

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
SUNSET ESTATE SUBDIVISION

STATE OF FLORIDA

COUNTY OF ESCAMBIA

Jernigan & Rawson Inc., a Florida Corporation ("Declarant"), the owner of the following described real property in Escambia County, Florida, to-wit:

*Sunset Estate, a residential subdivision of a portion of Sections _____ and _____
_____ Township _____ South, Range _____ West, Escambia County, Florida,
according to plat of said subdivision recorded in Plat Book _____, at
page _____ of the public records of Escambia County, Florida,*

does hereby impose the following restrictive covenants on the above lots and/or building sites in said subdivision and makes the following declaration of covenants, conditions and restrictions covering the above-described property, specifying that this declaration shall constitute a covenant running with the land and that this declaration shall be binding upon the undersigned and upon all persons assigned title through the undersigned and their respective heirs, successors and assigns. These restriction, during their lifetime, shall be for the benefit of and a limitation upon all present and future owners of any of the lots and/or building sites within Sunset Estate.

1. Definitions:

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

(b) "Properties" shall mean and refer to that certain real property hereinbefore described.

(c) "Lot" shall mean and refer to each of the platted lots hereinabove set forth.

(d) "Building Site" shall mean those fractional parts of adjacent lots or one or more lots and all or a portion of an adjacent lot within the subdivision which are utilized and devoted and being then and there utilized and devoted for single family residential purposes.

(e) "Association" shall mean and refer to Sunset Estate Homeowners Association of Pensacola, Inc., a Florida non-profit corporation, its successors and assigns.

(f) "Common Area" shall mean all real property (Including the improvements thereto) and all easements and licenses which the Association members have the right to use and enjoy, if any, and shall include, but not be limited to, any property, if any, shown on the recorded plat of Sunset Estate with the exception of the platted lots, the sanitary, drainage and utility easements and the dedicated streets and

roads. Common Area specifically includes the park, water retention area, entrance sign easement and pedestrian easements.

2. *Owner's Easements of Enjoyment.* Every owner shall have a right and easement to enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot or building site, subject, however, to the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association by vote of two-thirds (2/3) of the membership.

3. *Membership and Voting Rights.* Every Owner of a lot or building site which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any building site which is subject to assessment. When more than one person or entity holds an interest in any building site, all such persons or entities shall be members. The vote for such building site shall be exercised as such persons or entities may determine, but in no event shall more than one vote be cast with respect to any building site. Until the happening of the earlier of the events set forth in Paragraph 33 below, there shall be two classes of voting membership, as set forth in said Paragraph 33.

4. *Covenant for Maintenance Assessments.*

(a) *Creation of the Lien and Personal Obligation of Assessments.* Declarant, for each lot or building site within the Properties, hereby covenants, and each Owner of any lot or building site, by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the interest in the land and shall be a continuing lien upon the interest in the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

(b) *Purpose of Assessments.* The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Properties and for the improvement and maintenance of the Common Area and specifically: for maintenance of the subdivision entrance; maintenance of the road right-of-way landscaping; maintenance of any island landscaping; maintenance of the water retention area and park areas; maintenance of the subdivision entrance sign, lighting, water pump, sprinkler system, electric meter, and landscaping at the entrance to Sunset Estate, along that portion of Saufley Road which abuts Sunset Estate and throughout the Sunset Estate Subdivision; the payment of the electric power bills for the operation of the sprinkler system and the lighting at the entrance to the subdivision and any lighting on any islands throughout the subdivision, if any; the payment of the water bills for the sprinkler systems; the cleaning of debris from lots or building sites on which a residential dwelling has not yet been constructed; and the payment of insurance premiums as required by the Lease Agreement with the Escambia County covering the entrance signs.

(c) *Maximum Annual Assessment.* Until February 1, 2001, the maximum annual assessment shall be \$100.00 per lot or building site per year, payable in advance, but prorated for the remainder of the months in the year.

(1) From and after February 1, 2001, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(2) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum assessment.

(3) All annual assessments shall be payable in advance and shall be paid by the 1st day of February each year.

(d) Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

(e) Notice and Quorum for Any Action Authorized Under this Paragraph. Written notice of any meeting called for the purpose of taking any action authorized hereunder shall be sent to all members not less than thirty (30) days not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of parties entitled to cast fifty-one percent of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(f) Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots or building sites.

