

BERKSHIRE LAKES MASTER ASSOCIATION
COVENANTS

TABLE OF CONTENTS

ARTICLES		PAGE NUMBER
	Declarations	1
1.	Definitions	2
2.	Annexation	
	2.1 Property subject to covenants	4
	2.2 Additional property	4
3.	Closed circuit television system	
	3.1 Ownership	4
	3.2 Easement	4
4.	Membership	5
5.	Voting rights	5
6.	Assessments and liens for assessment	6
7.	Temporary refuge areas in multi-story buildings	8
8.	Water and Sewer	8
9.	Architectural review	8
10.	Residential unit insurance, casualty damage and reconstruction	
	10.1 Guidelines	10
	10.2 Failure to comply	11
	10.3 Master Association right of entry	11
11.	Easements	
	11.1 Appurtenant easements	11
	11.2 Utility easement	11
	11.3 /11.4 Service easement	11
12.	Use and construction restrictions	
	12.1 Quiet enjoyment	12
	12.2 Parking	12
	12.3 Restrictions on use of residential units	13
	12.4 Maintenance of property	13
	12.5 Subdivision of residential units	13
	12.6 TV antennas	14
	12.7 Drying facilities	14
	12.8 Refuse disposal	14
	12.9 Partition of a unit	14
	12.10 Signage	14
	12.11 Use of water	14
	12.12 Moving of structures	14
	12.13 Garages	14
	12.14 Vacant lots	14
	12.15 Lines	14
	12.16 Land elevations	15
	12.17 Trash	15
	12.18 Pets	15
	12.19 Offensive activities	15
	12.20 Driveways	15
	12.21 Garage doors	15
	12.22 Water property rights	15
	12.23 Motorcycles	16
	12.24 Mailboxes, posts and exterior lightposts	16
	12.25 Private wells	16

13.	Amendment by members	16
14.	Construction and duration of covenants	17
15.	Dissolution	17
15.	Commercial property	17
16.	Surface water drainage plans and easements	
	17.1 Collier county surface water drainage plan	17
	17.2 Easement within buffer area	18
	17.3 Existing easements not affected	18
	17.4 Easement limitations	18
	17.5 Architectural review board	18
17.	Notary	19

THIS DOCUMENT AMENDS AND RESTATES IN ITS ENTIRETY THOSE CERTAIN SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BERKSHIRE LAKES WHICH WERE PREVIOUSLY RECORDED AS A MATTER OF PUBLIC RECORD.

THIS THIRD RESTATED AND AMENDED DECLARATION
IS MADE THIS 4th DAY OF October, 2000, BY
BERKSHIRE LAKES MASTER ASSOCIATION, INC.
HEREINAFTER REFERRED TO AS THE MASTER ASSOCIATION

WHEREAS, Coast Communities Corporation has, in the past, amended the Declaration of Covenants, Conditions, Restrictions and Easements for Berkshire Lakes hereinafter also referred to as "Declaration" by that certain First Amendment recorded in OR Book 1404, beginning at page 1389 and by that certain Amended and Restated Declaration recorded in OR Book 1692, beginning at page 2004 through all of the Public Records of Collier County, Florida, which Amended and Restated Declaration was also subsequently amended and

WHEREAS, pursuant to the Coast Communities Corporation's right to make additional properties subject to the aforesaid Declaration, the Coast Communities Corporation has, in the past by Supplement Declaration, made additional properties subject to the aforesaid Declaration and

WHEREAS, recently enacted Florida State legislation makes it advisable to amend certain provisions of the Declaration and

WHEREAS, the Amendments and Supplemental Declaration filed subsequent to the original Restated Declaration make it in part difficult to comprehend various provisions that apply to the property that has been made subject to the Declaration and

WHEREAS, a Second Restatement of the Declaration of Covenants, Conditions Restrictions and Easements for Berkshire Lakes served to clarify the Declaration of Covenants, Conditions Restrictions and Easements that presently apply to the properties that are subject to said Declaration and

WHEREAS, a Third Restated and Amended Declaration of Covenants, Conditions, Restriction and Easements for Berkshire Lakes would serve to clarify the Declaration of Covenants, Conditions, Restrictions and Easements that presently apply to the properties that are subject to said Declaration and

WHEREAS, it is anticipated that smaller homeowner associations or condominium associations or both, may be created for the purpose of enforcing additional, more specialized covenants for a portion or portions of the property described in Exhibit "A".

NOW, THEREFORE, the Berkshire Lakes Master Association, Inc. does hereby amend and restate, in its entirety, the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Berkshire Lakes and Declaration of Covenants, Conditions, Restriction and Easements (as they may be amended from time to time) all of which are for the purpose of enhancing and protecting the value of said property. These Covenants shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the property made subject to these Covenants.

ARTICLE 1

DEFINITIONS

1.1 ASSESSMENT means a sum or sums of money payable to the Association, which if not paid by the owner of a parcel, can result in a lien against the parcel.

1.2 ASSOCIATION OR MASTER ASSOCIATION shall mean and refer to Berkshire Lakes Master Association, Inc., a Florida Not For Profit Corporation.

1.3 Berkshire Lakes or Community shall mean and refer to the property described in Exhibit 'A' and furthermore means the real property that is or will be subject to this Third Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements which is recorded in Collier County, Florida. The term "community" includes all real property, including undeveloped phases, that is or was the subject of a development or regional-impact development order for Berkshire Lakes together with any approved modification thereto.

1.4 BOARD shall mean and refer to the Board of Directors of the Berkshire Lakes Master Association, Inc.

1.5 CENTRAL SYSTEM shall mean and refer to any closed circuit television system, telecommunications system, master antennae system, and related ancillary services in and upon the Property subject to these covenants.

1.6 COMMERCIAL PROPERTY shall mean and refer to all of Tract F. Berkshire Lakes Unit 1, according to plat recorded in Plat Book 14, pages 118 through 120, Public Records of Collier County, Florida. The commercial property is also sometimes referred to in this Declaration as Tract F, "Berkshire Commons".

1.7 COMMON PROPERTY or Common Area shall mean all real property within Exhibit "A", including any improvements thereon, which has been conveyed to the Master Association for the common use, maintenance or enjoyment by the Association and all its members. Common Property or Common Area shall also include property and improvements as to which the Master Association has maintenance or control responsibilities, such as roadway medians and entryways to Berkshire Lakes. Common Property or Common Area shall also include the following:

- A. The bicycle path that meanders through various parts of the property described in Exhibit "A" to that certain easement recorded on June 18, 1990 in OR Book 001900, Page 000730, Public Records of Collier County, Florida.
- B. The Clubhouse, the tennis courts, the pool and pool facilities that are located within Tract G Berkshire Lakes, Unit 3, according to the plat thereof recorded in

Plat Book 16, pages 15 through 17, Public Records of Collier County, Florida.

- C. All lake areas and other water maintenance areas which have been conveyed to Berkshire Lakes Master Association" Inc. or for which Berkshire Lakes Master Association" Inc. has maintenance responsibility.
- D. Other areas within Berkshire Lakes for which the Berkshire Lakes Master Association, Inc. has maintenance responsibilities including the maintenance building.

1.8 DECLARATION OF COVENANTS means this Third Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Berkshire Lakes and all amendments and restatements thereof.

1.9 GOVERNING DOCUMENTS means the originally recorded Declaration of Covenants, Conditions, Restrictions and Easements for Berkshire Lakes, and all duly adopted and recorded amendments, restatements and supplements and recorded exhibits thereto; and the Articles of Incorporation, By-Laws of the Berkshire Lakes Master Association, Inc. and any duly adopted amendments thereto.

1.10. LIMITED COMMON PROPERTY shall mean and refer to all real property or any property interest therein conveyed to the association for the common use, maintenance and enjoyment of some, but not all, of the owners within Berkshire Lakes. The maintenance and other expenses of limited common areas shall be paid for solely by the owners having the right to use said property and that maintenance expense shall be separately set forth in the Association's assessment. In all other respects, limited common property shall be subject to the same provisions of this Declaration as is Common Property.

1.11 MASTER ASSOCIATION or ASSOCIATION shall mean and refer to Berkshire Lakes Master Association, Inc., a Florida Not for Profit Corporation,

1.12 MEMBERS shall mean and refer to those persons and entities, which have membership in the Master Association and specifically all owners of property located upon Exhibit "A" to this Declaration.

1.13 OWNER shall mean and refer to the record owner of fee simple title to any residential unit within the property made subject to the originally recorded Declaration of Covenants and all amendments thereto but does not include anyone holding title merely as security for an obligation, such as a mortgagee.

1.14 PROPERTY or PROPERTIES shall mean and refer to the property described in Exhibit. "A".

1.15 RESIDENTIAL UNIT shall mean and refer to any residence, including a single family home, a condominium unit, a villa, a cluster home, a townhouse or a patio home located within the property made subject to these Covenants. The term residential unit shall include the residential structure and the lot upon which it is constructed. RESIDENTIAL UNIT shall also mean a platted single family lot even if no improvement has been placed upon the platted single family lot.

