

FOUNTAIN VIEW VILLAS, A SUBDIVISION

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS**

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EXHIBIT "A" Subdivision Plat

Prepared by and return to:
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AMENDMENTS

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR FOUNTAIN VIEW VILLAS, A SUBDIVISION

[Additions are indicated by underline; deletions by ~~strike-through~~]

~~WATERFORD SOUTH, INC., a Florida corporation ("Developer"), whose address is 395 Commercial Court, Suite A, Venice, Florida 34292, being the owner in fee simple of all of that~~ The certain real property more particularly described in Exhibit "A" attached hereto and incorporated herein (herein, the "Property"), ~~does hereby declare that the Property and all parts thereof are~~ is 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 1.1 DEFINITIONS

1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications thereof. The original Articles of Incorporation of the Association were filed with the Department of State on September 4, 1998, assigned Charter Number N98000005135, and were recorded at Official Records Instrument #1998130048 of the Public Records of Sarasota County, Florida.

1.2 "Association" shall mean and refer to Fountain View Lake Villas Master 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 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. The original Bylaws of the Association were recorded at Official Records Instrument #1998130049 of the Public Records of Sarasota County, Florida, on September 30, 1998.

1.5 "Common Area" or "Common Areas" shall mean all portions of the Property (including without limitation the pool, clubhouse, 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.

Fountain View Villas Master Association

Proposed Amendments

Article 1, Definitions

1.13 **“Common Area Works Projects”** – That no Common Area work project, as defined in Article 3, 3.4 of the Covenants, shall be undertaken, as per Article 6, Section 6.1 of the Covenants, unless the Board has reviewed, discussed and voted on all aspects of the project including, but not limited to, funding, appropriate insurance coverage, and “staffing” (meaning “volunteers” as opposed to people hired from outside the association.) As necessary the Association’s management, and legal counsel may be consulted for input and opinion.

- *from Fountain View Villas Board of Directors meeting 11/8/2007*
- *recorded in official records, instrument # 2007183182 12/11/2007*
Clerk of the Circuit Court, Sarasota County, Florida

1.14 **“Volunteer”** – Any member of the association who, at the request and by majority vote of the Fountain View Villas Board of Directors, is asked to assume the responsibilities for performing tasks and or related work for any common area project over any period of time.

It is further understood that this definition in no way precludes or limits Association members from volunteering, at the request and by majority vote of the Board of Directors, to assist the Association in activities not related to Common Area work.

- *from Fountain View Villas Board of Directors meeting 11/8/2007*
- *recorded in official records, instrument # 2007183182 12/11/2007*
Clerk of the Circuit Court, Sarasota County, Florida

1.6 "Developer" shall refer to Waterford South, Inc., a Florida Corporation. ~~the parties referenced above, and their successors in interest, if such successors should acquire more than one undeveloped Lot from the Developer for the purpose of development, and provided some or all of Developer's rights hereunder are specifically assigned to such successors in interest. Developer's rights hereunder may be assigned in whole or in part and on an exclusive or non-exclusive basis, at the option of Developer.~~

1.7 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Fountain View Villas, a Subdivision, ~~as modified and amended from time to time.~~ The original Declaration of Covenants, Conditions, and Restrictions was recorded at Official Records Instrument #1998116028 of the Public Records of Sarasota County, Florida.

1.8 "Dwelling" shall mean and refer to each and every attached single-family dwelling unit attached to a party wall and constructed on any one Lot. For example, there shall be one Dwelling located on Lot 1A and one Dwelling located on Lot 1B.

1.9 "Governing Documents" shall mean the Declaration, Articles of Incorporation, Bylaws and the Rules and Restrictions of the Association, and all amendments thereto.

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

1.110 "Owner" or "Member" 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 a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. ~~The term "Owner" shall include the Developer for so long as the Developer shall hold title to an Lot, provided that the rights of Developer hereunder shall take precedence over any restrictions imposed hereunder upon Owners.~~

1.124 "Property" shall mean that certain real property more particularly described in Exhibit "A" attached hereto and incorporated herein including without limitation the Lots before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, if any. The Subdivision Plat of Fountain View is recorded at Plat Book 40, Pages 9-10 and at Official Records Instrument #1998127536, all of the Public Records of Sarasota County, Florida.

ARTICLE 2. 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 of 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 as provided in the Governing Documents and right to use of recreations 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 voting interests ~~members~~ of the Association (i.e., 25 votes), 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 this Declaration~~ or state law.

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

(d) rules and regulations adopted by the Association's Board of Directors governing use and enjoyment of the Common Area and Lots.

(e) any right of the City of Venice, Florida, upon the failure of the Association to do so after due notice, to maintain such portions of the Common Area as are designated 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 who reside on the Property, but the Owner 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 tenants, family, invitees, lessees, or contract purchasers, and the cost of repairing such damage ~~same~~ shall be a lien against such Owner's Lot or Lots. The provisions of Article Section 6.5 regarding interest, costs and attorneys' fees shall apply to the lien established in this Article 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 eaves 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 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 Lot as a result of such exercise.

2.4 Party Wall Easements. The Owner of each Lot is hereby granted a non-exclusive perpetual easement over and across such portion of any adjoining Lot as may be reasonably necessary for the support, maintenance or replacement of any party wall serving the Owner of any Lot or other improvements serving the Owner of any Lot which, by virtue of overhangs, inaccuracies in construction or settlement or movement of any improvements, encroach upon such adjoining Lot.

2.5 Easements and Utilities and Drainage. Perpetual nonexclusive easements for the installation and maintenance of utilities and drainage facilities are hereby reserved to the Association Developer and any assignee of Developer 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 easement areas). The Association's Board of Directors, with the approval of ~~either the Class B member alone or a majority of the each class of members~~, shall have the right hereafter to convey such additional easements, permits and licenses encumbering the Common Area as may be deemed necessary or 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 and directly adjacent to the road right-of-way abutting each Lot is also reserved for Florida Power and Light Company for the installation, operation and maintenance of electrical apparatus. Further, specific easements (except as otherwise indicated on the recorded plat), 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:

- (a) (i) as to each Lot, ten feet (10') in width from the rear lot line;

(b) ~~(ii)~~ as to each Lot, seven feet six inches (7'6") in width from the side lot lines; however, where an area greater than one Lot is used as a building site, the outside boundary of said site shall be subject to the described side lot line easements;

(c) ~~(iii)~~ as to each Lot, ten feet (10') in width from the front lot line.

