

# HOLIDAY ESTATES III HOMEOWNERS' ASSOCIATION DEED RESTRICTIONS

## DEED RESTRICTIONS

Approved 12/11/02 - Filed with Charlotte County 1/17/03 in Book 2158. Pages 425-428

(1) SCOPE: These restrictions and covenants shall run with the land and will be binding upon all persons who take title or possession to a lot or home in Holiday Estates Third Addition.

(2) ENFORCEMENT: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of said restrictions, either to restrain violations or to recover damages including attorney's fees and costs.

Said action may be brought by the Homeowner's Association or any owners adversely affected by such violations.

(3) AGE RESTRICTION. This is a housing facility for older persons.

a. Pursuant to the Exception to the Federal Fair Housing Amendment Act of 1988, at least 80% of units shall be occupied by at least one (1) person age fifty-five (55) years of age or older. The minimum age of other unit occupants shall be eighteen (18) years of age, unless decided otherwise by the Board of Directors as provided herein.

b. However, the Board of Directors may allocate occupancy of up to 20% of the units in the Association to persons under the age of fifty-five (55) years. This allocation shall apply in the following circumstances:

The unit shall be occupied by at least one (1) person age fifty (50) years or older,

The minimum age of other unit occupants shall be eighteen (18) years of age, unless decided otherwise by the Board of Directors as provided herein;

The individual has relatives in the development who would benefit from their residence nearby;

The individual inherited the property from former occupants;

The individual is the surviving spouse or cohabitant of a former occupant;

The individual is a nurse or other medical professional whose presence would be beneficial to a resident;

The Board of Directors may, in its discretion, approve occupancy of a unit by persons under the age of fifty (50), if the proposed occupants can establish special circumstances;

These allocations are not intended to be "exhaustive."

c. The Board of Directors shall have the authority to adopt reasonable rules and regulations to enforce this restriction including, but not limited to, the right to require potential occupants to provide proof of their age upon Board request.

d. The Board of Directors reserves the right to deny occupancy to any person where such occupancy would cause the Association not to qualify as housing for older persons under the Federal Law.

e. Guests, including those under the age of eighteen (18) years if occupying the unit with their custodial adult(s), may occupy a unit in the absence of the permanent occupant for a period of up to thirty (30) consecutive days in any twelve (12) month time period.

f. Guests, including those under the age of eighteen (18) years, may occupy a unit if the permanent occupant is present in the unit, for a period of up to ninety (90) consecutive in any twelve (12) month time period.

g. No unit shall be leased or rented, except if one of the occupants is at least fifty-five (55) years of age or older and otherwise meets the requirements of this restriction.

h. The Board of Directors may, in its discretion, approve occupancy of a unit by a child

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under the age of eighteen (18) years so long as one unit occupant is at least fifty-five years of age.

(4) PRE-SALES SCREENING: Prior to the sale of any home in Holiday Estates Third Addition, application must be made to the Home Owner's Association, to insure compliance with the age restrictions. Said application must state the names and ages of all prospective buyers and their intentions for the occupancy of the property. The buyers must provide picture identification. A \$40.00 fee in U.S. currency must accompany each application. The screening process shall apply to all transfers of title within this subdivision, including persons who presently reside here.

(5) MEMBERSHIP: Membership in the Holiday Estates Home Owner's Association shall be open to all property owners within the subdivision upon the payment of appropriate dues. Only those households that are current in their dues will be entitled to vote on matters before the Association.

(6) SINGLE FAMILY: All homes in this subdivision are limited to single family occupancy.

(7) APPEARANCE: No home will be allowed in said subdivision that does not conform in appearance and quality with the remaining units in any referenced block. All improvement or changes to the building, driveways and landscaping must likewise conform in appearance to the rest of the community. The Homeowners' Association of said subdivision will make the determination whether or not the home and/or changes to the home meet the here referenced standards. All plans for additions/changes must be submitted to the Home Owners' Board of Directors and approved prior to receiving a Charlotte County Building Permit. The exterior of all homes must be kept in good appearance and repair.

(8) SET BACKS: All setbacks will be in accordance with Charlotte County Building Codes.

(9) HOME SITE: No home may be placed in the subdivision which contains less than 768 square feet of floor space, exclusive of porches, carports, garages, utility rooms and lanais. All homes must have siding of aluminum and/or vinyl. No more than one home will be placed on each lot and must be used for residential purposes only. No home will be less than 24 feet in width. Original homes and /or replacement homes placed on a lot must be no more than one (1) year old as established by its certificate of title.

(10) HOME SPECIFICS: Before any home in the subdivision is occupied, the following items must be completed:

a. Hook-up of all utilities

b. A poured concrete driveway with swale drainage pipe from the street to home inclusive, of carport or garage must be at least 12-foot-wide and extending from the street to the back of the carport or garage. Any additions to the driveway will likewise be constructed of poured concrete.

c. Must have an attached carport or garage. The garage must not exceed one story, must conform in appearance and quality of construction of the home to which it is attached. The major use is restricted to storing vehicles.

d. Brick, vinyl or decorative block skirting. Homes with open-style skirting must have wire, suitable to keep animals from inhabiting the areas beneath the home.

e. The utility room must be attached to the home or under the carport.