1.16 NEIGHBORHOOD ASSOCIATION shall mean and refer to any neighborhood association, which may be heretofore or hereafter formed to manage and operate a portion of the property made subject to these Covenants. Such Neighborhood Association shall include any Homeowner Association and any Condominium Association. The words «Neighborhood Association?» shall not include the Master Association.

1.17 VOTING INTEREST shall mean all voting rights provided to the members of the Association, pursuant to the governing documents.

ARTICLE 2

ANNEXATION

2.1 PROPERTY SUBJECT TO COVENANTS. The real property made subject to these Covenants is described in Exhibit “A”.

2.2 ADDITIONAL PROPERTY. No additional land may be made subject to these Covenants.

ARTICLE 3

CLOSED CIRCUIT TELEVISION SYSTEM

3.1 OWNERSHIP. The Association has reserved and retained, and does hereby reserve and retain to itself and its designated assigns the right to own and operate a closed circuit television system, telecommunications system, master antennae system and related ancillary services (the "Central System") in and upon the properties.

3.2 EASEMENT. The Association has reserved and does hereby reserve unto itself and its assigns a perpetual five (5) foot wide easement along and adjacent to both sides of all public rights of way within Berkshire Lakes. The five (5) foot wide easement shall extend in an outward direction for a distance of five (5) feet from the outer boundary of all rights of way. In the event there are any public power or other utility easements adjacent to the public rights of way within Berkshire Lakes, the easement herein reserved to the Association shall be on and over a strip of land five (5) feet in width which shall be (1) adjacent to the boundary of the utility easement and (2) between the platted utility easement and the likely location on any residential unit. The aforesaid easement shall be for the installation, operation and maintenance of the Central System, including but not limited to conduits, wires, amplifiers and related apparatuses, and shall be exclusive to the Association and its assigns, except that the owners of the property shall:

- A. Have the right to use the easement area in any way that does not unreasonably interfere with the easement rights of the Association and
- B. Have the right to grant additional utility easements within the easement area, provided that no such easement shall be granted to another cable television provider and further provided that no such additional utility easements do not unreasonably interfere with easement rights of the Association. And with the further exception that Florida Power and Light

(FPL) and the local telephone service provider may cross such easement for the purpose of connecting to residential units. The Association easement described in Article 3 may not be terminated or changed in any way without the written consent of the Master Association.

ARTICLE 4

MEMBERSHIP

4.1 Each owner of a residential unit within the property subject to these Third Amended and Restated Covenants shall automatically, upon recording of a deed in the public records conveying title to owner or owners, become a member of the Association, and as such shall be subject to all Association assessments and regulations. An owner acquiring the unit or properties shall provide to the Association a copy of the recorded deed or other instruments evidencing title within sixty (60) days after the transfer of ownership has occurred.

4.2 Membership in such Association shall terminate upon conveyance by an owner of his title to any residential unit within the property subject to these covenants to another party.

4.3 Membership shall be appurtenant to, and may not be separated from ownership of a residential unit. No owner may avoid the obligations of membership during the period when he is an owner by non-use of common property, or any other act of abandonment or renunciation.

4.4 Each owner, by accepting an interest in any residential unit within the property made subject to these Third Amended and Restated Covenants, hereby agrees to be bound by all the Covenants contained herein, and in the event of a breach, agrees to pay all costs, including all reasonable attorney's fees incurred by the Association to enforce these Covenants. All subsequent grantees and transferees shall be similarly bound.

ARTICLE 5

VOTING RIGHTS

5.1 Each member shall be entitled to one (1) vote for each residential unit owned by the member. Where more than one person holds an interest in any residential unit all such persons shall be members; however, the vote for such residential unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to anyone residential unit. With respect to such joint ownership if the parties themselves cannot agree as to how their vote is to be cast, such vote shall not be counted. Unless another joint owner objects, any joint owner is presumed to have the authority to vote the votes which relate to property jointly owned. The date used to ascertain ownership of residential units for purposes of assessments shall be the same date used for ascertaining voting

5.2 All other aspects of the voting rights of members shall be controlled by the provisions of this Third Amended and Restated Declaration or, in the absence of specific provisions in this Declaration, by the Association Articles of Incorporation and its By-Laws as same may be amended from time to time. .

ARTICLE 6

ASSESSMENTS AND LIENS FOR ASSESSMENTS

6.1 ASSESSMENTS AND LIEN RIGHTS

- A. The Master Association shall have the power and the duty to make and collect assessments against members to defray the following:
1. The maintenance costs, expenses and losses of the property owned or maintained by the Master Association. The Board of Directors of the Master Association shall have the obligation to consider current costs and needs of the Master Association and to affix annual assessments for such costs to be paid by the members of the Master Association.
 2. The total anticipated funds needed by the Master Association to meet its obligations respecting its property and other obligations shall be divided by a number hereinafter referred to as the "Divider". The "Divider" shall be equal to the total number of residential units which are subject to assessment. The amount produced by the aforesaid divisions shall be assessed against the owner of each residential unit.
 3. The assessments levied by the Master Association shall be used for the purposes set forth in this Third Amended and Restated Declaration and in the Articles of Incorporation of the Master Association as amended, including the maintenance, construction or reconstruction, unexpected repairs or replacement of any of the property owned or maintained by the Master Association, operating the Master Association, Master Association taxes and for such other expenses as the Board of Directors determines is appropriate and reasonable for the Master Association to incur.
- B. Each owner of a residential unit by acceptance of a deed therefore, whether or not it shall be so expressed in any deed or other conveyance, hereby covenants and agrees to pay to the Master Association the annual assessment or charge as may be fixed or established from time to time by the Board of Directors of the Master Association.
- C. The specific assessment made by the Board, together with interest thereon and costs of collection, including a reasonable attorney's fee, shall be a charge on and a continuing lien upon the residential unit against which such assessment is made from the date of the assessment. Each such assessment, together with interest thereon and costs of collection as hereinafter provided, shall also be the personal obligation of the owner of each individual residential unit at the time when the assessment became due. If a residential unit is owned by more than one person or entity, the obligation shall be joint and several.
- D. In addition to the annual assessments, the Master Association may levy special assessments applicable to the year of assessment only, for the purpose of defraying in whole or in part the costs of any unexpected repair or replacement of any improvement on property owned or maintained by the Master Association, or to

meet unexpected operating costs so as to insure that the Association does not operate in a deficit.

- E. Unless provided to the contrary in the Master Association By-Laws, the Master Association shall impose an annual assessment, which shall cover the calendar year. Owners who acquire a residential unit after the first of the year shall owe no additional assessment for that year, provided the entire annual assessment has been paid by the prior owner.
- F. If an assessment is not paid on the date when due, said assessment shall become delinquent and shall, together with interest thereon, retroactive to the due date at the maximum allowed by law, a late fee as determined by the board and all costs of collection, including a reasonable attorney's fee, become a continuing lien on such residential unit which shall bind such property. If an assessment is payable in installments and an installment is not paid when due, then the entire assessment shall become immediately due and owing.
- G. Should legal proceedings be required to enforce collection of the payment of an assessment, the same may be foreclosed as a lien against the residential unit against which such assessment was made in the manner provided for enforcement of liens pursuant to the laws of the State of Florida. The lien for unpaid assessments provided for herein may be evidenced by a Claim of Lien filed in the Public Records of Collier County but such lien shall be subordinate to the lien of any institutional mortgage recorded prior to the time the Master Association's claims of lien is recorded.
- H. By acceptance of a deed thereto, the owner and spouse thereof: if married, of each lot or unit shall be deemed to have waived any exemption from liens created by this Third Amended and Restated Declaration, or the enforcement thereof by foreclosure or otherwise which may otherwise have been available by reason of the homestead provisions of Florida, if for any reason such are applicable. This section is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration.

6.

6.2 The Board of Directors shall have the right to require that any member whose residential unit is a part of a neighborhood homeowners association or condominium association pay his assessment through said association. All condominium associations and all neighborhood homeowners associations shall collect the assessments imposed by these Covenants and remit same to the Master Association.

ARTICLE 7

TEMPORARY REFUGE AREAS IN MULTI-STORY BUILDINGS

In the event a multi-family building contains ground floor residential units with a floor elevation of less than 12.8 feet N.G.V.D. (National Geodetic Vertical Data), the residents of such units shall have a right of temporary refuge in the protected interior hallways of the upper stories of said buildings. This right shall apply only during, or for a reasonable time following, a Category 1 or Category 2 storm. Category 1 and Category 2 storm shall mean those storms identified as such by the Collier County Office of Emergency Management. In the event the hallways of upper stories of said buildings do not provide sufficient protected refuge for ground floor residents, based upon a refuge space of twenty (20) square feet per person, the residents of ground level units with a floor elevation of less than 12.8 feet N.G.V.D., shall have the same right of temporary refuge within upper story residential units. The Directors of any multi-family building having ground floor units with a floor elevation of less than 12.8 feet N.G.V.D. shall designate which upper story areas are to be used for the aforesaid temporary refuge. The Directors shall notify all unit owners of the areas so designated, if any.

ARTICLE 8

WATER AND SEWER

Collier County Water and Sanitary Sewer Services shall serve the Berkshire Lakes property.