The easement rights reserved pursuant to this Article 2.5 ~~section~~ shall not impose any obligation on ~~Developer or~~ 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 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 to the architectural approvals described in Article 5 ~~V~~, the following shall be permitted to encroach upon or be constructed and maintained within the easement areas described in this Article Section 2.5: roof overhangs or eaves; air conditioning or heating equipment; pool equipment; any walls or hedges screening air conditioning, heating and/or pool equipment from public view; driveways; sidewalks; walls; fences; and/or gates. Any improvement within easement areas shall be constructed and maintained at the sole risk of the Owner, and any damage to such improvements caused by utilization of the easements shall be repaired at the Owner's sole 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 that 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 place on, in, over or under the portion of the Property which is subject to such easement. Subject to the terms of this 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, Developer 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.~~

2.6 Developer and Association Easement. ~~The Association~~ Developer reserves for itself, the Association, and its ~~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 its ~~their~~ respective rights and obligations under the Governing Documents and state law ~~this Declaration~~. Absent

emergency conditions, entry into any Dwelling shall not be made without the prior 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 the Governing Documents ~~this Article~~, provided such entry is upon reasonable advance notice, at a reasonable time, and in a peaceful and reasonable manner.

2.7 **Easements Serving and Adjacent Property.** The Association Developer 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 Developer, 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 Article Section 2.7 shall not unreasonably interfere with the use and enjoyment of the Property by the Owners. Each Owner hereby appoints the Association Developer its attorney in fact, coupled with an interest, to execute any instruments which may be necessary to effectuate the intent of this Article Section 2.7.

ARTICLE 3. ~~III~~ THE ASSOCIATION

3.1 **Powers and Duties.** The Association shall have the powers and duties set forth herein, the Homeowners Association Act (Chapter 720, Florida Statutes), and in the Articles of Incorporation, and Bylaws, including without limitation the right to enforce the provisions of this Declaration, the right to collect assessments ~~for expenses relating to the Common Areas~~, and such additional rights as may reasonable 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 in Fountain View Villas, a Subdivision, located in Sarasota County, Florida 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 owners of each Lot shall have one vote for each Lot owned. Members shall have the right to vote only on Association matters requiring a membership vote pursuant to the Declaration, Articles of Incorporation, Bylaws, or Florida law. The association shall have two classes of voting membership: (a) Class A. Class A members shall be all Owners, with the exception of the Developer, 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.

~~(b) Class B. The Class B member shall be the Developer, and shall be entitled to nine (9) votes for each Lot owned. Class B membership shall cease and be converted to Class~~

~~A membership upon the happening of any of the following events, whichever occurs earlier; (i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; (ii) on June 1, 2020; or (iii) when Developer waives its right to Class B membership by recording an instrument evidencing same in the public records of Sarasota County, Florida.~~

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 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 operations or the enforcement of this Declaration. The Association shall provide for maintenance of:

- (a) all Common Areas;
- (b) all 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 and replacement of annual plants; 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 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, if required, by special assessment;~~
- ~~(f g)~~ all the sidewalks and walks serving more than one Lot, if any, or serving the recreation area;
- ~~(g h)~~ maintenance, repair, and replacement of courtyard walls and/or fences (excluding party walls) by special assessment;
- ~~(h i)~~ maintenance, repair, and replacement of private roads and parking areas within the Property;
- ~~(i j)~~ all sprinkler or other irrigation systems and water used for irrigation within the Property.

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 4 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 purposes as the City of Venice makes such effluent available, and each Owner is obligated to accept such effluent for irrigation of such Owner's Lot. At such time as the City of Venice makes such effluent available, the Association shall install a meter to measure the effluent used for irrigation and any other facilities necessary to provide effluent to the Property for irrigation purposes. The Association shall bear the initial cost of such meter and other facilities and may thereafter levy a special assessment against the Owner to recoup its expenditure as provided in Section 4.6.~~

ARTICLE 4. IV COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 **Creation of the Lien and Personal Obligation of Assessments.** 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 and or charges, and (b) special assessments ~~for capital improvements~~, such assessments to be established and collected as hereinafter provided and as provided in the Association Bylaws. The annual and special assessments, together with interest, late fees, 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, late fees, costs, and attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time ~~when~~ the assessment came ~~fell~~ due. The personal obligation for delinquent assessments shall ~~not~~ pass to an Owner's successors and assigns as provided by law unless expressly assumed by them. The provisions of ~~Article Section 6.5~~ regarding interest, late fees, costs and attorney's fees and foreclosure shall apply to the lien established in this Article Section 4.1. ~~Developer shall not be responsible for the payment of assessments as provided under this Section 4.1; this exemption shall apply to Developer as a Class A member. Developer's responsibilities are set forth in Section 4.8(b) of this Article.~~

4.2 **Purpose of Assessments.** The annual or special assessments levied by the Association's Board of Directors shall be used exclusively to promote 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.

4.3 **Reserves.** The Association ~~shall may, in the discretion of a majority of its Board of Directors,~~ establish and maintain, out of regular maintenance assessments, reserve funds for the periodic maintenance, repair, and replacement of improvements within the Common Area and other improvements which the Association is obligated to maintain hereunder. ~~Developer~~

shall not be responsible for reserves. The amount of such reserve funds shall be determined from time to time by the Board.

