

SAN MARINO

ESTATES

DESIGN REVIEW MANUAL

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Purpose

The land, including lakes, wetlands and uplands, which comprise the San Marino Estates master planned community, is a resource which demands and deserves special attention. Physical development of San Marino Estates has been undertaken with utmost sensitivity. Years of careful study, exacting analysis, planning and design, including exhaustive public review, have been completed to ensure the most feasible integration of improvements into the delicate natural environment. Long range planning continues in order to preserve the quality of development and maintain compatibility with and sustainability of the environment.

Continued development within the San Marino Estates is guided by a group of legally binding covenants and design standards which protect the aesthetic integrity for both current and future residents. Additions and modifications to residential property must be in compliance with these guidelines, thus assuring a continued application of good design standards, the maintenance of property values and the preservation of the natural environment.

The guidelines and standards which follow have been developed to help you work with your professional team, architects, landscape architects, engineers and builder. It is not the intent of these guidelines to judge what is beautiful or not, but to coordinate and encourage high standards of design and construction in ways that preserve the resources, ecosystem and natural beauty of the community. Development and construction will respect nature and promote integrity and diversity.

Objectives

This manual is a guide for both members of the Design Review Committee (DRC) and property owners in San Marino Estates. It is hoped that this manual will increase each property owner's awareness of the ways in which the integrity of San Marino Estates is preserved and the responsibilities that property owners must assume in this process. These guidelines have been thoughtfully and carefully prepared to provide a thorough basis of assistance. A broad range of important subjects are addressed regarding property improvements and exterior alterations, but the guidelines established herein are not intended to be all inclusive or to preclude the Design Review Committee's need to evaluate unique situations when they occur. As circumstances of significant change in the marketplace, construction technology, and craftsmanship or design expertise become evident, the Design Review Committee continually considers and may adopt changes and additions to improve the standards. Specific objectives of this manual are:

- 1) To provide uniform guidelines to be used by the Design Review Committee in reviewing applications for improvements in view of the standards authorized by the Covenants, Conditions and Restrictions;
- 2) To assist property owners in preparing a complete application for review by the Design Review Committee;
- 3) To increase property owners' awareness and understanding of the Covenants, Conditions and Restrictions;

- 4) To maintain and improve the quality of the built and natural environments in San Marino Estates;
- 5) To illustrate basic design principles that will aid property owners in developing improvements which are consistent with the design expectations of the community.

All residents benefit from the planning and design that have been an important part of the development of San Marino Estates. The intent of the design standards is to assure property owners that the expectation of design quality will be maintained. This, in turn, protects property values and enhances the environment in San Marino Estates.

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I. SITE PLANNING

A. Building Envelope

The building envelope is the area of each residential lot within which all portions of the primary structure must be built. The building envelope for each residential lot is based, among other things, on the natural features of the lot, views, relationship to adjacent building envelopes, and topography. The maximum building envelope shall be established by the Declarant at the time a residential lot is sold to an Owner and shall be on file with the DRC.

B. Building Setbacks

San Marino Estates Lots	Minimum Setback in Feet
Front Yard	20'*
Side Yard***	7 ½ '
Rear Yard***	20'***

Pools	San Marino Estates Lots	Lakefront
Pool Curb at Rear Property Line***	5'	5'

Decks, Patios, Drives and Walks	San Marino Estates	Lakefront
Decks and Patios at Side Yard Property Line***	7 ½ '	7 ½ '
Decks and Patios at Rear Yard Property Line***	5'	5'

- 1) **The Above Setbacks are per Brevard County at the time this Manual was revised. The Setbacks provided for each Lot by the Declarant will, in most cases, be GREATER than those set by Brevard County in order to create the park-like environment designed by Rick Harrison Site Design.**
- 2) All changes to the established footprint must be approved by the DRC.
- 3) Accessory buildings and landscape structures may be permitted in the setback and must be approved by the DRC.
- 4) Pools shall not be constructed between any principal structure and an adjacent Street without prior written consent of the DRC.

C. Combining Lots

Two commonly owned contiguous lots may be combined into a single homesite with the consent of the Declarant. Any requested reconfiguration of the building envelope shall be shown on a sketch plan submitted by the Owner early in the design phase. The Declarant must approve the proposed reconfiguration prior to submittal of the sketch plan. A relocated building envelope may, at the DRC's discretion, span the common lot line. For purposes of this manual, combined lots shall be considered as one lot. (Note: For purposes of the Home Owner's Association billing, however, the two lots shall remain as two lots.)