ARTICLE 9

ARCHITECTURAL REVIEW

9.1 No building, structure or other improvement shall be erected or altered, nor shall any grading, landscaping, excavation, change of exterior color or other work which in any way alters the exterior appearance of any residential unit or other property, be performed without the prior written approval of the Architectural Review Board (hereinafter called the ARB). In the event improvements or changes requiring such approval are made without such approvals, the Master Association shall have the right to require that such improvements or changes be undone at the expense of the party who caused such improvements or changes to be made. The members of ARB shall have an easement to go on all property for the purpose of assuring compliance with these covenants and with the improvement plans approved by the ARB and, in addition, the ARB shall have an easement to remove any construction or condition that fails to comply with these covenants or the approved plans, including the removal of unauthorized signs.

ARB approvals for residential units shall be based upon the standards developed by the ARB which shall be applied uniformly; however, different standards may be developed for different types of residential units such as condominiums, single family homes, villas, coach homes and carriage homes. The standards established by the ARB may be altered or amended by the ARB from time to time as the ARB recommends, subject to Board approval. The ARB shall have the right to approve construction that does not comply with the applicable uniform standards in any case where special circumstances exist that would make it a hardship if such construction were not approved. A construction improvement approved by the ARB shall be considered in compliance even if such improvements would not meet subsequently developed standards.

9.2 COMPOSITION, ROLE AND RESPONSIBILITY OF THE ARB

- A. The ARB shall be a Board consisting of no less than three (3) members of the Berkshire Lakes Master Association.
- B. Owners of property made subject to these covenants shall be obligated to obtain ARB approval for all architectural and landscaping aspects of any improvements or development. In connection with the ARB approval process, the ARB shall have the right to require the submission of a site plan, an elevation plan, a landscaping plan, an irrigation plan and construction plans.
- C. No home, building or other improvement, sign, outside lighting, equipment, fence, hedge, pool, wall, walk, dock, road, lake or other structure of any kind or planting shall be constructed, erected, removed, planted or maintained nor shall any addition to or any change or alteration therein be made upon any property subject to these Third Amended and Restated Covenants until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme and the location of same shall have been submitted to and approved in writing by the ARB. As part of the application process, three (3) sets of plans and specifications prepared by an architect, landscape architect, engineer or other person found to be qualified by the ARB shall be submitted for approval on such application form as may be provided or required by the ARB. The ARB shall have the right to modify the requirements for submission of plans, as the ARB deems appropriate
- D. In the event the information submitted to the ARB is, in its opinion, incomplete or insufficient in any manner, it may request the submission of additional or supplemental information.
- E. The ARB shall have the right to refuse to approve any plans and specifications which are not in conformity with its standards or in conformity with the provisions of this Third Amended and Restated Declaration.
- F. The ARB shall in all cases have the right to determine and designate building set back lines necessary to conform to the property's general development plan.
- G. There is specifically reserved unto the ARB the right of entry and inspection upon any residential unit or other improvement for the purpose of determination by the ARB whether there exists any construction of any improvement which violates the terms of any approvals by the ARB or the terms of this Third Amended and Restated Declaration or of any other Covenants, Conditions, and Restrictions to which its deed or other instruments of conveyance makes reference. The Master Association is specially empowered to enforce the provisions of this Declaration and the decisions of the ARB by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvements or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection herewith. The Master Association shall indemnify and hold harmless the ARB and its members from all costs, expenses and liabilities including attorney's fees incurred by virtue of service as a member of the ARB.

- H. The ARB is empowered to establish and modify from time to time, subject to Board approval, design and development standards including but not limited to the following:
 - 1. Architectural design of improvements,
 - 2. Fences, walls and similar structures,
 - 3. Exterior building materials and color,
 - 4. Exterior landscaping,
 - 5. Exterior appurtenances relating to development and utility installations,
 - 6. Signs and graphics, mailboxes and exterior lighting,
 - 7. Building setbacks, pools and pool decks, side yards and related height and design criteria,
 - 8. Pedestrian and bicycle ways, sidewalks and pathways and
 - 9. All buildings, landscaping and improvements on lands owned or controlled by the Master Association or any other Association.

- I. No contractor, sub-contractor or other builder may effect any of the improvements herein discussed without the express written approval of the ARB.

- J. The ARB shall have the right to approve the location of improvements on all residential lots in order to insure that each residence will be situated so as to provide the maximum view to all other residences and to preserve the natural vegetation to the maximum extent possible.

ARTICLE 10

RESIDENTIAL UNIT INSURANCE, CASUALTY DAMAGE AND RECONSTRUCTION

10.1 Each owner and neighborhood association, whichever is the proper insured, shall at all times maintain casualty insurance on its residential unit and all other insurable improvements in an amount equal to the full replacement cost of such. In the event any residential unit or other improvement is destroyed or damaged as a result of casualty. the owner or neighborhood association, whichever is the insured, shall:

- A. Cause repair or replacement to be commenced within sixty (60) days from the date that such damage or destruction occurs and to complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to their original character design and condition, shall utilize and conform with the original foundation and boundary of the original improvement and shall be structurally compatible with any adjoining improvements which share a party wall.

- B. Cause all debris, damaged improvements and other unsightly materials to be removed from the site within thirty (30) days after the date of the casualty.

10.2 FAILURE TO COMPLY: If any owner or neighborhood association fails to comply with above within the time parameters set forth above, the Master Association shall be deemed to have been granted the right by the owner or association or its attorney-in-fact, either to commence or complete the repairs sufficient to restore the improvements to their original condition, according to the plans and specifications of the original improvements or to remove the damaged improvements completely. If the Master Association exercises the rights afforded to it by this Section, the owner or association shall be deemed to have assigned to the Master Association any right he may have to insurance proceeds that may be available because of the damage or destruction. The Master Association shall have the right to recover from the owner or association any costs not paid by insurance and have a lien on the lot and residential unit to secure payment.

10.3 MASTER ASSOCIATION'S RIGHT OF ENTRY: For the purpose of performing the duties authorized by this Section 10, the Master Association, through its duly authorized agents and employees, shall have the right to enter upon any residential unit or improvement at reasonable hours and to perform such duties.

ARTICLE 11

EASEMENTS

11.1 APPURTENANT EASEMENTS. The Master Association hereby grants to each member, his guests, lessees and invitees, as an appurtenance to the ownership of the fee title interest in property subject to this Third Amended and Restated Declaration, a perpetual non-exclusive easement across and through all Master Association common property, such use and enjoyment to be shared in common with other members. Such easement is subject to any reasonable rule, which the Association may promulgate for such property, such as hours of operation for the clubhouse, swimming pool and tennis courts.

11.2 UTILITY EASEMENT. The Master Association reserves to itself, its successors assigns and mortgagees, a perpetual easement upon, over, under and across the property for the purpose of maintaining, installing, repairing, altering and operating sewer lines, water lines, waterworks, irrigation works, sewer works, surface water drainage improvements, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, weirs, siphons, valves, gates, pipelines, cable television services, closed circuit television systems, electronic security systems and all machinery appurtenant thereto as may be necessary or desirable for the installation and maintenance of utilities servicing the property.

11.3 SERVICE EASEMENT. The Master Association hereby grants to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone and other utilities authorized by the Master Association, its successors or assigns, to service the property and to such other persons as the Master Association from time to time may designate, the non-exclusive perpetual right of ingress and egress over and across the Master Association property.

11.4 To the extent that the creation of any such easements created or reserved herein require the joinder of owners in separate instruments, the Master Association by its duly authorized officers may, as the agent or the attorney-in-fact for the owners, execute, acknowledge and deliver such instruments and the Owners, by the acceptance of deeds to their residential units constitute and appoint the Master Association, through its duly authorized officers, as proper and legal attorneys-in-fact for such purpose.

11.5 RIGHT OF EASEMENTS. The rights and easements of enjoyment created hereby shall be subject to and subordinate to the following: The right of the Master Association in accordance with its By-laws, to borrow money from any lender for the purpose of improving and maintaining the Master Association Property and providing the services authorized herein and, in aid thereto to mortgage said property.

ARTICLE 12

USE AND CONSTRUCTION RESTRICTIONS

12.1 QUIET ENJOYMENT: The properties made subject to these covenants shall be improved, used and developed in accordance with the Master Development Plan. The Master Development Plan shall mean the plan set forth in the Berkshire Lakes PUD and in the Berkshire Lakes DRI order issued by Collier County, as such are amended from time to time and as such are further refined by subdivision plats and these Third Amended and Restated Covenants. Members shall not suffer, permit or maintain in or on their residential unit's conditions or activities which interfere with peaceful and quiet occupancy by the owners of their residential units.

