

APR 16 1996

JW/RR

RESOLUTION NO. 96-M-22

A RESOLUTION OF THE ORANGE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS ADOPTING THE
GATED COMMUNITIES MINIMUM STANDARD CONDITIONS
OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

Whereas, Orange County Staff in conjunction with representatives of the development industry prepared and presented to the Board of County Commissioners on April 4, 1995 minimum standard conditions of approval for gated communities ; and

Whereas, the Board approved the minimum standard conditions of approval for use in all gated communities with the exception of those gated communities in large projects with existing multiple homeowners' associations and an overall Master Homeowners' Association in which case the minimum standard conditions of approval are to be used as a guide and be modified to carry forth the intent of the conditions and be consistent with pre-existing conditions of the large development already addressing those matters contained in the standard conditions; and

Whereas, the Gated Communities Minimum Standard Conditions of Approval have been utilized numerous times since April 4, 1995 and tend to add several pages to the Board's minutes for each meeting at which they are utilized; and

Whereas, it is hereby deemed in the best interests of County to reduced the paper volume of the minutes in which the Minimum Standard Conditions of Approval are utilized, adopt such conditions by resolution, and in the future, refer to such conditions by reference to the adopted resolution number.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. The foregoing recitals are true and correct and are incorporated herein.

Section 2. The "Gated Communities Minimum Standard Conditions of Approval" as set forth in full in Exhibit A, which is attached hereto and incorporated herein, are hereby adopted by this resolution and in the future reference to such conditions may be made by reference to this Resolution. Copies of this Resolution, including Exhibit "A," the "Gated Communities Minimum Standard Conditions of Approval," shall be kept on file with the Clerk's Office and be available for

39 distribution to interested members of the public.

41 Section 3. Effective Date. This Resolution shall take effect immediately upon its
43 adoption.

ADOPTED THIS 16 day of April 1996.

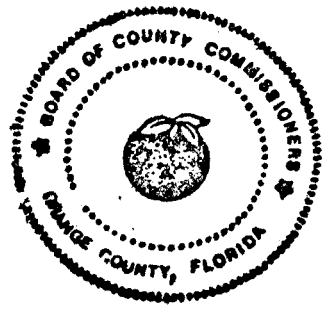
ORANGE COUNTY, FLORIDA

45 BY: Jean C. Bennett
47 County Chairman

49 *for* DATE: APR 16 1996

51 ATTEST: Martha O. Haynie, County Comptroller
53 As Clerk of the Board of County Commissioners

55 BY: [Signature]
57 Asst. Deputy Clerk



"EXHIBIT A"

GATED COMMUNITIES
MINIMUM STANDARD CONDITIONS OF APPROVAL

All gated communities approved by the Orange County Board of County Commissioners shall comply with the following conditions:

1. Streets and drainage systems shall be platted as separate tracts.
2. Street and drainage system tracts shall be conveyed to and owned by a mandatory property owners association that shall be responsible for the operation, maintenance and repair of the streets and drainage systems.
3. Nonexclusive easement rights for ingress, egress and drainage over the street(s) and drainage system tracts shall be granted to the property lot owners with an undivided interest among all lot owners.
4. The right, license or easement granted to a Utility supplier shall include the nonexclusive right to ingress and egress over street tracts for access and maintenance of their utilities.
5. The developer shall construct the streets and drainage systems to county standards and shall comply with the provisions of OCC Sections 34-203 and 34-204 regarding letters of credit, certificates of completion and approval for maintenance as if the streets and drainage system were "public improvements."
6. Entryway gates shall be equipped with an audio (siren) override device to allow emergency access to the subdivision by fire/rescue, sheriff and other emergency response personnel. Such audio override device shall be approved in writing by the Orange County Fire & Rescue Service Division prior to installation of the gates.
7. Prior to or simultaneously with the recording of the subdivision plat, the developer shall record in the Official Records of Orange County a document or documents (e.g. deed restrictions) which, to the County's satisfaction, are legally sufficient and enforceable to accomplish or otherwise ensure the following:
 - a. Establish a "mandatory" homeowners'/property owners' association with the ability and duty to levy and

collect regular and special assessments for repair and maintenance (including resurfacing) of the streets and repair and maintenance of the drainage system, such assessments to be in an amount or amounts approved by the County prior to recordation as sufficient for such routine annual maintenance. The homeowners'/property owners' association shall have the right to enforce payment of assessments by the imposition and enforcement of liens for unpaid assessments, such enforcement to be by way of foreclosure or other remedy authorized by statute, ordinance or case law in the State of Florida.

- b. Establish a fund for reserves for periodic major maintenance to the streets and drainage system, including ponds, with minimum level of reserves to be maintained in perpetuity and replenished from time to time, as necessary, by assessment, and such minimum level of reserves shall be in such amount or amount approved by the County prior to recordation.
- c. Provide that all street and/or drainage system funds shall be held in accounts separate and apart from all other HOA funds.
- d. Requires an annual statement or other financial report (in form and detail acceptable to the Orange County Comptroller) to be submitted to County confirming existence of the funds.
- e. Three years after the certificate of completion require an annual inspection of the streets and drainage systems by a registered civil engineer. This inspection shall, using good engineering practice, determine the level of maintenance and identify any needed repairs. The inspection shall be written into a report format.
- f. Require that all remedial work recommended by the engineer in any engineering report specified in subparagraph "e" above be completed by the homeowners' association within 60 days following receipt by the homeowners' association of such engineering report unless the recommended remedial work is of such a nature or character as not be susceptible of completion within said 60-day period, in which event, the homeowners' association shall be required to commence within said 60-day period all actions and measures reasonably necessary to effect completion of the recommended remedial work and to diligently and

continuously prosecute such actions and measures to completion such that, in any event, the recommended remedial work is completed not later than 180 days following receipt by the homeowners' association of said annual engineering report.

- g. Provide that the annual engineering report shall be submitted to County Engineer within 30 days after written receipt of the report by the HOA.
- h. Require that the streets shall be resurfaced every 15 years unless the annual engineering report referenced in subsection (e) above makes a recommendation to either shorten or lengthen that timeframe based on the documentation of conditions as contained in the report.
- i. Require all sale contracts in which the developer is involved to expressly disclose these requirements (directly, not by reference), including contracts for resales. When the developer is not involved in the transaction, this provision shall be complied with to the greatest extent practicable.
- j. Expressly indemnify, defend and hold the County harmless from any loss, cost, damage or expense, including reasonable attorneys' fees at the trial level and in any appellate or bankruptcy proceeding, arising, directly or indirectly, out of (i) maintenance, repair and/or reconstruction of the streets and/or drainage systems, or (ii) tort liability related to or stemming from the streets and/or drainage system. The duty to so indemnify, defend and hold the County harmless shall be that of the association and the developer, jointly and severally, but (i) the duty of the developer shall exist only for the period the developer controls the homeowners' association, and (ii) the recourse of the County as respects the liability of the developer shall extend only to the right, title, interest and/or estate of the developer in or to any of the platted lots.
- k. Expressly disclose that homeowners' get no discount in taxes because of private streets or drainage system.
- l. Declare that upon any default in any of these requirements, the County, at its option and after due notice of its declaration of a default and the stated time to cure, may remove the gates and upon dedication of the rights-of-way assume responsibility for

maintenance, using those HOA funds dedicated to streets and/or drainage systems maintenance and repair, or if none or an insufficient amount exist, a temporary Municipal Service Taxing Unit in an amount necessary to accomplish the task.