D. Grading and Drainage

- 1) Manipulation of the ground surface within the individual lots must not create a functional or aesthetic adverse impact to the overall drainage within the lot or on adjacent land. It is the responsibility of the Owner to provide a drainage plan and statement of design intent for review and approval by the DRC before final approval can be granted.
- 2) Lots must drain by positive drainage flow consistent with the master surface water management plan.
- 3) All rain water collected on any lot shall not flow onto adjacent lots or to unapproved locations.
- 4) All topographic change must occur within the lot boundaries and meet adjacent land at existing grade.

E. Parking

- 1) On-street parking will be permitted overnight, however on nights of odd dates cars within the neighborhood shall be parked on the side of the street leading into the subdivision, while on nights of even dates cars shall be parked on the side of the street leading out of the neighborhood.
- 2) Recreational or business vehicles, trailers, boats or other recreational equipment will be permitted to be parked on any lot, provided they are behind the leading edge of the house and are visually screened from the road with a landscape buffer sized to reach 80% of six feet high within one year of planting.

F. Walls and Fences

- 1) No fences or walls shall be erected on residential property unless approved in writing by the DRC.
- 2) The use of fences and walls is discouraged except as visual enhancements to landscaping and should be limited to areas requiring privacy or safety (i.e. swimming pools, garden courtyards) or for concealment of service areas (trash containers mechanical equipment, etc.).
- 3) No fence or wall taller than six feet (6') above finished grade shall be permitted beyond the rear boundary of the building envelope. Fences only—no walls—are permitted from the rear boundary of the building envelope to the rear property line and along the rear property line and those shall be no more than four (4) feet above finished grade. No structure shall be permitted between the front setback and front property line without DRC approval.
- 4) Acceptable wall materials shall be brick, stucco or stone; acceptable fence materials shall be wrought iron or aluminum of an “open picket” design. Other materials will require DRC approval. No chain link fencing shall be permitted except around tennis courts. (See Subsection II.I.4. Tennis Courts). Fence material and design should relate to the architecture in material, color and form.
- 5) Colors for walls and fences must be approved by the DRC. White is not permitted.

G. Driveways and Sidewalks

- 1) The only option for private driveway surfaces is Natural Stone or Concrete pavers. The entry walkway materials to the door(s) should be the same as the driveway material.
- 2) A five (5) foot wide concrete sidewalk for public use shall be constructed along the street in the right-of-way by the Owner.

H. Service Yards

Service yard areas for the storage of trash cans, location of A/C compressors, pump equipment, pool equipment, and approved fuel tanks, etc. must be screened from view with a wall, fencing or a landscape buffer sized to be 80% of the item(s) to be screened within one year of planting.

II. ARCHITECTURE

A. Building

- 1) The minimum living space under air shall be 2,000 square feet.
- 2) The first floor of the home shall be constructed of concrete block or poured concrete.

B. Materials and Components

The most important objective for the selection of materials is appearance and longevity. The materials used should have a quality appearance and suggest permanence. They should reinforce the architectural statement and character of the residence.

1) Doors and Entries

All exterior doors must be made of exterior grade wood, insulated metal, fiberglass or other equivalent materials. Panel and French type doors are encouraged. Front door must be submitted to the DRC for approval. The front entry must have a minimum height of six feet, eight inches (6'8"). The use of a transom is recommended.

2) Windows

(a) The windows on all buildings must be constructed using frames made of or appearing to be wood. Vinyl or metal exterior cladding is allowed subject to approval by the DRC. Metal cladding must have an anodized or factory applied color. Window choices must be submitted to the DRC for approval.

(b) It is further recommended that all windows have Stucco Bands, Cast Stone, Stone or Architectural Foam surrounds and sills.

C. Roofs

1) Hip and gable roofs are encouraged by the DRC of San Marino Estates. As well as turrets if appropriate to the dwelling design. The main roof of each residence shall be pitched at not less than four inches (4") in twelve inches (12") (4/12, vertical/horizontal).

2) Metal flashing, gutters, downspouts and any other exposed sheet metal (except copper) must be painted to match or complement the building facades where installed.

3) Overhang depths (soffits) shall be a minimum of six inches (6") from the face of the wall.

4) Acceptable roof finishes are clay or concrete barrel-style or flat tile.

5) Fascia must be at least 6 inches wide and square cut.

