

Prepared by and Return to:  
Richard A. Ulrich, Esq.  
Ulrich, Scarlett, Wickman & Dean, P.A.  
713 S. Orange Ave., Suite 201  
Sarasota, FL 34236



**CORRECTED<sup>1</sup> CERTIFICATE OF AMENDMENT**  
**TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**AND BYLAWS FOR BERKSHIRE PLACE**

**KNOW ALL MEN BY THESE PRESENTS:** that the undersigned, being the President and Secretary, respectively, of BERKSHIRE PLACE ASSOCIATION, INC., a not-for-profit Florida corporation, hereby certifies that the Declaration of Covenants, Conditions and Restrictions of Berkshire Place, and Bylaws, as recorded in Official Records Book 2630, Page 2011, (Phase I) and Official Records Book 2708, Page 429 (Phase II); all as amended from time to time, and all recorded in the Public Records of Sarasota County, Florida, were duly amended by the required vote of the members of the Association at the Annual Meeting of the membership held on February 25, 2021. The attached Amended and Restated Declaration of Covenants, Conditions and Restrictions, and Amended and Restated Bylaws were proposed and adopted in accordance with the requirements of the Declaration of Covenants, Conditions and Restrictions and Florida law. It is further certified that attached hereto are true and correct copies of said documents. The proposal to amend the Declaration of Covenants, Conditions and Restrictions and Bylaws contained underlined text for the added text and deleted text was denoted by ~~strikethroughs~~.


**IN WITNESS WHEREOF**, the Association has caused this Certificate to be re-executed by its President and Secretary this 23<sup>rd</sup> day of April, 2021.


BERKSHIRE PLACE ASSOCIATION,  
INC. a Florida not for  
profit corporation

WITNESSES:

  
Print Name: BRANTLEY DAWSON

By:   
RICHARD HALE, President

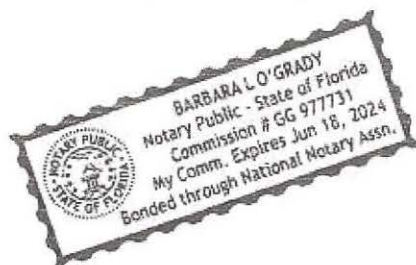
  
Print Name: Zachary Laurie


Attested:  
By:   
LOIS CARCARE, Secretary

<sup>1</sup> Corrected to correct the misspelling of the President's Name in the original Certificate of Amendment

STATE OF FLORIDA)  
COUNTY OF SARASOTA)

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this the 23 day of April, 2021, by Richard Hale, as President of Berkshire Place Association, Inc., on behalf of said corporation, who is personally known to me or have produced \_\_\_\_\_ as identification.



  
Print Name: Barbara L. O'Grady  
Notary Public  
My Commission Expires:

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR BERKSHIRE PLACE ASSOCIATION, INC.

BERKSHIRE PLACE ASSOCIATION, INC. a Florida Corporation, whose post office address is 1309 Berkshire Court, Venice, Florida 34292, being the owner in fee simple of all of that certain real property more particularly described in Exhibit "A" attached hereto and incorporated herein ("the Property"), does hereby declare that the Property and all parts thereof are subject to the restrictions set forth below which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot within the Property in order to maintain within the Property a residential area of high standard.

ARTICLE I – DEFINITIONS

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications thereof.

1.2 "Association" shall mean and refer to Berkshire Place Association, Inc., a Florida corporation not for profit, its successors and assigns.

1.3 "Board of Directors" or "Board" shall mean and refer to the Berkshire Place Association's Board of Directors.

1.4 "Bylaws" shall mean and refer to the Bylaws of the Association, including any and all amendments or modifications thereof.

1.5 "Common Area" or "Common Areas" shall mean all portions of the Property (including pool, pool cabana, Gazebo, parking areas, and all other improvements and landscaping thereon, if any) now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.6 "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Berkshire Place, as modified and amended from time to time.

1.7 "Dwelling" shall mean and refer to each and every single family dwelling unit constructed on any Lot.

1.8 "Lot" shall mean and refer to any plot of land shown on any recorded plat or subdivision map of the Property or any part thereof, with the exception of Common Areas or areas deeded to a governmental authority or utility, if any.

1.9 "Master Association" shall mean Waterford Master Owner's Association, Inc., its successors and assigns.

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

1.11 "Property" shall mean that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association (if any).



## ARTICLE II PROPERTY RIGHTS

2.1 Owner's Easement of Enjoyment. A non-exclusive easement is hereby established over all portions of the Common Area, for ingress and egress to and from all portions of the Property, and for maintenance of the Common Area and all the Dwellings, for the benefit of the Association, all Owners and residents of the Property, and their invitees and licensees, as appropriate, subject to the following:

(a) the right of the Association to suspend the voting rights and right to use of recreational facilities, if any, within the Common Area by an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, whether or not such Owner had actual knowledge of such rules and regulations at the time of the infraction.

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any person or entity, including but not limited to the Owner of any Lot or Lots, another developer of the Property, or any public agency, authority or utility for such purposes and upon such conditions as may be agreed to by a majority in interest of the members of the Association, provided that any such transfers (i) do not materially adversely affect any Owner unless such Owner has expressly consented to such transfer, and (ii) do not violate the intention of the Amended and Restated Declaration.

(c) all provisions of this Amended and Restated Declaration, any additional covenants and restrictions of record, any plat of all or any part or parts of the Property, and the Articles and Bylaws.

(d) rules and regulations adopted by the Association governing use and enjoyment of the Common Area.

(e) any right of the City of Venice, Florida, and/or the Master Association, upon the failure of the Association to do so, to maintain such portions of the Common Area as are designed on any plat as being for drainage purposes, and to record a lien against such Common Areas to secure payment by the Association for the cost of such maintenance.

2.2 Common Area. The Common Area shall be for the use and benefit of the Owners and residents of the Property, collectively, for any proper purpose. Any Owner may delegate the right to enjoyment of the Common Area to such Owner's tenants or contract purchasers who reside on the Property, but shall not thereafter be permitted to use the Common Area for so long as such right to enjoyment is delegated. The Common Area shall be used by each Owner or resident of a Dwelling in such a manner as shall not abridge the equal rights of other Owners and residents to the use and enjoyment thereof. Each Owner shall be liable to the Association for any and all damage to the Common Area and any personal property or improvements located thereon, caused by such Owner, his family, invitees, lessees, or contract purchasers and the cost of repairing shall be a lien against such Owner's Lot or Lots. The provisions of Section 6.4 regarding interest, costs, and attorneys' fees shall apply to the lien established in this Section 2.2.

2.3 Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and the portion or portions of the Common Area adjacent thereto, or between adjacent Lots, or both, for (i) encroachments caused by footers and caves of any Dwelling over the side, front or

rear lot line of any Lot, provided that no such encroachment shall be greater than two feet (2') or shall interfere with any utilities installations upon the Lot which is encroached upon, (ii) encroachments caused by the unwillful placement, settling, or shifting of any improvements constructed, reconstructed or altered thereon in accordance with the terms of this Amended and Restated Declaration, (iii) access to, maintenance and repair of utility facilities serving more than one Lot, and (iv) access to an adjacent Lot as reasonably required in order to complete construction of and maintain a Dwelling on any Lot, provided that this construction and maintenance easement shall not apply to any portion of a Lot on which a Dwelling or any portion thereof is already erected. Without limiting the generality of the foregoing, in the event an electrical meter, electrical apparatus, CATV cable or other utilities apparatus is installed within a Lot and serves more than such Lot, the Owners of the other Lot(s) served thereby shall have an easement for access to inspect and repair such apparatus, provided that such easement rights shall be exercised in a reasonable manner and the Owner of the Lot encumbered by the easement shall be reimbursed for any significant physical damage to his as a result of such exercise.

