

After recording return to:
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**AMENDED AND RESTATED DECLARATION
OF RESTRICTIONS, LIMITATIONS, CONDITIONS AND AGREEMENTS
FOR BIRD KEY SUBDIVISION**

(Updated)

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WITNESSETH:

WHEREAS, the subdivision known as Bird Key (the "Subdivision"), is platted as set forth in Plat Book 11, Pages 20-20F of the Public Records of Sarasota County, Florida, platted as to section corners as set forth in Plat Book 12, Pages 23-23a of the Public Records of Sarasota County, Florida, and replatted as to portions of blocks 7, 14, and 16 as set forth in Plat Book 13, Pages 4-4b of the Public Records of Sarasota County, Florida; and

WHEREAS, the Declaration of Restrictions, Limitations, Conditions, and Agreements encumbering the Subdivision, dated October 15, 1959, are recorded at Official Records Book 196, pages 679 through 690 of the Public Records of Sarasota County, Florida (the "Declaration"); and

WHEREAS, Arvida Realty Co. (the "Developer") was the original owner and developer of all Lots in the Subdivision and caused the Declaration to encumber the Subdivision and to be recorded as aforesaid; and

WHEREAS, on or about November 25, 1980, Arvida Corporation, the successor-in-interest to Arvida Realty Co., assigned to BIRD KEY IMPROVEMENT ASSOCIATION, INC. (the "Association"), all of its rights, powers, obligations and privileges under the Declaration, all according to the Agreement recorded in Official Records Book 1407, page 1235 of the Public Records of Sarasota County, Florida; and

WHEREAS, pursuant to Part III of Chapter 720 of the Florida Statutes (2007), the Declaration of Restrictions, Limitations, Conditions and Agreements for the Bird Key Subdivision, originally recorded on October 15, 1959, were revived and recorded (the "Revived Declaration"), together with the Restated Articles of Incorporation and Amended and Restated Bylaws, on June 12, 2008 at Instrument #2008080980, 80 pages, in the Public Records of Sarasota County, Florida; and

WHEREAS, pursuant to Article 19 of the Revived Declaration, at least two-thirds of the Lot owners of the Bird Key Subdivision approved this Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements, which two-thirds approval has been certified by the President and the Secretary of the Association;

NOW THEREFORE, Bird Key Improvement Association, Inc., a Florida corporation not-for-profit, organized and existing under the laws of the State of Florida, does hereby adopt, for itself and its successors and assigns, this Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements, which supersedes and replaces the Revived Declaration, and binds

each and every person who shall be or who shall become an owner of any of said Lots in the Subdivision, and each shall be and are hereby bound, in addition to the ordinances of the City of Sarasota, Florida, by the covenants set forth in these presents and that the real property described in these restrictions shall be held and enjoyed subject to and with the benefit and advantage of the following restrictions, limitations, conditions and agreements, to-wit:

ARTICLE I - DEFINITIONS

(This section is new and provides better clarity to the Declaration. Note B below.)

A. The following words, when used in this Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements, shall have the following meanings:

1. "Act" shall mean the Homeowners Association Act of the Florida Statutes (currently at Chapter 720).
2. "Articles" shall mean the Association's Articles of Incorporation, as amended from time to time.
3. "Assessment" shall mean any sum or sums of money payable to the Association as authorized in the Governing Documents, which if not paid by the Owner of a Lot can result in a lien against the Lot.
4. "Association" shall mean the Bird Key Improvement Association, Inc., a Florida corporation not-for-profit.
5. "Board" shall mean the Board of Directors of the Association.
6. "Bylaws" shall mean the Association's Bylaws, as amended from time to time.
7. "Common Areas" shall mean all real property located in the Subdivision which has been heretofore or which may hereafter be specifically set aside by the Developer or Association or otherwise deeded to the Association for common use and enjoyment of all Lot owners in the Subdivision as Members of the Association.
8. "Developer" shall mean Arvida Corporation.
9. "Declaration" shall mean this recorded Amended and Restated Declaration of Restrictions, Limitations, Conditions and Agreements and any recorded exhibits thereto.
10. "Governing Documents" shall mean the Declaration, as well as the Articles and Bylaws, and any duly adopted amendments, supplements or restatements thereto.
11. "Lot" shall mean the real property designated by any numbered Lots as reflected on the plats of the Bird Key Subdivision, as set forth in Article II, including all improvements thereon including, without limitation, residences, structures, fences, and mailboxes, together with vegetation, trees, and landscaping. As the context may require, "Lot" shall also mean any Lot together with any portion of a contiguous Lot or Lots that is capable of separate conveyance, the ownership of which obligates the Owner to become a Member of the Association and to pay to the Association Assessments that, if not paid, may result in a lien.
12. "Member" shall mean any Lot Owner in the Subdivision, who, by virtue of the ownership of one or more Lots in the Subdivision is a member of the Association.

13. "Owner" shall mean the record owner, whether one or more persons, corporations, trusts, or other legal entities, of the fee simple title to any Lot.

14. "Resident" shall mean any person who lawfully resides in the Subdivision, such as a Member, a Member's family, a Member's attendant domestic servants, a Member's approved tenant or tenants, and any other approved occupant.

15. "Single Family Residence" means occupancy by a Single Family, which shall mean a single housekeeping unit composed of a: (1) one person; (2) two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, legal adopting or acting as guardian, legal custodian, or legal designee of a parent for a minor child residing within the Lot; or (3) two or more natural persons meeting the requirements of (2) above, except that there is among them one person who is not related to some or all of the others, it being the intention of this provision to prohibit occupancy of a Lot by three (3) or more unrelated adults while clarifying that nothing herein shall be applied or construed to permit discrimination based on familial status, handicap, or other protected classification under Fair Housing laws.

16. The "Subdivision" shall mean all of the real property commonly known and referred to as the Bird Key Subdivision, platted as set forth in Article II.

B. Additional specific terms may be defined throughout this Declaration where contextually appropriate. Where a term is not defined herein or hereinabove, the Board is charged with defining the term. The Board may, but is not required to, refer to the Act or to a dictionary when determining the meaning or definition of any terms used in this Declaration. The Board's definition of such term shall be binding unless wholly unreasonable and arbitrary. An opinion of the Association's attorney that the Board's definition is not wholly unreasonable and arbitrary shall be dispositive and binding on all parties.

ARTICLE II – PROPERTY SUBJECT TO DECLARATION

(This has been added to clarify the real property subject to the Declaration. There are 4 properties that are excluded and they are shown in Exhibit B)

The real property which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Sarasota County, Florida and is legally described as set forth in the Subdivision Plat attached hereto as Exhibit "A" and made a part hereof. The Subdivision (including each Lot) shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained in this Declaration, which shall run with the land and be binding on all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors or assigns and shall inure to the benefit of each Owner thereof, with the exception of the Lots described in Exhibit "B".