4.4 Maximum Annual Assessment. The Board of Directors may fix the annual assessments at an amount not in excess of the maximum stated herein, including authorized increases. ~~Until January 1 of the year immediately following the commencement of the obligation for assessments, as described in Section 4.5 (2) below, the maximum annual assessment shall be \$1,800.00 per Lot, subject to Section 4.5(b) below.~~

~~(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Developer, The maximum annual assessment may be increased each year by not more than the greater of: (i) fifteen percent (15%) above the maximum assessment for the previous year, or (ii) the increase, if any, in the Consumer Price Index for All Urban Consumers, All Items, published by the Bureau of Labor Statistics, U.S. Department of Labor for the area including or nearest to Tampa, Florida ("CPI Increase"). The CPI Increase shall be determined by multiplying the maximum annual assessment then in effect by the Consumer Price Index for the most recent month for which figures are available and dividing the product by the Consumer Price Index for the same month of the preceding calendar year. If publication of the Consumer Price Index should be discontinued, the Association shall use the most nearly comparable index, as determined and selected by the Board of Directors. Any determination whether the budget exceeds 15% of last year's budget shall exclude any authorized provision for reserves or anticipated expenditures of the Association which the Board does not expect to incur on an annual basis.~~

~~(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Developer, The maximum annual assessment may be increased above the maximum increase permitted under Article subsection 4.4(a) upon the approval of by a majority vote of each class of members of the Association members who are present (voting in person or by proxy) and voting, at a membership meeting duly called for this purpose.~~

4.5 Date of Commencement of Annual Assessments: Due Dates.

~~(a) Subject to Section 4.8 below, the annual assessments provided for herein shall commence as to all Class A Lots on the first day of the month following the completion of Construction of the common roadway, by evidence of a completion letter issued by the County of Sarasota, Florida, whether or not the Common Area improvements are completed. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.~~

~~(b) 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 Owner 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 of the date of its issuance. If the Association shall fail to approve or properly levy a new annual assessment, then the previous year's assessment shall continue until a new annual assessment is approved or properly levied by the Board of Directors.

4.6 Special Assessments for Exterior Painting, ~~Roof Cleaning, Effluent Meter, and Capital Improvements.~~ In addition to the annual assessments authorized above, the Association's Board of Directors may levy, ~~in any assessment year~~ a special assessment applicable to that year only for the purpose of paying for exterior painting of Dwellings (exclusive of roofs, lanais, and screened areas), ~~cleaning of roofs, installation of a meter to measure the effluent used for irrigation, 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 \$400.00 200.00 per Lot per year shall have the assent by a majority vote of the each class of members who are present (voting in person or by proxy) and voting, at a membership meeting duly called for this purpose. The foregoing requirement of a majority vote of each class of members shall not apply to a special assessment levied for the installation of a meter to measure effluent used for irrigation as described in Section 3.4. The Board of Directors may levy fix any special assessment not in excess of said limitation without any membership approval.~~ 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 in the manner provided in the Bylaws, 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:

(a) 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 ~~other than Developer~~ shall, at the option of the 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.

~~(b) Notwithstanding any provision of this Declaration or the Association's Articles or Bylaws to the contrary, as long as there is Class B membership in the Association, Developer shall not be obligated for, nor subject to, any annual assessment for any Lot which it may own, provided: (i) the annual assessment paid by the other Owners shall not exceed the maximum assessment permitted without a vote of the Owners by Section 4 of this article; and (ii) Developer shall be responsible for paying the difference between the Association's expenses of operation to be funded by annual assessments and the amount received from Owners, other than Developer, in payment of the annual assessments levied against their respective Lots. Such difference, herein called the "Deficiency," shall not include any reserves for replacements, operating reserves, depreciation reserves or capital expenditures. Developer may at any time give at least thirty (30) days' written notice to the Association and thereby terminate effective as of the expiration of said 30-day period its responsibility for the Deficiency, and waive its right to exclusion from annual assessments. Upon giving such notice, or upon termination of Class B membership, whichever is sooner, each Lot owned by Developer shall thereafter be assessed at one hundred percent (100%) of the annual assessment established for Lots owned by Class A members' without limiting the generality of the foregoing, thereafter the assessments for all Lots owned by Developer shall be subject to the limitation set forth in Section 4.5(b) above, if applicable. Such assessments shall be prorated as to the remaining months of the year, if applicable. Upon transfer of title to a Lot owned by Developer, the Lot shall be assessed in the amount established for Lots owned by Owners other than Developer, prorated as of and commencing with the month following the date of transfer of title, except, however, any Lot transferred to a builder who intends to build but does not intend to reside on the Lot shall not be assessed until such time as an A.C. is issued for the Lot as described in Section 5.1. Notwithstanding the foregoing, any Lots as to which Developer holds an interest only as mortgagee or contract seller to a buyer in possession shall be assessed at the same amount as Lots owned by Owners other than Developer, prorated as of and commencing with the month following the sale by Developer of the Lot of the contract purchaser's entry into possession, as the case may be.~~

4.9 Lien for Assessments: Remedies of the Associations. All sums assessed to any Lot pursuant to this Declaration, together with interest, late fees 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 Declaration. The Association or other party in whose favor the lien is recorded ~~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 Article ~~Section~~ 6.5 shall apply to the lien for assessments established herein. No Owner may waive or otherwise escape

liability for the assessments or other charges provided for herein by non-use of the Common Area, or abandonment of his Lot.

4.10 **Interest and Late Fees on Assessments.** Any assessment not paid within thirty (30) ~~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 (\$25.00) to cover increased administrative costs incurred on account of such late payment.

4.11 **Subordination of the Lien of Mortgages.** The Association's lien for assessments provided for herein shall be subordinate the lien of any first mortgage recorded prior to the recording of a claim of lien against the portion of the Property encumbered by such mortgage, 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 any conveyance in lieu thereof, shall extinguish the Association's lien for assessments as to payments which become due prior to such sale or transfer, except as otherwise provided by law. 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 mortgagee of a Lot any assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due, and, upon request, shall give such first mortgagee 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 Article 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 5. ~~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, improved 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. Each structure or improvement of any nature shall be erected, placed, altered or removed only in accordance with the Plans so approved. ~~Refusal of approval~~ Disapproval of 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 certain size or type). Without limiting the foregoing, any change in the exterior appearance of any Dwelling, building, wall, fence, pavement, swimming pool, other structure or improvement, any noticeable

material change in landscaping, and any change in the finished ground elevation, shall be a change requiring approval under this Article 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 Owner's contractor 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, as long as the Developer owns a Lot, submission of Plans to and subsequent approval of Plans by the Committee, and issuance of an A.C. by the Committee, shall not be required by Developer.~~ The Association's Board of Directors shall be specifically authorized to adopt and amend from time to time reasonable architectural standards and criteria governing a Member's ability to improve and alter the Member's Lot and home. The Member shall at all times comply with said standards, if any. The standards shall not be inconsistent with any provision of this Declaration.