6) Skylights, solar collectors, or any other mechanical equipment must be integrated as part of the roof design. Roof mounted mechanical equipment shall not be visible to roadways.

D. Color

- 1) All painted and material colors should reflect mature blends of softer tones, and avoid bright, harsh, bold or invasive pigmentations. Solid primary colors including black and red, except as limited accents, are not permitted.
- 2) The color of the roof is expected to enhance the overall appearance of the building. Both initial and weathered color characteristics of such surfaces shall be considered in palette selection and presentation.
- 3) All color selections both before initial construction and subsequent repainting, other than the original approved color, are subject to approval of the DRC.
- 4) Color schemes should differ from immediately adjacent homes.

E. Chimneys

The DRC cannot approve metal or exposed chimneys on any part of the roof visible from the street, or if exterior cover does not match color of the house.

F. Garages and Garage Doors

All residential dwellings shall include a garage within the buildable area of the homesite. Garages shall accommodate a minimum of two (2) cars. The minimum back-up space for each garage shall be twenty-two feet (22') from the face of the outside garage wall and should accommodate a five foot (5') radius. The DRC cannot deny approval for a motor home garage on lots where they may be accommodated into the house design in keeping with a pleasing front elevation. The DRC is not allowed to approve any driveway with an approach narrower than twelve (12) feet wide.

G. Screen Enclosures

Screened enclosures shall be considered an important aesthetic and architectural issue. Screened areas are permitted only within the buildable area of the lot as defined by the building envelope. The DRC cannot approve a screen enclosure that has framing of a color other than bronze or dark brown.

H. Docks and Boathouses

The DRC is not permitted to allow the construction of docks or boathouses on lakefront lots.

I. Accessory Buildings and Structures

The DRC is not allowed to approve out-buildings or accessory structures unless located within the building envelope (see Subsection I.A Building Envelope).

1) Pools and Pool Structures

The DRC is not allowed to permit the construction of swimming pools or pool structures without prior approval by the County.

2) Playground Equipment

Playground equipment must be behind the house and screened from view from roads by landscape. No playground equipment shall be more than twelve (12) feet in height.

3) Basketball Goals

Basketball goals must be behind the front elevation of the home and be screened from view from the roads as much as possible. The goal should have a clear background and black pole.

4) Tennis Courts

Tennis courts must be located within the building envelope. If chain link fencing is used it must have a dark vinyl coating and be no taller than ten feet (10') in height.

5) Mailboxes and Street Lamp Posts

Mailboxes and decorative street lamp post will be standardized by the DRC and installed at the Owner's expense.

III. LANDSCAPE

A. General

- 1) Landscaping is an essential element of the residence. The DRC requires that the landscape design be completed by a registered Landscape Architect or experienced professional and that it satisfy Brevard County codes. A detailed list of plants, sizes and unit cost breakdown shall be submitted to the DRC prior to final landscape approval.
- 2) In addition to the minimum landscape requirements to satisfy County codes, the homeowner is required to have the following:
 - (a) A minimum of two (2) shade trees of 3" caliper or larger, and 10' tall or taller, must be included in the landscape design and located in the front yard. Homes on lots with roadway widths greater than 100' shall have a minimum of three such trees.
 - (b) The preference is that the trees be selected to provide a canopy, however, palm trees and accent trees may be used for this requirement at a rate of three (3) palms (12' ht. min.) per required tree or two (2) accent trees per required tree.

- (c) Existing trees retained on the lot will not count toward the total shade tree requirements without review and approval of the DRC.
- (d) Native trees and/or bushes may be required to be planted in conservation areas.

- 3) Clear cutting of the lots is NOT permitted. The area to be cleared on each lot shall be limited to five feet (5') outside of the building envelope. All other existing trees and shrubs are to be preserved. The Landscape plan must indicate all existing tree areas being left on the lot.