ARTICLE III – ASSOCIATION

(Lists the purposes and powers of the Association as derived from the Articles of Incorporation. Number 5 clearly states that the presale inspections are for the purpose of bringing transferring property into compliance. It is implied in our current document)

A. *The purposes of the Association are to ensure to all of its Members a continuing and concerted program for the maintenance and management of the Subdivision, to enforce this Declaration to such extent as may be determined by the Board at its discretion from time to time, and to perform such other duties as may be assigned to it by the Association's Governing Documents.*

B. *The Association shall own, improve, maintain and manage the Common Areas of the Subdivision in accordance with the Governing Documents along with any applicable ordinances of the City of Sarasota.*

C. *Unless the approval or action of the Owners and/or a certain percentage of the Board is specifically required in this Declaration, the Articles, or the Bylaws, applicable rules or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the*

Board, without the consent of the Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution.

D. The Association has the following general authority and powers, the exercise of which is detailed below:

1. To purchase, hold, mortgage, lease, sell, transfer, convey or otherwise acquire and dispose of property, both real and personal, and to enter into contracts;

2. To maintain, repair and replace the Common Areas of the Subdivision and all improvements thereon, including landscaping;

3. To levy assessments for maintenance purposes and other lawful purposes and to enforce collection against any delinquent Member for failure to pay any such assessment thereof by the imposition of fines and penalties, the suspension of voting rights or use of Common Areas, and/or by placing liens against the delinquent Member's property in the Subdivision and the foreclosure of such liens as provided by law.

4. To enforce this Declaration and the covenants, conditions, restrictions and limitations contained herein and to exercise all legal rights and remedies, at law or in equity, against any Member for non-compliance with the Association's Governing Documents; which rights and remedies are cumulative and may include the imposition of fines and penalties, the suspension of voting rights or use of Common Areas, the remediation of the non-compliant conditions on any Lot by the Association or its agents at cost to the non-compliant Member; the filing of liens against the non-compliant Member's property in the Subdivision and foreclosure of that lien as provided by law.

5. To inspect, prior to any sale, conveyance or transfer, any Lot for compliance with the restrictions contained herein and the Association's Governing Documents and to require that any deficiencies or non-compliant improvements or conditions must be cured by the transferor or the transferee of any Lot, as may be required by the Board.

(Our current documents imply compliance to the pre-sale inspection. This clarifies the purpose of the pre-sale inspection.)

6. To adopt other or further bylaws, rules, regulations, policies, guidelines or standards consistent with this Declaration.

7. To enter onto any Lot for the purpose of ascertaining compliance with the Association's Governing Documents and any rules and regulations promulgated by the Board.

8. Subject to the laws of the State of Florida and this Declaration, to do any and all acts necessary to advance the civic welfare of the community, to preserve and enhance the high standard of beauty in the Subdivision, and to promote the general health, welfare and safety of the residents of the Subdivision.

(Allows for the various projects we get involved with such as the shredding event each year, the beautification programs – street signs, tree program, etc- and involving the city for some of the projects and grants.)

A. In order to establish, protect and preserve the quality and integrity of the Subdivision as a planned unit development, transferees of any Lot in this Subdivision shall be required, prior to acquiring any Lot in the Subdivision, to become Members of the Association and maintain membership in good standing.

(Requires new owners to join the Association before land transfer.)

B. The purpose of this and such other conditions being to ensure to all Members of the Association that their properties in the Subdivision shall at all times be occupied by a colony of congenial persons and, further, for the purpose of benefiting lands owned by the Members and developed under the same general plan with the original grantees of Lots in the Subdivision.

C. Any conveyance, sale, or transfer of title (whether legal or equitable) or any will or judicial proceedings in violation of this Declaration shall be void and of no effect.

No Lot or any part thereof or any portion of the property shown on the plat of the Subdivision shall be leased, used or occupied by anyone other than a Member, their family, approved tenants, other approved occupants, and any bona fide attendant domestic servants domiciled with a Member, their family, approved tenants or other approved occupants. No property caretakers shall reside upon any Lot in the absence of a Member, their family, approved tenants or other approved occupants also residing upon the Lot, without prior written approval of the Board.

(We have renters acting as property caretakers without owners living at the property. This has not been allowed since 1959. With this clarified it will be necessary for all non owner residents to have notified the Board.)

D. All Members are responsible for the compliance of this Declaration and the Association's other Governing Documents by their family, approved tenants and other occupants, domestic servants, and any other guests or invitees. Only a full residence may be leased upon terms and conditions set forth in the Bylaws. Boarders and/or partial leases are not permitted.

E. Voting shall be in accordance with the Amended Articles and the Bylaws.

ARTICLE V – ASSOCIATION'S OPTION TO PURCHASE

(From Article 1 and 11 of the Revived Declaration.)

A. In the event proceedings are instituted to foreclose any mortgage on any Lot in the Subdivision, the Association shall have the right to redeem the Lot from the mortgagee for the amount due thereon or to purchase said Lot at the foreclosure sale for the amount set forth to be due by the mortgagee in the foreclosure proceedings; and should the mortgagor fail to redeem from such mortgage and, in case of such redemption by the Association, the Association shall take and have absolute fee simple title to the property redeemed, free from any claim or right of any Owner or the mortgagor, and every person or concern claiming by, through or under him, her or it.

B. Nothing herein contained in this Declaration shall preclude a mortgage institution, banker, a savings and loan association or an insurance company, or any other recognized lending institution or private lender from owning a mortgage on any Lot situate in the Subdivision, and such mortgage institution, banker, savings and loan association, insurance company or other recognized lending institution or private lender shall have an unrestricted, absolute right to take title to the Lot in settlement and satisfaction of said mortgage or to foreclose the mortgage in accordance with the terms thereof, and the laws of the State of Florida, and to bid upon said Lot at the foreclosure sale, provided said mortgage institution, banker, savings and loan association, insurance company or other recognized lending institution or private lender owning said mortgage shall give to the Association written notice by certified mail of said default at least thirty (30) days prior to the institution of foreclosure proceedings,

and should the said Association or any Member thereof, individually or collectively, fail to purchase said mortgage together with any costs incident thereto from such mortgagee or shall fail to redeem said mortgage, then and in that event, the mortgagee taking title on said foreclosure sale or taking title in lieu of foreclosure sale, may acquire said Lot and occupy the same and sell and resell the same. However, any such mortgagee must comply with these restrictions and shall become a Member of the Association, and shall be liable for all Assessments against the Lot to which the mortgagee takes title. Notwithstanding the foregoing, all Lots in the Subdivision shall remain subject to this Declaration and the Association's Governing Documents.