2.4 Easements for Utilities and Drainage. Perpetual non-exclusive easements for the installation and maintenance of utilities and drainage facilities are hereby reserved to the Association over all utility and drainage easement areas shown on any plat of the Property or any part thereof now or hereafter recorded, or encumbered by recorded easements as of the date of recording hereof (which easements shall include, without limitation, the right of reasonable access over Lots to and from the easements, permits and licenses encumbering the Common Area as may be deemed necessary desirable on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Further, an easement is hereby reserved over all portions of the Property for installation and maintenance of electrical apparatus, CATV facilities, or other apparatus for any utilities now or hereafter installed to serve any portion of the Property, in favor of the provider of such utilities, including without limitation Florida Power and Light Company, provided, however, no such apparatus or facilities shall be installed within a Lot or Dwelling so as to unreasonably interfere with the use thereof by the Owner, nor shall such facilities hinder the Association in the exercise of its rights hereunder. The specific location of any such apparatus or facilities, and the granting of specific easements therefore in favor of the providers of any such utilities, shall be determined by and within the powers of the Association. A specific easement five feet (5') in width, are hereby reserved on, under, across and through those portions of the Lots indicated below which are immediately adjacent to the lot lines indicated below, for the installation and maintenance of utilities to serve each of the Lots lying on either side of said lot lines:

- (i) as to each Lot, the rear lot line;
- (ii) as to Lots 11 through 20, each of the side lot lines;
- (iii) as to Lots 1 through 10 and 21 through 39, the easterly side lot line (that is, the side which is not the "zero lot line" side; the Dwelling is or will be constructed directly along the westerly side lot line, and there shall be no easement along such side).

The side lot line easements established in this subsection 2.4 may be extinguished as provided in Section 7.18 below, but may thereafter arise again as provided in said section.



The easement rights reserved pursuant to this section shall not impose any obligation on the Association to maintain any easement areas or install or maintain the utilities or improvements that may be located in, on or under such easements, or which may be served by them, but the Association shall have the maintenance obligations imposed elsewhere in this Amended and Restated Declaration. Within such easement areas no structure, planting, or other material shall be placed or permitted to remain which may damage or prevent access to, or the installation and maintenance of, the easement areas or any utilities or drainage facilities, or which may change the direction or obstruct or retard the flow of water through drainage channels in such easement areas, or which may reduce the size of any water retention areas constructed in such easement areas. However, subject to the following provisions regarding maintenance and repairs, and subject other architectural approvals described in Article V, the following shall be permitted to encroach upon or be constructed and maintained within the easement areas described in this Section 2.4: roof overhangs or eaves; air conditioning or heating equipment; pool equipment; any walls or hedges screening air conditioning, heating and/or pool equipment's from public view; driveways; sidewalks; walls; fences; and/or gates. Any improvements within easement areas shall be constructed and maintained at the risk of the Lot Owner, and any damage to such improvements caused by utilization of the easements shall be repaired at the Lot Owner's expense, except as follows. In the event a driveway, sidewalk, wall, fence, gate or landscaped area must be partially removed or damaged in order to gain access to any utilities facilities serving any Lot other than the Lot on which the damaged area is located, and provided the need for access is not due to the fault of the Owner of the Lot on which the damaged area is located, the cost of repair of the damaged area shall be borne by (i) the Association, if more than one Lot is serviced by the utilities facilities to which access is needed, or (ii) if only one Lot is served by such utilities, the Owner of such Lot. The Owner of any Lot subject to an easement described herein shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes or other equipment or facilities placed on, in, over or under the portion of the Property which is subject to such easement. Subject to the terms of this Amended and Restated Declaration regarding maintenance by the Association, the easement areas of each Lot and all above ground improvements in such easement areas shall be maintained continuously by and at the expense of the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. With regard to specific easements for drainage, the Association shall have the right, but without obligation, to alter the drainage facilities therein, including slope control areas, provided any such alteration shall not materially adversely affect any Lot unless the Owner of such Lot shall consent to such alteration.

2.5 Master Association and Association Easement. The Association reserves for itself, the Master Association, and their respective grantees, successors, legal representatives, agents and assigns, an easement for access and maintenance purposes to, over and across all portions of the Property and the right to enter upon each Lot for the purpose of exercising their respective right and obligations under this Amended and Restated Declaration. Absent emergency conditions, entry into any Dwelling shall not be made without the consent of the Owner or occupant thereof, except pursuant to a valid court order. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by this Article, provided such entry is upon reasonable notice, at a reasonable time, and in peaceful and reasonable manner.

2.6 Easements Serving Property and Adjacent Property. The Association reserves a blanket easement, and the right to grant and record specific easements, encumbering all portions of the Property as reasonably required to provide access and utilities services to any portion of the property and/or lands adjacent to the Property. The Association, joined by any other party expressly benefited thereby under a separate written easement or other instrument, shall have the right to terminate the foregoing easements as to any portion of the Property on which the easement rights are not being utilized. Any specific easements granted pursuant to this Section 2.6 shall not unreasonably interfere with the use and enjoyment of the Property by the Owners. Each Owner hereby appoints the Association its attorney in fact, coupled with an interest, to execute any instruments which may be necessary to effectuate the intent of this Section 2.6.

### ARTICLE III – THE ASSOCIATION

3.1 Powers and Duties. The Association shall have the powers and duties set forth herein and in the Articles and Bylaws, including the right to enforce the provisions of this Amended and Restated Declaration, the right to collect assessments for expenses relating to the Common Areas, and such additional rights as may reasonably be implied therefrom. As provided in the Bylaws, the Association may, by written action without a meeting, take any action authorized hereunder to be taken at a meeting.

3.2 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be transferred separately from the ownership of any Lot.

3.3 Voting Rights. The Association shall have one class of voting membership: Members shall be all of the Lot Owners and shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an ownership interest in a Lot, all such persons shall be entitled to one (1) vote, to be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot. If more than one Owner of a Lot attempts to vote on any issue and the attempted votes are not in agreement, no vote shall be counted as to such Lot.

3.4 Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper discharge of its duties as described in this Amended and Restated Declaration, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with its operation or the enforcement of this Amended and Restated Declaration. The Association shall provide for maintenance of:

(a) Common Areas;

(b) all mowing of lake banks, swales, ditches, retention and detention ponds within the Property, wherever located, including but not limited to, mowing fertilizing and irrigation thereof, as necessary;

(c) all landscaping within the Property other than the following, which shall be the responsibility of the Lot Owner, (i) maintenance, removal and replacement of annual plants, dead



grass, shrubs, trees and (ii) landscaping installed on any Lot by an Owner with Board of Directors approval on the condition that the Owner maintain same:

(d) all lawns within the Property, including mowing, edging and fertilizing, insect spraying, and weeding of beds when the shrubs are trimmed thereof;

(e) the exterior painting of all Dwellings, excluding roofs, lanais and screened porches to be paid for by special assessment;

(f) the exterior cleaning of all roofs, to be paid for by special assessment;

(g) all sidewalks and walks serving more than one Lot, if any or serving the recreation area;

(h) maintenance, care and replacement of courtyard walls and/or fences on Lots 21 through 39;

(i) all sprinklers or other irrigation systems and all water used for irrigation within the Property; and

(j) mulch will be provided once per year in the front of the Lot only; the side of the Lot and the back of the Lot are the responsibility of the owner to mulch. Trees will be trimmed once per year. Shrubs will be trimmed according to the schedule per the landscape maintenance contract as approved by the Board of Directors.

The Association may arrange with others to furnish other common services to each Lot and the cost thereof may be included in the assessments for maintenance described in Article IV below. In the event any landscaping or any planting shall die or be destroyed by any cause whatsoever, the Association shall not be responsible for such loss or damage, and shall have no responsibility but shall have the option, to replace such item or items at its expense. The Association shall arrange with the City of Venice for the acceptance of treated effluent for irrigation of such Owner's Lot.

