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**PROPOSED  
SECOND AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
OF  
ROYAL PALM HARBOR**

*[Substantial Rewording of the Declaration of Restrictions. See existing Restrictions for present text.]*

This Declaration of Restrictions shall govern Royal Palm Harbor, a Subdivision (herein, “the Subdivision”).

The lands subject to the provisions of this instrument shall be the Property, as defined in Article I herein. The Property shall, from this time forward, be held, conveyed, encumbered, leased, used, occupied and improved subject to the provisions of this instrument without the necessity of specific reference to it. The absence of any specific conveyance of this Property or any portion of it shall not excuse the grantee or any other person from compliance with it. No party may waive or otherwise avoid responsibility for compliance with this instrument and liability for any assessments made pursuant to it by asserted non-use of the Common Areas.

**ARTICLE I. DEFINITIONS**

For all purposes, the terms used in this Declaration of Restrictions, the Articles of Incorporation of the Association and Association Bylaws (herein collectively “the Governing Documents”), shall have the meanings stated in the Homeowners’ Association Act (Chapter 720, Florida Statutes) and as set forth below, unless the context otherwise requires. Also, throughout the Governing Documents whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of either gender shall be deemed to include both genders. In the event any term in the Governing Documents is deemed ambiguous, then the Board of Directors shall define the term, which definition shall be binding. A term shall not be construed in favor of or against the Association or any owner.

The following words and terms when used in this Declaration of Restrictions (unless the context shall clearly indicate otherwise) shall have the following meanings:

**1.01. “Act”** means Chapter 720, Florida Statutes, as amended from time to time.

**1.02. “Articles of Incorporation”** means the Articles of Incorporation for the Association, attached hereto as **Exhibit “B”** and incorporated herein by reference, as amended from time to time.

**1.03. “Association”** means Royal Palm Harbor Association, and its successors and assigns.

**1.04. “Board”** means the Board of Directors of the Association.

**1.05. “Bylaws”** means the Bylaws of the Association, attached hereto as **Exhibit “C”** and incorporated herein by reference, as amended from time to time.

**1.06. “Common Area(s)”** means all real Property owned by the Association for the common use and enjoyment of the Owners.

**1.07. “Common Use Area”** means the road easement.

**1.08. “Lot”** means any plot of land shown upon any recorded subdivision map of the Properties with the exception of Common Areas.

**1.09. “Member”** means a person entitled to membership as provided in the Bylaws and Articles of Incorporation.

**1.10. “Owner”** means the record title holder, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**1.11. “Plat”** means any final plat of the Subdivision recorded in the Public Records of Sarasota County, Florida.

**1.12. “Properties” or “Property”** means that certain real Property described in these Restrictions, and such amendments and additions thereto as may hereafter be brought with the jurisdiction of the Association.

**1.13. “Restrictions”** shall mean and refer to this Declaration of Restrictions as so recorded in the Public Records of Sarasota County, Florida, and as it may be amended or supplemented from time to time.

**1.14. “Unit”** means any residential improvement constructed in Royal Palm Harbor.

## **ARTICLE II. GENERAL CONDITIONS**

**2.01. The Association.** The operation of the Subdivision in accordance with these Restrictions and other authority shall be by the Association. Every Owner shall be a Member of the Association, which shall be a Florida corporation not for profit. Subject to this right, each Owner shall have the voting rights provided in the Articles of Incorporation.

**2.02. Duties of the Association.** The Association has been organized to operate, maintain, manage and improve the Common Areas of Royal Palm Harbor and to enforce the provisions of this instrument. The Association, in addition to these powers and duties and any powers set forth in its Articles of Incorporation or given to it by law, shall have the power and duty to levy and collect maintenance assessments as provided in this instrument.

**2.03. Term.** These Restrictions shall remain in force and effect for a period of thirty (30) years from the date hereof and shall be automatically renewed for successive ten (10) year periods unless the Owners of a majority of Lots in the Subdivision execute and record in the Public Records of Sarasota County, Florida, an instrument specifically rejecting a subsequent renewal.

**2.04. Government Regulation.** To the extent any law, ordinance or regulation of the State of Florida and Sarasota County shall exceed the requirements hereof, that law, ordinance or regulation shall prevail.