C. No Member shall convey, sell, or transfer title (whether legal or equitable) to any Lot in the Subdivision to any person or entity without giving fifteen (15) days prior written notice of such intended conveyance to the Association and the Association shall have fifteen (15) days within which to exercise its option to purchase said Lot. If the Association shall fail or refuse, within the said fifteen (15) days after receipt of written notice, to exercise its option to purchase such Lot at the price and on the terms at which it is about to be sold, then the Owner of said Lot shall have the right to sell the Lot subject to each and every restriction, limitation, condition and agreement herein contained. Each Owner shall notify the Association of the name of his or her prospective transferee, and the transferee's mailing address. This restriction shall not apply to conveyances made for no or nominal consideration, such as transfers of title between co-Owners and trustees, by inheritance and by actual gifts to family members.

ARTICLE VI – RESTRICTIONS

(This is a combination of parts from the Revived Declaration and the Revived Bylaws. It has been reworded but has the same meaning.)

A. SINGLE FAMILY RESIDENCES EXCLUSIVELY.

1. No building shall be allowed or erected on any Lot in the Subdivision except one (1) Single Family Residence, all for the use and occupancy of Single Family and attendant domestic servants only, provided that no such building shall exceed thirty-seven (37) feet in height.

2. All garages, porte cocheres, storage areas, tool cabins or sheds, garden houses, gazebos, pergolas, pool cages, et cetera, must be attached to and made an integral part of the residence and be constructed so as to constitute one building only.

3. ~~Said dwelling house~~ The residence shall occupy a floor area of actually and fully enclosed building, exclusive of attached garage or porte cochere, of not less than 1,650 square feet for waterfront homes and not less than 1,500 square feet for non-waterfront homes. *No dwelling house shall occupy more than two (2) Lots in the Subdivision.*

4. *No boat moored or docked adjacent to Lot shall be used as a residence for more than seven days within a six-month period of time beginning with the use as a residence, whether by a Member, captain, crew or domestic servant.*

B. SETBACK LINE.

1. No building or structure or part thereof, including, without limitation, the roof eaves, shall be constructed so that any part thereof shall be closer (measurements to be taken perpendicular to Lot lines or to the tangents of curved Lot lines) than:

a. Thirty (30) feet from the front Lot line.

- b. Ten (10) feet from any side Lot line, except a Lot line covered by a residence occupying two Lots.
 - c. Fifteen (15) feet from the rear Lot line of any non-riparian Lot.
 - d. In the case of corner Lots, thirty (30) feet from the Lot line parallel to the street it faces and twenty (20) feet from the Lot line parallel to the side street.
 - e. Thirty (30) feet from any waterway Lot line.
2. No dock, mooring post, vessel, davit or boat lift shall be located within fifteen (15) feet of any side Lot line.
3. No dock, mooring post, or vessel shall extend into a canal more than twenty-five (25) feet or twenty-five (25%) percent of the width of the canal, whichever is less, nor more than fifty (50) feet into the open bay.

(Increased to 25 feet to conform to City of Sarasota Standards)

4. Pool cages on interior (garden) Lots may be constructed to within five (5) feet of the rear Lot line.

5. No mechanical equipment (air conditioners, pool pumps, et cetera) may be placed in the setback areas. Sound barriers that meet the city code must be placed around all exterior mechanical equipment (pool filters, air conditioners, heat pumps, et cetera).

6. No structure, wall, fence, hedge or line of contiguous shrubs, bushes or other vegetation exceeding four (4) feet above finished grade level within twenty-five (25) feet of the street or waterway Lot line shall be constructed, erected, placed, planted, set out, maintained or permitted upon any Lot.

7. No wall or fence shall exceed six (6) feet in height above the lowest finished grade level immediately adjacent to the wall or fence on any other part of a Lot, except for Board approved sound barriers around exterior mechanical equipment. Pilasters, ornamental decorations and lights shall not exceed eighteen (18) inches in height above the fence or wall. In no event shall any hedge or line of continuous shrubs, bushes or other vegetation exceed twelve (12) feet above finished grade level.

(For clarity: where to measure from.)

8. Terraces, walls, fences, low platforms or steps, swimming pools and similar low, unroofed and unscreened construction may be erected outside the setback lines, provided that such construction shall not interfere with the exposure or view or reasonable privacy of adjoining or facing Lots, in the sole discretion of the Board, and shall be determined by the Board to be in compliance with the prevailing city zoning regulations and the Association's Governing Documents.

(Allows for BKIA input as well as the City of Sarasota.)

C. HEIGHT RESTRICTIONS.

1. No building shall exceed thirty-seven (37) feet in height to the highest ridge line measured from the elevation of the street center line, excluding decorative features such as chimneys, cupolas, et cetera, which may not exceed six (6) feet in height.

2. No boat lift shall be designed to lift boats to a height at which the superstructure of the boat will be deemed, in the sole discretion of the Board, to interfere unreasonably with the view of other waterway residents.

3. No trees or other vegetation may overhang streets *or canals* at a height of less than twelve (12) feet, measured from the curb or *top of the seawall, respectively.*

(Due to the age of the development, we now have trees that are hanging into the canal which blocks the view of others on the canal and may pose a hazard to boats and paddle craft.)

D. MISCELLANEOUS PROPERTY RESTRICTIONS.

1. No asphalt shingle, flat sheet metal or wooden shingle roofs shall be installed on any building in the Subdivision, whether on new or renovation construction, or for mere roof replacement.

2. No asphalt is allowed on new or resurfaced driveways.

3. Chain link fences, or other similar fence material, are not permitted on any portion of any Lot.

4. Any Lot that has bare areas in the lawn such that soil or sand are exposed must be hydro-seeded *or landscaped to avoid the scattering of such soil or sand and avoid the appearance of bare earth spots. Without limiting the generality of the foregoing,* this includes any Lot that has remained inactive or vacant for sixty (60) days.

(Currently only hydro seeding is permitted. This clarifies that Landscaping is also allowed.)

5. Lawn and plant areas may not be changed to hardscape (stone, shell, mulch or equivalent). Stone, shell, mulch or other similar materials shall not be permitted as a complete substitute for a grass lawn but may be used for pathways and as plant bed accents. Artificial grass, plants or other vegetation may not be placed or maintained on any Lot without written approval of the Board.

Lawns may be replaced with Florida-Friendly Landscaping or Xeriscape. "Florida-Friendly Landscaping" or "Xeriscape" means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant.