#### ARTICLE IV – COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. The Association, for each Lot owned, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association (a) annual assessments of charges and (b) 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 attorney's fees, shall be a charge on and a continuing lien upon the Lot against which each such assessment is made. Each Such assessment, together with interest, costs, and attorney's fees, shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligations for delinquent assessments shall not pass to an Owner's successors unless expressly assumed by them. The provisions of Section 6.4 regarding interest, costs and attorney's fees and foreclosure shall apply to the lien established in this section 4.1.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to property the recreation, health, safety, and welfare of the Owners and authorized



residents of the Property, including expenditures made and liabilities incurred by the Association in connection with its rights and obligations hereunder, including the improvement and maintenance of the Common Area and other property to be maintained by the Association hereunder. The Association shall if directed by the Master Association, also collect all assessments due from its members to the Master Association and shall remit same to the Master Association as required. Notwithstanding the understanding by the Association to collect and pay assessments due to the Master Association, which is for convenience only, failure of any Owner to pay its Master Association assessments in full shall not subject the Association or any other Owner to liability, and the Association is authorized to report to the Master Association all Owners who have failed to pay Master Association assessments, who shall be subject to the collection procedures and lien rights of both the Association and the Master Association.

4.3 Reserves. The Association may, in the discretion of a majority of its Board of Directors established and maintain, out of regular maintenance assessments, reserve funds of the periodic maintenance, repair, and replacement of improvements within the Common Area and other improvements which the Association is obligated to maintain hereunder, including the courtyard walls on Lots 21 through 39.

4.4 Maximum Annual Assessment. The Board of Directors shall fix the annual assessments.

(a) The maximum annual assessment may be increased each year by not more than the greater of fifteen percent (15%) above the assessment for the previous year.

4.5 Annual Assessments: Due Dates. The Board of Directors shall fix the amount of the annual assessment against each Lot for each annual assessment period. In the event of a delay in establishing an annual assessment, an otherwise proper assessment may be collected retroactively. Written notice of the annual assessment shall be sent to every subject thereto. The due dates shall be established by the Board of Directors. 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 Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as the date of its issuance.

4.6 Special Assessments for Exterior Painting, and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of paying for exterior painting of dwellings (exclusive of roofs, driveways, sidewalks, lanais and screened areas which are at the expense of the Owner), and/or defraying, in whole or in part, the cost of reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related to the Common Area, if any, provided that any such assessments in excess of \$200.00 per Lot per year shall have the assent by majority vote of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The Board of Directors may fix any special assessment not in excess of said limitation. Written notice of each special assessment, and the due date thereof, shall be sent to all owners subject thereto at least thirty (30) days in advance of the due date.

4.7 Notice and Quorum for Association Meetings Regarding Assessments. Written notice of any meeting called for the members of the Association to approve annual or special assessments shall be sent to all members of the Association not less than ten (10) days nor more than twenty (20) days in advance of the meeting. At any such meeting called, the presence in person or by proxy of members entitled to cast a majority of all of the votes of each class of membership shall constitute a quorum. Should a quorum fail to be present at such meeting, another meeting may be called without any additional formal notice requirement and the required quorum at the subsequent meeting shall be the presence of members or of proxies entitled to cast thirty-three percent (33%) of all of the votes of each class of membership entitled to be cast on the issue. If the required quorum is again not present, another meeting may be called upon at least ten (10) days' written notice, at which meeting there shall be no quorum requirement and those present in person or by proxy shall be entitled to decide the issue. This provision is included to insure the ability of the Association to act despite non participation by its members, and shall not be subject to attack on due process or other grounds. No such subsequent meeting(s) shall be held more than sixty (60) days following the preceding meeting(s).

4.8 Rate and Collection. Annual assessments may be collected on a monthly, quarterly or annual basis, as determined from time to time by the Board of Directors. Both annual and special assessments must be fixed at a uniform rate for all Lots, subject to the following: Where a special assessment is required to perform work on less than all Lots or Dwellings, the amount of such special assessment may be allocated only to the Lots or Dwellings on which such work is performed. Without limiting the generality of the foregoing, any costs of maintaining any structure, addition or improvement added by an Owner shall, at the option of Association, be borne exclusively by the Owner and his successors in interest, of the Dwelling and Lot to which such structure, addition or improvement is appurtenant, and shall be assessed only against such Lot.

4.9 Lien for Assessments; Remedies of the Association. All sums assessed to any Lot pursuant to this Amended and Restated Declaration, together with interest and all costs and expenses of collection, including reasonable attorney's fees whether or not suit is filed, shall be secured by a continuing lien on such Lot in favor of the Association or any other party in whose favor the lien is granted under this Amended and Restated Declaration. The Association or other party in whose favor the lien is granted may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot. All provisions of Section 6.4 shall apply to the lien for assessments established herein. No Owner may waive or otherwise escape liability for the assessments or other charges provide for herein. No owner May waive or otherwise escape liability for the assessments or other charges provided for therein by non-use of the Common Area, or abandonment of his Lot.

4.10 Interest on Assessments. Any assessment not paid within five (5) days after the due date shall bear interest from the due date at the maximum contract rate of interest permitted by law, and there shall also be due and payable along with each such late payment a late charge of Twenty-Five and 00/100 Dollars (\$25) or five percent (5%) of the outstanding amount, whichever is greater, to cover increased administrative cost incurred on account of such late payment.



4.11 Subordination of the Lien to Mortgages and Master Association Lien. The Association's lien for assessments provide for herein shall be subordinate to the lien of (i) any first mortgage recorded prior to the recording of a claim of lien against the portion of the Property encumbered by such mortgage, and (ii) any lien filed by the Master Association, at any time prior to the foreclosure of the Association's lien, against the same portion of the Property as described in the Association's lien. The sale or transfer of any Lot pursuant to foreclosure of a first mortgage or lien in favor of the Master Association, or any conveyance in lieu thereof, shall extinguish the Association's lien for assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall, upon written request, report to any first mortgage of a Lot and/or the Master Association any assessments remaining unpaid for a period longer than thirty (30) days after the same shall become due, and shall give such first mortgage a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the Lot; provided however, in the case of a mortgage, that such first mortgagee shall have furnished to the Association written notice of the existence of its mortgage, which notice shall designate the Lot encumbered by a proper legal description and shall state the address to which notices pursuant to this Section are to be given. Any first mortgagee holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Article.

#### ARTICLE V - ARCHITECTURAL CONTROL

5.1 Architectural Control. No Dwelling, building, wall, fence, pavement, swimming pool or other structure or improvement of any nature shall be erected, placed or altered on or removed from any portion of the Property until the construction plans and specifications, plot plan, tree survey or map showing all existing trees and those trees intended to be removed, and landscaping, drainage and irrigation plans (collectively "Plans") showing the location of all structures and improvements shall have been approved in writing by the Board of Directors of the Association as well as by the Architectural Control Committee (the "Master Committee") described in the Master Declaration of Covenants, Conditions, and Restrictions for Waterford (the "Master Declaration"). Each structure or improvement of any nature shall be erected, placed, altered or removed only in accordance with the Plans so approved. Refusal of approved Plans may be based on any grounds, including purely aesthetic grounds, which in the reasonable discretion of the Board seem sufficient. The Board may condition its approval on such matters as it may deem appropriate, such as (but not limited to) replacement of trees removed with trees of a certain size or type.