B. Landscaping Materials

- 1) The DRC encourages the use of plant material on the San Marino Estates approved list (see Subsection III.D., Accepted Plant Palette). It prohibits the use of plant material not included on the list without the specific approval of the DRC.
- 2) The following trees and shrubs are **not acceptable** for landscaping within San Marino San Marino Estates:

- Chinese Tallow (*Sapium sebiferum*)
- Brazilian Pepper (*Schinus spp.*)
- Punk Trees (*Malaleuca spp.*)
- Mimosa (*Albizzia spp.*)
- Australian Pine (*Casuarina spp.*)
- Chinaberry (*Melia azedarach*)
- French Mulberry (*Morus alba*)
- Ear Tree (*Enterolobium cyclocarpum*)
- Eucalyptis Species (*eucalyptus species*)
- Arbor Vitae (*Thuj a orientalis*)

C. Planting

- 1) A plant palette has been established for the lots within San Marino Estates. These lists are to be used as guidelines in the plant material selection and were derived from the plants' capacity to survive in the environment and compatibility with other plants at San Marino Estates. All plant materials must be Florida No. 1 or better.
- 2) The intent of the landscape development on each lot is to provide a sense of community identity. The planting scheme should attempt to have as mature an effect as possible at the time of installation.
- 3) Plant composition should employ a compatible variety of plant types in order to build a pleasant transition from property to property and to create tree canopy.
- 4) The DRC is not permitted to approve any grass other than Empire Zoysia. .

D. Accepted Plant Palette:

Acceptable Shade Trees

Laurel Oak (*Quercus Laurifolia*)
Live Oak (*Quercus virginiana*)
Southern Magnolia (*Magnolia grandiflora*)

Acceptable Accent / Flowering Trees

Ligustrum (*Ligustrum japonicum*)
Crape-Myrtle (*Lagerstroemia indica*)
East Palatka Holly (*Ilex attenuata* "East Palatka")
Savannah Holly (*Ilex opaca*, "Savannah")
Hollywood Juniper (*Juniperus torulosa*)
Jacaranda (*Jacaranda mimosifolia*)
Peltophorum (*Peltophorum pterocarpum*)
Tabebuia varieties

Acceptable Palms

Canary Island Date Palm (*Phoenix canariensis*)
East Senegal Date Palm (*Phoenix reclinata*)
Pygmy Date Palm (*Phoenix roebelenii*)
Pindo Palm (*Butia capitata*)
Lady Palm (*Rhapis excelsa*)
European Fan Palm (*Chamerops humillis*)
Sago Palm (*Cycas revoluta*)
Everglades Palm (*Paurotis wrightii*)
Queen Palm (*Syagrus romanziffianum*)
Medjool Date Palm (*Phoenix dactylifera*)
Foxtail Palm (*Wodeytia bifurcans*)
Washingtonia Palm (*Washingtonia robusta*)
Silver Bismarkia (*Bismarkia nobilis*)
Christmas Palm (*Veitchii merrillii*)
Chinese Fan Palm (*Livistonis deceipens*)
Coconut Palm (Malayan or Maypan)

Acceptable Shrubs

Spider Lily (*Crinum Asiaticum*)
Pittosporum (*Pittosporum species*)
Sandankwa (*Viburnum species*)
Plumbago (*Plumbago capensis*)
Indian Hawthorn (*Raphiolepis indica*)
Azaleas (*Rhododendron species*)

Coontie (*Zamia floridana*)
Ligustrum (*Ligustrum* species)
Juniper (*Juniperus* species)
Dwarf Yaupon (*Ilex vomitoria nana*)
Japanese Yew (*Podocarpus macrophylla*)
Pampas Grass (*Cortadeia selloana*)
Gardenia (*Gardenia* species)
Nandina (*Nandina domestica*)
Hibiscus (*Hibiscus chinensis*)
Yellow Thryallis (*Thryallis glauca*)
Cordgrass (*Spartina bakeri*)
Pink Muhly Grass (*Muhlenbergia capillaries*)
Red Fountain Grass (*Pennisetum setaceum 'Rubrum'*)
Silver Buttonwood (*Conocarpus erectus 'Sericeus'*)
Silver Necklace Pod (*Sophora tomentosa*)
Firebush (*Hamelia patens*)
Ixora sp (*Ixora* sp)
Yellow Allamanda (*Allamanda* sp)
Mexican Bluebell (*Ruellia brittonia 'Purple Showers'*)
Croton species (*Codiaeum variegatum*)
Dwarf Schefflera (*Schefflera arboricola*)
Philodendron sp.
Pink Snow-on-the-Mountain (*Breynia distichia*)