(A definition of Xeriscape is needed.)

6. Floodlights and spotlights are not allowed to disturb neighboring properties.

7. *Mailboxes and support posts shall be constructed of materials similar to or complementary of that of the Owner's residence and must meet U.S. Postal Service standards. Mailboxes and support posts must also be intact, in good repair, and in a reasonably clean condition.*

(Some of the mailboxes are in fall down condition and need replacing.)

8. No lines or wires for communication or the transmission of current shall be constructed, placed or permitted to be placed upon any Lot unless the same shall be contained in conduits, and as to any part or parts of said wires or lines which shall be outside the residence, the same shall be constructed or placed and maintained underground. Lightening rods are acceptable.

9. *Aerials and antennas, for personal use only, are permitted only as follows:*

(This entire section is new and allows Bird Key to conform with a Federal Court decision and current standards.)

(a) Permitted Antennas include: (1) direct broadcast satellite dishes that are less than one meter in diameter; (2) multi-channel, multi-point distribution service devises that are less than

one meter in diameter or diagonal measurement; or (3) antennas used to receive television broadcast signals; and (4) a mast supporting the permitted antenna.

(b) Location of Permitted Antennas. To the extent feasible, all permitted antennas must be placed in locations that are not visible from any street and in locations to minimize annoyance or inconvenience to other occupants if this placement would still permit reception of an acceptable quality signal. It shall be the obligation of the Owner to comply with all applicable local, state and federal safety requirements.

It is the intent of this restriction to comply with the Telecommunications Act of 1996. Nothing herein shall be interpreted or applied by the Association to prevent or unreasonably delay antenna installation, maintenance or use; unreasonably increase the cost of antenna installation, maintenance or use; or preclude reception of acceptable quality signals. Installation must be in accordance with these provisions and rules and regulations adopted by the Board to interpret and clarify these regulations.

(c) Safety Requirements. To safeguard the safety of the Lot Owners, occupants of the Lot in which the antenna is located, neighboring occupants, and other Owners, it shall be the obligation of the Owner to comply with all applicable local, state and federal safety requirements, including but not limited to obtaining a permit for the installation of the antenna, if any, hiring licensed contractors with sufficient expertise and adequate insurance to protect their work, installing the antennas away from power lines and other potentially dangerous areas, installing and using the antenna in accordance with safety recommendations and requirements of the antenna manufacturer, and in accordance with the customs and standards for the antenna industry, including compliance with electrical code requirements to properly ground the antenna, and installation requirements to properly secure the antenna.

10. No clotheslines which may be visible either from the street or from the rear of any Lot, and, in particular, where said Lots abut waterways are allowed. Such clotheslines must be enclosed in a hedge or other protective enclosure, the nature and form of said clotheslines and protective enclosures shall be approved by the Association as a part of the plans for the improvements to be located on any Lot.

11. No tennis court shall be installed on any Lot in the Subdivision.

12. No structure or equipment shall be installed or maintained on any Lot on which a residential building has not been erected.

13. Irrigation is to remain on during property sales to assure proper watering of the landscaping for the Lot that is for sale.

(To avoid having to replace landscaping and have poor appearance when the time frame for selling a house/lot becomes lengthy.)

14. No observation towers will be permitted on any Lot in the Subdivision.
(Self explanatory)

15. No boathouse shall be installed on, or appurtenant to, any Lot in the Subdivision.

E. NUISANCES.

Nothing shall be done on any Lot which may be or become an annoyance or nuisance to the neighborhood Subdivision. Nuisances shall include the specific enumerations set forth below and anything deemed a nuisance under common law.

(Allows for common law nuisances under the City of Sarasota to be included.)

1. No horses, cattle, swine, goats, poultry or fowl shall be kept on any Lot.
2. Construction debris may not accumulate on any Lot for a period in excess of 24 hours unless it is thoroughly concealed from the adjacent roadway and waterway in containers approved in writing by the Board.
3. Trash or waste must be placed in City-provided containers or otherwise bundled appropriately and may not remain in front yards except for the 24 hours during which a collection or pick-up is scheduled.
4. Garage doors must remain closed except when opened for ingress and egress and for aiding in maintenance of the premises.
5. All Lots and any improvements and structures thereon or any part thereof, including lawns, trees and landscaping generally, all buildings and structures, mailboxes, pools, boats, vehicles, seawalls, and docks must be maintained in good and safe condition consistent with the current high standards of beauty, design, and value of the Subdivision as detailed in the Association's Governing Documents and other guidelines the Board may publish, and the repair of any damage, decay or evidence of wear and tear on the exterior of any building or structure shall be made promptly.

a. Roofs and exterior surfaces must be maintained and kept free of algae, mold, mildew, and other unsightly growths.

(Clarifies that the entire building must be clean. Conforms with the city code.)

b. Lots, including the parkways located between Lot lines and streets upon which said Lots face, must be kept free of weeds, dead vegetation, underbrush, refuse piles (except as provided herein), or other unsightly growth or objects.

c. All Owners shall maintain their hedges, plants, lawns, trees and shrubs in a neat, trim, and hydrated condition at all times, including when the Lot is vacant, under construction, for sale, or under a tenancy.

(Requires all lots, not just those with houses, to be neatly kept by the owner.)

d. Grass and lawns must be maintained in a healthy condition (cut, fertilized and watered) and must not exceed five (5) inches in height.

e. No vegetation, including without limitation, hedges, plants, trees and shrubs, shall create a condition that the Board deems a traffic hazard.

f. All pools must be maintained so as to prevent insect, algae, mold, mildew, and other growth from occurring.

g. No structure or improvement on any Lot may remain in an uncompleted or unsightly condition.

6. No property shall be brought into the Subdivision for the purpose of being sold, nor shall any property be displayed outdoors, in any estate or garage sale. Estate or garage sales shall be held in the Subdivision only between 10:00 a.m. and 4:00 p.m., and shall not be conducted more than three times a calendar year or for more than two consecutive days, per Lot.

(Restricts the number of sales per year.)

A written permit from the Board is required for all garage/estate sales to ensure proper traffic control and/or assistance. The permit application must be received by the Association office no later than seven (7) days prior to the sale.

7. Professional construction and professional landscape work is allowed only Monday through Friday from 8:00 a.m. to 6:00 p.m.; and on Saturday from 9:00 a.m. to 5:00 p.m. No professional construction or professional landscape work is allowed on Sundays and national holidays.

8. *Signage.* No signs of any character or kind may be displayed to the public view on any Lot, on or in any vehicle, or on any building, including without limitation "For Rent" or "For Sale" signs, except for the following:

a. One security sign of reasonable size provided by a contractor for security services may be displayed at the front and rear of a Lot within ten (10) feet of the entrance to the residence.