~~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 by the Committee ("C.A.") 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. (Notwithstanding any of the foregoing, as long as the Developer owns a Lot, application made to the Committee for a C.A. and issuance of a C.A. by the Committee, shall not be required.) 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 automatically be liable for a fine, without notice, in an amount up to 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 provided in Section 6.5.~~

5.23 Liability of Board of Directors. The Board of Directors of the Association and each of its directors 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 judgment, negligence or non-feasance of the Board, its directors 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 for approval, by the submitting of such Plans, and any Owner by acquiring title to any Lot, agrees that such person shall not bring any action or claim for any such damages against the Board, its directors 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 any other circumstances.

ARTICLE 6. 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 Article 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 areas, roads and roadways within the Property; all drainage easements, the pool, cabana 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 provided in Article Section 3.4, the following shall be the responsibility of the Lot Owner: (i) maintenance and replacement of annual plants on any Lot, and (ii) landscaping installed on any Lot by an Owner with or without Board of Directors' approval on the condition that the Owner maintain same, and (iii) cleaning of the Owner's roof. 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 Article Section 6.5. The Association's maintenance responsibilities shall extend to and include maintenance of all decorative identification sign(s) for Fountain View Villas, 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 the Owner's his Dwelling, including roofs, patios, screened porches and lanais, except as specifically provided herein to the contrary with regard to exterior painting (excluding roofs) and roof cleaning.

6.2 **Painting of Exterior of Dwellings and ~~Roof Cleaning~~.** The Association, subject to the provisions of Article Section 6.1 hereof, shall be responsible for the painting of the exterior of the Dwellings, excluding roofs, screened porches and lanais, ~~and shall be responsible for the cleaning of roofs~~. Such painting ~~and roof cleaning~~ 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 Article Section 4.6. The Board of Directors shall determine the schedule of painting homes. Due to the various completion dates of homes, the initial home painting may be more necessary on some homes than others. ~~All persons with whom the Association contracts for roof cleaning services shall provide adequate insurance to protect the Association from liability for and to pay costs for repair of any roof leaks which may result from cleaning of the roofs.~~ 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, cleaned, repaired and replaced in a 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 Article Section 6.2. Upon the Owner's failure or refusal 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 the Owner's 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 Article Section 6.5 below.

6.4 Party Walls. The rights and duties of the Owners with respect to party walls shall be governed by the following provisions:

(a) **General Rules of Law Apply.** Each wall built as part of the original construction of Dwellings upon adjoining Lots and placed on the dividing line between such Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article 6.4, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The two party walls are the common wall that separate the two Dwellings and the wall that separates two Villas. Without limiting the foregoing, in the event property damage is caused to a Dwelling due to the negligent act or omission of the Owner of an attached dwelling, the negligent Owner shall be liable and shall pay for such property damage within sixty (60) days of the damage.

(b) **Sharing of Repair and Maintenance.** The costs of reasonable repair and maintenance of a party wall shall be shared by the adjoining Owners in equal proportions.

(c) **Casualty Loss.** If a party wall is destroyed or damaged by fire or other casualty then to the extent such destruction or damage is not covered by insurance and repaired out of the proceeds of insurance, the adjoining Owners shall restore the party wall, and each shall contribute one-half of the costs of such restoration. Each Owner shall insure ~~be responsible for insuring~~ the portion of the party wall located on their Lot under their homeowner's policy.

(d) **Damage Caused by One Owner.** If a wall is damaged or destroyed by or through the act of an Owner (whether or not such act is negligent or otherwise culpable) so as to deprive the adjoining Owner of the full use and enjoyment of such party wall, then the Owner responsible for such damage shall repair such damage and, to the extent such damage is not covered by that Owner's insurance, shall bear the full cost of repairs. If such Owner fails to repair such damage promptly, then the adjoining Owner shall effect such repairs and, to the extent the cost of such repairs is not covered by insurance, shall be entitled to recover in full ~~contribution for~~ such costs from the Owner responsible for such damage.

(e) **Contribution Runs with Land.** The right of an Owner to reimbursement ~~contribution~~ from an adjoining Owner under this Article 6.4 shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) **Alterations.** In addition to the other provisions of this Declaration there shall be no alteration of a party wall by an Owner in any manner materially affecting the full use and enjoyment of the party wall by the adjoining Owner without the written consent of the adjoining Owner.

6.5 **Enforcement.** To secure reimbursement of the cost of performing any work described in Article Section 6.3, or to secure any other sum payable by an defaulting Owner under the terms of this Declaration, and interest, late fees and attorneys' fees 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 lien notice shall state the sum payable and shall contain a description of the Lot against which the enforcement of the lien is sought. Except as otherwise provided by law, 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 Florida law from time to time, from the date of demand for payment or such other date as may be specified herein, and 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 judgment of foreclosure is entered shall be secured by the 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. Except as otherwise provided by law, the lien herein provided shall be subordinate to the lien of any first mortgage recorded prior to the recording of a notice of lien, provided, however, that the holder of any 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 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 for 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 Declaration, but to be construed in its favor.

6.6 **Utilities, Equipment and Fixtures.** All fixtures and equipment serving only one Dwelling or Lot, including without limitation, utility lines, pipes, wire, conduits, and the like, but

specifically excluding items to be maintained by the Association as set forth in Article 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 or negligence 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 Article Section 6.6 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 Article Section 6.5.

6.7 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 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 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 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~~ Each 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 proved in Article Section 6.5.