Acceptable Ground Covers

Mondo Grass (*Ophiopon j aponicum*)
Border Grass (*Liriope muscari*)
Giant Grass (*Liriope "Evergreen Giant"*)
Dwarf Shore Juniper (*Juniperus conferta compacta*)
Macho Fern (*Nephrolepis biserrata 'Macho Fern'*)
Asiatic Jasmine (*Trachelospermum asiaticum*)
Dwarf Lantana (*Lantana depressa*)
Parson's Juniper (*Juniperus parsonii*)
African Iris (*Moraea iridiodes*)
Blue Lily of the Nile (*Agapanthus africanus*)
Boston Fern (*Nephrolepis exaltata*)
Holly Fern (*Cyrtomium falcatum*)
Society Garlic (*Tulbaghia fragrans*)

Acceptable Lakefront Native Aquatic Vegetation

Acceptable Trees

Bald Cypress (*Taxodium distichum*)
Common Willow (*Salix caroliniana*)
Dahoon Holly (*Ilex cassine*)
Loblolly Bay (*Gordonia lasianthus*)
Pond Cypress (*Taxodium ascendens*)
Bay (*Magnolia virginiana*)
Sweet Gum (*Liquidambar styraciflua*)

Acceptable Shrubs

Buttonbush (*Cephalanthus occidentalis*)
Pond Apple (*Annona glara*)
Wax Myrtle (*Myrica cerifera*)
Cordgrass (*Spartina bakeri*)
Pink Muhly Grass (*Muhlenbergia capillaries*)
Red Fountain Grass (*Pennisetum setaceum* 'Rubrum')
Canna Lily (*Canna flacida*)
Leather Fern (*Acrostichum daniefolium*)

Acceptable Grasses / Forbs

Alligator Weed (*Alternanthera philoxeroides*)
Arrow Arum (*Peltandra virginica*)
Arrowhead (*Sagittaria tracyi*)
Bulrush (*Scirpus* spp.)
Maidencane (*Panicum hemitomon*)
Narrowleaf Sawgrass (*Calidium mariscoides*)
Pickerelweed (*Pontederia lancoslata*)
Swamp Fern (*Blechnum serrulatum*)

E. Irrigation

- 1) All landscape and grassed open areas on residential lots shall be irrigated with ninety percent (90%) coverage by an underground irrigation system; provided, however, natural areas left undisturbed do not require irrigation coverage.
- 2) Coverage is required from the back of the curb at the street to the property line or adjacent conservation easements. The underground irrigation system shall be automatic and shall draw water from a deep artesian well or from utilities or governmental entities furnishing water to the properties. Use of a rain sensor is recommended.

F. Hardscape

Hardscape shall be included on either the landscape or the site plan including: Driveways, walkways, pool/patio decks, fencing, any approved garden structures and public sidewalks. Provide material and color call outs and dimensions for all paving sections. Details and cut sheets are needed to delineate these elements as a construction document. (Note: landscape lighting can be included on this plan.) The landscape plan and the site plan must be fully coordinated. (Refer to Subsection I.G., Driveways and Sidewalks)

G. Lighting

Each lot is required to have a lamp post light on or about the center of the front yard. The lamp post shall be powered by a light-sensing switch so that it is always on at night. This lamp post shall be of a standard set forth by the DRC and installed at the Owner's expense. (See Subsection II.I.5 Mailboxes and Street Lamp Posts).

IV. DESIGN REVIEW AND PLAN SUBMITTAL PROCESS

A. General

- 1) In order to assure every resident of San Marino Estates that the proper standards of development will be encouraged and maintained to everyone's benefit, the DRC has been established to review and approve all plans and specifications for proposed residential improvements.
- 2) The goal of the DRC is to process each submittal fairly, consistently, in a timely manner, and most importantly, in accordance with the requirements of this Design Review Manual and the Declaration of Covenants, Conditions, Restrictions for San Marino Estates (CCR).
- 3) An additional goal of the DRC is to review and act on all formal submissions within two (2) days of receipt; however, the amount of time it takes the DRC to complete the review will vary with the complexity of the design and submission completion.
- 4) Variances will be considered individually by the DRC. The DRC cannot deny a variance so long as it is reasonable.
- 5) For questions regarding these DRC guidelines, please contact Rich Mehalik at 321-544-4276. The final approval of any plans, designs is the president of the DRC.
- 6) All plan submittals for Design Review must include two (2) sets of drawings for DRC review. After submittal review, one (1) set of comments will be returned to the Owner, architect and builder.