(This has been allowed for years but is now stated.)

b. "Open House" signs, without other printing thereon, displayed from 1:00 p.m. to 4:00 p.m. on Sundays, in front of the residence that is open for inspection by the public, and signs containing a direction arrow, located at one adjacent corner. *Such signs shall not exceed 18 X 24 inches.*

(Restricts the size to the normal size currently used.)

c. Individual, ornamental house name or number plates.

(This has been allowed for years but is now stated.)

d. Contractor information contained on a standard size permit box.

(This has been allowed for years but is now stated.)

Prior to the erection of any of the foregoing signage, such signages must be approved by the Board as to size, design, location and content. *Nothing in this section shall be construed to prohibit any Owner from displaying, in a respectful manner, an official United States flag and/or official flags of the U.S. forces, including POW-MIA flags, as provided by law under the Act.*

(Clearly states that flags are allowed but may need approval.)

9. No overnight parking of commercial and recreational vehicles, boats and trailers, in any driveway or yard, is permitted except for unoccupied motor homes, which may be so parked for a period of no more than two weeks in any six month period beginning on the first date of parking. "Commercial Vehicles" shall include all vehicles overtly bearing any reference to a commercial enterprise, or recognized as such by the Florida Department of Motor Vehicles.

10. No boats may be moored or docked in waters adjacent to or in the Subdivision so as to interfere with navigation or marine traffic. No motor vehicle that is unlicensed, inoperable, or derelict in appearance as determined by the Board may park or be located on any Lot in the Subdivision for more than 72 hours.

11. No business, profession, manufacturing, commerce or other occupation may be conducted in the Subdivision except that Owners and tenants may conduct limited professional or business activities incidental to the primary use of the Lot as a residence, if confined solely within the dwelling on their Lot, but only if the activity is in compliance with home occupation ordinances and regulations in the City of Sarasota, and the activity cannot be seen, heard or smelled by other residents of the Subdivision, and provided further that no activity shall be permitted that results in an increase in

pedestrian or vehicular traffic in the Subdivision, nor shall any activities be permitted that would constitute a dangerous activity.

12. Conducting any maintenance or repair (except routine minor maintenance) on any motor vehicle, boat or trailer is not permitted except when done in a closed garage.

ARTICLE VII – ARCHITECTURAL AND IMPROVEMENT CONTROL

(This was a significant rewrite combining the Revived Declaration, Article 2, Bylaws, Articles V(D) and (F) and VII, and sec. 720.3035(Florida Statutes) and then adding provisions. This section is to specifically comply with Florida statute sec. 720 which set forth rights of the association and members rights with respect to architectural use of the parcel of land and improvements thereon. It also provides for damages, costs and attorney's fees for an association's unreasonable, knowing and willful infringement or impairment of an owner's rights and privileges.)

A. *For the purposes of further ensuring development of the lands in the Subdivision as a residential area of high standards, the Association reserves the right to approve or disapprove any improvements or structures or exterior appearance of any kind, including, without limitation, any building, fence, wall, swimming pool, screened enclosure, dock, floating dock, davits, moorings or mooring post, boat slip, pier, seawall, grading, flood elevation and drainage system, drain, mailbox, solar energy device, aerial, antenna, hurricane shutters (including fabric coverings or similar material), decorative building, garages, porte cocheres, storage areas, tool cabins or sheds, garden houses, pool houses, gazebos, pergolas, landscaping plan, landscape device or object or other improvements or change or modification thereto, and to approve or disapprove any exterior addition, changes, modifications or alterations therein or thereon.*

(Includes the newer materials available)

B. *Additions, modifications or alterations include, but are not limited to, painting, re-roofing, roof repair, new landscape material, remodeling existing landscape material, changing windows and/or doors, new or additional air conditioning equipment, and new pool equipment. Alteration of the landscaping includes without limitation, modifications to the ground cover, rocks, shrubs and trees over 4 inches in diameter measured 4 feet from the ground.*

All of the foregoing additions, changes, modifications or alterations shall be hereinafter referred to as "Design Improvements". A plan for demolition of a residence or part thereof and/or for new construction of a residence shall hereinafter be referred to as "New Construction".

C. *The Board may designate a committee to review and approve or disapprove of any New Construction or Design Improvement, and may designate a separate committee to review and approve or disapprove of those Design Improvements specific to landscaping additions, modifications or alterations. The Board shall publish guidelines and standards consistent with the high standards of beauty, design, and value of other residential Lots in the Subdivision (the "Architectural Guidelines"), in a Handbook For Owners and Contractors, or such other or similar publication as may be determined by the Board from time to time.*

D. *Refusal of approval of plans and specifications by the Board may be based upon any ground, pursuant to the Architectural Guidelines, where the plans and specifications do not meet the current standards of the Subdivision. The powers and duties of a committee designated hereunder shall include the following:*

1. *To recommend, from time to time, to the Board modifications and/or amendments to the Architectural Guidelines, consistent with the provisions of this Declaration. Such modifications or amendments shall not be effective until adopted by a majority of the Members of the Board at a meeting duly called and noticed for such purpose and at which a quorum is present and voting, in the same manner as amendment of the Bylaws.*

2. *To require submission to the committee of two (2) complete sets of all plans and specifications for any New Construction or Design Improvement. The committee may require such additional information as may be necessary, in the committee's discretion, to completely evaluate the proposed New*

Construction or Design Improvement in accordance with this Declaration and the Architectural Guidelines, which additional information may include, without limitation, submission of samples of building materials proposed for use on any Lot and consultation with an architect or engineer.

3. To facilitate the preparation and ultimate approval of construction plans by allowing any Owner to submit preliminary drawings or other writings prior to the preparation and submission of the final working drawings and specifications for review and approval, disapproval or recommendation on the matters reflected thereon.

4. To approve or disapprove any New Construction or Design Improvement. Upon final approval of an Owner's plans either as originally submitted or as subsequently modified in accordance with the recommendations of the committee, one set of such plans shall be marked "approved" and returned to the Owner and one set shall be retained in the permanent files of the Association.

5. To adopt a schedule of reasonable fees for processing requests for committee approval of proposed New Construction or Design Improvements. Such fees, if any, shall be payable to the Association at the time that plans and specifications are submitted to the committee. Such fees may include legal, architectural, and other expert expenses or costs.

6. To require that all construction shall be completed within eighteen(18) months from the date the first permit is issued unless extended in writing by the Board. In order to ensure completion within this time limitation, the Board may require that a surety bond be posted by the Owner-builder.