12.2 PARKING: The only vehicles allowed to be kept or parked on a residential driveway or condominium assigned parking area and on no other part of the property except when completely enclosed within a residential garage are the following:

- A. Private passenger automobiles and marked police vehicles,
- B. Private passenger vehicles commonly known as sports utility vehicles;
- C. Private passenger vans used solely for passenger transportation, having windows completely surrounding the passenger compartment and having factory installed seats;
- D. No vehicle designed or used for commercial purposes or bearing exterior advertising matter, lettering or sign shall park on a residential driveway, condominium assigned parking area or street right-of-way within the Master Association property boundaries. Such vehicle can only be parked when completely enclosed in the residential garage. Delivery and service vehicles shall park in the driveway, condominium parking area and street only for the time necessary to perform the delivery or service;
- E. No vehicle of any type shall be kept or parked on Master Association property at any time except in the marked spaces of the paved parking area at the clubhouse, tennis courts and pool complex and then only during the hours when these facilities are open for authorized use. Vehicles in violation of this are subject to being towed at the owner's expense;
- F. No vehicle of any type shall be parked on any public street right-of-way between the hours of midnight and 7:00 a.m. Vehicles in violation of this are subject to being towed at the owner's expense;
- G. No owner shall keep or park on the Master Association property or on a residential unit any boats, trailers or campers unless completely enclosed in a garage.

- 12.3 **RESTRICTION ON USE OF RESIDENTIAL UNITS:** Each residential unit shall be used exclusively as a residential dwelling, and no business or trade shall be permitted to be conducted therein or thereon. No more than two unrelated individuals may use a residential unit as a residence. Individuals related by marriage, consanguinity or adoption may use a residence without restriction as to number. All rentals shall be limited to a minimum of one month and not to exceed three (3) rentals per year. Rental of less than the entire residence i.e. rooms) is prohibited.
- 12.4 **MAINTENANCE OF PROPERTY:** Each owner, lessee and occupant shall maintain at all times in good condition and repair all interior and exterior portions including roofs of their property and improvements made thereon including lawn, landscaping and garden areas. All areas within a residential unit or multi -family property, not covered by structures, walkways or paved parking facilities shall be maintained as lawn or a landscaped area to the abutting street or lake. Such lawns shall be irrigated with an underground irrigation system, cut to a height of four inches (4") and replaced as necessary. The removal of trees, major changes to the landscape, structural modifications to the residence and the changing of house colors must have the approval of the ARB. If for any reason a residential property is found not to be maintained in good condition, consistent with this Third Amended and Restated Declaration, the owner shall receive written notice of the violation requesting correction within a prescribed period of time. Failure to correct the violation after the notification may result in a fine.
- 12.5 **SUBDIVISION OF RESIDENTIAL UNITS:** No residential unit shall be divided or subdivided, nor structural alteration or changes may be made to the dwelling or said residential unit without prior approval of the ARB. Any subdivision or combination of residential units shall be consistent with zoning and easement restrictions affecting the residential units.
- 12.6 **TV ANTENNAS:** No wires, TV antennas, aerials and similar structures of any sort shall be erected, constructed or maintained on the exterior of any building, and no owner shall permit or maintain any exposed or outside storage or storage containers. This provision shall not prohibit cable television pedestals which are generally located along the perimeter of single family lots and which generally protrude aboveground no more than three (3) feet.
- 12.7 **DRYING FACILITIES:** No clothes lines, hangers or drying facilities shall be permitted or maintained on the exterior of any residential unit and no clothes, rugs, drapes, spreads or household article or goods of any sort shall be dried, aired, beaten, cleaned or dusted by hanging or extending the same from any window or door.
- 12.8 **REFUSE DISPOSAL:** No owner may dispose of or keep refuse, trash or garbage in or on an exterior area of the owner's residence or on the Master Association's property, except in those receptacles approved by the Master Association.
- 12.9 **PARTITION OF UNIT:** No residential unit shall be the subject of a partition action that seeks to physically divide a residential unit. All owners do, by their acceptance of a conveyance of such residential unit, waive any right to maintain or bring such action.

- 12.10 SIGNAGE: No sign of any type shall be maintained, kept or permitted on any part of the property that is made subject to these Covenants except as follows: The owner of each residential unit may place one (1) "FOR SALE" sign on his residential unit. The sign may contain the realtor's name and logo and shall be placed in the front yard of the residential unit. The owner of each residential unit may also place one (1) sign to be located in the front yard which identifies the name of the company providing security monitoring for the unit. Any sign permitted under this paragraph shall not exceed two (2) square feet. Should neighborhood Association documents also restrict the placement of signs, the more restrictive provisions shall apply as to that particular neighborhood. No other signs shall be permitted.
- 12.11 USE OF WATER: No owner shall have the right to use water from any lake or drainage ditch. The Master Association shall have the right to permit lake water to be taken from its property for the purpose of irrigating parts of Tract F.
- 12.12 MOVING OF STRUCTURES : No existing building or structure shall be moved onto any residential unit without the consent of the ARB.
- 12.13 GARAGES: All garages on single family residential units shall be attached to the residences which they are designed to serve and shall be no larger than are sufficient to house three (3) vehicles.
- 12.14 VACANT LOTS: A platted unimproved (vacant) lot must be maintained by its owner in accordance with Collier County Ordinance 91-14, as stated therein:
- (a) Any weeds, high grass or vines over eighteen inches (18") in height must be removed;
 - (b) Trees are permitted;
 - (c) Palmetto bushes are permitted.
- Failure to comply with this Ordinance is considered a violation of these Third Amended and Restated Covenants. If for any reason an owner of a platted unimproved (vacant) lot permits weeds, high grass or vines to exceed the height stated in Collier County ordinance 91-14 and fails to correct the violation within five (5) days of receipt of written notification by the Master Association , the Master Association shall have the right to:
- A. Contact the County, who may assess the vacant lot and, if appropriate, will cut the weeds and high grass. The cost of removing the violation shall be billed to the owner and if unpaid shall be the subject of lien.
 - B. If Collier County deems it inappropriate to address the violation, the Master Association will, through written notification, require the owner to correct the violation within five (5) days. Failure to comply will be reported to the Master Association Fines Committee.
- 12.15 LINES: All telephone, electric, water, sewer, television, fuel lines and pipes or other distributors must be underground from the lot line. Air conditioning units, pool pumps and filters shall be suitably screened by means of landscaping or other screening devices from view from the road and from adjoining properties.

- 12.16 LAND ELEVATIONS: Except to comply with applicable governmental regulations or controls, no changes in the elevation of lands shall be made which will interfere with any drainage or otherwise cause undue hardship to the adjoining property.
- 12.17 TRASH: Garbage containers, recycle bins, lawn trimmings and trash stored for pickup shall comply with garbage and trash collection service rules for Collier County. Ordinance 9147, Section 7 states that containers must be set out after 6 PM of the day before pickup and removed the same day of pickup. Violations of this ordinance are subject to a county imposed fine. No refuse or unsightly objects shall be permitted to accumulate on or adjacent to an owner's property. Except when out for pickup, garbage containers shall be screened from view from the road.
- 12.18 PETS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot or unit, except for cats, dogs and other household pets provided they are not kept, bred or maintained for any commercial purpose or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to infringe or stray upon another's lot or property without the consent of owner of such lot or property. All animals shall be on a leash when outside the owner's lot. Owners are responsible to insure that no fecal matter is left behind by such animals.
- 12.19 OFFENSIVE ACTIVITIES: No noxious or offensive activity shall be carried on upon the property or upon any part or portion thereof, nor shall anything be done thereon which may be or become a nuisance.
- 12.20 DRIVEWAYS: Driveways and off street parking areas shall be paved with concrete or decorative paving. No macadam or stone shall be used.
- 12.21 GARAGE DOORS: Operable garage doors must be provided for all garages and equipped with operable remote controlled electric openers. Garage doors shall be kept closed at all times, except when vehicles are entering or exiting the garage or when outdoor activities necessitate convenient garage access. Garage doors may be left open if equipped with electrically/manually operated overhead garage door screens designed to increase air circulation while shielding the garage interior from public view. The screen material must be of the "solar" type available in various colors to insure the garage interior is screened from public view while maintaining the appearance of a closed garage door. Garage door screens require ARB approval.
- 12.22 WATER PROPERTY RIGHTS: No docks, bulkheads, Moorings, pilings or boat shelters of any kind shall be erected on or over the lakes within the property, except such as shall be constructed as part of the Association property and with Master Association approval. The area, if any, between the rear lot line of any lot and the water's edge of any lake or other body of water within the property shall be sodded and maintained by the owner of said lot as if said area were a portion of the lot owned by said owner. No person or persons whomsoever shall be permitted upon that portion of the land lying between the rear lot line of the lot and the water's edge of any lake or other water body within the property, except the owner of said adjacent lot, his family, tenants, guests, and invitees and an employee or contractor of the Association for the sole and exclusive purpose of performing maintenance upon and within said lake or other body of water. No boats shall be used upon any portion of the property that is designed for

water retention unless the Association specifically approves said usage. The administration, management, operation and maintenance of water retention areas and drainage systems shall be the responsibility of the Association. The Association shall not waive or amend the foregoing maintenance obligation without the prior written consent of all institutional Mortgagees and the South Florida Water Management District.

12.23 MOTORCYCLES: No engine driven motor vehicles, motorcycle or moped shall be used within the Common Areas or on the bicycle/pedestrian paths, except when such vehicles are used for maintenance of the Common Areas.