(g) Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence as to all lots or building sites on the first day of the month following a conveyance by Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each building site at least thirty (30) days in advance of each assessment period, except for the first assessment, which shall be \$100.00 per lot or building site. Written notice of the first assessment and each annual assessment thereafter shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified building site have been paid. A properly executed certificate of the Association as to the status of assessments on a building site is binding upon the Association as of the date of its insurance.

(h) Effect of Non-payment of Assessments: Remedies of the Association. Any assessment payments not paid within thirty (30) days after the due date shall accelerate the due date of the entire assessment and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the building site. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his building site.

(i) Subordination of the Lien to Mortgage of Record. Any lien of the Association for assessments becoming payable after the date of recordation of any mortgage shall be subordinate to the mortgage on the building site. When the mortgagee of a mortgage of record, or other purchaser, of a building site obtains title to the building site as a result of foreclosure of the mortgage, or as a result of a deed given in lieu or foreclosure, such acquirer of title and his successors and assigns shall not be liable for the

assessments by the Association pertaining to such building site or chargeable to the former owner of such building site which became due prior to the acquisition of title as a result of the foreclosure, or deed in lieu of foreclosure, unless such assessment is secured by a claim of lien for assessment's that is recorded in the public records of Escambia County, Florida, prior to the recording of the foreclosed mortgage, and such subordinate lien shall be extinguished. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a building site from liability for, nor the building site so sold or transferred from the lien of, any assessments thereafter becoming due. All such assessments, together with interest, costs, and attorney's fees, shall, however, continue to be the personal obligation of the person who was the owner of the building site at the time the assessment fell due. Except as hereinabove provided, the sale or transfer of an interest in any building site shall not affect the assessed lien.

5. The front lot line setback of the residence on any lot shall be no less than the setback line shown on the recorded plat, but the Architectural Control Committee may require a greater setback or, if it determines that a variance will not diminish the value of other lots in the subdivision, it may waive the front lot line setback. The minimum square footage of living area shall be 1500 square feet on lots with a 75 foot and wider front building line

6. Eaves or other overhangs and chimneys shall not be considered a part of the building for the purpose of side setback compliance. Eaves, overhangs, steps, open porches and decks, and other like building improvements shall not be considered a part of the building for purposes of front line setback and rear lot line setback, provided that such waiver shall not violate the setback requirements of Escambia County.

7. The Architectural Control Committee, in its sole discretion, may permit the erection of a building on a portion of one (1) platted lot or on portions of contiguous platted lots, and the building sites may be smaller in area than the platted lots, provided that the covenants and restrictions otherwise herein contained are not otherwise violated.

8. In the event of destruction of any buildings, the type, size, shape and location of any reconstructed building shall be similar substantially to the building being replaced.

9. (a) No building, fence, wall or other structure 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 to and approved in writing by the Architectural Control Committee as to harmony of exterior design and location in relation to the surrounding structures and topography, and compliance with the intent of these restrictions. In the event that the Architectural Control Committee, or a member designated by it, fails to approve or disapprove such plans and specifications within thirty (30) days after plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Without limitation, the plan submitted to the Architectural Control Committee shall show the elevation and other matters above set forth of the front, rear, and both side of the structure, including location of windows. No tree or large bush shall be planted or cut down without prior approval of the Architectural Control Committee. The Architectural Control Committee shall consist of Cody Rawson and Leonard Jernigan, until seventy-six percent (76%) of the lots in the subdivision have been transferred, and at that time three (3) persons who are owners of lots in the subdivision shall be appointed to serve with Cody Rawson and Leonard Jernigan. As the Architectural Control Committee is increased, no approval required of the Architectural Control Committee shall be made without consent of Cody Rawson and Leonard Jernigan. Cody Rawson and Leonard Jernigan shall remain members of the Architectural Control Committee until their resignation therefrom.