ARTICLE 7 GENERAL USE RESTRICTIONS

7.1 Residential Use. All of the Property shall be known and described as residential property and no more than one single family attached Dwelling may be constructed on any Lot. Attached single family Dwellings will be located on the zero lot line between Lots with the identical numerical designation; for example, a detached single family Dwelling may be located on the zero lot line between Lots 1A and 1B. 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. No Owner shall rent a Dwelling without first obtaining the written approval of the Board of Directors or its designated agent. Owners shall submit a completed application on a form prepared by the Association. Forms are available at the Association clubhouse or at the office of the management company. The proposed tenant(s) shall pay a non-refundable application fee to the Association, in an amount to be set forth in the Rules and Regulations, as amended from time to time. The Owner or the Owner's rental agent shall, at the Owner's expense, conduct a background and criminal check on all proposed tenants. A copy of the criminal and background check shall be submitted to the Association with the completed application. The Association may require all proposed occupants to submit to an in-person interview with the Board, or its designated agent. The Association shall either approve or disapprove a proposed tenant within thirty (30) days after receipt of the tenant's completed application, application fee, background and criminal check and in person interview, if required. If the Association disapproves a proposed tenant, the lease shall not be made. Dwellings may be rented once for a minimum of three (3) consecutive months but no more than twelve (12) consecutive months in a rental year. A rental year shall be defined as any twelve (12) month period starting with the first day of the rental agreement. 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 the Owner's Dwelling is leased. No Dwelling shall be occupied by more than two (2) persons for each bedroom in the Dwelling. Owners are responsible for ensuring that their tenants comply with the Governing Documents.

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 Article 2.3. Any structure of any kind erected or placed within the Property must be in compliance with all applicable zoning and building regulations and this Declaration.

7.4 Landscaping; Sprinkling. No Owner shall cause or allow any material alteration of the landscaping originally installed within the Owner's Lot without the prior written 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 Article 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 Articles 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.

ARTICLE 7
GENERAL USE RESTRICTIONS

7.1 Residential Use. All of the Property shall be known and described as residential property and no more than one single family attached Dwelling may be constructed on any Lot. Attached single family Dwellings will be located on the zero lot line between Lots with the identical numerical designation; for example, a detached single family Dwelling may be located on the zero lot line between Lots 1A and 1B. 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. No Owner shall rent a Dwelling without first obtaining the written approval of the Board of Directors or its designated agent. Owners shall submit a completed application on a form prepared by the Association. Forms are available at the Association clubhouse or at the office of the management company. The proposed tenant(s) shall pay a non-refundable application fee to the Association, in an amount to be set forth in the Rules and Regulations, as amended from time to time. The Owner or the Owner's rental agent shall, at the Owner's expense, conduct a background and criminal check on all proposed tenants. A copy of the criminal and background check shall be submitted to the Association with the completed application. The Association may require all proposed occupants to submit to an in-person interview with the Board, or its designated agent. The Association shall either approve or disapprove a proposed tenant within thirty (30) days after receipt of the tenant's completed application, application fee, background and criminal check and in person interview, if required. If the Association disapproves a proposed tenant, the lease shall not be made. Dwellings may be rented once for a minimum of three (3) consecutive months but no more than twelve (12) consecutive months in a rental year. A rental year shall be defined as any twelve (12) month period starting with the first day of the rental agreement. 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 the Owner's Dwelling is leased. No Dwelling shall be occupied by more than two (2) persons for each bedroom in the Dwelling. Owners are responsible for ensuring that their tenants comply with the Governing Documents.

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 Article 2.3. Any structure of any kind erected or placed within the Property must be in compliance with all applicable zoning and building regulations and this Declaration.

7.4 Landscaping; Sprinkling. No Owner shall cause or allow any material alteration of the landscaping originally installed within the Owner's Lot without the prior written 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 Article 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 Articles 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 occupied only as single-family private residences. No dwelling shall be occupied by more than two (2) persons for each bedroom in the dwelling, and the den shall not be considered a bedroom.

~~7.6 Architectural Plans. As provided in Section 5.1 of this 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 7.34 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 an attached 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 Developer, as provided in Section 7.34.~~

~~As to all Lots, and except as designated on the recorded plat, 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) seven feet six inches (7'6") from the side lot line of the next consecutive numerical Lot. There shall be no setback required as to the side lot lines between Lots with the same numerical designation (the "party wall" side) (for example, a setback is required from the side Lot line between Lots 1B and 2A, but not from the side Lot line between Lots 1A and 1B).~~

~~Notwithstanding the foregoing, the following shall not be deemed part of a Dwelling for the purpose 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.~~

7.6 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 dimensional shingles unless otherwise approved by the Association's Board of Directors in writing. No aluminum or tile roofs shall be permitted. Owners shall keep their roofs clean and free of dirt, mold and mildew.

(b) All structures (including without limitation garages, porches, service or utility rooms, guest rooms, servants quarters, and the like) shall be attached to and be made an integral or substantial part of the Dwelling and shall also conform with all requirements hereof. No separate or detached structures of any type shall be permitted.

7.5 Single Family Homes. All lots within the property shall be occupied only as single-family private residences. No dwelling shall be occupied by more than two (2) persons for each bedroom in the dwelling, and the den shall not be considered a bedroom.

~~7.6 Architectural Plans. As provided in Section 5.1 of this 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 7.34 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 an attached 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 Developer, as provided in Section 7.34.~~

~~As to all Lots, and except as designated on the recorded plat, 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) seven feet six inches (7'6") from the side lot line of the next consecutive numerical Lot. There shall be no setback required as to the side lot lines between Lots with the same numerical designation (the "party wall" side) (for example, a setback is required from the side Lot line between Lots 1B and 2A, but not from the side Lot line between Lots 1A and 1B).~~

~~Notwithstanding the foregoing, the following shall not be deemed part of a Dwelling for the purpose 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.~~

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(a) All roofs of Dwellings shall be of dimensional shingles unless otherwise approved by the Association's Board of Directors in writing. No aluminum or tile roofs shall be permitted. Owners shall keep their roofs clean and free of dirt, mold and mildew.