12.24 MAILBOXES, POSTS AND EXTERIOR LIGHTPOSTS: To assure compatibility within the community, the Association, through the ARB, has planned for custom designed mailboxes, posts and exterior light posts. However, purchasers of a parcel or a group of lots for a neighborhood development (e.g. Unit #1 known as "Brentwood") are allowed to submit their own design for approval by the A.R.B. Neighborhood associations and condominiums may be permitted to group mailboxes in structures approved by the Master Association's ARB.

12.25 PRIVATE WELLS: The digging, installation and use of wells upon any single family or multi-family property for irrigation purposes is prohibited unless specific written approval is first obtained from the ARB. All applications to the ARB for approval of private wells shall include evidence that the required governmental permits for the proposed well are obtainable. The ARB shall have the absolute right to deny approval for the digging, installation and use of any well unless the applicant demonstrates that the use of such water:

- (a) Will not cause staining to buildings or other improvements on the property, (b) Will not cause unpleasant odors,
- (c) Will not cause unacceptable noise and
- (d) Will not adversely affect the Berkshire Lakes community in any other way. All approvals granted by the ARB may be revoked at any time if the ARB determines that the actual operation of a well is causing staining to buildings or other improvements, is causing unpleasant odors, is creating unacceptable noise or is adversely affecting the Berkshire Lakes community.

The ARB shall establish such forms and procedures as it deems appropriate to fulfill its responsibilities as set forth in this paragraph. The costs for all reports and information submitted to the ARB shall be borne solely by the applicant. Any private well improvements placed upon a property are placed thereon at the sole risk of the owner and must be screened from public view.

A R T I C L E 1 3

AMENDMENTS BY MEMBERS

13.1.1 Except as otherwise provided below, this Third Amended and Restated Declaration shall be amended at any time provided that fifty one percent (51%) of the members entitled to vote, vote in favor of the proposed amendment. Notice shall be given at least forty-five (45) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Third Amended and Restated Declaration is approved by the members as set forth above, the President and Secretary of the Master Association shall execute an amendment to this Declaration which shall set forth the amendment and the date of the

meeting of the Master Association at which such amendment was adopted. Such amendment shall be effective when recorded in the public records of Collier County Florida. Any Amendment which would affect the surface water management system, including the water management portions of the common areas, must have prior approval of South Florida Management District.

The Board of Directors, by majority vote, may approve and record amendments to this Declaration to reflect future revisions to Chapter 617, the Florida Not- for- Profit Corporations Act and other applicable Florida Statutes regulating the operation of Berkshire Lakes Master Association.

ARTICLE 14

CONSTRUCTION AND DURATION OF COVENANTS

14.1 The provisions of this Third Amended and Restated Declaration shall be interpreted consistent with the general development plan and the purposes set forth herein. These covenants shall endure for a period of twenty-five (25) years from March 24, 1988 and, thereafter, shall be deemed to be reenacted for additional twenty-five year periods unless a majority of the owners of residential units affirmatively vote to discontinue said Covenants.

ARTICLE 15

DISSOLUTION

15.1 In the event of dissolution of the Association, each residential unit shall continue to be subject to assessment for maintenance of the property owned or maintained by the Association prior to dissolution and each owner shall continue to be personally obligated to the Master Association for such assessment to the extent that such assessments are required.

ARTICLE 16

COMMERCIAL PROPERTY

16.1 The commercial property which is legally described as Tract F, Berkshire Lakes Unit 1, Berkshire Commons according to plat recorded in Plat Book 14, pages 118-120, Public Records of Collier County, Florida, has never been subject to Berkshire Lakes Covenants and Tract F is not subject to this Third Amended and Restated Declaration and any and all commercial activities permitted by law may be conducted on said property and this provision may not be amended or changed without the written consent of the owners of the commercial property .

ARTICLE 17

SURFACE WATER DRAINAGE PLAN AND EASEMENTS

17.1 Collier County has adopted a Surface Water Drainage Plan for the Berkshire Lakes subdivision (said plan is hereafter referred to as "the Plan") within and upon the rear five (5)

feet of each of the following-described single family residential lots, there shall be a nonexclusive surface water drainage easement that shall run in favor of the Master Association and in favor of the owners of any properties within Berkshire Lakes that the plan shows as utilizing said easement area for surface water drainage: Lots 12, 13, 14, 15, 20, 95, 96, 99, 100, 103, 104, 107, 108, 121, and 125, Berkshire Lakes Unit 4, according to the plat recorded in Plat Book 16, pages 6-8, Public Records of Collier County, Florida. Lots 27, 90, 91, 158, and 161, Berkshire Lakes Unit 5, according to plat recorded in Plat Book 17, pages 34-37, Public Records of Collier County, Florida. Lots 30 and 62, Berkshire Lakes Unit 6, according to plat recorded in Plat Book 19, pages 16-18, Public Records of Collier County, Florida.

This easement shall entitle the Master Association to grade and slope the easement area so that surface waters flow over the easement area in accordance with the plan. The depth and slope of the easement area shall be in accordance with the plan adopted by the County. The aforesaid easement includes the right to drain surface water from other residential lots over and upon easement areas, provided such drainage is in accordance with the plan. All grading and sloping done by the Master Association pursuant to its easement shall be accomplished with as little inconvenience to the owner of the residential lot as practical. If grading and sloping are necessary to be done because an owner failed to construct or maintain his property in accordance with the drainage plan submitted by such owner to the ARB and approved by the ARB, the owner shall be responsible for the cost of said grading and sloping.

17.2 EASEMENT WITHIN BUFFER AREAS. There shall be a non-exclusive easement for percolation of surface water over and upon the various buffer easement areas set forth in the Berkshire Lakes Plats This easement shall be in favor of the Master Association and any properties that the plan shows as utilizing said areas for percolation.

17.3 EXISTING EASEMENTS NOT AFFECTED. Nothing in this instrument is intended to detract in any way from any easements set forth in the aforesaid plats for Berkshire Lakes or from easements otherwise created.

17.4 EASEMENT LIMITATIONS. The easements described herein shall be limited to the right to drain surface water and the right to go upon the easement area to grade or slope said easement area to accomplish surface water drainage in accordance with the plan.

17.5 THE ARCHITECTURAL REVIEW BOARD (ARB). As part of the approval process set forth in this Third Amended and Restated Declaration, owners shall submit a surface water drainage plan for the lot or property proposed for improvement. Such plan shall contain appropriate elevation figures and arrows showing the proposed direction of surface water drainage. The ARB shall review said plans to determine whether said plan conforms to the Collier County plan. Every owner who obtains ARB approval for improvements to be placed on his property shall be required to obtain from the ARB a signed, dated statement stating that the surface water drainage plan submitted by the owner complies with the Collier County plan.

PARCEL A

All that part of Section 32. Township 49 South. Range 26 East, Collier County. Florida and being more particularly described as follows:

BEGINNING at the northwest corner of Section 32. Township 49 South. Range 26 East;

thence along the north line: of said Section, North 89--24'-17" East, 1166.98 feet to the southerly right-of-way of Interstate Route 75;

thence along said southerly right-of-way, southeasterly and easterly 4510.20 feet along the arc of a non-tangential circular curve concave to the northeast having a radius of 5891.58 feet and being subtended by a chord which bears South 638-59'-30. East, 4400.87 feet to the west right-of-way of Santa Barbara Boulevard;

thence continuing along said west right-of-way South 0--00'-58" East, 213.72 feet to an angle point in said west right-of-way;

thence continuing along said west right-of-way South 5--10'-05" East, 559.96 feet to an angle point of said west right-of-way;

thence continuing along said west right-of-way South 08-07'-01" East. 2367.80 feet to the northline of Radio Road (a 100 foot right-of-way);

thence along the north right-of-way of said Radio Road, North 89-35'-47. West. 2547.91 feet to an angle point in said right-of-way;

thence continuing along the said north right-of-way North 89--35'-58. West. 26.31.73 feet to the west section line of said Section 32;

thence along said west section line, North 0-01'-51 East. 2480.59 feet to the west 1/4 corner of said Section;

thence continuing along said west section line. North 0-00'-53- East, 2539.92 feet to the Point of - Beginning;

being a part of Section 32. Township 49 South, Range 26

East Collier County, Florida;

subject to easements and restrictions of record; containing 480.48 acres of land more or less.

LESS AND EXCEPT: Tract F, Berkshire Lakes Unit #1, according to plat thereof as recorded in Plat Book 14, pages 118 through 120, Public Records of Collier County, Florida.

THE PROPERTY IN THIS EXHIBIT "A" INCLUDES ALL LOTS AND TRACTS IN BERKSHIRE LAKES UNITS 1 THROUGH 7 AS RECORDED IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, EXCEPT TRACT F, BERKSHIRE LAKES UNIT 1.

EXHIBIT A

Berkshire Lakes Master Association, Inc.

Articles of Incorporation

Table of Contents

Articles	Page Number
I Name	1
II Principal Office	1
III Corporation Purposes	
Purposes	1
Powers	2
IV Members	3
V Members and Voting rights	4
VI Fiduciary Relationship	4
VII By-Laws	4
VIII Amendments	
Proposal	4
Notice	4
Effective Date	5
IX Board of Directors	5
X Officers	5
XI Registered Agent	6
XII Indemnification	6
XIII Duration	6
XIV Rights of Owners to Peacefully Assemble	6
XV Dissolution	7
XVI Interpretation	7
Notary	8

THIS DOCUMENT AMENDS AND RESTATES IN ITS ENTIRETY THOSE
CERTAIN ARTICLES OF INCORPORATION WHICH WERE NEVER
RECORDED AS A MATTER OF PUBLIC RECORD.

AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
BERKSHIRE LAKES MASTER ASSOCIATION, INC.

Pursuant to Section 617.301 and 617.303, Florida Statutes, all prior Articles of Incorporation of Berkshire Lakes Master Association, Inc. which were never recorded as a matter of public record in Collier County, Florida are amended in part and restated in their entirety as follows:

ARTICLE I

NAME:

The name of the Association is Berkshire Lakes Master Association, Inc., sometimes herein after referred to as the "Corporation".

ARTICLE II

PRINCIPAL OFFICE:

The principal office of the Corporation shall be located at 495 Belville Boulevard, Naples, Florida 34104.

ARTICLE III

CORPORATION PURPOSES:

- A. PURPOSES: The purposes for which the corporation are organized are to operate and maintain the property under the jurisdiction of BERKSHIRE LAKES MASTER ASSOCIATION, INC., and enforce specifically as follows:
1. To provide for the maintenance of common areas, structures, and facilities as may be owned by the Master Association,
 2. To provide for the maintenance of areas, structures and facilities for which the Master Association has maintenance responsibilities.
 3. To promote the health, safety and welfare of the residents of the community known as BERKSHIRE LAKES,

4. To enforce the provisions of any covenants and restrictions which the Master Association has the responsibility to enforce,
5. To operate and maintain common property, and to operate and maintain the BERKSHIRE LAKES surface water management system, including all lakes, retention areas, culverts and related appurtenances and
6. The purpose of this corporation will not include or permit pecuniary gain or profit nor distribution of its income to its members, officers or directors.

The Corporation is organized and shall exist upon a non-stock basis as a corporation not for profit under the laws of the State of Florida and as a homeowners' association pursuant to Florida Statute 617, and no portion of any income of the Corporation shall be distributed to inure to the private benefit of any member, director or officer of the Corporation.

- B. POWERS: The powers of the Corporation shall include, without limitation, the following:
1. To create additional not-for-profit corporations, pursuant to Florida Statute 617 and to represent members that are not otherwise in a neighborhood association.
 2. To exercise all the powers and provisions and to perform all the duties and obligations of the Master Association as defined in the BERKSHIRE LAKES Third Amended and Restated Declaration, these Articles, By-Laws and Rules & Regulations.
 3. To fix, levy, collect and enforce payment by any lawful means, of all charges or assessments and assessment liens pursuant to the terms of the Third Amended and Restated Declaration, to pay all expenses in connection therewith and all office and other expenses incident to conduct of the business of the Master Association, including all licenses, taxes, or government charges levied or imposed against the property of the Master Association.
 4. To enforce the provisions of any covenants and restrictions which the Master Association has the responsibility to enforce, pertaining to the community known as BERKSHIRE LAKES. BERKSHIRE LAKES is the community located within Collier County and more particularly described in Exhibit "A" of the BERKSHIRE LAKES Third Amended and Restated Declaration.
 5. To pay taxes, if any, on the common property and facilities.
 6. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public

use or otherwise dispose of real or personal property in connection with the affairs of the corporation.

7. To borrow money, and with the assent of fifty-one percent (51%) of the members entitled to vote, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
8. To dedicate, sell or transfer all or any part of the common areas, if any, to any person, corporate entity, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors. Such transfer may be for consideration or for no consideration.
9. To participate in mergers and consolidations with other non-profit corporations organized for the same purpose.
10. Subject always to the Third Amended and Restated Declaration, to have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida by law may now or hereafter have or exercise.
11. To own and convey property.
12. To operate and maintain common property and specifically, to operate and maintain the surface water management system as permitted by the South Florida Water Management District including all lakes, retention areas, culverts and related appurtenances within BERKSHIRE LAKES.
13. To establish reasonable rules and regulations.
14. To assess members and enforce said assessments.
15. To sue and be sued.
16. To contract for services to provide the services for operation and maintenance.

ARTICLE IV

MEMBERS:

The qualification of members, the manner of their admission to membership, the termination of such membership and voting by members shall be as set forth in the Third Amended and Restated Declaration, Conditions, Restrictions and Easements of Berkshire Lakes.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS:

The membership rights (including voting rights) of any member may be suspended by action of the Board of Directors if such member shall have failed to pay when due any assessment or charge lawfully imposed upon him or any property owned by him or if the member, his family, his tenant or guests thereof: shall have violated any rule or regulations promulgated by the Board of Directors regarding the use of any Master Association property.

ARTICLE VI

FIDUCIARY RELATIONSHIP:

The officers and directors of the Association have a fiduciary relationship with the members who are served by the Association pursuant to Florida Statute 617.

ARTICLE VII

BY-LAWS:

The Amended and Restated By-Laws of the Association may be further altered, amended or rescinded in the manner provided therein.

ARTICLE VIII

AMENDMENTS: These Amended and Restated Articles of Incorporation shall be amended only in the following manner:

- A. Proposal: Amendments to these Amended and Restated Articles shall be proposed by a majority of the Board or upon written petition of one-fourth ($1/4$) of the voting interests entitled to vote, signed by them.
- B. Notice. Upon any amendment or amendments to these Amended and Restated Articles being proposed by said Board or members, the proposed amendment or amendments shall be transmitted to the President of the Corporation, or other officers of the Corporation in the absence of the President, who shall thereupon determine the method which shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members within ninety (90) days after transmittal to the President.

Except as otherwise required by Florida Law, these Amended and Restated Articles of Incorporation shall be amended by a vote of no less than fifty one percent (51%) of the Association's members for the purpose of amending these Articles of Incorporation or by approval in writing of no less than fifty one percent (51%) of the Association's

members, provided that notice of any proposed amendment has been given to the members and that the notice contains a fair statement of the proposed amendment. The Board of Directors, by majority vote, may approve and record amendments to these Articles of Incorporation to reflect future revisions to Chapter 617, the Florida Not For Profit Corporation Act, and other applicable statutes regulating the operation of Berkshire Lakes Master Association, Inc.

- D. Effective Date. An amendment shall become effective upon filing same with the Secretary of the State of Florida and recording a copy of same in the Public Records of Collier County, Florida.

ARTICLE IX

BOARD OF DIRECTORS

- A. The affairs of the Corporation shall be administered by a Board of Directors consisting of the number of Directors determined as provided in the Amended and Restated By-Laws, but not less than five (5) Directors. Directors shall be members of the Corporation.
- B. Directors of the Corporation shall be elected by the members in the manner determined by the Amended and Restated By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Amended and Restated By-Laws. Officers shall be elected by the Directors of the Corporation.
- C. The business of the Corporation shall be conducted by the officers and Directors designated in the Amended and Restated By-Laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Corporation and shall serve at the pleasure of the Board.

ARTICLE X

OFFICERS

The affairs of the Association shall be administered by the officers designated by the Amended and Restated By-laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the members of the Board of Directors.

ARTICLE XI

REGISTERED AGENT:

The registered office of the Association shall henceforth be 6640 Willow Park Drive, Naples, Florida 34109. The registered agent at said address shall be Henry Paul Johnson, Esquire.

ARTICLE XII

INDEMNIFICATION =

Every Director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Corporation, or any settlement thereof: whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his duties. In the event of a settlement, the indemnification herein shall apply only when the Directors approve such settlement as being in the best interest of the Corporation.

The foregoing right to the indemnified shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled by common law or statutory law.

ARTICLE XIV

DURATION:

The term of the Corporation shall be perpetual.

ARTICLE XIV

RIGHTS OF OWNERS TO PEACEABLY ASSEMBLE:

The common areas and recreational facilities serving the Association shall be available to members to the Association served thereby and their invited guests for the use intended for such common areas and recreational facilities. Berkshire Lakes Master Association, Inc. may adopt reasonable rules and regulations pertaining to the use of such common areas and recreational facilities. Berkshire Lakes Master Association, Inc. shall not unreasonably restrict any member's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in any common area and recreational facilities.

ARTICLE XV

DISSOLUTION:

The Corporation may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the Members who are entitled to vote. Upon dissolution of this Corporation other than incident to a merger or consolidation, its assets, both real and personal shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this corporation was formed. In the event there is a refusal to accept such dedication., then such assets shall be granted, conveyed and assigned to any non-profit Corporation, trust or other organization which is devoted to purposes similar to those of this Corporation.

ARTICLE XVI

INTERPRETATION

Express reference is hereby made to the terms, provisions, definitions and rules of interpretation contained in the Third Amended and Restated Declaration where necessary to interpret, construe and clarify the provisions of these Articles. In subscribing and filing these Articles, it is the intent of the undersigned that the provisions hereof be consistent with the provisions of the Declaration and, to the extent not prohibited by law, that the provisions of these Articles of Incorporation and the Declaration be interpreted, construed and applied so as to avoid inconsistencies or conflicting results.