(b) The architectural Control Committee shall have the right to require privacy walls on one side of any building in the subdivision. Any owner acquiring title to a lot in the subdivision from Declarant, or from a successor in title to Declarant, shall expect that the Architectural Control Committee will deny approval to a proposed building or other improvements if the location, type, and style are not compatible with the existing use of homes in the subdivision, or that portion of the subdivision. IN ORDER TO MINIMIZE THE COST AND EXPENSE OF ARCHITECTS AND ENGINEERS ON PLANS WHICH ARE LATER DENIED BY THE ARCHITECTURAL CONTROL COMMITTEE, OWNERS OF LOTS IN THE SUBDIVISION ARE INVITED TO SUBMIT PRELIMINARY PLANS OR IDEAS FOR THEM TO THE ARCHITECTURAL CONTROL COMMITTEE, SO THAT OWNERS WILL INCUR THE LEAST EXPENSE POSSIBLE ON DESIGNS WHICH ARE FOUND TO BE UNACCEPTABLE BY THE ARCHITECTURAL CONTROL COMMITTEE.

10. The Architectural Control Committee shall have the right to waive any violation of these restrictions if it determines that the violation is insubstantial and does not adversely affect the value of any other lot in the subdivision.

11. All buildings constructed on any lot or building site within the subdivision shall be constructed in conformity with all applicable building codes and regulations and in conformity with the Escambia County building requirements.

12. Every residential dwelling constructed on a lot or building site in the subdivision shall contain or be accompanied by either an attached or detached garage adequate for the parking and/or storing of automobiles, boats, trailers, campers, motorcycles, motorbikes, and all other like vehicles and equipment. No trailer, mobile home, camper, motorbike, motorcycle, motor scooter, boat, boat trailer, house trailer, truck, tractor or commercial vehicle of any kind, or any other vehicle, machine, equipment or apparatus other than operating passenger automobiles, light trucks, and operating passenger vans shall be parked or stored in any driveway or on any lot or building site in the subdivision so as to be visible from the street or to the other residents in the subdivision. All such vehicles, machines, equipment and apparatus shall be parked or stored in a garage or on the rear of the lot or building site and screened by a six foot wooden fence so as not to be visible from the street or adjacent subdivision lots or building sites. No such vehicles, machines, equipment or apparatus shall be parked or store in the street right-of-way abutting any lot or building site except when such are in actual use.

13. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any lot or building site at any time as a residence, either temporarily or permanently, and except as required during construction of any dwelling, no structure of a temporary character shall be constructed or permitted to remain on any lot or building site.

14. In the event that a detached garage is constructed on any lot or building site, it shall be of a type of construction which shall be architecturally consistent with the main residence to be constructed. Any detached garage must be constructed and located on a lot or building site within the same building setback lines as provided for a residential dwelling in Paragraph 7 above, unless a written waiver and approval for an alternative location is granted by the Architectural Control Committee.

15. All fences to be constructed on any lot or building site must be approved by the Architectural Control Committee prior to construction. No fence or wall shall be constructed and no hedge wall be planted nearer the front lot line than the front of the residential dwelling. This restriction does not apply to any growing fence or hedge which does not exceed three feet in height. Metal chain link or similar type utility fences are prohibited. There is excepted from this restriction any fences that are required by either FHA or Va to be constructed and maintained around easement areas.

16. No sign of any kind shall be displayed to the public view on any lot or building site in the subdivision except for one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period; provided, however, Declarant may erect a sign not exceeding five feet in height by eight feet in width, as to dimensions of the sign, on any lot or building site which it owns.

17. No clothes line visible from the street or from adjacent subdivision property, or other items detrimental to the appearance, shall be permitted on any lot or building site. Trash and garbage cans must be shielded from view from the street or adjacent property except during the hours of normal trash or garbage collection.

18. No noxious or offensive activity or trade shall be carried on or maintained on any lot or building site in the subdivision nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood, nor shall any lot or building site be used for the purpose of carrying on a trade, profession, business or public amusement.

19. No exploration or drilling for oil, gas or other minerals shall be permitted or allowed on any lot or building site in said subdivision and no such lot or building site shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste.

20. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot or building 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 provided that they are not permitted to run at large. In no event shall more than three household pets be kept on any lot or building site at any one time.

21. An easement is reserved over and across each lot in the subdivision (except those portions on which a residential dwelling is actually constructed) for the purpose of installing, repairing and maintaining or conveying to proper parties for the installation, repair or maintenance of electric power for the lots or building sites in the subdivision, and easements shown or reserved on the recorded plat of the subdivision, if any, are hereby adopted as part of these restrictions.