(b) All structures (including without limitation garages, porches, service or utility rooms, guest rooms, servants quarters, and the like) shall be attached to and be made an integral or substantial 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 ground floor heated and cooled living area of not less than 1,100 square feet, exclusive of the area of any garage, porches or patios, whether or not roofed.

(d) ~~All garages shall be of at least one (1) car capacity and shall be equipped with automatic door openers. The minimum driveway width shall be ten feet (10'). All driveways and sidewalks shall be constructed with a minimum of 3,000 PSI concrete, or as approved by Developer, 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 an 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 prior written approval.~~

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

(f) ~~All screening of No screened garage doors, courtyards and or screened breezeways must shall be permitted unless first approved in writing by the Architectural Control Committee. The style, color and appearance of the screening of garage doors, courtyards and breezeways must remain uniform. Nothing herein shall be construed as to prohibiting the screening of courtyards, upon approval by the Architectural Control Committee.~~

7.79 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 in writing by the Architectural Control Committee.

7.810 Parking and Storage. Except for temporary parking, no boats, jet-skis or other water-borne craft, motor homes, campers, trailers, ATVs (All Terrain Vehicles), go-carts, golf carts, motorized scooters or other motorized recreational-type conveyances, unlicensed motorcycles, trucks, commercial vans, tractors, service vehicles or other commercial vehicles (hereinafter referred to as "restricted vehicles") shall be permitted to remain within the Property or on a Lot, other than for temporary parking unless parked within an enclosed garage with the garage door closed except when the boat or vehicle is being parked or removed.

"Temporary parking" shall mean the short-term parking of restricted such vehicles while being used in the furnishing of services or materials to Owners, or used by Owners for loading and unloading purposes only; No overnight parking of such vehicles shall be permitted. The provisions of this Article Section shall apply to all restricted boats, truck, and utility vehicles whether used for commercial purposes or not. An automobile, minivan, SUV (sport-utility vehicle), pickup truck or motorcycle, properly tagged for legal on-road use, and used

~~Notwithstanding the foregoing, a van or pickup truck for personal transportation purposes only, without advertising on the exterior, and which is not used for commercial purposes, may be parked on the driveway of a Lot, but no Lot may have more than one such vehicle regularly parked in the driveway.~~

All garage doors shall be kept closed from 10pm to 6am daily, and when residents are not at home, except while a vehicle or other article is being placed in or removed from the garage.

7.911 Landscaping; Trees. 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 (3) trees, either pine, palm, or oak, with at least six foot (6') clear trunk, and a minimum of four inch (4") caliper. All changes and/or additions to the original landscaping must be approved in writing by the Architectural Control Committee/Board of Directors, including decorative displays. 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.

7.102 Yard 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 and remain 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 provided elsewhere herein, and replaced as may be necessary. Any additions or changes inside a walled patio, outside a walled patio and/or on the common property line between Dwellings must have Architectural Control Committee/Board of Directors' written approval. The Architectural Control Committee/Grounds Committee will determine with Groundskeeper and Owner what will be maintained by Association. 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.

7.113 Irrigation System. All Lots shall be equipped with inground irrigation systems for the lawn and landscaping thereon. 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.

7.124 Drainage System. 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. Common swales located in the rear of any Lot shall not be altered without Architectural Control Committee/Board of Directors' Developer's prior written approval.

7.135 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 in writing by the Architectural Control Committee, even though such pools may be above-ground 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 the prior written approval by the Architectural Control Committee.

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

7.157 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 Timing of Construction and Completion of Structures. As to all Lots, construction of a Dwelling must commence before the expiration of (i) twelve (12) months after the date of purchase of the Lot from the Developer; or (ii) upon forty-five (45) days prior written notice from Developer, whichever is later. All structures and improvement must be completed substantially in accordance with the approved plans within nine (9) months after the commencement of construction. As to either of the preceding requirements, the Developer may grant extensions for good cause shown, including those circumstances in which a bulk sale of Lots is made to a party other than a builder or future resident of the Lots, or 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 Developer, the Owner of the Lot in violation shall be 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 6.5.~~

7.169 Commercial Uses and Nuisances. ~~Except as provided in Section 7.36,~~ 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 the 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's Board of Directors. No vehicle, motorcycle, or any other conveyance may be operated on the common areas for "recreational use" or in any manner that may be a nuisance or annoyance to the other residents of the Property. 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's Board of Directors, and except for personal property owned by the Association.

7.1720 Modular and Temporary Structures and Use; Trash Receptacles. ~~Except as permitted under 7.36 of this Article,~~ No modular or manufactured home or structure of a temporary character, including but not limit to, trailer, shed, tent, shack, garage, barn or other building, shall be moved, 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.~~

7.1821 View Obstructions. The Association's Board of Directors ~~Developer~~ shall have the right, but not the obligation, to remove, relocate or require the removal or relocation of any wall, fence, 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 Board ~~Developer~~, obstruct the vision of a motorist upon any of the private access streets.

7.1922 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, if requested, a hearing on the issue before the Board.

7.203 Gas Tanks; Water Softeners. No gas tank, gas container, water softener, 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 in writing by the Architectural Control Committee. Water softener units may be installed, provided the design, construction, and installation and location shall have first been approved in writing by the Architectural Control Committee/Board of Directors, which approval may be conditioned upon adequate enclosure or other shielding. Owners may have water softener units installed.

7.21 7.24 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 by the Association. Any Owner who allows a portion of a Lot to be maintained by the Owner 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, except by Developer.~~

7.225 Clothes Hanging; Antennas. Clothes hanging devices exterior to a Dwelling shall not be permitted. No exterior radio, television or other electronic antennas and aerials shall be allowed, unless installed so as to be completely concealed from public view, such as in attics, and no such devices shall be allowed in the event the same cause interference to the reception of other residents of the Property. No mast or antenna, or other similar structure, for the transmitting or receiving of am/fm radio, amateur radio, HAM radio, or any other form of radio signal shall be erected, permitted or maintained upon any lot or the common areas. After providing written notification to the Architectural Control Committee of the intent to install an antenna or satellite permitted by the applicable FCC Rule, an Owner or tenant may erect or install a FCC permitted television antenna or satellite dish within the Owner's lot. All other antenna and satellite dishes are prohibited. All permitted television antenna and satellite dishes must be placed in such a location so as to minimize their visibility from a street and so as to minimize annoyance or inconvenience to other residents, if such placement would still permit reception of an acceptable quality signal.