**2.05. Severability.** These Restrictions are severable and the invalidation of one shall not invalidate any other covenant hereof and each covenant shall be independent to such extent.

### **ARTICLE III. PROPERTY**

**3.01. Existing Property.** The existing real property which is subject to these Restrictions is depicted on **Exhibit "A."** Lots shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained in these Restrictions, which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors or assigns and shall inure to the benefit of each Owner thereof.

**3.02. Delegation of Use.** Any Owner may delegate his right of enjoyment in the Common Areas to members of his family, tenants or social guests, subject to the provisions of these Restrictions and the Articles of Incorporation, Bylaws and Rules of the Association.

**3.03. No Waiver of Use.** No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges thereof by waiver of the use and enjoyment of the Common Areas or non-use thereof, or the abandonment of his Lot.

### **ARTICLE IV. EASEMENTS**

In addition to other easements described herein, every Owner shall have a right and easement of enjoyment in and to the Common Area and Common Use Area, which shall be appurtenant to and shall pass with the title to every Lot.

## ARTICLE V. ASSESSMENTS

**5.01. Annual Maintenance Assessment.** The annual maintenance assessment to be levied against all land subject to maintenance assessments and maintenance liens shall be calculated in the following manner:

(a) Annual and special assessments must be fixed at a uniform rate for all Lots.

(b) Each Owner shall be advised in writing, mailed to his/her address as recorded in the records of the Association in January of each year, of:

- (1) The Association's annual budget;
- (2) The dollar amount of the payment due and payable by the Owner for the particular year; and
- (3) Any amounts due from or repayable to the Owner with respect to any under expenditure or over expenditure from the prior years' budget.

**5.02. Assessment and Budget.** In the month of November of each year the Association shall establish a budget and propose to levy an assessment against individual parcels subject to the annual maintenance assessment. This budget and assessment shall be in such amount as shall be deemed sufficient in the judgment of the Board and approved by a majority of the Owners at the annual meeting held in January, to allow it to carry out its purposes, which may include the following:

(a) To pay ad valorem taxes, if any, assessed against the Common Areas.

(b) To pay any other taxes assessed against or payable by the Association.

(c) To pay all expenses required for the operation, maintenance, management, repair and improvement of the Common Areas and Common Use Area.

(d) To pay all utility charges incurred in connection with the operation of the Common Areas or the performance of the Association's obligations under this instrument.

(e) To pay for casualty, liability, and other forms of insurance determined by the Association to be necessary or desirable, in such amounts as it may deem appropriate.

(f) To pay for accounting, legal, engineering and such other professional and employee services as may be appropriate.

(g) To provide a reasonable contingency fund for the ensuing year and to provide a reasonable annual reserve for anticipated major capital, repairs, maintenance and improvements, and capital replacements.

(h) To pay operating expenses of the Association including reimbursement of actual expenses properly incurred by officers and directors.

(i) To pay or repay any funds borrowed by the Association for any of its lawful purposes, including interest on funds borrowed.

(j) To make any other expenditures necessary or desirable for the purpose of accomplishing the objectives of this instrument.

**5.03. Collection of Annual Maintenance Assessments and Special Assessments.** The annual maintenance assessment and any special assessments shall be paid and collected in accordance with the following procedures:

(a) The annual maintenance assessment shall be paid by each Owner on or before February 1 of each year at the offices of the Association in Sarasota, Florida, or at such other place as may be designated by the Association. The assessment shall become delinquent if not paid by March 1 of the calendar year in which it is assessed. Any unpaid assessments shall bear interest from the date of delinquency until paid at the highest rate allowed by law, and the Association may charge a late fee not to exceed the greater of twenty-five dollars (\$25.00) or five percent (5%) of the amount of each installment that is paid past March 1.

(b) Special assessments may be levied, including those assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring improvements for or on the Common Area or the costs incurred (whether in whole or in part) for reconstructing or replacing such improvements or for any other valid Common Expense which is not a recurring expense to the Association. Special assessments may be levied by the Board and shall be paid in such installments or in a lump sum as the Board shall from time to time determine. However, any special assessment shall first be approved by the Board and assented to by Owners having at least majority of the voting rights in the Association. An individual Owner's share of any special assessment shall be determined in the same manner as the share of the annual maintenance assessment.