Without limiting the foregoing, any change in the exterior appearance of any Dwelling, wall, fence, pavement, swimming pool, or other structure or improvement, any material change in landscaping, and any change in the finished ground elevation, shall be a change requiring approval under this Section 5.1. Plans shall be submitted to the Board for approval and in the event the Board shall fail to approve or disapprove any Plans within thirty (30) days of submission, evidenced by a written acknowledgement of receipt, approval of such Plans shall be deemed given. Prior to proceeding with any of the above, the Owner thereof or the builder, as Owner's agent, shall apply to the Architectural Control Committee for an approval to commence ("A.C."), such application to be made on forms promulgated by the Committee. Once the Plans



are approved, the Architectural Control Committee shall issue an A.C. for such Plans which the Owner shall submit to the City of Venice at the time the Owner applies for a building permit. Notwithstanding any of the foregoing, submission of Plans to and subsequent approval of Plans by the Master Committee, and issuance of an A.C. by the Master Committee, shall satisfy the preceding requirements.

5.2 Certificate of Approval. Upon completion of a Dwelling, the Owner thereof or the builder of the Dwelling, as the Owner's agent, shall apply to the Architectural Control Committee for a Certificate of Approval ("C.A.") by the Committee for the completed Dwelling, such application to be made on forms promulgated by the Committee. Within five (5) working days following the receipt of each application for a C.A., the Committee shall issue the C.A. or shall advise the applicant by telephone of any deficiencies in the application or other reason for denial of the C.A. Application made to the Master Committee for a C.A. and issuance of a C.A. by the Master Committee, shall satisfy the preceding requirements. In the event any Dwelling is occupied by any person prior to issuance of a C.A. for such Dwelling, the Owner of such Dwelling shall be automatically liable for a fine, without notice, in the amount of Fifty Dollars (\$50.00) for each day after such Dwelling is first occupied (regardless of whether such occupancy is continuous) until the C.A. is issued for the Dwelling in question. Such fine shall be payable to the Association and shall be secured by a lien against the Lot on which such Dwelling is located, in the same manner as provide in Section 6.4.

5.3 Liability of Board of Directors. The Board of Directors of the Association and each of its members from time to time shall not be liable in damages to anyone submitting any Plans for approval or to any Owner by reason of mistake in judgement, negligence or non-feasance of the Board, its members, agents or employees, arising out of or in connection with the approval or disapproval or failure to approve any Plans. The Board shall not be responsible for the compliance of any Plans with applicable governmental rules and regulations. Anyone submitting any Plans to the Board of approval, by the submitting of such Plans, and any Owner by acquiring title to any Lot, agrees that such persona shall not bring any action or claim for any such damages against the Board, its members, agents or employees. Failure to enforce any provision hereof shall not establish a precedent, regardless of the length of time or the number of times that any such provision is not enforced, and failure to enforce on any given occasion or under any particular circumstances shall not preclude the Board from enforcing the same provision retroactively, on another occasion, or under other circumstances.

5.4 Fines. Berkshire Place Association may levy reasonable fines against an Owner for failure to comply with any provision of the Berkshire Place Association Amended and Restated Declaration of Covenants, Conditions and Restrictions, Deed Restrictions or the reasonable rules of the Association. No fine shall exceed \$25.00 per violation. However a fine may be levied on the basis of each day of a continuing violation, with the single notice and opportunity for a hearing provide no such fine shall exceed \$250.00. A fine shall not be levied except after giving reasonable notice and the opportunity for a hearing to the owner. The Board of Directors shall schedule a hearing for the Owner against whom the fine is sought to be levied. The hearing shall be scheduled with reasonable notice of not less than 14 days. The notice shall include: (i) a short and plain statement of the matters asserted by the Association which are in violation; (ii) A statement of the provisions of the Berkshire Place Association Amended and Restated



Declaration of Covenants, Conditions and Restrictions or lawfully adopted rules and regulations which have been allegedly violated, and (iii) A statement of the date, time, and place of the hearing. The Board of Directors shall appoint a Review Board consisting of three residents who are not related to either the alleged offending Owner or any member of the Board to hear the appeal. The Authority granted by this provision shall have no bearing on the Boards authority to impose late payment fines or any other fines as specified elsewhere in the Association Amended and Restated Declaration.

#### ARTICLE VI – MAINTENANCE AND COMMON AREAS: DAMAGE: INSURANCE

6.1 Maintenance of Common Area and Landscaping. All of the Common Area, all lawns and landscaped areas, all personal property owned by the Association, and all of the other items specified in items (a) through (i) of Section 3.4, shall be maintained by and at the expense of the Association, unless otherwise specifically set forth herein. It is the intent and purpose of this provision that all trees, grass, shrubs and plantings; all Common Area parking spaces not maintained by the Master Association, if any; all drainage easements not maintained by the Master Association; the pool, cubana, Gazebo and all other commonly used recreational areas; all of the irrigation systems within the Property; and any other commonly owned facilities shall be maintained exclusively by the Association, and not by any Owner or Owners individually, regardless of whether any of same are within the boundaries of any Lot, except as otherwise set forth herein. Notwithstanding the foregoing, as provide in Section 3.4, the following shall be the responsibility of the Lot Owner; (i) maintenance and replacement of annual plants and mulching of all areas not covered by the Association, at least once per year on any Lot, (ii) shrubs shall be trimmed and maintained by the Association but the removal or replacement as may be required from time to time, will be at the Owners expense, (iii) large palm trees shall be trimmed by the Association once per year, and (iv) any replacement or removal of trees as may be required from time to time will be at the Owners expense. In the event that the need for maintenance or repair is caused by the willful or negligent act of an Owner, his tenants, family, guests, or invitees, the cost of such maintenance or repairs shall be due and payable from the Owner, and shall be secured by a lien against such Owner's Lot as provided in Section 6.4. The Association's maintenance responsibilities shall extend to and include maintenance of all decorative signs for Berkshire Place, indicating the name or location of and/or entrance to the Property. This provision shall not limit the obligation of an Owner to maintain the exterior of his Dwelling including roofs, patios, screened porches and lanais, except as specifically provided herein to the contrary with regard to exterior painting (excluding roofs).

6.2 Painting of Exterior of Dwellings and Roof Cleaning. The Association, subject to the provisions of Section 6.1 hereof, shall be responsible for the painting of the exterior of the Dwellings, excluding roofs, screened porches and lanais. Such painting shall be performed at such times and by such persons as may be designated by the Board of Directors, and shall be paid for by special assessment as provided in Section 4.6. The Board of Directors shall appoint a committee of not less than three (3) owners to select the color choices for the Association. The committee's determination shall be included in the Association's Rules and Regulations as promulgated by the Board of Directors. All persons with whom the Association contracts for painting services shall provide adequate insurance to protect the Association. Roof cleaning shall be the responsibility of the Owner. All other maintenance of the exterior of the Dwellings



not designated herein as the responsibility of the Association shall be the responsibility of the Owner.

6.3 Care and Appearance of Dwellings. Each Dwelling shall be maintained in and structurally sound and neat and attractive manner, including walls, roofs, gutters, downspouts, glass, screened areas, mailboxes and post lights, by and at the expense of the Owner except for the specific obligations of the Association under Section 6.2. Upon the Owner's failure to do so, the Association, through its Board of Directors, may, at its option, after giving the Owner thirty (30) days' written notice sent to his last known address, make repairs and/or improve the appearance of the Dwelling in a reasonable and workmanlike manner, with funds of the Association, and with the approval of a majority of the Board of Directors. The Owner of such Dwelling shall reimburse the Association for any work above required and to secure such reimbursement the Association shall have a lien upon the Lot enforceable as provided in 6.4 below.

6.4 Enforcement. To secure reimbursement of the cost of performing any work described in Section 6.3, or to secure any other sum payable by defaulting Owner under the terms of this Amended and Restated Declaration, and interest thereon as hereinafter provided, the Association, and in the case of any sum due to an Owner from another Owner under the terms hereof an Owner, shall be entitled to file in the Public Records of Sarasota County Florida a notice of its claim of lien by virtue of this contract with the defaulting Owner. Said notice shall state the sum payable and shall contain a description of the Lot against which the enforcement of the lien is sought.