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

7.247 Signs and Flags. 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 8-1/2"x11" 6"x8" in area, fastened only to a stake in the ground and extending not more than three feet (3') above the surface of the ground. Deviation from this size requires the prior written approval of the Architectural Control Committee/Board of Directors. 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. ~~Notwithstanding anything to the contrary herein, Developer and its assigns, to whom such rights may be assigned on an unlimited and non-exclusive basis, may maintain signs of any type and size and for any purpose within the Property, including without limitation advertising signs which may be erected by builders and lenders during the period of construction on any portion of the Property.~~ None of the preceding prohibitions against signage shall prevent the erection of street signs and traffic signs within the Property by the Association Developer or the City of Venice. Any Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4-1/2 feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

7.258 Obstructions; Fences. ~~The Developer shall have the right but not the obligation to construct privacy walls or fences.~~ No obstructions including without limitation such as gates, fences, or hedges shall be placed on the Property so as to prevent access to or use of any of the easements described herein, except that the foregoing shall not prevent the erection and maintenance of privacy walls and fences on Lots, provided that they are installed by the Association Developer or approved in writing by the Architectural Control Committee. Any fence, wall or privacy structure within an easement area may be dismantled by ~~Developer~~, the Association, utility providers or others entitled to use of the easement, at the Owner's sole expense, for maintenance, erection or replacement of utility facilities. Following completion of construction of any Dwelling, no wall shall be constructed servicing 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's approval as to all aspects of design and location, and subject to compliance with all applicable governmental requirements. No fences shall be permitted on the boundary of any portion of a Pond (as described in Article 7.26 Section 7.29 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 prior written approval of the Architectural Control Committee, temporary fences may, or if required by the Committee shall, be erected as development boundaries.

7.269 Ponds. Any ponds or other water retention areas ("Ponds") ~~constructed by 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 recreational purposes, other than fishing, which shall be permitted only by Owners or residents of the Property.

7.2730 Wells, Septic Tanks; Oil and Mining Operations. No water wells or septic tanks may be drilled or maintained on any portion of the Property ~~by an Owner, 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 used by the Association 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.

7.2831 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, short-wave, 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.

7.2932 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.

7.303 Dwelling House Number Dwelling Plates. ~~A plate showing The house number~~ of the Dwelling shall be placed and maintained on each Dwelling. However, the size, location, design, style and type of material for each such house number plate shall be first approved in writing by the Architectural Control Committee Developer.

7.314 Right of Board of Directors Developer to Grant Waivers or Variances. The absolute right and discretion is hereby reserved to the Association's Board of Directors Developer to grant waivers of or variances from the obligations of these restrictions in cases where not to grant such variances or waivers would create hardship, in the opinion of the Association's Board of Directors Developer, or where the improvements allowed by such variances or waivers would be in keeping with the spirit and intent of this instrument or compatible with the character and nature of the Property, or would not adversely affect any neighboring owners or the Property as a whole ~~shall be granted upon written application of the Owner setting forth in detail the variance or waiver desired and reasons for it.~~ Any such variance or waiver, if granted, shall be evidenced by a written instrument executed by the Association's Board of Directors Developer with the formalities of a deed and may be recorded in the Public

Records of Sarasota County, Florida, at the expense of the Owner obtaining the variance or waiver.

7.325 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 Declaration may be made and amended from time to time by the Board of Directors of 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 Directors' 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, guests and lessees shall use the Common Area and Dwellings only in accordance with such rules and regulations.

~~7.36 Developer's Rights. Nothing contained in these covenants shall prevent the Developer, or any other person designated by the Developer, from erecting or maintaining commercial or display signs, sales offices, construction trailers and other temporary structures, model houses and other structures as Developer may deem advisable for development and sales purposes, provided such are in compliance with the appropriate governmental regulations applicable thereto. Until the Developer has completed all construction within the Property and closed the sales of all Lots to other persons, neither the Owners nor the Association nor the use of any Lot shall interfere with the completion of improvements and sales of Lots. Further, without limiting the generality of the foregoing, Developer may use the Common Area or any Lot for a sales office, and there may be any number of sales offices on the Property, and display signs. The rights granted to Developer to maintain sales office, general business offices, construction trailers and other temporary structures and model Dwellings shall not be restricted or limited to Developer's sale activity relating to the Property, but, at the sole discretion of the Developer, shall benefit other builders and developers who may become involved in the construction, development and sale of any portion of the Property, and may also benefit Developer in the sale of other property in which it may have an interest.~~

ARTICLE VIII RESERVATION OF RIGHTS BY DEVELOPER

~~8.1 Developer's Rights. Developer hereby reserves the following rights, which shall not be limited or restricted to the Developer's activities with regard to the Property, but shall continue until Developer has completed all construction within the Property and has closed the sales of all Lots to other persons, and shall benefit the Developer in the development, construction, promotion and sale of any other property in which the Developer may have an interest:~~

~~(a) To use the Property and/or trailers or other temporary structures, which the Developer shall be entitled to erect on the Property for development or sales purposes, including construction and general business office or models.~~

~~(b) To bring, invite or arrange for trucks and other commercial vehicles to enter and remain upon the Property for construction purposes.~~

~~(c) To erect and maintain commercial or display signs on the Property, including the common areas, for sale promotion.~~

~~(d) To sell or lease the Lots without compliance with the restrictions on transfers or leasing that are set forth in this Declaration.~~

~~(e) To create easements over the Property for drainage, utilities and access to serve any adjacent lands, whether or not those lands are added to the Property, provided that those easements may not unreasonably interfere with the enjoyment of the Property by the Owners.~~

~~(f) To amend this Declaration without executed joinders from any other person or entity, provided that no amendment shall be made which substantially alters the nature of the development contemplated herein.~~

~~8.2 No Interference. Until Developer has completed all construction within the Property and has closed the sales of all Lots to other persons, neither the Owners nor the Association nor the use of any Lot shall interfere with the completion of improvements and sale of Lots, and Developer may make such use of unsold Lots and of the Common Areas as may facilitate completion of improvements and sales of Lots. Further, without limiting the generality of the foregoing, Developer shall not be subject to the provisions of Section 5.1 hereof.~~

ARTICLE 8. IX MISCELLANEOUS

89.1 Term and Amendment. This 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 this Declaration is recorded, after which time the term of this 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 interests of each class of the members present, in person or by proxy, at a meeting called for such purpose.