(c) Each assessment shall be the personal obligation of each Owner.

(d) Upon request of any Owner or mortgagee, the Association shall furnish a certificate in recordable form signed by an appropriate officer showing the amount of unpaid assessments, if any, against any individual parcel of Property, the year or years for which any unpaid amounts were assessed and levied, and any interest or other charges.

**5.04. Monetary Defaults and Collection of Assessments.**

(a) **Acceleration of Assessment.** In addition, if any Owner is in default in the payment of any Assessment or of any other monies owed to the Association for more than thirty (30) days after written demand by the Association, the Association shall have the right to accelerate and

require such defaulting Owner to pay to the Association in advance Assessments for Common Expenses through the end of the fiscal year, based upon the then existing amount and frequency of Assessments for Common Expenses. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in the regular Assessments for Common Expenses, for all Special Assessments for Common Expenses, and/or all other Assessments and monies payable to the Association.

**(b) Collection.** In the event any Owner fails to pay any Assessment or other monies due to the Association within thirty (30) days after written demand, the Association may take any action deemed necessary in order to collect such Assessments or monies. The Owner shall be liable to the Association for all attorneys' fees, costs and expenses incurred by the Association incident to the collection of any Assessments or other monies owed to it, and the enforcement and/or foreclosure of any lien for the same, and all sums paid by the Association for taxes and on account of any mortgage lien and encumbrances in order to preserve and protect the Association's lien. All payments received by the Association on account of any Assessments or monies owed to it by any Owner shall be first applied to interest, late fees, costs, and attorneys' fees incurred incident to the collection of delinquent Assessments, and then to the Assessment payment first due.

**(c) Lien for Assessments and Monies Owed to Association.** The Association shall have a lien on the Lot of any Owner, for any unpaid Assessments (including Special Assessments or any Assessments which are accelerated pursuant to this Declaration) or other monies owed to the Association by such Owner, and for interest, reasonable attorneys' fees and court costs incurred by the Association incident to the collection of the Assessments and other monies, or the filing or foreclosure of a claim of lien, and for all sums advanced and paid by the Association for taxes, maintenance and on account of superior mortgages, liens or encumbrances in order to protect and preserve the Association's lien.

**(d) Release of Lien.** Upon payment in full of all sums due to the Association, the Association shall promptly record in the Public Records of Sarasota County, Florida, a satisfaction of claim of lien.

**(e) Transfer of Property After Assessment.** The Association's claim of lien shall not be affected by the sale or transfer of any Lot. In the event of a sale or transfer of the Lot, both the new Owner and the prior Owner shall be jointly and severally liable for all Assessments, interest, late fees, attorneys' fees and all other costs and expenses owed to the Association which are attributable to any Lot purchased by or transferred to such new Owner.

**(f) Subordination of the Lien to First Mortgages.** Unless otherwise provided by law, the lien of the Association for Assessments or other monies shall be subordinate and inferior to the lien of any first mortgage in favor of an Institutional Lender recorded prior to the recording of a claim of lien by the Association. Notwithstanding anything to the contrary contained in this Article or by law, the liability of a first mortgagee, or its successor or assignee as subsequent holder of the first mortgage who acquires title to a parcel by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title, shall be the lesser of the parcel's unpaid common expenses and regular periodic or special assessments that accrued or

came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association or one percent (1%) of the original mortgage debt or as otherwise may be provided by law from time to time.

**5.05. Investment of Funds.** The Association may, in its discretion, either hold collected maintenance funds without investing them, or it may invest them.

**5.06. Lands Subject to Assessment.** All of the Property is subject to the lien for the annual maintenance assessment and any special assessments as described in this instrument, with the exception of the following land:

(a) Roadways, rights of way, utility sites, and similar lands and improvements that may be conveyed or dedicated by Association to any governmental body, or public or private utility company, as reflected in any Lots of Royal Palm Harbor or in any document recorded in the Public Records of Sarasota County, Florida;

(b) The Common Areas as more particularly defined herein.