The lien herein provided shall date from the time that the obligation or expense is incurred, but shall not be binding against creditors until said notice is recorded. Each Lot shall stand as security for any expense due to the Association or to another Owner pursuant to Article 4 or Article 6 hereof and for any other sums due hereunder from the defaulting Owner to the Association or to another Owner, and in connection with such Lot, and this provision shall also be binding on the Owner of such Lot at the time the expense or obligation is incurred, who shall be personally liable. The amount secured by the lien herein provided shall be due and payable upon demand and if not paid, said lien may be enforced by foreclosure in the same manner as a mortgage. The amount due and secured by said lien shall bear interest at the highest contract rate of interest permitted by law from time to time, from the date of demand for payment or such other date as may be specified herein, and in any action to enforce payment the Association, or the Owner to whom payment is determined to be due, shall be entitled to recover costs and attorney's fees, which shall also be secured by the lien being foreclosed. The defaulting Owner shall continue to be liable for assessments levied by the Association during the period of foreclosure, and if the Association is foreclosing the lien then all assessments levied through the date a judgement of foreclosure is entered shall be secured by lien foreclosed. The Association or the Owner in whose favor the lien is granted shall have the right to bid at any foreclosure sale and acquire title to the Lot being sold. The lien herein provided shall be subordinate to the lien of any first mortgage recorded prior to the recording of a notice to Lien; provided, however, that the holder of such mortgage when in possession, any purchaser at any foreclosure sale, any mortgagee accepting a deed in lieu of foreclosure, and all persons claiming by through or under any of the same shall hold title subject to the obligations and lien herein provided. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Lot shall be



deemed to have waived any exemption from liens created by this Amended and Restated Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption from liens created by this Amended and Restated Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provisions of Florida law, if any reason such are applicable; this provision is not intended to limit or restrict in any way the lien or rights granted to the Association by this Amended and Restated Declaration, but to be construed in its favor.

6.5 Utilities, Equipment, and Fixtures. All fixtures and equipment serving only one Dwelling or Lot, including without limitation, utility lines, pipes, wires, conduits, and the like, but specifically excluding items to be maintained by the Association as set forth in Section 3.4, shall be maintained and kept in good repair by the owner of the Dwelling served by such equipment and fixtures. In the event any such equipment and fixtures installed within the Property serve more than one Dwelling, whether or not within a Lot, the expense of maintaining and repairing same shall be shared equally by the Owners of the Dwellings served by same. Notwithstanding the foregoing, in the event any such equipment or fixtures are damaged as a result of the actions of any person or entity other than all of the Owners responsible for repairing same, the person causing the damage shall be liable for all expenses incurred by the Owner or Owners in repairing same. No Owner shall do or allow any act or allow any condition to exist, that will impair the structural soundness or integrity of any Dwelling or impair any easement established or referenced herein or do any act or allow any condition to exist which will or may adversely affect any Dwelling or any Owner or resident of the Property or create a hazard to persons or property. In the event a blockage or obstruction occurs in a sewer line serving more than one Lot, the cost of clearing such blockage shall be paid by the Owner reasonably deemed responsible by the Board of Directors, and if it cannot reasonably be determined which Owner was responsible, the cost shall be borne equally by all Owners of Lots served by the portion of the sewer line in which the blockage occurred and shall be assessed against all such Owners. Any cost payable by an Owner pursuant to this Section 6.5 which is paid on behalf of such Owner by another Owner or by the Association shall be repaid upon demand and shall be secured by a lien upon such Owner's Lot as provided in Section 6.4.

6.6 Damage; Reconstruction; Insurance: In the event a Dwelling or any part thereof is damaged or destroyed by casualty or otherwise, or in the event any improvements within the Common Areas are damaged or destroyed by casualty or otherwise the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and rebuild or repair the damaged improvements in accordance with the terms and provisions of this Amended and Restated Declaration. Without limiting the generality of the foregoing, where grassed and/or landscaped areas are damaged or destroyed, the Owner or Association, as the case may be, shall repair and/or replace such improvements in a manner consistent with the surrounding area. Any repair, rebuilding or reconstruction on account of casualty or otherwise shall be substantially in accordance with the plans rebuilding or reconstruction on account of casualty or otherwise shall be substantially in accordance with the plans and specifications for such improvements as originally constructed or with new plans and specifications approved by the Board of Directors. Liability insurance coverage shall be obtained in such amounts as the Association may determine from time to time for the purpose of providing liability insurance coverage for the Common



Areas as a common expense of all Owners. Each Owner shall at all times maintain, for each Lot owned, adequate casualty insurance to provide for complete reconstruction of all improvements on such Lot after casualty, and liability insurance coverage in such amounts as may be required by the Association from time to time. Upon request, each Owner shall have the Association named as an additional insured as to liability insurance obtained by the Owner, and shall provide the Association with evidence of the insurance required hereunder and each renewal of same. Upon any Owner's failure to obtain the required insurance, the Association may, after three (3) days' written notice, procure the required insurance, and the cost thereof shall be immediately due and payable from the defaulting Owner and shall bear interest and be secured by a lien as provided in Section 6.4.

#### ARTICLE VII – GENERAL USE RESTRICTIONS

7.1 Residential Use. All of the Property shall be known and described as residential property and no more than on single-family detached Dwelling may be constructed on any Lot. No Dwelling may be divided into more than one residential dwelling and no more than one family shall reside within any Dwelling.

7.2 Rental. Each lease made as to any Dwelling shall be subject to the prior written approval of the Association, which shall not be unreasonably withheld, and shall bind the tenant to abide by the terms of this Amended and Restated Declaration and all applicable rules and regulations affecting the Property. All leases shall be subordinate to the lien rights of the Association as set forth herein, whether or not any notice of lien has been given or recorded prior to the making of any such lease. The Association shall be provided with a copy of each proposed lease for approval as aforesaid, and may collect an administrative fee of \$25.00 in connection with review of each lease submitted. The Association shall approve or disapprove any lease submitted within fifteen (15) days; failure of the Association to take action shall be deemed approved of the lease as submitted. The signature of any officer of the Association on a document approving or disapproving any lease shall be binding on the Association as to the matter set forth in said document. No Dwelling shall be leased for a term of less than six (6) months. New Owners are not permitted to lease the Dwelling for a period of one (1) year after purchasing the Lot which shall be determined as of the date of purchase or transfer. The right to use the Common Areas shall pass to each tenant of a Dwelling, whether or not mentioned in any lease agreement, and the Owner shall not be entitled to use the Common Areas during any period that his Dwelling is leased. No Dwelling which is under lease from the Owner shall be occupied by more than two (2) persons for each bedroom in the Dwelling; this occupancy restriction shall apply only to tenants and not to Owners residing in a Dwelling.

7.3 Structures. Each Dwelling within the Property shall be erected within a Lot, but this provision shall not impair the easement for encroachments established in Section 2.3. Any structure of any kind erected or placed within the Property must be in compliance with all applicable zoning regulations, this Amended and Restated Declaration and the Master Declaration.

7.4 Landscaping; Sprinkling. No Owner shall cause or allow any material alteration of the landscaping originally installed within his Lot without the approval of the Board. Without



limiting the generality of the foregoing, no alteration shall be permitted which would hinder lawn care or mowing, or interfere in any way with the activities of the Association in performing its duties hereunder. Any shrubs or plantings permitted to be installed on a Lot under this Section shall be maintained by the owner of the Lot, unless otherwise approved by the Board of Directors. All irrigation facilities within and serving a Lot shall be maintained by the Association as provided in Sections 3.4 and 6.1 and the Association shall irrigate the lawns and landscaping of all Lots as needed, subject to any limitations on water use imposed by any governmental authority, and except for any landscaping installed by an Owner with Board of Directors approval on the condition that the Owner maintain same, unless otherwise approved by the Board of Directors.