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f. Complete sodding of the lot to the asphalt pavement. Stone, shell and/or flower beds must be maintained and shall not exceed 25% of the lot.

g. All sides of a home adjacent to a road must be landscaped and maintained by the owner,

h. Homes must be placed and anchored according to the Charlotte County Building Code,

i. No fences will be allowed except on the perimeter of the subdivision.

The above improvements, and any lanai, porch, garage or other improvements, must conform in style and construction with the home to which they are attached, and must comply with all zoning and building regulations of Charlotte County, Florida.

(11) deleted in its entirety. Approved 2/26/2010- Filed with Charlotte County 7/13/2010 in Book 3492, Pages 981-983.

(12) POOLS: Above ground swimming pools are prohibited. Any existing above ground swimming pool shall be allowed to remain, but they cannot be replaced. Caged in-ground pools are acceptable.

(13) ANTENNAS: No outside antenna will be permitted. Satellite dishes which do not exceed one meter (39 inches) in diameter shall be allowed provided they are located in an inconspicuous place.

(14) CLOTHES LINES: Removable, umbrella type clothes lines or retractable clothes lines only, are permitted. Laundry will be hung only on these approved lines. These clothes lines MUST be stored when the home is not occupied.

(15) UNSECURED ITEMS: All objects which might become air-borne during severe storms so as to cause a danger to neighboring residences must be stored during any period of time that the home is not occupied.

(16) GARBAGE: Yard trash, recycle buckets and garbage may only be placed at the edge of the driveway no sooner than one (1) day prior to pick-up and must be returned to the home storage place the same day as the collection. Such storage must be located in an inconspicuous place.

(17) ANIMALS: No animals can be kept on any lot, except that one domestic dog or cat may be kept in each residence. Owners who move into the subdivision with more than one animal may keep both until one passes away. The deceased animal may not be replaced. The owner must comply with the Charlotte County Leash Law. All dog or cat droppings must be removed by the person accompanying the animal.

(18) LOTS: The lots in said subdivision must be kept clean, mowed and free from unsightly structures. In case of failure, the Homeowners Association, its successors and assigns, reserve the right to enter upon all lots and mow the grass, clean up the lot and remove unsightly structures, and to charge the occupant or owner for the services performed, and if said cost is not paid, to file a lien thereof. Lots will be mowed when the grass exceeds eight inches in height over 50% of the lot.

(19) BRUSH AND UNWANTED VEGETATION: Each individual property owner will be responsible to remove any trees, shrubs or vegetation, other than ornamentals, which cross over the waterline of canals or lakes and inhibit navigation on said canals. In addition, all brush and scrub trees must be removed from unoccupied lots. All removal of said brush and scrub trees whether on unoccupied lots or canal banks will be done at the owner's expense. In any case in which compliance is not forth-coming, the Home Owner's Association reserves the right to

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remove the vegetation and bill the owner for the expenditures incurred. If said cost is not paid, a lien will be filed thereon.

(20) RECREATIONAL VEHICLES: No travel trailers, motor homes, tent trailers, pick up campers, conversion vans, boats or other recreational vehicles, utility trailers may be stored, used or occupied on any vacant lots in said subdivision nor may they be parked on occupied lots unless they are parked on concrete located on the side of the home which is not adjacent to a street, provided such concrete does not encroach upon any easement and does not violate set back regulations.

(21) CARS: No motor vehicles or boats except those bearing current licenses *and* used by residents of this subdivision will be kept on any lot.

(22) CANALS AND LAKES: No boat shall maintain a speed which would create a wake in any part of a canal or lake located in said subdivision. No buildings, docks or appurtenances of any kind can be placed on canal or lake front without written consent of the Homeowners Association. No motors larger than five (5) horse power shall *be* allowed on the lakes and/or canals.

(23) ACCESS: There shall be no access or egress to Holiday Estates Third Addition, except by platted streets.

(24) AMENDMENTS: The power to propose amendments to these Deed Restrictions is reserved to the Homeowners Association. All property owners will be notified of any subsequent changes or amendments.

a. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any board meeting at which a proposed amendment is to be considered.

b. The proposed amendments shall be approved by an affirmative vote of not less than a majority of the lot owners in the subdivision who cast a vote on any amendment to the Deed Restrictions. The vote will be conducted at a properly called members' meeting of the homeowners' association.

c. Proxy. Lot owners not present in person at the meetings considering the amendment may express their approval in writing, by proxy, providing such approval is delivered to the Secretary at or prior to the meeting,

d. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by officers of the Association with all the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Charlotte County, Florida.

(25) GRANDFATHER CLAUSE: The aforesaid covenants and restrictions, together with covenants of warranty in the deeds of conveyance of lots in said subdivision shall be and constitute all of the obligations undertaken and limitations imposed upon lots and structures within said subdivision. Any prior covenant and restrictions which are not consistent with the aforesaid covenant and restrictions are null and void. Structures which exist prior to the adoption of these revisions shall be exempted from enforcement of any new building requirements and these deed restrictions.

(26) SEVERABILITY AND NONWAIVER: If any provision of this Declaration or its exhibits as now constituted or as later amended or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase, or word in other circumstances shall not be affected hereby. The failure of the Association in any instance to enforce any covenant or provision of this Declaration shall not constitute a waiver of its right to do so thereafter in other instances.