

Covenants, Codes, and Restrictions that Address Environmental Issues in Residential Communities¹

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Credits: Mark Hostetler, UF/IFAS

Introduction

The purpose of this fact sheet is to provide developers, environmental consultants, homeowners, and homeowner associations with information about how to write Covenants, Codes, and Restrictions (CCRs) that address environmental issues.

Most master planned communities have Covenants, Codes, and Restrictions (CCRs) which act as guidelines to how the community is managed. These help set the flavor and tone of the neighborhood. If the goal of the community is to conserve natural resources (i.e., a green community), then

the way CCRs are worded will impact the way a community functions in terms of conserving such resources as wildlife habitat, energy, and water. In older developments, CCRs may be in the deed for the home, establishing the codes and restrictions for the subdivision in which the home resides. If the community has a homeowner association (HOA), it usually has the power to enforce the CCRs. Thus it behooves a homebuyer to understand what the CCRs regulate—especially if they don't encourage sustainable practices.

Below is an example of language of a CCR for the Town of Harmony, FL (www.harmonyfl.com) and was prepared by Maggie Brasted, Margaret Baird, and John Hadidian of The Humane Society of the United States and was reviewed and partially written by Mark Hostetler, Assoc. Prof., Department of Wildlife Ecology and Conservation, University of Florida and Val Beasley, Prof., Department of Veterinary Bioscience, UIUC. The below CCR emphasizes the treatment of wildlife and the management of yards, neighborhoods, and natural areas. If any part of this CCR document is used for any purpose, please credit the Town of Harmony and the authors/reviewers of the Town of Harmony CCRs.

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Harmony, Florida: Community Covenants and Restrictions (CCRs)

July 2001

The use of the term “Association” is provisional, pending determination of what oversight and authority will be vested in the community’s various organizational groupings.

Statement of General Intent

These Community Covenants and Restrictions (CCRs) provide a framework for humans and animals in Harmony to interact in peaceful coexistence with one another, with respect for all life and the land that sustains it.

This section concerns wildlife and the environment, both natural and human-built. These restrictions and recommendations are based on this principle: Wild animals are treasured members of the Harmony community. The unique organizing concept of this community requires taking its nonhuman members into account. Promoting the bonds between people and all animals, safeguarding the welfare of animals within the community now and in the future, and serving as a model to other communities for the humane treatment of all animals are the guiding principles of Harmony.



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Harmony and Its Environment

The Harmony concept blends natural and human-built environments in ways that enhance the relationship between humans and animals and maximizes the benefits of their peaceful coexistence. While retaining natural areas, Harmony is part of a human-dominated landscape

where human actions profoundly and determinably affect the welfare of wild animals. As much as possible in this context, these CCRs articulate a philosophy to allow natural elements to persist unimpeded by humans and to minimize the conditions and circumstances that lead to conflict between humans and wildlife. Harmony’s stewardship concept involves balancing a hands-off and hands-on approach.

These CCRs cannot anticipate all aspects of current and future relationships among humans and animals at Harmony. Therefore, these guiding principles and recommended approaches are intended to be dynamic and open-ended to allow the community to explore and adopt new and better conflict resolution strategies, landscape management schemes, environmental management techniques, and practical approaches to maintaining biotic integrity. Harmony must begin with a humane concept for its relationship with wild animals and continue to define and redefine that concept within the context of our larger society as well as in Harmony. An unchanging belief that wild animals deserve respect and should be free of human interference and allowed to interact with humans on their terms will guide this evolving definition process.

In relation to wildlife and to the environment in which they live, the goals of the Harmony community are:

- To promote an understanding of how connected humans are to wildlife and to the surrounding environment
- To foster tolerance, respect, and understanding of all living things
- To provide opportunities for Harmony residents to view, hear, and interact with local flora and fauna in an ecologically and environmentally friendly way
- To create and provide educational activities which will foster a community-wide land ethic and promote future land stewardship

To meet these goals, the following sections detail activities that are regulated, prohibited, or encouraged on a community-wide basis.

Treatment of Wild Animals

This section applies to humane treatment of all wild animals anywhere within Harmony on both private and common property.

Hunting and Trapping. Recreational and/or commercial hunting and recreational and/or commercial trapping of any animal are prohibited.