7.5 Single Family Homes. All Lots within the Property shall be developed only as single family detached residences; provided that as to Lots 21 to 39, the foregoing shall not prohibit the attachment or connection of courtyard walls or fences to residences, walls or fences on adjacent Lots.

7.6 Architectural Plans. As provided in Section 1 of Article VII of the Master Declaration and Section 5.1 of this Amended and Restated Declaration, prior to construction of any Dwelling or other improvements or structures, a complete copy of the Plans therefore, as therein described, must be submitted for approval by the Architectural Control Committee. Such Plans shall conform with the provisions of Section 7.7 through 7.18 below unless a waiver or variance is granted pursuant to Section 7.35 below.

7.7 Setback Requirements. For purposes of this instrument, unless otherwise expressly provided herein, all structures attached or appurtenant to or forming a part of a single family dwelling unit built or to be built upon a Lot shall be considered a part of the "Dwelling". All of the following setbacks are subject to waiver or variance, in the sole discretion of the Association, as provided in Section 7.35.

(a) As to Lots 1 through 10 only, the following building setbacks shall apply. No part of any Dwelling shall be located nearer than: (i) twenty feet (20') from any point on the front lot line of any Lot; or (ii) five feet (5') from any point on the rear lot line of any Lot, or (iii) ten feet (10') from the easterly side lot line of the Lot. There shall be no setback required as to the westerly side lot lines (the "zero lot line" side); the Dwelling is or will be constructed directly along the westerly side lot line of these Lots.

(b) As to Lots 11 through 20 only, the following building setbacks shall apply. No part of any Dwelling shall be located nearer than: (i) twenty feet (20') from any point on the front lot line of any Lot; or (ii) five feet (5') from any point on the rear lot line of any Lot; or (iii) five feet (5') from any point on each side lot line of any Lot.

(c) As to Lots 21 through 39 only, the following building setbacks shall apply. No part of any Dwelling shall be located nearer than: (i) twenty feet (20') from any point on the front lot line of any Lot; or (ii) ten feet (10') from any point on the rear lot line of any Lot; or (iii) ten feet (10') from any point on the easterly side lot line. There shall be no setback required as to the westerly side lot lines (the "zero lot line" side); the Dwelling is or will be constructed directly

along the westerly side lot line of these Lots. Nothing herein contained shall be construed to prevent the construction of connecting walls and/or fences on the rear and side lot lines of each of the Lots described in this Subsection 7.7(c).

Notwithstanding the foregoing, the following shall not be deemed part of a Dwelling for the purposes of this Section 7.7, and shall be permitted to encroach upon or be constructed and maintained within the foregoing setbacks: roof overhangs or eaves air conditioning or heating equipment, pool equipment, and any walls or hedges screening air conditioning, heating and/or pool equipment from public view.

7.8 Features of Dwelling. All Dwellings constructed, altered or permitted to remain on any Lot shall conform to the following requirements:

(a) All roofs of Dwellings shall be of glazed or cement tile, unless otherwise approved by the Master Association Architectural Committee in writing. No flat aluminum, metal or shingle roofs shall be permitted.

(b) Any structures such as garages, porches, services or utility rooms, guest rooms, servants quarters, and the like shall be attached to and be an integral part of the Dwelling and shall also conform with all requirements hereof. No separate or detached structures of any type shall be permitted.

(c) Each Dwelling shall have a grounded floor heated and cooled living area of not less than 1,200 square feet, exclusive of the area of any garage, porches or patios, whether or not roofed.

(d) All garages shall be of at least two (2) car capacity and shall be equipped with automatic door openers. The minimum driveway width shall be sixteen feet (16'). All driveways and sidewalks shall be constructed with a minimum of 3,000 PSI concrete, with each drive extending to its intersection with a paved street, and shall be completed at the time of original construction of improvements and prior to issuance of a certificate of occupancy for the Dwelling served by such drive. All sidewalks shall be constructed in accordance with building code specifications promulgated from time to time by the City of Venice, including but not limited to the current requirement for any expansion joint at the boundary between the sidewalk and driveway. Driveway, parking area and walkway design, location, materials and coloring shall be subject to Architectural Control Committee approval as provided in the Master Declaration.

(e) No carports shall be permitted anywhere in the Property.

(f) No screened garage doors or screened breezeways shall be permitted unless approved by the Architectural Control Committee.

7.9 Unsightly Objects. All unsightly objects, including but not limited to, side pads, air conditioning equipment, pool equipment, garbage cans, pumps, irrigation equipment and compressors, shall be constructed or stored in such a fashion as to not be visible from adjacent



properties or streets. Such unsightly objects shall be fenced, walled, hedged or otherwise enclosed by a structure or landscaping, which must be approved by the Architectural Control Committee, as provided in the Master Declaration.

7.10 Parking and Storage. No vehicles of any kind may be parked on a Lot except within a garage or driveway. Boats or trailers may only be kept in a garage. Overnight on-street parking is not permitted. No vehicles may be stored in a driveway for more than 30 days. Owners of vehicles, including boats, trucks and recreational vehicles may obtain a permit from the WMOA office to park in an area designated by the WMOA Property Manager for a period not to exceed 72 hours. Vehicles parked in such designated areas are at the owner's risk. Further, double parking, parking directly across the street from another parked vehicle or parking across the sidewalk is not permitted on any road in Waterford.

7.11 Landscaping: Trees. As provided in the Master Declaration, a landscape plan shall be submitted for approval by the Architectural Control Committee prior to construction or installation of landscaping. A tree survey designating all trees with a four inch (4") or greater caliper shall be provided to the Architectural Control Committee, designating which trees, if any, are to be removed from the Lot. Each Lot shall have a minimum of three palm (3) trees with at least twelve foot (12') clear trunk, and a minimum of an eight inch (8") caliper. In addition, the replacement or removal of trees shall be at the Owner's expense. All approved landscaping for a Lot shall be completed prior to the issuance of the certificate of occupancy for the Dwelling on the Lot. In addition to the requirements of this section 7.11, all builders must comply with the Sarasota County Tree Ordinance as adopted and enforced by the City of Venice.

7.12 Yards and Lawns. That portion of each Lot, and also the unpaved portion of a street right-of-way adjoining such Lot, that is not covered by a Dwelling, patio, flower bed, driveway or walkway, shall be sodded with Floritam grass or other approved grass, at the time of the original construction of improvements on the Lot. "Sodded" shall be defined as the result of installing fully matured grass and not plugs or seed. The lawn shall thereafter be maintained in good condition by the Association, as provide elsewhere herein, and replaced as may be necessary as determined by the Board of Directors. In no event shall gravel or stone yards be permitted, provided that nothing contained herein shall prohibit the use of gravel and/or wood shavings for decorative landscaping purposes within an otherwise sodded area.

7.13 Irrigation System. All Lots shall be equipped with in-ground irrigation systems for the lawn and landscaping thereon. As provided in the Master Declaration, all irrigation plans are subject to Architectural Control Committee approval. The irrigation system on each Lot shall be tapped into and made a part of the master irrigation system serving the Property.

7.14 Drainage System. As provided in the Master Declaration, all drainage system plans shall be submitted to the Architectural Control Committee for approval prior to the installation or construction of the system. All drainage systems shall conform to the then current master drainage plan for the Property as filed with the City of Venice which shall be made available for inspection by the Architectural Control Committee; any deviations from said master drainage plan shall be specifically brought to the attention of the Committee and shall be subject to the

prior written approval of the Committee before commencement of construction of such drainage facilities.