8.2 Amendment. This Declaration may be amended during the first thirty (30) year period or any subsequent ten (10) year period if such amendment is approved by an instrument signed either by: (i) the Developer as provided in Section 8.1 above; or (ii) Owners holding not less than sixty-six percent (66%) of the Association's voting interests total Class A votes; or (iii) by the duly authorized officers of the Association provided such amendment by the Association's 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. Notwithstanding anything herein to

~~the contrary, so long as Developer shall own any Lot, no amendment, shall diminish, discontinue or in any way adversely affect the rights of Developer under this Declaration, nor shall any amendment pursuant to (ii) or (iii) above be valid unless approved by Developer, as evidenced by its written joinder.~~

8.39.2 Enforcement. If any person, firm or corporation, or their respective heirs, personal representative, successors or assigns shall violate or attempt to violate any of the restrictions set forth in this Declaration, it shall be the right of the ~~Developer, 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 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. ~~Developer shall not be obligated to enforce the restrictions set forth herein and shall not in any way or manner be held liable or responsible for any violation of this Declaration by and person other than itself.~~

8.4 Waiver. Failure of ~~the Association Developer~~ or any other person or entity to enforce any provision of this 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 ~~Developer, the~~ Association or any of the Owners from enforcing the restrictions set forth herein. ~~Further, the~~

8.5 Self-Help. ~~The Association Developer~~ shall have the right, upon ten (10) days' prior written notice by certified or registered mail, return receipt requested, to take such action as ~~the Association Developer~~ shall deem necessary to cure the default of any Owner who fails to comply with the provisions hereof, and all costs and attorneys' fees reasonably incurred in connection therewith, together with interest at the highest contract rate permitted by law from five (5) days after the date of demand, shall be due and payable from the defaulting Owner on demand, and shall be secured by a lien in favor of the Association Developer on the defaulting Owner's Lot as described in Article 6 VI. ~~Without limiting and in addition to the foregoing remedy, in the event the provisions of Section 7.18 regarding the construction deadline are violated, the Owner of the Lot as to which the violation occurs shall be liable for liquidated damages payable to the Developer in the amount of Ten Dollars (\$10.00) per day for each day beyond the deadline in Section 7.18 that construction is not completed. The right to such damages shall be secured by a lien in favor of the Developer as described in Article VI. If such a lien is filed but is subsequently removed or extinguished by foreclosure of a superior mortgage or other lien, the mortgagee or other person taking title by foreclosure shall again be subject to the deadline for construction set forth in Section 7.18, but the time period shall run from the date that title is acquired so that the mortgagee or other person taking title by foreclosure shall have another nine (9) months to complete construction. Liquidated damages shall again begin to accrue and shall be secured by a lien in favor of the Developer if the extended construction deadline is not met.~~

8.69.3 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.

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

8.89.5 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 used as a means of interpreting or construing the substantive provisions hereof. In the event a term or phrase is not defined in Chapter 720, Florida Statutes, herein, or is ambiguous, the Board may adopt any dictionary definition of the term or phrase or provide a reasonable definition, which definition shall be binding. If a term or phrase is deemed ambiguous, it shall not be construed in favor of nor against the Association or an Owner.

8.99.6 Approvals. Wherever herein the consent or approval of the Architectural Control Committee, Developer, 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 irrefutable 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.

~~9.7 Assignment. Developer shall have the sole and exclusive right at any time and from time to time to transfer and assign to and to withdraw from such person, firm, or corporation as it shall select, any or all rights, powers, easements, privileges, authorities, and reservations given to or reserved by Developer under this Declaration. If at any time hereafter there shall be no person, firm, or corporation entitled to exercise the rights, powers, easements, privileges, authorities, and reservations given to or reserved by Developer under the provisions hereof, the same shall be vested in and be exercised by a committee to be elected or appointed by the Owners of a majority of Lots. Nothing herein contained, however, shall be construed as conferring any rights, powers, easements, privileges, authorities or reservations in said committee, except in the event aforesaid.~~

8.109.8 Occupants Bound. All provisions of this Declaration governing the usage of a Lot or the conduct of an Owner shall also apply to all occupants of the Lot and all family members, guests, and invitees of the Owner. Each Owner shall cause all such occupants, family

members, guests and invitees to comply with such provisions and shall be jointly and severally responsible with such occupants, family members, guests, and invitees for any violation by them of such provisions. The lease of any Lot shall be deemed to include a covenant on the part of the tenant to comply with and be fully bound by such provisions.

8.119.9 Litigation. Before commencing litigation against any party in the name of the Association involving amounts in controversy in excess of \$100,000 or in the aggregate \$500,000 at any one time (exclusive of costs and attorney's fees), the Association must obtain the affirmative approval of a majority of the voting interests at a membership meeting at which a quorum is present, as provided in Section 720.303(1), Florida Statutes. However, the Association may defend any action brought against it, file counterclaims, crossclaims and file and foreclose a claim of lien for delinquent assessments without any Member approval. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Owners, inclusive of the Developer. This Section shall not apply, however, to (a) actions brought by the Association against parties other than the Developer to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and correction of Assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Developer or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

9.10 Additional Covenants. No Owner other than Developer may impose any additional covenants or restrictions on any part of the Property.