Attracting and Taming Wildlife. Taming or making pets of wild animals is prohibited. Young wild animals found or acquired cannot be kept and reared, but must be surrendered to professional rehabilitative care. Free-roaming acclimated and partly habituated wild animals that come and go at will are accepted. Keeping a native wild animal in confinement as a captive is prohibited.

Homeowners are encouraged to provide habitat that offers cover, water, and food for wildlife. Native vegetation that provides cover and food should be the first step that homeowners take to attract wildlife. Supplemental provisions, such as bird feeders and bird/bat boxes, are also allowed to attract wildlife. Nesting and sheltering boxes (such as birdhouses, bat houses, duck boxes, snake boxes, and toad abodes) are allowed and encouraged, but may be subject to limitations in type and number at the discretion of the Association.

Artificial shelters and nesting boxes shall be maintained in good repair and not placed or distributed so as to create conflicts by harboring non-native species or attracting wildlife in such numbers as to be in conflict with humans. Nest boxes shall be constructed so that they can be cleaned and disinfected at least annually.

Garden ponds and birdbaths are allowed and encouraged but must be maintained in good order to prevent the proliferation of noxious insects (such as mosquitoes), toxigenic blue-green algae, bacterial pathogens, or wildlife that could present a problem for people if present in such numbers or places where conflict would occur. Residents are encouraged to visit the UF/IFAS Extension Wildlife website at www.wec.ufl.edu/extension for information on these topics.



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Killing or Harming Wildlife. Wild animals shall not be purposefully injured. Under some conditions, aversive conditioning (training animals to avoid a conflict situation through the use of unpleasant stimuli) may be used as part of a nuisance control program but never in such a way as to cause or sustain suffering of the animal.

Wild animals may be humanely killed to relieve their suffering due to critical injury or illness. The recommended means by which this should be accomplished is euthanasia administered according to veterinary medical standards as established by the American Veterinary Medical Association (AVMA) in their most current guidelines, or other guidelines that have been sanctioned by The Humane Society of the United States (HSUS). Situations of extreme emergency in which human safety or the immediate relief of animal suffering is at issue could warrant exceptions to this requirement.

Control of commensal rodents (rats and mice) where federal, state, or local regulation and standards rule; where human health and safety concerns are threatened; and to limit the growth and spread of a population due to human causes could also warrant exceptions to this requirement. Lethal control of commensal rodents may be conducted by homeowners or registered pesticide applicators, but must be done in strict accordance to Association guidelines and state laws. The use of glueboard traps under any circumstances is expressly prohibited.

Feeding Wildlife. Feeding wild mammals, except squirrels and chipmunks, and feeding wild birds, except songbirds and hummingbirds, is prohibited except on an emergency basis as determined by the Association.

Feeding any wildlife, when this activity places wildlife at risk, is prohibited. Wildlife may be placed at risk by feeding that habituates animals to humans, resulting in diminution of animal's fear or normal caution around humans, by abnormally concentrating animals, by increasing risk of contact between wild animals, humans or pets, and other similar situations.

Wildlife may not be indirectly fed by leaving food out for companion animals.

Feeding wild songbirds and hummingbirds is allowed in moderation. Feeding must not lead to conflicts between animals and humans. The Association may recommend proper foods and feeding schedules. The Association may also suspend all bird feeding during any period of increased nuisance wildlife activity. Bird and squirrel feeders should

be limited in type and number. Feeders and human-supplied water sources (including birdbaths) shall be kept clean so that disease is not transmitted. Feeders should be protected from “raiding” by mammals such as raccoons.

Wildlife Conflicts. Resolutions to conflict between humans and wild animals shall first be attempted using non-lethal means, except under extreme and immediate circumstances where human safety or the safety of a companion animal is imminently threatened.

Wildlife control, including non-lethal actions, shall not be conducted simply because a homeowner considers the mere presence of a wild animal to be a “pest” or “nuisance.”

The approach to wildlife conflict resolution shall follow a series of steps.

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Preferably, human-wildlife conflicts should be resolved by changing human practices (such as trash management and securing stored food), modifying habitats (changing plantings or managing landscapes), and/or structural modifications (fencing or other methods to exclude animals). Whenever practicable, the cause of human-wildlife conflict shall be sought and the conditions or circumstances that led to the conflict shall be removed.