**5.07. Homeowner Association Fee.** The Association shall charge a fee of three thousand dollars (\$3,000.00) in connection with a transfer of title or sale of a Lot or parcel in Royal Palm Harbor. Said fee shall be the obligation of the purchaser. The Association shall have the lien rights given for the collection of assessments. This shall not apply to title changing hands through inheritance, or sale of Property to a parent, child, or brother or sister.

## ARTICLE VI. INSURANCE

The Association shall have the right to obtain such insurance as is deemed necessary from time to time to afford protection to the Association, including without limitation reasonable deductibles as deemed appropriate in the opinion of the Board. Such insurance may include, but not be limited to, the following:

**6.01. Fire and Extended Coverage.** Fire and extended coverage insurance on all insurable real and personal property owned by the Association.

**6.02. Comprehensive General Public Liability Insurance.** Comprehensive general public liability insurance covering loss or damage resulting from claims made against the Association.

**6.03. Insurance of Fidelity Bond.** In Accordance with Chapter 720 of the Florida Statutes, the Association shall maintain insurance or a fidelity bond for all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this subsection, the term "persons who control or disburse funds of the Association" includes, but is not limited to, persons authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association. The Association shall bear the cost of any insurance or bond. If annually approved by a majority of the voting interests present at a properly called meeting

of the Association, the Association may waive the requirement of obtaining an insurance policy or fidelity bond for all persons who control or disburse funds of the Association.

## **ARTICLE VII. COMMON AREAS AND COMMON USE AREAS**

**7.01. Definition of the Common Areas and Common Use Areas.** The Common Areas shall include all of the Property not within a Lot or public right-of-way, now or later specifically set aside or deeded to the Association for the common use and enjoyment of all Owners in Royal Palm Harbor. The Common Areas include the following: (i) the one foot perimeter, (ii) the entry and park area, (iii) the shrubbery outside the roadway, (iv) the turnaround islands, and (v) the well and pump house as subject to the provisions of Section 9.02(v) herein. The Common Use Areas shall include the road easement.

### **7.02. Use and Maintenance of the Common Areas and Common Use Areas.**

(a) Association shall have the exclusive duty vis-a-vis Owners in Royal Palm Harbor to control the maintenance of Common Areas and Common Use Areas. Said obligation shall include the maintenance of the road and Association shall have the absolute right to determine the materials used to pave and maintain the surface of the road.

(b) Association shall have the right to prevent use of portions of the Common Areas and Common Use Areas by the general public.

(c) Subject to any rules and regulations adopted by the Association, portions of the Common Areas and Common Use Areas may be used for appropriate purposes as are permitted by law which do not interfere with the peaceful enjoyment of Lot Owners.

(d) Lot Owners in Royal Palm Harbor, their guests, invites and/or tenants may use the Common Area and Common Use Areas for such private and recreational purposes as are permitted by law, which do not interfere with the peaceful enjoyment of other Lot Owners and which are consistent with such reasonable rules and regulations governing such use as may be adopted from time to time by the Association.

(e) No trees, shrubbery, or similar landscaping materials may be cut or trimmed except by the Association or their representatives. No improvements or structures on portions of the Property outside the Common Areas or Common Use Areas shall be made or erected that will adversely affect drainage of the Common Areas or Common Use Areas. No improvements or structures other than those built by or approved by the Association shall be constructed on the Common Areas or Common Use Areas.

(f) The Association shall have the right to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the Members has been recorded.



## ARTICLE VIII. ARCHITECTURAL STANDARD AND REVIEW

**8.01. Architectural Standards.** No construction (which term shall include within its definition staking, clearing, excavating, grading, and other site work), no exterior alteration or modification of existing improvements, and no removal of trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Board has been obtained pursuant to subsections (a) and (b) below. All structures constructed on any portion of the Property shall be designed by and built in accordance with the plans and specification.

This Article shall not apply to construction on or improvements or modifications to the Common Areas made by or on behalf of the Association. The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Board.

**(a) New Construction.** The Board shall have exclusive jurisdiction to review and approve all new construction on any portion of the Property. In the event the Board fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within forty-five (45) days after submission thereof the plans shall be deemed approved.