WHEREFORE, the Directors have caused these presents to be executed this 4th day of October, 2000

BERKSHIRE LAKES
MASTER ASSOCIATION, Inc.

BY: Grant Grimm
President

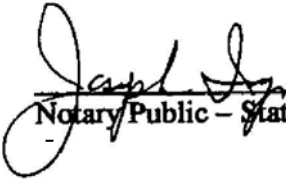
Attest to

Robert N. Stark, Secretary

STATE OF FLORIDA
COUNTY OF COLLIER

I hereby certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgements, personally appeared Grant Grimm as President of Berkshire Lakes Master Association, Inc. and Robert N Stark as Secretary of Berkshire Lakes Master Association, Inc., to me Joseph Ingrassio well known to be the person(s) described herein and/or who (personally known to me) produced as identification and who executed the foregoing instrument and acknowledged before me that they executed the same.

WITNESS my hand and official seal in the State and County
aforementioned this 4th day of October 2000.



Notary Public - Stat

Joseph Ingrassio, Notary Public
State of Florida
Printed Name of Notary Public
My Commission expires:

My Commission
CC950714
Expires June 28, 2004

Berkshire Lakes Master Association. Inc.
By-Laws

Table of contents

Article		Page Number
I	General Name, Location, Definition, Seal	1
II	Members and Meetings of Members 2.1	
	1\embership	1
	2.2 Annual meeting	2
	2.3 Special meetings	2
	2.4 Notice of a meeting	2
	2.5 Quorum	2
	2.6 Voting	2
	2.7 Proxies	2
	2.8 Adjourned meetings	3
	2.9 Order of business	3
	2.10 Actions specifically requiring member's votes	3
	2.11 Member action	3
	2.12 Member participation	4
	2.13 Use of tape	4
III	Board of Directors and Terms of Office	
	3.1 Number	4
	3.2 Term of office	4
	3.3 Election of Directors	4
	3.4 Removal	7
	3.5 Compensation	7
	3.6 Director qualification	8
	3.7 Disqualification and resignation	8
	3.8 Committees	8
	3.9 Failure to elect Director quorum	8
	3.10 Minutes of meetings	8
	3.11 Director voting	8
	3.12 Complaints against Directors	9
	3.13 Limitation of liability	9

	8.5 Fidelity bonds	16
	8.6 Financial reports	16
	8.7 Application of payments	17
	8.8 Special assessments	17
	8.9 Fiscal year	17
IX	Corporate seal	17
X	Amendments	
	10.1 Member vote	17
	10.2 Board of Directors approval	17
XI	Compliance and default	
	11.1 Duties of members, tenants, guests and invitees	18
	11.2 Suspension of members rights and the right to impose reasonable fines	18
	11.3 Correction of health and safety hazards	19
	11.4 Mandatory non binding arbitration Of disputes	19
XII	Miscellaneous	
	12.1 Gender	19
	12.2 Severability	19
	12.3 Priorities in case of conflict	19
	Notary	20

IV	Meetings of Directors	
	4.1 Regular meetings	9
	4.2 Special meetings	10
	4.3 Quorum	10
	4.4 Waiver of notice	10
	4.5 Director voting	10
	4.6 Adjourned meetings	10
	4.7 Presiding officer	10
	4.8 Member attendance	11
V	Power:s and Duties of the Board of Directors	
	5.1 Powers	11
	5.2 Duties	11
VI	Officers and their duties	
	6.1 Enumeration of officers	12
	6.2 Election of officers	12
	6.3 T ernn	12
	6.4 Special appointments	12
	6.5 Resignation and removal	12
	6.6 Vacancies	12
	6.7 Multiple offices	12
	6.8 Duties	
	President	13
	Vice-president	13
	Secretary	13
	Treasurer	13
	6.9 Compensation of officers	13
VII	Inspection of records	
	7.1 Official records	14
	7.2 Inspection and copying of records	15
VIII	Fiscal Matters and Assessments	
	8.1 Assessments	15
	8.2 Association accounts	16
	8.3 Budget	16
	8.4 Reserves for capital expenditures and maintenance	16

THIS DOCUMENT AMENDS AND RESTATES IN ITS ENTIRETY THOSE CERTAIN BY-LAWS OF BERKSHIRE LAKES MASTER ASSOCIATION, INC. WHICH ARE UNDATED AND HAVE NOT BEEN RECORDED AS A MATTER OF RECORD IN COLLIER COUNTY, FLORIDA.

AMENDED AND RESTATED BY-LAWS
OF
BERKSHIRE LAKES MASTER ASSOCIATION

GENERAL

ARTICLE I

NAME, LOCATION, DEFINITION AND SEAL

The name of the Corporation is Berkshire Lakes Muter Association, Inc., a Florida corporation, Not-for-profit, hereafter referred to as "the Association". The principal office of the corporation shall be located at 495 Belville Boulevard., Naples, Florida 34104, but meetings of members and directors may be held at such places within the State of Florida, County of Collier, as may be designated by the Board of Directors. The terms in these Amended and Restated By-Laws shall have the meanings as provided in the Third Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for the Berkshire Lakes Master Association, Inc. and specifically the following:

For convenience these Amended and Restated By-Laws shall be referred to as "the By-Laws", the Amended and Restated Articles of Incorporation of the Association as the "Articles", the Third Amended and Restated Declaration of Covenants Conditions, Restrictions and Easements for Berkshire Lakes as the "Declaration", and "Board" shall mean the Board of Directors of the Association. "Members" shall have the same definitions and meanings as those set forth in the Third Amended and Restated Declaration and the Articles unless provided to the contrary.

ARTICLE II

MEMBERS AND MEETINGS OF MEMBERS

2.1 MEMBERSHIP

Membership in the Association shall be set forth in the Third Amended and Restated Declaration.

2.2 ANNUAL MEETING

The annual members meeting shall be held during the first calendar quarter of each year at such date, time and place--as the Board of Directors determines. The purpose of the meeting shall be to elect directors and to transact any other authorized business.

2.3 SPECIAL MEETINGS

Special members meetings shall be held when called by a majority of the Board of Directors or by members holding at least ten percent (10%) of the Association's votes. The business conducted at a special meeting is limited to that described in the notice of the meeting.

2.4 NOTICE OF A MEETING

Notice of a meeting of members stating the date, time, place and objectives for which the meeting is called shall be given by the Board of Directors by sending such notice to the address of such member as it appears in the Association records. Notice of a membership meeting shall be given at least fourteen (14) days in advance of such meeting. Members who become members by purchasing a "residential unit" from someone other than the original developer shall have the obligation to notify the Secretary of the Association within sixty (60) days of the fact that he has become a member by reason of his purchase of a specified residential unit and of the address where notices to him should be sent. A member who does not so notify the Secretary may not object to the fact that the Association has not sent him notices.

2.5 QUORUM

A quorum at any member's meeting shall consist of members, represented in person or by proxy who are entitled to cast fifteen percent (15%) of the votes at such meeting; however, no quorum shall be needed to conduct the election of directors. If a quorum is present an affirmative vote of a majority of the votes present shall be the act of the members, except when a greater vote is required by the Articles or the Declaration.

Any vote by members may be conducted by mail. Any member who votes by mail shall be considered as part of the quorum for the action upon which the vote was taken.

2.6 VOTING

Voting rights of members shall be as set forth in the Articles and the Declaration and as set forth in these amended By-Laws.

2.7 PROXIES

At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Any proxy shall be effective only for a specified meeting for which originally given and any lawfully adjourned meeting thereof. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his residential unit. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first

meeting for which it was given. No proxy shall be valid if it names more than one person as the holder of the proxy. The holder shall have the right, only if the proxy so provides, to substitute another person to hold the proxy. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it is given and must be signed by the authorized person who executed the proxy.

2.8 ADJOURNED MEETINGS

If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.9 ORDER OF BUSINESS

The order of business at the annual membership meetings and, as far as practical, at other members meetings, may be:

- a. Call to order by President.
- b. Calling of or otherwise establishing the roll call and certifying of proxies.
- c. Proof of notice of meeting.
- d. Reading and disposal of any unapproved minutes.
- e. Reports of officers.
- r. Reports of committees
- g. Election of Directors.
- h. Unfinished business.
- i. New business.
- j. Adjournment.

2.10 ACTIONS SPECIFICALLY REQUIRING MEMBERS VOTES

The following actions require approval of the members and may not be taken by the Board of Directors acting alone:

- a. Amendments to the Declaration, the Articles and the By-Laws,
- b. Cancellation of certain grants, easements or reservations made by the Declaration, made by the Association before the transfer of control to the Association from the developer,
- c Purchase of any Association land,
- d. Providing no reserves or less than adequate reserves,
- e. Recall of members of the Board of Directors and
- f. Other matters contained in the Declaration, Articles or these By-Laws or Florida Statute 617 that specifically require a vote of the members.

2.11 MEMBER ACTION

A member does not have the authority to act for the Association by reason solely of being a member.

2.12 MEMBER PARTICIPATION

A member shall have the right to participate in meetings of members with reference to all designated agenda items subject to all reasonable rules and regulations adopted by the Board of Directors governing the frequency, duration and manner of member participation.