Controlling Wildlife Populations. Circumstances may arise where the community has evaluated a conflict situation and agreed to the need to intervene in and control a local population of wild animals (not merely an individual wild animal or small number of wild animals). Substantial and significant need must be demonstrated for human intervention to be considered. Alternatives to control, including altering human practices (such as waste handling and landscaping), and methods to exclude or repel animals should be undertaken before control measures are considered. Control measures must be undertaken through a wildlife management plan that carefully evaluates the best methods for controlling the specific species of concern

and seeks the most humane long-term solution. Plans that require multiple control measures should also include long-term strategies to prevent the recurrence of the need for control measures. Control measures may include humane animal capture and relocation to other natural habitats on the property or as allowed by state permitting authorities, reproductive intervention (such as immunocontraception for mammals or egg addling for birds), and other measures reviewed and agreed to be humane by the association.

Nests and Dens. Nests of wild birds shall not be taken, moved or interfered with in any manner as stipulated under applicable state and federal law.

No wild animal den or nest of unprotected bird species may be disturbed, moved, or altered except as part of a planned conflict abatement program (described under **Wildlife Conflict** or **Controlling Wildlife Populations**), or under compelling circumstances of human health, safety, or security needs.

Young shall not be taken or moved from dens or nests but allowed to mature until they naturally disperse, except where the conditions listed above merit more urgent response. In these circumstances, the family integrity should be maintained by methods to prevent orphaning.



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Environmental Management

This section applies to activities anywhere within Harmony on both private and common property.

Use of Chemicals. The use of avicides (chemicals registered to kill birds) and predacides (chemicals registered to kill predatory animals) is prohibited.

Chemicals to control plants (herbicides), insects (pesticides), commensal rodents (rodenticides), and any other chemical plant and pest control methods must be used only within the context of an Integrated Pest Management (IPM) approach.

This does not apply to materials generally available for non-commercial household use. Chemicals employed shall not harm wildlife when used according to label. An emphasis shall be placed on the use of products or practices that are classified as “best management” or “least toxic” by responsible oversight organizations. Acceptable oversight organizations include the Bio-Integral Resource Center (BIRC), P.O. Box 7414, Berkeley, CA 94707; the Northwest Coalition for Alternatives to Pesticides (NCAP), P.O. Box 1393, Eugene, OR 97440-1395; Pesticide Action Network North America (PANNA), 49 Powell St. #500, San Francisco, CA 94102; or their successor organizations that have the same goal of promoting least harmful pest control methods, that have an established record of promoting alternatives to chemical pesticides, and that are not funded by the chemical or agriculture industry. Minimal chemical spraying or application may be done to kill or eradicate invasive plants and where the spraying or application will not impact water quality including affecting an aquifer, watershed, creek, spring, or septic system. To control insects, biological controls (e.g., lady beetles and aphid control) and alternative control methods, such as soap and water, should be attempted before resorting to chemical controls.

Landscaping/Tree Removal. Planting or maintaining known invasive, non-native plants is prohibited.

Additionally, plants must not have an invasive life strategy that could potentially lead to their spread outside of the homeowners property. While non-native plants that are not invasive are allowed they are discouraged because they take more fertilizer and pesticides and many Florida wildlife species cannot utilize such exotic plants. For these reasons native plants are encouraged, as are plants and landscaping that require minimal human maintenance, such as irrigation and chemical inputs.

Removing or thinning trees, branches, and/or deadwood is allowed as property maintenance and to eliminate or alleviate a safety hazard to humans or property. However, removal or thinning must use then-applicable best methods for timing and techniques to least damage or interfere with wildlife and wildlife habitat. Whenever and wherever possible, dead and dying trees (snags) should be left standing as wildlife habitat and maintained to avoid any hazard that could potentially imperil people or property. Whenever

possible, any removed trees or branches (other than non-native, invasive, infected, or diseased trees) should be left on the ground at or near the area from which they were removed to decompose naturally or moved to designated common areas to enhance wildlife habitat.

Fences and Plant Barriers. Fencing and landscape elements (such as hedges or plant barriers) should not impede wildlife mobility. However, fences and other barriers placed to exclude animals from gardens or other places where they are or reasonably may be expected to be in conflict with humans (for example, deer fencing to protect ornamental plants or vegetables from browsing) are acceptable. No fences and barriers should present a threat of injury to wildlife due to design, construction, or lack of proper maintenance. No barbed wire or hog wire fences shall be used.