B. Plan/Design Submittal

For consideration for Final Approval, all submittals must contain the following as a minimum:

- 1) Lot Survey indicating all setbacks and easements
- 2) Plot Plan indicating building placement and all driveways, sidewalks, patios, fences landscape areas, and existing trees/shrubs being maintained on site and final lot drainage
- 3) Building plans to include Floor plans for each level
- 4) All four exterior elevations identifying proposed primary materials
- 5) One (1) set photographs showing structures built on all sides and across the street from the parcel proposed for development
- 6) One (1) set of illustrative materials, renderings, models, or drawings needed to adequately present the concept
- 7) Samples of exterior materials (ie. roof tiles, colors, etc.)
- 8) Landscape plan and detail.
- 9) Window spec sheet.

C. Professional Consultants' Requirements and Responsibilities

- 1) The Owner must use licensed professional consultants (Architect, Landscape Architect, and Land Surveyor).
- 2) It is the Owner's responsibility to make sure that his licensed professionals obtain approval of the DRC on schedule submissions and revisions to the proposed structure.
- 3) Unless waived in advance by the DRC, the Owner's contract with his architect must include the requirement that the architect inspect the home at least four (4) times during construction and also upon completion as follows:
 - (a) Visit 1: 20% complete - plumbing rough-in, floor slab formed
 - (b) Visit 2: 40% complete - frame complete, roof dried in
 - (c) Visit 3: 65% complete - insulation complete, electric roughed-in

- (d) Visit 4: 90% complete - finished plumbing, finished exterior/ interior/drywall/roof
- (e) Visit 5: 100% complete - Final Verification
- 4) The architect is required to verify, in writing, to the DRC that the residence has been substantially completed as designed and as approved by the DRC. Certificate of Occupancy shall not be issued until this inspection has taken place.
- 5) The Owner is responsible for making his contractors construct his residence in conformance with approved plans and revisions.
- 6) It shall be the Owner's obligation to comply with all covenants and restrictions imposed upon the lot under review. Unless specifically identified as an exception to the covenants or restrictions, no item contained within an approved plan which conflicts with those covenants or restrictions shall be deemed approved.

V. DESIGN REVIEW COMMITTEE

A. Design Review Committee Membership

The DRC shall consist of at least three (3) members but no more than seven (7) members, as provided in the Declaration. Each of the members of the DRC shall hold office until such time as he resigns, or is removed, or his successor appointed as set forth herein or in the Declaration.

B. Appointment of Design Review Committee

Until Turnover, or as provided below, the right from time to time to appoint and replace all members of the DRC is reserved to and vested solely in Declarant.

No more than one member of the DRC can be a homeowner. All other members of the DRC must be from the building profession.

C. Resignation of Members

Any member of the DRC may at any time resign from the DRC upon written notice delivered to Declarant or to the Board of Directors of the Association, whichever then has the right to appoint and remove members.

D. Duties

As set forth more specifically in the Declaration, it shall be the duty of the DRC to consider and act upon such proposals or plans from time to time submitted to it pursuant to the Design Review Manual, to perform such other duties from time to time delegated to it by the Declarant or the Association, and to amend the Design Review Manual when, and in the manner, deemed appropriate or necessary by the DRC.

E. Meetings

The DRC shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the members of the DRC shall constitute an act by the DRC unless the unanimous decision of its members is otherwise required by the Declaration or the Design Review Manual. The DRC shall keep and maintain a record of all action from time to time taken by the DRC at such meetings or otherwise.

F. Compensation

Unless authorized by the Association, the members of the DRC shall not receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any DRC function or duty. Professional consultants retained by the DRC shall be paid such compensation as the DRC determines.

G. Amendment of Design Review Manual

The Board of Directors of the Association may, from time to time and in its sole discretion, adopt, amend, and repeal by unanimous vote the Design Review Manual or any rules and regulations to be incorporated into the Design Review Manual which rules and regulations, among other things, interpret, supplement, or implement the provisions of the Design Review Manual. All such rules and regulations or amendments, as they may from time to time be adopted, amended or repealed, shall be appended to and made a part of the Design Review Manual and shall thereupon have the same force and effect as if the same were set forth in and a part of the Declaration. Each Owner is responsible for obtaining a copy of the most recently revised Design Review Manual from the DRC prior to submitting a request for a Pre-Design Meeting.

