | 1,800 square feet |

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IN WITNESS WHEREOF, said corporation has caused this instrument to be signed in its name by its President and its corporate seal to be hereunto affixed and attested by its Secretary, this 3rd day of September, A.D. 1980.

(SEAL)

KILLEARN PROPERTIES, INC.

Attest:

Juanice M. Hagan  
Its Secretary

By: J. T. Williams, Jr.  
Its President

STATE OF FLORIDA  
COUNTY OF LEON:

Before me personally appeared J. T. Williams, Jr. and Juanice M. Hagan to me well known, and known to me to be the individuals described in and who executed the foregoing instrument as President and Secretary of the above named KILLEARN PROPERTIES, INC., a Florida corporation, and severally acknowledged to and before me that they executed such instrument as such President and Secretary respectively, of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

Witness my hand and official seal this 3rd day of September, A.D. 1980.



Kathy L. Gorman  
NOTARY PUBLIC  
7-16-83  
My Commission Expires:  
Notary Public, State of Florida at Large.  
My Commission Expires July 16, 1983.

512550  
RECORDED IN THE PUBLIC  
RECORDS OF LEON COUNTY  
IN THE BOOK OF PAGE 487  
SEP 4 4 44 PM 1980  
AT THE TALLAHASSEE  
PUBLIC RECORDS FIELD  
CLERK OF CIRCUIT COURT