(The length of time is currently "within a reasonable time". This clearly defines the time, allows for a bond if there are undue delays and a question as to the finish ability of a project. The time may be extended by the Board if needed.)

7. To issue Certificates of Occupancy, which shall be in addition to the Certificate of Occupancy issued by the City of Sarasota, for New Construction or Design Improvements requiring the same. No Certificate of Occupancy shall be approved by the Association until construction and improvements have been completed according to approved plans. No person may occupy a residence in the Subdivision until a Certificate of Occupancy is issued by the Association.

(This is a control measure to assure the house is not occupied until it is finished, including the landscaping, according to the plan submitted.)

E. Should the Association fail to either approve or disapprove the plans and specifications submitted to it by the Owner of a Lot within thirty (30) days after written request therefor, then such approval shall not be deemed to be required in such instance; provided, however, that in no event shall any building or other structure be erected or be allowed to remain on any Lot which violates any of the other covenants or restrictions herein contained.

F. All final decisions of the committee shall be submitted in writing to the Board, and evidence thereof may be made by a certificate, in recordable form, executed under seal by the president or any vice president of the Association. Any party aggrieved by a decision of the committee shall have the right to make a written request to the Board, within thirty (30) days of the mailing of notice of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall in all events be dispositive.

(Allows for an appeal to the Board, not just the Architectural Committee.)

G. *Compliance with other restrictions and criteria, such as municipal codes and ordinances, State of Florida Statutes, laws and rules, and U.S. Governmental regulations and requirements, is the responsibility of each Owner.*

H. *All new residential structures and exterior renovations must be designed, and plans therefore certified, by an architect registered in the State of Florida, and, if applicable, must meet appropriate City drainage codes with an approved drainage system plan sealed by an Engineer. Compliance with other restrictions and criteria, such as Municipal and County codes and Ordinances, State of Florida Statutes, laws and rules, and U.S. Governmental regulations and requirements, is the responsibility of each Owner and not the responsibility of the Board.*

I. *The Board assumes no liability for the designs contained in any plans submitted to the Board or their suitability for their intended use, whether approved or not.*

ARTICLE VIII – EASEMENTS

(From Article 6 of the Revised Declaration)

The Association reserves, for itself, its successors or assigns, a five (5) foot easement along the rear of each Lot for public utility purposes, and a similar reservation on or in the three (3) foot strip along the sidelines of each Lot. The Association reserves the right to assign any and all easements presently existing or hereinafter granted for the installation of utilities or other uses by it deemed to be necessary for the service of said lands, and any walls, fences, paving, planting or other improvements placed thereon by the Owner of any Lot on which the easement lies shall be removed, if required, by the Association or its assigns at the expense of the Owner of any Lot. Where there is located on one or more Lots, or portions thereof, a single residence under a single ownership, then the three (3) foot easement shall not be located along the sidelines of each Lot but along the sidelines of the combination of Lots or portions thereof.

ARTICLE IX – CANALS AND WATERWAYS

(From Article 8 of the Revised Declaration)

No vessel or boat shall be anchored offshore in any of the waterways adjacent to the Subdivision so that the same shall in anyway interfere with navigation. No boat canal shall be dug or excavated in any of the waterfront Lots without the same being approved by the Association and any other governmental agencies as required. No Lot shall be increased in size by filling in the water on which it abuts.

(More than the BKIA has to approve any water construction.)

ARTICLE X – RE-SUBDIVIDING

(From Article 9 of the Revised Declaration)

No Lot or contiguous group of Lots shall ever be re-subdivided or replatted in any manner which would bring about a greater number of Lots than that shown on the plat of the above-described Subdivision for the same area. A residential site may consist of one (1) or two (2) Lots; all of one Lot, one Lot and a part of a contiguous Lot or Lots; or any other combination of contiguous parts of Lots which shall form one plot of land suitable for use as a site for a Single family Residence, provided that it extends from the fronting street to an existing real property line or canal, but no site which changes the Lot as originally platted, shall have a front or rear dimension of less than is contained in the smallest adjoining Lot shown on the original plat of the Subdivision.

ARTICLE XI– MAINTENANCE AND OPERATION ASSESSMENTS, FEES

(A new article to clarify how the Association is to operate. New here but has been taken from various areas of our current Revised Declaration, Bylaws and Articles of Incorporation.)

A. In addition to the specific rights of assessment of Members of the Association as hereinabove set forth, the Association shall also have the right to assess the Owners of all Lots in the Subdivision such amounts as may be deemed appropriate by the Board for the management

and operation of the Association and for the general purposes and objectives of the Association as set forth herein and in the Articles and Bylaws of the Association.

(Restated from Article II of the Revised Articles of Incorporation.)

B. In the event a Lot is legally subdivided between two Owners with all necessary governmental approvals, then the assessment of such Lot shall be prorated on the basis either of square footage or waterfront or roadway lineal footage whichever is deemed most equitable by the Board.

C. The budget for the Association shall be approved by the Board as provided in the Bylaws, and shall provide sufficient funds for the management and operation of the Association, care of the Common Areas, and for the general purposes and objectives of the Association as set forth herein and in its Articles and Bylaws.

D. The Association shall also have the right to levy special assessments from time to time against all Lots in the Subdivision in the event the budget adopted for any fiscal year is insufficient to pay the costs and expenses of operations, maintenance and management; in the event of emergencies; or in the event the Association's reserves are insufficient to cover expenditures for capital improvements or replacements. Special assessments shall be levied as provided in the Bylaws.

E. Any assessment, whether regular or special, which is not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate permitted by law and may be subject to late fees, penalties, attorney's fees, and costs. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees, expenses, costs, and penalties, and finally to unpaid assessments. No payment by check is deemed received until the check has cleared.

F. Upon acquisition of title to any Lot (or to two contiguous Lots) in the Subdivision, the transferee, whether already a Member or not, shall pay to the Association a transfer fee in an amount to be determined by the Board from time to time. A Member of the Association shall pay to the Association an amount equal to the then current transfer fee each time the Member enters into an agreement to lease his or its Subdivision Lot.

G. The record Owner of legal title of each Lot, regardless of how title was acquired, is personally liable for all assessments or installments thereon coming due while the title holder remains the Owner. Multiple Owners are jointly and severally liable. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Area, by abandonment of the Lot for which the assessments are made, or by interruption in the availability of the Lot or the Common Areas for any reason whatsoever.

Whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

H. Within fifteen (15) days after request by a Lot Owner, Lot purchaser or mortgagee, the Association shall provide a certificate stating whether all assessments owed to the Association with respect to the Lot Owner and the Lot have been paid ("Estoppel

Certificate”). Any person other than the Owner who relies upon such Estoppel Certificate shall be protected thereby.