7.15 Pools. No above-ground swimming pool shall be permitted at any time anywhere within the Property. This provision shall not be deemed to prohibit hot tubs, therapy pools and hydra spas when they are incorporated into improvements and approved by the Architectural Control Committee, even though such pools may be above grade. All pool enclosures shall be constructed to comply with applicable rules, regulations and standards of all governmental entities having jurisdiction. All pools, pool enclosure screening and caging shall be subject to approval by the Architectural Control Committee.

7.16 Standard Mailboxes, Post Lights and Identification Signs. All mailboxes, post lights, and identification signs with letter or house numbers must be constructed to specifications approved by the Architectural Control Committee, as set forth in the Master Declaration. Post lights are required on all Lots, in locations approved by the Architectural Control Committee. In order to provide uniformity of mailbox and light post designs throughout the Property, the Developer may promulgate design standards and specifications to be used for all mailboxes, post lights and identification signs, which must be complied with to the extent not inconsistent with any requirements of the Architectural Control Committee. All mailboxes and post lights shall be maintained by the Owner of the Lot on which they are located.

7.17 Sidewalks; Curbs. Sidewalks shall be installed in all neighborhoods where required by the building code requirements of the City of Venice, in accordance with the building code specifications promulgated from time to time by the City of Venice, at the expense of the Owner of the portion of the Property where such sidewalk is required. No Owner shall paint or otherwise deface the sidewalk, curb or any other part of the Common Area.

7.18 Combined Lot Construction. Notwithstanding the easements described in Section 2.4 (iii) and the setback provisions of Section 7.7 of this Amended and Restated Declaration, and upon Architectural Control Committee approval, a Dwelling may be constructed upon contiguous Lots in such a fashion that the Dwelling is positioned on the boundary line between the two (2) contiguous Lots, provide that no easements of record, including easements shown on any plat of the Property, are encroached upon by the location of the Dwelling. If such a Dwelling is constructed, the side lot line easements set forth in Section 2.4 which are encroached upon as a result of construction of such Dwelling, and the setbacks along said side lot lines, shall automatically be extinguished as long as the Dwelling thereafter remains (and throughout a reasonable period after destruction to permit reconstruction thereof). Further, as to Lots 1 through 10 and 21 through 39, any such Dwelling must be positioned directly along the west side lot line of the most westerly of the two Lots. Once a Dwelling is constructed as permitted in this Section 7.18, the Lots upon which it is constructed must remain under common ownership unless and until the Dwelling is removed. Upon removal of the Dwelling, all of the easements set forth in Section 2.4 shall again arise along the applicable side lot lines, and the setback provisions of section 7.7 of this Amended and Restated Declaration shall again apply to and control construction upon the Lots.



7.19 Timing of Construction and Completion of Structures. As to all Lots, construction of a Dwelling must commence twelve (12) months after the date of purchase of a Lot. All structures and improvements must be completed substantially in accordance with the approved Plans within nine (9) months after the commencement of construction. The Association may grant extensions for good cause shown, where the Owner has made good faith diligent efforts to complete such construction but timely completion is impossible as a result of matters beyond the control of the Owner, such as strikes, casualty losses, national emergency or acts of God. In the event of failure to comply with either of the preceding requirements, and in the absence of an extension granted by the Association, the Owner of the Lot in violation shall automatically be liable for a fine without notice in the amount of Fifty Dollars (\$50.00) for each day that such Lot remains in violation of either of the requirements. Such fine shall be payable to the Association and shall be secured by a lien against the Lot on which such Dwelling is located, in the same manner as provided in Section 6.4.

7.20 Commercial Uses and Nuisances. Except as provided in Section 7.37, no trade, business, profession, service, repair or maintenance operation or other type of commercial activity shall be carried on upon any portion of the Property, except that real estate brokers, Owners and their agents may show Dwellings within the Property for sale or lease. No illegal, noxious or offensive activity shall be permitted or carried on upon any part of the Property, nor shall anything be permitted or done thereon which is or may become a nuisance or source of embarrassment, discomfort or annoyance to the other residents of the Property. No Owner shall make any use of the Common Area that will increase the cost of insurance above that required when the Common Area is used for the approved purposes, or that will cause any such insurance to be canceled or threatened to be canceled, except with the prior written consent of the Association. No personal property of any nature shall be parked, stored or permitted to stand for any period of time on the Common Area, except in accordance with rules and regulations promulgated from time to time by the Association, and except for personal property owned by the Association.

7.21 Modular and Temporary Structures and Use; Trash Receptacles. Except as permitted under Section 7.37 of this Article, no modular or manufactured home or structure of a temporary character, including but not limited to, trailer, shed, tent, shack, garage, barn or other building, shall be moved to, erected or used on any portion of the Property at any time for a residence, workshop, office, or storage room, either permanently or temporarily. It is prohibited for any person or persons to be domiciled in a mobile home, travel trailer, recreational vehicle or camping trailer on the Property. As soon as construction of a Dwelling is commenced, and until final cleanup of the Lot after completion of such construction, the builder of such Dwelling shall maintain an industrial trash receptacle on such Lot and shall maintain the Lot in a reasonably neat and orderly condition, including but not limited to the daily collection and deposit of all construction debris in said trash receptacle and the prompt emptying of said receptacle when it is full.

7.22 View Obstructions. The Association shall have the right, but not the obligation, to remove, relocate or require the removal or relocation of any wall, bank, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located on any portion of the Property, if the location of the

same will, in the reasonable judgment of the Association, obstruct the vision of a motorist upon any of the private access streets.

7.23 Animals. No animals shall be kept or allowed to remain on the Property for commercial purposes, including without limitation breeding purposes. All dogs shall be kept on a leash while outside of the owner's Lot or Dwelling, and shall be under the control of the owner at all times. Any animal which becomes a nuisance to or creates a disturbance for any other resident of the Property or their licensees or invitees may be ordered to be removed from the Property by the Board of Directors of the Association after reasonable notice to the owner of the animal and a hearing on the issue before the Board.

7.24 Gas Tanks; Water Softeners. No gas tank, gas container, or gas cylinder shall be permitted to be placed on or about the outside of any of the Dwellings or any ancillary building, and all gas tanks, gas containers, and gas cylinders shall be installed underground in every instance where gas is used. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative enclosure or other shielding approved by the Architectural Control Committee. The design, construction and installation location shall have first been approved by the Architectural Control Committee, which approval may be conditioned upon adequate enclosure or other shielding. Owners may have water softener units installed.

7.25 Garbage; Trash Collection; Mowing. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Property, nor upon any land or lands contiguous thereto. All trash, garbage, and other refuse shall be stored in containers inside a garage or underground. Developer reserves the exclusive right to contract for, designate, and control the collection of garbage and trash and may provide one or more sanitary filled areas which shall be the locations permitted for the discard, storage, or disposal of garbage and waste, all subject to applicable governmental regulations. All Owners, their successors and assigns may be billed a reasonable trash and garbage collection fee. Any Owner who allows a Lot it is supposed to maintain to become overgrown, or permits garbage or trash to collect so as to cause unsightliness, or a fire, mosquito, rat or vermin hazard, shall by this covenant permit such portion of the Property to be mowed, ditched, graded or cleaned by the Association, and reasonable costs shall be assessed, after written notice that such conditions exist and failure to remedy the conditions, and such costs shall be payable by such Owner. Such costs, together with interest at the maximum contract rate permitted by law from five (5) days after the date of demand for payment, shall be secured by a lien against the portion of the Property owned by such Owner, as described in Article VI. No fires for the burning of trash, leaves, clippings, or other debris or refuse shall be permitted on any part of the Property.

7.26 Clothes Hanging; Antennas. Clothes hanging devices, radio, television, other electronic antennas and aerials, exterior to a Dwelling shall conform to the guidelines as set forth in the Master Declaration and the Master Rules and Regulations and Florida or Federal law.

7.27 Window Treatment. No aluminum foil reflective film or similar treatment shall be placed on windows, glass doors or window treatments visible from the exterior of any Dwelling.