H. Exculpation for Approval or Disapproval of Plans

The Declarant, and all members of the DRC and any and all officers, directors, employees, agents and Members of the Association, shall not, either jointly or severally, be liable or accountable in damages or otherwise to any Owner or other person whatsoever by reason or on account of any decision, approval or disapproval of the plans, specifications or other materials required to be submitted for review and approval pursuant to the provisions of the Design Review Manual and the Declaration, or for any mistake in judgment, negligence, misfeasance or nonfeasance related to or in connection with any such decision, approval or disapproval. Each person who shall submit plans, specification or other materials to the DRC for consent or approval, by the submission thereof, and each Owner by acquiring title to any parcel or lot or any interest therein, shall be deemed to have agreed that he or it shall not be entitled to and shall not bring any action, proceeding or suit against the Declarant, the DRC, the Association not any Member (as defined in the Declaration), officer, director, employee or agent of any of them for the purpose of recovering any such damages or other relief on account of any such decision, approval or disapproval. Additionally, plans, specifications and other materials submitted to and approved by the DRC, shall be reviewed and approved only as to their compliance with the provisions of the Design Review Manual and the Declaration and their acceptability of design, style, materials, appearance and location in

light of the standards for review and approval specified the Declaration and the Design Review Manual, and shall not be reviewed or approved for their compliance with any applicable governmental regulations, including, without limitation, any applicable building or zoning laws, ordinances, rules and regulations. By the approval of any such plans, specifications or materials, neither the Declarant, the DRC, the Association, nor any Member, officer, director, employee or agent of any of them, shall have, assume or incur any liability or responsibility whatsoever for any violation of governmental regulations or any defect in the design or construction of any building, structure or other improvement, constructed, erected, placed or installed pursuant to or in accordance with any such plans, specifications or other materials approved pursuant to the Design Review Manual and the Declaration.

I. Enforcement

The Board of Directors of the Association on behalf of the Association, and the Declarant, until turnover, shall have the authority and standing to enforce in courts of competent jurisdiction the decisions of the DRC established in the Declaration or the Design Review Manual.

VI. CONSTRUCTION AND BUILDER REGULATIONS

In order to ensure that the natural landscaping of each parcel and lot is not unnecessarily damaged or destroyed during construction, the following regulations shall apply during the construction period. These regulations shall be made a part of all construction contracts/documents for each residential lot or other improvements on the parcel or a lot, and all Builders, Owners, and other persons shall be bound by these regulations. Any violation by a Builder shall be deemed a violation by the Owner of the parcel or lot.

A. Pre-Construction Conference

Prior to commencing construction, the Builder must meet with a representative of the DRC to review construction procedures and coordinate his activities at San Marino Estates.

B. Occupational Safety and Health Act Compliance (OSHA)

All applicable OSHA regulations and guidelines must be strictly observed at all times.

C. Construction Trailers, Portable Field Offices, Etc.

Any Owner or Builder who desires to bring a construction trailer, field office, onto the properties shall first apply for and obtain written approval from the DRC. The DRC will work closely with the Owner or Builder to determine the best way to bring such construction trailer, field office and the like onto the parcel or lot and the best possible location therefore. All temporary structures shall be located only in a location approved by the DRC and shall be removed upon completion of construction. Any permits necessary shall be obtained by the Owner prior to such temporary structures being brought onto the properties.

D. Debris and Trash Removal

All Owners shall be responsible for requiring their Builder(s) to maintain the job site in a reasonably neat and clean manner, which includes having excess trash and debris removed as necessary.

E. Sanitary Facilities

Each Owner and Builder shall be responsible for providing adequate sanitary facilities for his construction workers.

F. Vehicles and Parking Areas

Construction crews shall not park on, or otherwise use, other parcels, lots or any common areas, ponds or the like. Private and construction vehicles and machinery shall be parked only in areas designated by the DRC so as not to damage the natural landscape. All vehicles shall be parked so as not to inhibit traffic.

G. Conservation of Landscaping Materials

- 1) No trees or existing landscape shall be removed from the site without the express permission of the DRC and the Declarant (if before turnover). Owners and Builders shall specify in their plan submission what steps they will take to protect such trees and existing landscape.
- 2) Owners and Builders are advised that the parcels, lots and common areas contain valuable native trees and other natural landscaping elements that should be absolutely protected during construction. There are other protected areas, including wetlands, regulated by conservation easements which must be complied with and which, among other things, regulate the use of such protected areas.
- 3) Trees and other landscaping elements that must not be removed from a parcel or lot shall be marked and protected by the Owner or Builders by flagging, fencing, or barriers. The DRC shall have the right to flag major trees or treed areas which are to be fenced off for protection. Any trees or branches removed during construction must be promptly cleared and removed immediately from the construction site.