The Association may charge a reasonable fee for the preparation of the Estoppel Certificate, which fee must be stated in the Estoppel Certificate. If an Estoppel Certificate is requested sooner than 15 days, the Association may charge an expedited fee, as determined by the Board from time to time.

I. The Association has the right and obligation to take actions as herein provided and to enforce collection of such assessments. In the event a Member fails or refuses to comply with this Declaration, including the failure to pay his or its share of such Assessment on the date when due, the Association has the right to file and foreclose a lien against the Owner’s property and/or seek a personal money judgment against the Member(s).

The lien shall be filed in the Public Records of Sarasota County, Florida, shall attach only upon the recording of the lien in the Public Records and its priority shall relate back to the time of recording of the original Declaration in the public records, as provided by law. If such assessment lien is not timely paid by the Member, the Association shall have the right to foreclose the lien in the same manner as a mortgage or in such manner as may be permitted by law.

J. Additionally, the Association shall have the authority to pursue other collection remedies, including but not limited to the suspension of the use of portions of the Common Areas, the suspension of voting rights, recovery of assessments and other unpaid financial obligations from any tenant occupying a Lot owned by a delinquent Lot Owner, and the imposition of fines for non-payment as provided herein.

The Association shall have the right to charge for and include in its lien all legal fees, costs, interest and other expenses reasonably related to the foreclosure of the lien.

ARTICLE XII – VARIANCES

(From Article 13 of the Revived Declaration)

The Association hereby reserves the right to enter into agreements with the Owners of any Lot or Lots (without the consent of the Owners of other adjoining or adjacent Lots) to deviate from the conditions, restrictions, limitations and agreements set forth in this Declaration, and any such deviation which shall be manifested by agreement in writing, shall not constitute a waiver of any such condition, restriction, limitation or agreement as to the remaining Lots in the Subdivision, and the same shall remain fully enforceable as to all other Lots located in the Subdivision by the Association, and the Owners of other Lots except as against the Lot where such deviation is permitted. The granting of variances shall not constitute a bar or an

estoppel defense to any action for enforcement in the Subdivision, except as to the specific variance granted on a particular Lot.(Added for clarification.)

ARTICLE XIII – ENFORCEMENT REMEDIES

(These sections were largely derived from the Revived Declaration, Article 15, Bylaws, Article VIII and sec. 720.305 (Florida Statutes). Specifically addressed was remediation by the Association with expenses chargeable to the member, recurring violations, penalties for failure to pay any monetary obligation owed the Association, the Board’s discretion whether or not to enforce, and the Board’s discretion to enforce prospectively.)

A. GENERALLY.

1. *If the Board acts to enforce the provisions of its Governing Documents, the Board shall be entitled to recover all legal fees and reasonably related costs and expenses incurred in such enforcement action, whether or not a legal proceeding is commenced.*

2. *The Association may enforce the Governing Documents or the rules and regulations established by the Board consistent therewith against any Member for violations of the Governing Documents or rules and regulations attributable to that Member, the Member’s family, the Member’s tenants or any other of the Member’s occupants, licensees, or invitees.*

3. *The Board shall have the authority to adopt rules, regulations, and policies to fully implement its enforcement authority.*

B. REMEDIATION BY ASSOCIATION.

In the event that any Member shall fail or refuse to maintain such Member’s Lot and any improvements and structures thereon or any part thereof, in full compliance with the Governing Documents and the rules and regulations established by the Board, or shall otherwise violate the provisions of the Governing Documents or rules and regulations, the Association shall have the right to take remedial action to correct any such violation or non-compliance. Such right shall include the right of reasonable access to the premises and such entry by the Association and/or its duly authorized agents shall not be deemed to be a trespass. The expense of any such repairs, maintenance, or remediation (the “Remediation Expense”) shall be chargeable to and paid by the non-complaint Member to the Association, in accordance with the timeframes and procedures set forth in the Governing Documents and rules and regulations established by the Board.

C. FINES AND PENALTIES.

(The practice of fines and penalties has been provided for in the Revitalized Bylaws. The underlined is new wording but the italicized is restated with the same meaning as in the current Bylaws)

1. *In the event any Member shall violate the provisions of this Declaration or the Bylaws, the Board may impose a fine in a reasonable amount to be determined by the Board, but not less than \$50 per day, until the non-compliance is remedied.*

2. *In the event any Member shall violate any such provision in this Declaration or the Bylaws that can, by their nature, be violated only by a single act or action limited as to time, a fine in a reasonable amount to be determined by the Board, but not less than \$100 per violation, may be imposed upon the non-compliant Member. Such "Single-Act Violations" may include, without limitation, the conduct of an estate sale, or the commencement of renovation or construction before a permit is subsequently issued by the Board.*

3. *If a Member, who has been provided notice of a violation of this Declaration or the Bylaws, repeats, within twelve (12) months of such notice, a substantially same or similar violation, then in that event, the Board may impose a fine, in accordance with this section, upon a single notice of imposition of such fine.*

(A new section to reduce the time delay of compliance issues)

4. *In the event any Member fails to pay a monetary obligation due the Association under this Declaration, including, without limiting the generality of the foregoing, a transfer fee, an annual or special assessment, a fine for a Single-Act violation, or a Remediation Expense, within thirty (30) days after the payment due date, the Board may impose a penalty in a reasonable amount to be determined by the Board, but not less than \$10 per day, until the fee, fine, or assessment and penalty, together with interest, related costs and expenses, and attorney's fees, if any, are paid.*

5. *In addition and not in limitation of the foregoing, the Board may exercise its right to place a lien on the Lot of the non-compliant Member for the failure or refusal to pay any such assessments, Remediation Expenses, interest, fines, fees, penalties, and legal fees, related costs and expenses when due. If such lien is not paid, the Association shall have the right to foreclose the same in the same manner as a mortgage lien foreclosure or in such other manner as may be permitted by law. In addition to recovery of all payments due the Association, the Association shall be entitled to recover from the Owner of said Lot all expenses, including reasonable attorney fees and costs, incurred in connection with the preparation of such claim of lien and/or bringing of such foreclosure proceedings, and all such costs, expenses, and fees shall be secured by said lien in addition to any assessments, costs, expenses, fees, or penalties that accrue.*

6. No fine or penalty shall exceed \$20,000.00 in the aggregate, per violation.
(The current \$5000 limit is no longer enough to act as a deterrent for violations)

7. The Board, in its sole discretion, may modify, reduce, or waive any fine, fee, and/or penalty imposed hereunder.

(To cope with extenuating circumstances)

D. SUSPENSION OF RIGHTS.

1. If a Member is delinquent in paying any monetary obligation due to the Association or a Member, a Member's licensee, occupant or invitee is in non-compliance with any provision of the Governing Documents, the Board may suspend the rights of the Member or the Member's tenant, guest, or invitee, to use the Common Areas and facilities until the monetary obligation is paid in full or compliance is achieved.