**(b) Modifications.** The Board shall have exclusive jurisdiction over exterior modifications, additions, or alterations made on or to existing Units or to structures containing Units and the open space, if any appurtenant thereto.

The Board shall promulgate detailed standards and procedures governing its areas of responsibility and practice (“Modification Guidelines”).

**8.02. No Waiver of Future Approvals.** The approval of the Board of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent, shall not be deemed to constitute a waiver of any rights to withhold approval or consent as to any similar proposals, plans and specifications, drawing, or other matter whatever subsequently or additionally submitted for approval or consent.

**8.03. Variance.** The Board may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, or (b) stop the Board from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

**8.04. No Liability.** No review or approval by the Board shall imply or be deemed to constitute an opinion by the Board, the Association, or any other party, any liability for the design

or construction of building elements, including, but not limited to, structural integrity or life and safety requirements. The scope of any such review and approval by the Board is limited solely to whether the respective plans or work meet certain requirements, standards, and guidelines relating to aesthetic and the harmony and compatibility of proposed improvements in the Community. No review or approval will be for any other person or purpose, and no person other than the Board shall have any right to rely thereon, and any review or approval by the Board will create no liability whatsoever of the Board or the Association to any other person or party whatsoever.

**8.05. Compliance.** Any Contractor, Subcontractor, Agent, Employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Board may be excluded from the Property without liability to any person, subject to the notice and hearing procedures contained in the Bylaws.

**8.06. Permit Fee.** A deposit fee, as set forth below, shall be charged by the Association to any Unit Owner installing a pool or conducting renovations/repairs, which deposit shall be paid in full prior to review of any application hereunder.

Construction of Pool:	\$2,000.00 deposit
New construction and Renovations over \$40,000.00:	\$4,000.00 deposit

Said deposit shall be held by Association until such time as all construction on a Unit is completed and the Association has determined that said construction has caused no damage to Common Areas and Common Use Areas of Royal Palm Harbor. The Homeowner shall be liable to Association for all damages caused to Common Areas and Common Use Areas, and shall pay all damages in excess of the deposit to the Association upon demand. Additionally, a minimum of one half (1/2) of the Construction Deposit shall be retained by the Association for use in future road repairs not yet apparent at the time the construction has been completed, and for other projects as the Association shall deem prudent

## ARTICLE IX. RESTRICTIONS

**9.01. General.** The Property shall be used only for residential, recreational, and related purposes as may more particularly be set forth in this Declaration and amendments and Supplements hereto. The Association, acting through its Board, shall have the authority to make and enforce standards and restrictions governing the uses of the Property, in addition to those contained herein, and to impose reasonable user fees for use of the Common Areas and Common Use Areas.

### **9.02. Use Restrictions.**

**(a) Generating Equipment.** Noise generating equipment, i.e. HVAC units, pool pumps, etc., that is connected to or is a part of the structure shall be installed on side of structure and screened in such a manner so as to minimize the equipment's visibility from roads, waterways

and adjoining Property. A fence will also enclose such equipment, wall or shrubbery so as to minimize noise.

**(b) Animals and Pets.** No animals, reptiles, livestock, wildlife, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or which, in the sole discretion of the Association, endanger the health and safety of the Owners and their Visitors, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the Owner of any portion of the Property shall be removed upon the request of the Board. If the Owner fails to honor such request, the Board may remove the pet. No pets shall be kept, bred or maintained for any commercial purpose.

**(c) Antennas, Satellite Dishes.** No exterior antenna or aerial shall be erected without prior written approval of the Board except that a satellite dish television antenna one meter (39 inches) in diameter or less, a multipoint distribution system (MDS) television antenna one meter or less in diameter or diagonal measurement or a standard television antenna may be installed by an Owner on the Lot, subject to any rules that may be adopted from time to time by the Board as to the appearance and location of antennas, provided that no such rule may preclude reception of an acceptable quality signal; unreasonably increase the cost of installation, maintenance or use of the antenna; or unreasonably delay or prevent the installation, maintenance or use of the antenna.

**(d) Artificial Vegetation, Exterior Decorations, and Similar Items.** No artificial vegetation shall be permitted on the exterior of any portion of the Property.