Mowing. Mowing timing and equipment shall pose a minimal threat to wildlife. As conditions permit, mowing should be performed in the middle of the day rather than early morning or late afternoon. Residential mowers should preferably be manual or electric-powered and recycle cut material (mulching). Mowers should be set to mow lawn area at a height of no less than four inches. Because lawns are exotic vegetation and essentially are not used by local wildlife species, homeowners are encouraged to reduce the total amount of turf and replace it with native vegetation.

Waste and Trash Management. Except for the activities of the Developer or its designees during the construction or development or as necessary for reasonable and necessary repairs or property maintenance, no trash burning and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted. This provision does not apply to brush piles, snags, coarse woody debris, and similar material placed and/or allowed to remain as wildlife habitat.

Trash containers shall be of approved design and construction that minimizes wildlife access. They shall be maintained and used in a manner that does not allow their contents to attract or be accessible to wild or domestic animals, including having lids secured and containers without holes. All trash stored or placed outside for collection must be in an approved trash container. Unsecured trash in bags or open containers is prohibited.

Composting of household and kitchen refuse will be limited to organic matter that does not attract or entice wild

animals. Specifically, no animal products or refuse shall be composted outdoors.

All food containers should be rinsed to remove food remnants and odors before disposal or recycling. Plastic food containers (for example yogurt, peanut butter, and others) should also be cut up and/or crushed and each ring in plastic six-pack carriers (and similar packaging) should be cut apart before disposal or recycling. This prevents animals from becoming entrapped by the necks of containers when they try to get food residue. Even when these containers are properly disposed, some can become accidentally separated from the properly handled waste and pose a hazard to wildlife.

Garden and yard refuse should be recycled by composting or similar uses on site whenever possible. This refuse may also be taken to an approved community collection area or designated common area as described under **Landscape/Tree Removal**. No yard or garden refuse may be placed in other natural areas.

Lighting and Windows. Outdoor lighting shall illuminate towards the ground and shall, to the maximum extent practicable, shield light from emitting upwards towards the open sky or surrounding natural areas. Use of yellow lights is preferred because they do not attract insects. To the extent practicable and possible, the threat of bird strikes shall be taken into account when determining window positioning and design during construction, modification, or maintenance of structures. During certain times of the year, bird-friendly alterations to windows may be required. For example, during bird migration, tape or other material may be required to be placed on windows to prevent birds from striking the windows.

Preserved Area Management

Designated natural and preserved areas should be primarily for wildlife use and shall be managed and maintained with that purpose in mind. Human recreation in these areas shall be allowed to the extent that it does not significantly conflict with wildlife use. The Association may close or limit human access and activity in these areas temporarily or seasonally. Trails in natural areas shall be of the least intrusive type possible. Access to unplanned (“social”) trails may be closed using signs, downed trees limbs, and other natural obstructions to discourage their use and proliferation.

The function of common areas maintained for human and companion animal use will be well advertised to encourage people to use them in preference to natural and preserved areas. A management plan for preserved areas shall be used to stipulate further concerns and restrictions, up to and including microhabitat management and maintenance.

Fires and Controlled Burning. Fire shall be considered and used as an appropriate wildlands management tool, but only under a carefully drawn and considered management plan, approved by the homeowners’ Association and local authorities, that minimizes the threat of burning to humans, human property, and animals.

Corridor Maintenance. Natural corridors connecting natural areas will be maintained to allow wildlife movement and preserve the integrity of the whole natural system. Existing corridors may not be altered beyond routine and accepted maintenance and may not be destroyed without a valid and justified plan approved by the Association.

Watershed Maintenance. Construction or land alteration shall not affect the biotic integrity of the lakes and waterways. Disposal or spillage of hazardous materials and chemicals is prohibited. Vegetation management around streams and lakes shall be conducted only under an approved plan based on justifiable need. Such plans shall include provisions to minimize the impacts on wildlife including timing of management activities.

Additional Resources

Program for Resource Efficient Communities: <http://www.buildgreen.ufl.edu/>

Florida Yards & Neighborhoods: <http://fyn.ifas.ufl.edu>

Green Communities: <http://www.wec.ufl.edu/extension/gc>

Nature of Cities: <https://www.thenatureofcities.com/>