2. In addition to the above, if a Member is delinquent in paying a monetary obligation due to the Association, the Board may suspend the voting rights of a Member. The suspension ends upon full payment of all obligations currently due or overdue to the Association.

E. ENFORCEMENT REMEDIES NOT EXCLUSIVE.

1. In the event of the failure of any Member to comply with the provisions of the Governing Documents or the rules and regulations promulgated by the Board, including without limitation, the failure to pay monetary obligation due the Association, the Board has the right, in addition to all other remedies, to proceed at law or equity to compel compliance by the Member and/or to prevent actual or anticipated violation of the said provisions. In such event the prevailing party shall be entitled to receive from the non-prevailing party all reasonable attorney fees and expenses, through any appeal.

2. All remedies set forth herein shall be cumulative of any remedies available to the Association at law or in equity.

(More than one remedy for a violation may be employed)

F. DISCRETION TO ENFORCE.

1. The Board's decision to pursue enforcement remedies in any particular case shall be left to the Board's discretion. Considerations in exercising this discretion may include: (a) the strength of the Association's position with respect to the violation; (b) the current law with respect to the provision violated; (c) the materiality of the violation as it affects the community so as to justify the expending of the Association's resources to combat the same; (d) whether or not enforcement is in the Association's best interests, considering the potential hardship, expense, time and energy.

(Enforcement is not always desirable due to extenuating circumstances. This allows the Board to make the decision about enforcement.)

2. Any such decision by the Board shall not be construed to be a waiver of the right of the Association to enforce any such provision at a later time under other or

similar circumstances or preclude the Association from enforcing any other provision in its Governing Documents.

G. PROSPECTIVE ENFORCEMENT.

The Board may adopt a prospective enforcement policy to prohibit the continuance of any non-compliant conditions on any Lot, which non-complaint condition predated the adoption of this Declaration, or the revival of the previous Declaration, or which were simply not enforced by a prior Board. Alternatively, the Board may grant permission to continue a non-compliant condition provided such permission shall be subject to the continued ownership of the Lot by the same Owner under whom the non-compliant condition arose.

(The Board may decide to enforce or not to enforce policies depending on circumstances.)

In such event, should the Lot on which any non-compliant condition exists be sold, conveyed or otherwise transferred, whether such transfer is legal or equitable, the Board may require the removal, repair, replacement, or the remediation of such non-compliant condition(s).

(Compliance may be required regardless of how the property has been transferred to a newowner.)

ARTICLE XIV – AMENDMENT

(Taken from Article 19 of the Revived Declaration and Article XI of the Revived Bylaws.)

This Declaration may be amended as follows:

1. *Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.*

2. A resolution for the adoption of a proposed amendment may be proposed either by the Board or by not less than one-fifth (or, 20%) of the voting interests of the Members of the Association. The amendments must be approved by not less than two-thirds (or, 66 and 2/3%) of the total voting interests of all the Members.

3. The amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed in the form required for the execution of a deed. An amendment of the Declaration is effective when the applicable certificate and amendment are recorded in the Public Records of Sarasota County.

ARTICLE XV – MISCELLANEOUS

(Subparagraph A is from Article 20 of the Revised Declaration. The remaining subparagraphs are for clarification.)

A. The covenants and restrictions of this Declaration shall run with the title to the Lots, and shall inure to the benefit of and be enforceable in accordance with its terms by the Association or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of seventy-five (75) years from the date of the recordation date of the revised Declaration restrictions, limitations, conditions and agreements herein, at which time they shall automatically extend for successive periods of ten (10) years each unless by a vote of the two-thirds of the then Owners of the residential Lots of this Subdivision, it is agreed to extinguish them.

B. Any notice required to be sent to any Member or Owner under the terms and provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

C. Invalidation of any one or any part of these covenants and restrictions by Stipulation, Agreement, Judgment or Court Order shall in no way affect any other provisions, which shall remain in full force and effect.

D. Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the plural shall include the singular and the singular shall include the plural.

E. In the event that any term, condition, or provision of this Declaration, the Articles or the Bylaws are deemed to be capable of more than one reasonable interpretation, the Board's interpretation of the ambiguous term, condition, or provision shall be binding unless wholly unreasonable and arbitrary. An opinion of the Association's attorney that the Board's interpretation is not wholly unreasonable and arbitrary shall be dispositive and binding on all parties.

F. Titles, headings, or captions used in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, or describe its scope or intent.

G. In the event of any conflict, the priority of the Governing Documents, and the order in which they shall take precedence, shall be as follows: (1) Declaration; (2) Articles of Incorporation; (3) Bylaws; (4) rules and regulations; all as amended from time to time.

IN WITNESS WHEREOF, the President and Secretary of the Association, respectively, on behalf of the Membership, has caused their hands and seals to be attached to this Amended and Restated Declaration for Bird Key Subdivision, on this ____ day of _____, 2012.

Bird Key Improvement Association, Inc.

By: John C. Laurie, its PRESIDENT

(Corporate Seal)

Attest: Sonya Goldwasser, SECRETARY

STATE OF FLORIDA
COUNTY OF SARASOTA

BEFORE ME, personally appeared John C. Laurie, who is personally known to me or produced _____ as identification, and who, after being duly sworn, acknowledged and affirmed that he is the President of Bird Key Improvement Association, Inc. and that he executed the foregoing instrument as his free act and deed as such officer for the use and purpose therein mentioned, and that said instrument is the free act and deed of said Association.

WITNESS my signature and official seal in Sarasota County, State of Florida on this ____ day of _____, 2012.

Name of Notary Public
My Commission Expires

STATE OF FLORIDA
COUNTY OF SARASOTA

BEFORE ME, personally appeared Sonya Goldwasser, who is personally known to me or produced _____ as identification, and who, after being duly sworn, acknowledged and affirmed that she is the Secretary of Bird Key Improvement Association, Inc., that she attested the foregoing instrument as her free act and deed as

such officer for the use and purpose therein mentioned, and that said instrument is the free act and deed of said Association.

WITNESS my signature and official seal in Sarasota County, State of Florida on this ____ day of _____, 2012.

Name of Notary Public
My Commission Expires:

This Instrument prepared by:
Law Firm of James L. Essenson
2071 Main Street
Sarasota, Florida 34237
Phone (941) 954-0303

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