**(e) Clotheslines, Garbage Cans, Tanks, Etc.** All rubbish, trash, and garbage shall be stored in appropriate containers with lids and regularly removed from the Property and shall not be allowed to accumulate thereon. All clotheslines, storage tanks, mechanical equipment, garbage can storage structures, and such other items must be concealed by appropriate planting or fencing, and shall be subject to approvals set forth in these Restrictions. Plant trimmings and garden trash must not be thrown into the canal or placed where it may be blown or otherwise find its way into the canal.

**(f) Business Use.** No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section.

**(g) Maintenance of Premises.** Owners shall maintain their residence and all other improvements including walls, fences, screen enclosures, docks, seawalls, etc. in a good and safe condition and the repair of any excessive damage or decay or evidence of excessive wear and tear on the exterior and painted surfaces of any building shall be repaired within a reasonable length of time. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Unit, and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Unit. All lawns, landscaping, sprinkler systems and any Property, structure, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition. All Owners must maintain their front yards to the edge of the roadway, including any unpaved right-of-way. Upon the failure to maintain the premises as aforesaid to the satisfaction of Association or Owner's failure to make such correction within ninety (90) days after Association gives written notice of same, Association may enter upon such premises and make such improvements or corrections as may be necessary, the costs of which shall be paid by the Association or Owner, as the case may be, or Association may bring an action at law or in equity. If any Owner fails to make payment within sixty (60) days after request to do so by Association, assessment for the payment requested shall be levied and enforced in accordance with the provision of Article V herein.

**(h) Nuisance.** No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition, nor shall any substance, thing, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Property. No noxious or illegal activity shall be carried on upon any portion of the Property. There shall not be maintained any animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, or of a nature as may diminish or destroy the enjoyment of the Property

**(i) Occupants Bound.** All provisions of the Restrictions and the Bylaws, rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, or visitors of any Unit. Every Owner shall cause all occupants of his/her Unit to comply with these Restrictions and the Bylaws, rules and regulation and the community wide standard adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupant, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Restrictions, Bylaws, rules and regulations and community wide standards adopted pursuant thereto.

**(j) Parking.** Vehicles shall be parked only in the garages or in the driveways serving the Lots. No overnight on-street parking or parking on lawns shall be permitted.

**(k) Playground, Play Equipment, Etc.** The Board shall permit swing sets and similar playground equipment to be erected on Lots. However, under no condition shall playground equipment be allowed in the front yard of a Unit.

**(l) Pools.** Swimming pools shall not be permitted in yard facing the street. No above-ground pools shall be erected, constructed or installed on any Lot except that above ground spas and Jacuzzi may be permitted as approved in accordance with Article VIII herein.

**(m) Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers, if owned and used exclusively by Owner, shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on any Lot except within enclosed garages. For purposes hereof, a vehicle shall be considered “stored” if it is put up on blocks, or covered with a tarpaulin and remains on blocks or so covered for three (3) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the driveway of a Unit during daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to the Unit. Any vehicle which is parked in the Common Areas in violation of this Section may be towed by the Board. No recreational vehicles, motor homes, house trailers, or any live-aboard vehicle shall be permitted to remain on a Lot holder’s Property longer than seventy-two (72) hours without written permission from the Board.

**(n) Tents, Trailers and Temporary Structures.** During construction within the Property, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon any Unit for longer than seventy-two (72) hours without written permission from the Board. Notwithstanding the foregoing, temporary structures deemed necessary for construction purposes, including but not limited to porta-potties and dumpsters, will be acceptable for a reasonable period of time without written permission from the Board.

**(o) Walls and Fences.** Except as otherwise permitted by the Board the following provisions shall apply to all new walls and fencing on the Property. All new walls and/or fencing must conform to the parameters as follows:

The Board of Directors must approve the location of all fences and walls prior to installation. Decorative entry walls, entry gates, courtyard walls, and privacy walls surrounding and abutting pool decks are considered structures appurtenant to the residence and may be allowed within the building set-back.

Any and all wall and fences must conform to the following:

- 1) No fence may be built within twenty-five (25) feet of the canal or roadway.
- 2) No fence or wall may be higher than eight (8) feet.
- 3) The Board must approve all fences or walls in writing, and the Board shall have the final authority to determine the type, height and location of all fences.