H. Excavation Materials

Excess excavation materials must be removed by the Owner from San Marino Estates, or, with the written approval of the Declarant (if before turnover) or the DRC, such excess excavation materials, not including debris from the building operations or cleared vegetation, may be hauled to a location designated by the Declarant (if before turnover) or the DRC.

I. Blasting

If any blasting is to occur, the DRC must be informed far enough in advance to allow it to make such investigation as it deems appropriate to confirm that all appropriate measures, including protective actions, have been taken prior to the blasting. No blasting or impact digging causing seismic vibrations may be undertaken without the approval of the DRC. All applicable governmental regulations should be reviewed and complied with prior to and during any blasting activity.

J. Restoration or Repair of Other Property Damaged

Any activities which are likely to give rise to damage and scarring to other property, including, but not limited to, common areas, other parcels, lots, roads, driveways, and/or other improvements will not be permitted. If any such damage occurs, it must be repaired and/or restored promptly at the expense of the person causing the damage or the Owner of the parcel or lot from whom the person causing such injury is working. Upon completion of construction, each Owner and Builder shall clean the construction site and repair all property which was damaged, including but not limited to restoring grades, planting shrubs and trees as approved or required by the DRC, and repairing streets, driveways, pathways, drains, culverts, ditches, signs, lighting, and fencing.

K. Miscellaneous and General Practices

All Owners shall be absolutely responsible for the conduct and behavior of their agents, representatives, builders, contractors, subcontractors and their employees within the properties of San Marino Estates. The following are prohibited in San Marino Estates:

- 1) Changing oil in, or repairing, any vehicle or equipment on the site itself or other than at the location on the parcel or lot designated for that purpose by the DRC.
- 2) Allowing concrete suppliers and contractors to clean their equipment at locations other than those designated for that purpose by the DRC.
- 3) Removing any plant material, topsoil, or similar items from any property of others within San Marino Estates, including construction sites.
- 4) Using disposal methods other than those approved by the DRC.
- 5) Use or traveling over the common areas and public areas other than paved roads.
- 6) Bringing pets, particularly dogs, onto the properties by contractors, subcontractors or their employees. No pets will be allowed to roam at will throughout San Marino Estates.
- 7) Possession and/or consumption of alcoholic beverages on the properties by any person engaged in construction activities while performing such construction activities. No construction personnel shall enter the properties in an intoxicated state.

L. Construction Area Plan

Prior to the commencement of any construction activity on a parcel or lot, the Owner and Builder shall provide a detailed plan as to the manner in which the natural landscape will be protected, and the areas to which all construction activity will be confined.

M. Construction Access

The only approved construction access during the time a residence or other improvements are being built will be over the approved driveway for the parcel or lot unless the DRC approves an alternative access point. No access for anyone outside the designated site is permitted under any circumstances.

N. Dust and Noise

The Builder and contractor shall be responsible for controlling dust and noise emanating from the construction site.

O. Signage

Temporary construction signs shall be limited to one (1) sign per site not to exceed six (6) square feet of total surface area. The sign shall be free standing and the design and location of such a sign shall first be approved by the DRC.

P. Daily Operation

Daily working hours for each construction site shall be 7:00 a.m. to 6:00 p.m., Monday through Friday, 8:00 a.m. to 6:00 p.m., Saturday, excluding legal holidays. Working at any other times shall require the written permission of the DRC.

Q. Disposal of Waste

Disposal of any toxic chemicals on any site, any parcel, any lot or the properties is prohibited

R. Pumping and Dewatering

Any water discharged from either pumping or dewatering must be done in a manner to avoid inconvenience or damage to adjoining property. Water must not be pumped directly into ponds or lakes. The exact position of discharge must be considered and included in the plans submitted to the DRC.

S. Easements

The Owner/Architect/Builder must ensure they are aware of all easements and conservation areas, which may pass through some parcels and lots, as set forth in the Declaration and / or the subdivision plat.

T. Temporary Signs and Fencing

Each parcel and lot, where construction is taking place, shall be marked with signs indicating that it is a construction site and access by unauthorized personnel is prohibited. All hazardous areas shall be fenced off to prevent unauthorized access, particularly that of children. Buildings under construction, excavations and construction machinery shall be secured during non-working hours.

U. Construction Schedule

In considering overall approval of the final plan, the DRC, shall, among other things, consider the Owner's and the Builder's agreement to the construction schedule set forth hereinabove.