22. Drainage easements shall not be obstructed in any way that will alter the natural and normal flow of drainage.

23. No one shall change the natural contours of the land causing undue and harmful flow of surface water drainage to adjoining property owners. In order to facilitate natural surface water drainage, it may be necessary for the developer to contour each building lot or site to provide a continuous drainage pattern from lot to lot within the subdivision. These drainage patterns shall not be altered.

24. With respect to each lot or building site on which a residential dwelling is constructed, it is required that at the time of initial construction, the front yard be sodded and the sodding be properly and perpetually maintained, with respect to each corner lot or building site on which a residential dwelling is constructed, it is required that at the time of initial construction, in addition to the sodding of the front yard, it is required that the side yard be completely sodded and the sodding be properly and perpetually maintained.

25. At the time of the construction of any residential dwelling on any lot or building site, each owner and/or builder must maintain the building site as free of building waste and rubble as is reasonably possible.

26. No television antenna of any kind shall be permitted to be erected or to be located or to remain on any lot or building site at any time. No television satellite dish shall be erected, located or permitted to remain on any lot or building site within the subdivision unless written permission is granted by the Architectural Control Committee. If written approval is given, any satellite dish must be installed so that the top of the dish is no higher off the ground than six feet; it is located in the rear yard behind the residence; it is no closer to the side lot line than the side of the dwelling; no closer to the front lot line than the rear of the dwelling; and enclosed by a six foot high privacy fence.

27. All laws of the State of Florida and of the City of Pensacola and the County of Escambia, and all rules and regulations of their administrative and regulatory agencies or bodies now and hereafter in effect with regard to sewage disposal, water supply, and sanitation are incorporated herein and made a part hereof. No individual sewage disposal systems shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements and approval of the Board of Health of Escambia County, Florida.

28. Any or all of the restrictions herein contained may be annulled, amended, or modified at any time by an instrument executed by the then record owners of two-thirds or more of the building sites in the subdivision; provided, however, that no amendment shall place an additional burden or restriction on any lot or building site in the subdivision covered by these covenants unless the owner of record of said lot or building site joins in the amendment.

29. These covenants may be enforced by any lot or building site owner or by the Architectural Control Committee or the Association against any person or persons violating or attempting to violate any covenant, either to restrain the violation or to recover damages, and in the event of such enforcement the prevailing party shall be entitled to recover his costs and reasonable attorney's fees from the other party. Failure of any owner or the Architectural Control Committee or the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

30. Invalidation of any of these covenants by judgment or court decree shall in no way affect any of the other provisions which shall remain in full force and effect.

31. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date of these covenants, after which time these covenants shall be automatically extended for successive periods of ten years unless an instrument, signed by the then owners of a majority of the lots, agreeing to change these covenants in whole or in part, has been recorded.

32. All electric and telephone service lines and wiring for any dwelling or other building erected on a lot or building site shall be underground.

33. The Association shall initially have two classes of voting memberships:

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

Class B. *Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:*

(a) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or

(b) four (4) months after seventy-five percent (75%) of the units in the project have been conveyed to Unit purchases; or

(c) three (3) years following conveyance of the first Unit.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each building site which is owned by said Class B member. The Declarant shall not exercise its voting rights granted to it under this Article in an unreasonable manner nor in such a way as to cause undue hardship upon any Owner.

34. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration; Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

35. Declarant assigns to the Association, and the Association accepts from Declarant, that certain License Agreement previously entered into by and between Declarant and the City of Pensacola, Florida, which covers the property owned by the City and being used for the construction and location of one or more entrance signs for Sunset Estate. The Association shall be responsible for all maintenance, indemnity and hold harmless provisions of said Agreement, and the Association shall be responsible for maintaining and paying for the insurance coverage required by said License Agreement.

IN WITNESS WHEREOF, _____ has executed this Declaration as of
the _____ day of _____, 1999.

Signed, sealed and delivered
in the presence of:

Jernigan & Rawson, Inc.
a Florida Corporation

By: _____

Its President

Attest: _____

Leonard G. Jernigan
Its President

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 10 day of March, ²⁰⁰⁰~~1999~~,
by Leonard Jernigan, respectively, of Jernigan & Rawson, Inc., a Florida Corporation, on behalf of
the Corporation.

Notary Public, State of Florida at Large

Notary Public, State of Florida
My Commission Expires: My Commission Expires