**(p) Garages; Driveways.** Each single-family residence must have a private fully enclosed garage for not less than two cars. Conversion of any garage to living area shall be prohibited unless a new garage is then added to replace it. Garages shall be attached and part of the main dwelling and in keeping with the architectural style of the residence. Carports are not permitted. Double garage doors should be a minimum of sixteen (16) feet in width and doors for individual stalls shall be a minimum of eight (8) feet in width. All garage doors must be in keeping with the architectural style and the materials used on the residence. These garage and carport requirements shall apply only to new construction. All new single family residences or new driveways must have a driveway constructed of brick pavers similar to those used to construct the road, or other materials approved by the Board.

**(q) Trees.** No live tree, the trunk of which exceeds eight (8) inches in diameter, shall be cut down or otherwise destroyed without the prior express written consent of the Board except for palm trees or a tree declared a nuisance species by any agency of the State of Florida.

**(r) Boarding Up Homes.** Houses may be temporarily boarded up only during the time of imminent threat of storm and in no event shall remain boarded up for periods beyond the threat of storm. Commercially installed hurricane shutters are permitted and approved for use.

**(s) General Public Access.** No garage sales, patio sales, estate sales or any other open-to-the-general-public sales are permitted and no other functions that allow access by the general public to Property within the Association (i.e. garden tours, Parade of Homes, etc.) are permitted except for case-by-case exceptions granted by the Board. Such permission will not be denied if adequate provisions are made for parking. In no event shall this restriction prohibit owners from entertaining their invited private guests.

**(t) Signs.** No signs of any type shall be placed on any Property except for the names of the owners and the Property address. Notwithstanding the foregoing, real estate "For Sale" signs are temporarily permitted provided they do not exceed a total of two (2) square feet and the color and design are approved by the Board. Also, in accordance with the Florida Statutes, any Owner may display a sign of reasonable size provided by a contractor for security services within ten (10) feet of any entrance to the home.

The Association, after notification to the owner, may remove any unauthorized signs and entry to a Lot for this purpose shall not be deemed a trespass.

**(u) Intrusion of Waterways (Docks).** No Property Owner shall cause any obstruction of the navigable canal within the Association and shall be responsible for trimming trees which interfere with reasonable navigation. Each Owner shall properly maintain their seawall to prevent soil, vegetation, rocks or any other material from eroding or encroaching into the Association channel or canal.

No dock or part thereof shall extend more than six (6) feet beyond the seawall. All docks must be constructed of treated wooden pilings or concrete pilings. The Owner is responsible for keeping the dock in good condition.

**(v) Irrigation System.** The irrigation well, pumps, storage tanks and the distribution piping system are the property of the Association. Maintenance, repair, improvement and related costs shall be charged by the Association from general funds. Electric costs will be paid by the Association.

**(w) Sound and Noise.** Any activity which generates a level of noise audible to occupants of other Lots while inside their dwellings (including without limitation lawn maintenance, recreational activities, games, parties, music and other activities conducted outdoors or on porches or decks) shall be prohibited between the hours of eleven (11:00) p.m. and eight (8:00) a.m.

**(x) Contractors and Vendors.** Any contractor or vendor performing work in the Subdivision is limited to the hours between eight thirty (8:30) a.m. and six (6:00) p.m. Monday through Friday. Notwithstanding the foregoing, landscaping services, including mowing, may also be performed between nine (9:00) a.m. and four (4:00) p.m. on Saturdays.

**9.03. Leasing of Units.** Units may be rented to a Single Family or individual. "Single Family" means a single housekeeping unit composed of not more than four (4) adult natural persons and may include any child or children of one (1) or more of them. Each child shall be related by blood, marriage, adoption, legal custody or legal designation to at least one (1) of the adult natural persons residing in the unit.

Each tenant shall abide by the Bylaws and Restrictions. Owners shall remain responsible for compliance with these Restrictions and the Bylaws notwithstanding the rental of Property. No lease shall be for a period of less than one (1) month other than leases existing on the date this amendment is recorded in the County records or a lease for any Lot acquired by the Association by foreclosure or by a deed in lieu of such foreclosure. No Lot or Unit shall be rented more than one (1) time per calendar year.