7.28 Signs. No signs shall be displayed within the Property with the exception of a maximum of one "For Sale", "For Rent" and/or "Open for Inspection" sign upon each Lot, not exceeding 6"x8" area, fastened only to stake in the ground and extending not more than three feet (3') above the surface of the ground. No portion of such sign may be erected closer than twelve feet (12') to any adjoining property line. Signs may be illuminated by reflection from a light source only (rotating, blinking, flashing, and other lights on the sign are prohibited), and such light source shall not in any way reflect light into any adjoining portion of the Property or street rights-of-way. None of the preceding prohibitions against signage shall prevent the erection of street signs and traffic signs within the Property by the Developer or the City of Venice.

7.29 Obstructions: Fences. No obstructions such as gates, fences, or hedges shall be placed on the Property so as to prevent access to or use any of the easements described herein, except that the foregoing shall not prevent the erection and maintenance of courtyard walls and fences on Lots 21 through 39 provided that they are approved by the Architectural Control Committee. Any fence, wall or privacy structure within an easement area may be dismantled by the Association, utility providers or others entitled to use of the easement, at the Owner's expense, for maintenance, erection or replacement of utility facilities. Following completion of construction of any Dwelling, no wall shall be constructed serving such Dwelling, except for replacement walls. In order to preserve the uniform appearance and aesthetics of the community, fences are prohibited except as hereinafter provided. All fences shall be subject to the Architectural Control Committee approval as to tall aspects of design and location, and subject compliance with all applicable governmental requirements. No fences shall be permitted on the boundary of any portion of a golf course or any Pond (as described in Section 7.30 below). The exterior side of any fence permitted must be maintained in a clean, attractive manner and may not be constructed or decorated in such a manner as to create a bizarre or aesthetically controversial or annoying effect. So called "spite fences" are specifically prohibited. With the approval of the Committee, temporary fences may, or if required by the Committee shall, be erected as development boundaries.

7.30 Ponds. Any ponds or other water retention areas ("Ponds") which were constructed by the Developer within the Property shall be part of the Property's drainage facilities. In no event may Owners or residents of the Property or members of the public use such Ponds for swimming, bathing, boating or other recreational purposes, other than fishing, which shall be permitted only by Owners or residents of the Property.

7.31 Wells; Septic Tanks; Oil and Mining Operations. No water wells or septic tanks may be drilled or maintained on any portion of the Property without the prior written approval of the Architectural Control Committee, which approval may be subject to any conditions deemed necessary or desirable by the Committee. Any approved wells or septic tanks shall be constructed, maintained, operated and utilized in strict accordance with any and all applicable statutes and governmental rules and regulations pertaining thereto. No oil drilling, oil development operations, oil refining, fill dirt, quarrying or mining operations of any kind shall be permitted within the Property, nor shall any oil wells, tanks, tunnels, derricks, boring apparatus, mineral excavations or shafts be permitted upon or in the Property.

7.32 Electrical Interference. No electrical machinery, devices or apparatus of any sort shall be used or maintained on any portion of the Property which causes interference with the television or radio reception of any other resident of the Property. This provision shall not prevent the use during normal business hours of any equipment required in construction of any improvement upon the Property. No exterior radio, television or other electronic antennas or aerials shall be allowed, unless constructed so as to be completely concealed from public view, such as in attics.

7.33 Solar Devices. No solar device of any nature shall be permitted unless the Owner has obtained the prior written approval of the Architectural Control Committee as to same.

7.34 Dwelling Plates. A plate showing the number of the Dwelling shall be placed on each Dwelling. However, the size, location, design, style and type of material for each such plate shall be first approved by the Association.

7.35 Relationship with Master Declaration; Right of Developer to Grant Waivers or Variances. All of the provisions of this instrument are in addition to and not in limitation of the terms of the Master Declaration. Where the terms hereof are more restrictive than but consistent with the Master Declaration, all provisions shall be binding, but in the event of impossibility of compliance with both documents, the terms of the Master Declaration shall control.

7.36 Rules and Regulations. Reasonable rules and regulations concerning the appearance and use of the Lots, Dwellings and Common Area and consistent with the terms of this Amended and Restated Declaration may be made and amended from time to time by the Board of Directors and the Association. If a rule or regulation promulgated by the Association shall conflict with a rule or regulation promulgated by the Board of Directors, the Board of Director's rule or regulation shall be null and void but only to the extent in conflict with the Association's rule or regulation. Copies of such rules and regulations shall be made available to all Owners upon request. All Owners, their families, invitees and lessees shall use the Common Area only in accordance with such rules and regulations.

## ARTICLE VIII - MISCELLANEOUS

8.1 Term and Amendment. This Amended and Restated Declaration shall become effective upon its recordation in the Public Records of Sarasota County, Florida, and the restrictions herein shall run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of Lots within the Property subsequently executed, and shall be binding on all parties and all persons claiming under such deeds, for a period of thirty (30) years from the date of this Amended and Restated Declaration is recorded, after which time the term of this Amended and Restated Declaration shall automatically extend for successive periods of ten (10) years each, unless terminated by the vote of sixty-six percent (66%) of the voting interest of each class of members present, in person or by proxy, at a meeting called for such purpose. This Amended and Restated Declaration may be amended during the first (30) year period or any subsequent ten (10) year period by an instrument signed by the duly authorize officers of the Association provided such amendment by the Associations' officers has been approved by at least sixty-six (66%) of the total votes cast in person or by proxy at a regular or special members meeting.



8.2 Enforcement. If any person, firm or corporation, or their respective heirs, personal representatives, successors or assigns shall violate or attempt to violate any of the restrictions set forth in this Amended and Restated Declaration, it shall be the right of the Association or any Owner of a Lot within the Property to bring any proceedings at law or in equity against the person or persons violating or attempting to violate such restrictions whether such proceedings aim to prevent such persons from so doing, or to recover damages, or to foreclose against the land any lien created hereunder, or otherwise, and if such person is found in the proceedings to be in violation of or attempting to violate the restrictions set forth in this Amended and Restated Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorney's fees (including those on appeal) incurred by the party enforcing the restrictions set forth herein. Failure of any person or entity to enforce any provision of this Amended and Restated Declaration upon breach, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or as to any similar breach occurring prior or subsequent thereto. Issuance of a building permit or license which may be in conflict with the restrictions set forth herein shall not prevent the Association or any of the Owners from enforcing the restrictions set forth herein.

8.3 Notice. Any notice required to be sent to any Owner under the provisions of this instrument shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of said Owner.

8.4 Severability. Invalidation of any term or provision of this Amended and Restated Declaration by judgement or court order shall not affect any of the other provisions hereof which shall remain in full force and effect.

8.5 Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; the use of the terms "include" or "including" shall mean "include without limitation" or "including without limitation", as the case may be; and any reference to "attorney's fees" shall mean "reasonable attorney's fees incurred before, during and after litigation, including appellate proceedings, and including fees of legal assistants." The headings used herein are for convenience only and shall not be sued as a means of interpreting or construing the substantive provisions hereof.

8.6 Approvals. Wherever herein the consent or approval of the Association or the Board of Directors is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing seeking the same has been submitted to and approved in writing by the party from whom such consent or approval is required. In the event such party fails to act on any such written request within thirty (30) days after the same has been received, the consent or approval to the particular action sought in such written request shall be conclusively and irrefutably presumed, except that no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the covenants herein contained other than the covenant to obtain the approval specifically requested as set forth above.

Exhibit "A" – Legal Description

All of BERKSHIRE PLACE, according to the plat thereof recorded in Plat Book 36, Pages 28 and 38A, Public Records of Sarasota County, Florida.

Berkshire Place Phase Two as recorded in Plat Book 37, Pages 1-1A Public Records of Sarasota County, Florida.