No Lot or Unit shall be rented for a period of twenty-four (24) months after transfer of the Lot by sale, gift, or other conveyance unless an already existing lease is in force at the time of transfer, in which case the lease will be honored until its expiration and the twenty-four (24) months will then begin tolling. A Lot acquired by the Association by foreclosure of a lien for delinquent assessments or by a deed in lieu of such foreclosure is excluded from this restriction. Notwithstanding the foregoing, a Lot or Unit may be leased immediately when acquired through inheritance.

**9.04. Lot Restrictions.** All Lots in the Subdivision bound by these Restrictions shall abide by the following:

- (a) No subdividing. No existing Lots in the subdivision may be divided.

(b) Main Structures. All dwellings shall have a minimum interior living area, exclusive of exterior walls, partitions, porches, breezeways and garages of twenty-five hundred (2500) square feet under air.

All improvements considered main structures shall conform to the following setback requirements.

Front: (Measured from the road right-of-way to the nearest point of the overhang of the building, porch or garage). Twenty-five (25) feet.

Rear: (Canal side) (Measured from the nearest point of the overhang of the building, porch or garage to the inside edge of the seawall cap). Twenty-five (25) feet.

Pools: No pools are permitted on the road side of any Property. Pools on the Canal side of Properties are to be setback in accordance with Sarasota County Building Codes.

Side: (Measured from the nearest point of Property to the nearest point of the dwelling exclusive of overhangs). Eleven (11) feet.

Height: (Measured from the nearest natural grade to the highest point of the structure).

Thirty-five (35) feet above flood level as determined by the Federal Emergency Management Agency.

Roofs and overhangs may extend beyond the main building walls by as much as three (3) feet.

**9.05. Nonconforming Conditions.** All existing parcels that are not in conformity with the restrictions outlined herein and were done prior to the date of approval of these amended and restated Restrictions shall be grandfathered in to both the current Owner and to future Owners of the structure as it exists.

## **ARTICLE X. AMENDMENT**

Amendments to these Restrictions shall be proposed and adopted in the following manner:

**10.01. Proposal.** A proposal for any amendment to these Restrictions may be made by the Board. Notice of the subject matter of any proposed amendment shall be included in or with the notice of the meeting of the Members at which the amendment is to be proposed and considered.



**10.02. Approval Generally.** These Restrictions may be amended only by the affirmative vote of the Owners of not less than a majority of all Lots.

**10.03. Recording.** A copy of each amendment shall be recorded in the Public Records of Sarasota County, Florida, along with a Certificate of Amendment, and shall become effective on the date of recording.

## **ARTICLE XI. MISCELLANEOUS PROVISIONS**

**11.01. Enforcement.** The Association or any Lot Owner may enforce these covenants and restrictions by an action at law or in equity against any person violating or attempting to violate the covenants and restrictions. The party bringing the action may recover damages and/or injunctive relief and the successful party shall be entitled to recover costs and Attorney's fees.

**11.02. Notices to Owners.** Any notice required to be sent to any Owner under the provisions of this instrument shall be properly sent if mailed, postage prepaid, to the last known address of the person who appears as the Owner on the records of Association at the time of the mailing, and it shall be the responsibility of the Owner to notify the Association in writing of any change of address.

**11.03. Interpretation.** The provisions of this instrument, as amended and supplemented from time to time in accordance with this instrument, shall be deemed covenants running with the land. Titles, captions and paragraph headings have been used for convenience only, and shall not be used in interpreting this instrument.

**11.04. Conflict.** In the event of a conflict between the Governing Documents, the superiority of such documents shall be as follows: 1) these Restrictions, 2) the Articles of Incorporation, 3) the Bylaws of the Association, and 4) the Rules and Regulations.

**11.05. Invalidity.** The invalidation of one or more of the provisions of this instrument by a final order of a court of competent jurisdiction shall not affect or modify any other provisions, which shall remain in full force and effect. Failure by any party to enforce any of the provisions of this instrument shall not be deemed to be a waiver of the right to do so in the future.