2.13 USE OF TAPE

Any member may tape record or videotape a member meeting subject to such reasonable rules as are adopted from time to time by the Board of Directors.

ARTICLE III BOARD OF DIRECTORS AND TERMS OF OFFICE

3.1 NUMBER

The affairs of this Association shall be managed by a Board of not less than five (5) directors, the exact number to be determined by the Board of Directors and set forth in the notice of the meeting or election by mail at which the directors are to be elected. The Board shall be known as The Board of Directors.

3.2 TERM OF OFFICE

At the expiration of the initial term of office of each respective director elected in 1998 - 1999, successors shall be elected to serve for terms of two (2) years. Each director shall hold office until his successor has qualified or has been elected.

3.3 ELECTION OF DIRECTORS

The Board of Directors may or may not create or appoint a committee for the purpose of securing candidates for election to the Board. Any member may nominate himself for the position of Director. In connection with any meeting in which directors are to be elected, the Association shall mail or deliver a notice of said meeting not less than sixty (60) days before said election. Such notice shall contain the name and correct mailing address of the Association.

1. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than forty (40) days before a scheduled election. Written notice shall be effective when received by the Association. Written notice shall be accomplished in accordance with one or more of the following methods.

- a. By certified mail, return receipt requested, directed to the Association,
- b. By personal delivery to the Association or

- c. By regular United States mail, facsimile, telegram or other method of delivery to the Association. Upon receipt by the Association of any timely submitted written notice that a unit owner or other eligible person desires to be a candidate for the Board of Directors, and upon request by the candidate., the Association shall issue a written receipt acknowledging delivery of the written notice.
2. Upon the timely request of a candidate., as set forth in this paragraph, the Association shall include a sheet which may describe the candidates background, education and qualifications as well as other factors deemed relevant by the candidate. The information contained therein shall not exceed one side of a page., which shall be no larger than 8 1/2" by 11". Any candidate desiring the Association to mail or deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association no less than thirty-five (35) days before the election. The failure of an Association to mail or deliver a copy of a timely information sheet of each eligible candidate to the eligible voters shall not however render any election held null and void.

The Association shall not edit, alter or otherwise modify the content of the information sheet. The original copy provided by the candidate shall become part of the official records of the Association.
3. Not less than twenty-five (25) days before the scheduled election, the Association shall mail or deliver to the eligible voters at the addresses listed in the official records a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. The second notice and accompanying documents shall not contain any communication by the Board, which endorses, disapproves or otherwise comments on any candidate. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller unmarked envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter, the unit or unit number being voted, and shall contain a signature space for the voter. Once the ballot is filled out, the voter shall place the completed ballot in the inner smaller envelope and seal the envelope. The inner envelope shall be placed within the outer larger envelope, and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person is entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for such signature. The envelope shall either be mailed or hand delivered to the Association and must be received by the Association prior to the election. So long as Florida law requires that members be permitted to nominate themselves at the election meeting, any member may do so; however, ballots previously completed and returned shall continue to be valid.

4. The written ballot shall indicate in alphabetical order by surname, each and every unit owner or other eligible person who desires to be a candidate for the Board of Directors and who gave written notice to the Association not less than forty (40) days before a scheduled election. No ballot shall indicate which candidates are incumbents on the board. No ballot shall provide a space for the signature of or any other means of identifying a voter.
5. Envelopes containing ballots received by the Association shall be retained and collected by the Association and shall not be opened except in the manner and the time provided herein.
 - a. Any envelopes containing ballots shall be collected by the Association and shall be transported to the location of the duly called meeting of the unit owners. The Association shall have available at the meeting additional blank ballots for distribution to the eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope in the manner provided above. Each envelope and ballot shall be handled in the following manner: As the first order of business, ballots not yet cast shall be collected. The ballots and envelopes shall be handled as stated below by an impartial committee. The business of the meeting may continue during this process. The signature and unit identification on the outer envelope shall be checked against a list of qualified voters. Any exterior envelope not signed by an eligible voter shall be marked "Disregarded" or with words of similar import, and any ballots contained therein shall not be counted. The voters shall be checked off on the list as having voted. Then, in the presence of any unit owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall be first removed from the outer envelopes and shall be placed into a receptacle. Upon the commencement of the opening of the outer envelopes, the polls shall be dosed, and no more ballots shall be accepted. The inner envelope shall then be opened and the ballot shall be removed and counted in the presence of the unit owners. Any inner envelope containing more than one ballot shall be marked "Disregarded" or with words of similar import and any ballots contained therein shall not be counted.

- b. Each member shall be entitled to vote one vote for each director position that is being voted upon, but there shall be no cumulative voting and any ballot that does not have a different name for each director position voted upon shall be disqualified and shall not count. Joint owners shall have the voting rights set forth in the Declaration. Voting shall not be for specific director positions, rather those individuals having the highest number of votes shall be elected to the Board. Thus, if the number of director positions to be filled is five (5), those individuals who receive the five (5) highest number of votes shall be elected directors. In the event of a tie vote, the winner shall be decided by chance in the manner determined to be appropriate by the Board of Directors. Members who own more than one residential unit in Berkshire Lakes shall have the number of votes provided for in the Declaration.

3.4 REMOVAL

Any director may be removed from the board with or without cause by a majority vote of the members of the association entitled to vote. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the board and shall serve for the unexpired term of his predecessor. If a petition is filed for the recall or removal of more than one director, the question shall be voted separately by the members as to each director sought to be recalled or removed. If a vote is called by ten percent (10%) of the voting interest entitled to vote for the purpose of recall, the notice of the vote must be accompanied by a dated copy of each signature, stating the purpose of the vote. The vote must be held not less than fourteen (14) days or more than sixty (60) days from the date of the notice. If the recall is approved by a majority of all voting interests, the board shall duly notice and hold a board meeting within five (5) business days of the member vote to recall one or more board members. At the board meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately or shall not certify the recall. If the board determines not to certify the recall, the board shall, within five (5) business days after the meeting, file with the American Arbitration Association a petition for arbitration pursuant to applicable provision of Florida law and the procedures of the American Arbitration Association. If the arbitrator certifies the recall, as to any member or members of the board, the recall will be effective upon mailing of the final order of arbitration to the association. If the board fails to duly notice and hold a board meeting within five (5) business days of service of an agreement in writing or within five (5) business days of the adjournment of the member recall meeting, the recall shall be deemed effective, and the board member so recalled shall immediately turn over to the board any and all records and property of the association.

3.5 COMPENSATION

No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred for the benefit of the Association in the performance of his duties.

3.6 DIRECTOR QUALIFICATION

Each director shall be a member of the association in good standing and no lessees or their spouses may be directors.

3.7 DISQUALIFICATION AND RESIGNATION

Any director may resign at any time by sending a personally delivered written notice of resignation to the Association addressed to the Secretary. The resignation shall take effect upon receipt by the Secretary unless it states differently. Any board member elected by the members who is absent for more than three (3) consecutive board meetings in any calendar year, unless excused by resolution of the board, shall be deemed to have resigned from the board of directors automatically.

3.8 COMMITTEES

The Board of Directors may appoint, from time to time, such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Association and to make recommendations to the Board. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of all committees shall be open to all members with the exception of the Fines Committee, and notice posted forty-eight (48) hours in advance of Architectural Review Board and Financial Advisory Committees.

3.9 FAILURE TO ELECT DIRECTOR QUORUM

If the Association and the Board of Directors fail to fill vacancies on the board sufficient to constitute a quorum, any member may apply to Circuit Court of Collier County, Florida, for the appointment of a receiver to manage the affairs of the Association in a manner prescribed by Florida law. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and the attorneys' fees. The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the board sufficient to constitute a quorum.

3.10 MINUTES OF MEETINGS

The minutes of all meetings of the board of directors shall be kept in a book available for inspection by the members or their authorized representatives and board members at any reasonable time. The association shall retain these minutes for a period of not less than seven years. Members and their authorized representatives shall have the right to make written notations from the minutes.

3.11 DIRECTOR VOTING

Directors may not vote by proxy or by secret ballot at board meetings, except officers may be elected by secret ballot. Directors may not abstain from voting unless there is a stated conflict of interest.

3.12 COMPLAINTS AGAINST DIRECTORS

When a member files a written complaint by certified mail with the Board of Directors, the Board shall respond to the member in writing within thirty (30) days of the receipt of the complaint. The board, within the thirty-day (30) period, shall either give a substantive response to the complainant or notify the complainant that a legal opinion has been requested. The failure to provide same to the complainant as provided herein precludes the board from recovering attorney fees and costs in any subsequent litigation, administrative proceeding or, if applicable, arbitration arising out of the complaint.

3.13 LIMITATION OF LIABILITY

A member of the Board of Directors shall not be liable to the members for any mistake of judgment, negligence or otherwise, except for their own individual, willful misconduct or bad faith. The members, including those who are members of the Board of Directors shall indemnify and hold harmless each of the members of the Board of Directors and all committees against all acts or omissions to the fullest extent provided by law while acting on behalf of the association, unless any such acts or omissions shall have been made in bad faith.

ARTICLE IV

MEETINGS OF THE DIRECTORS

4.1 REGULAR MEETINGS

Regular meetings of the Board of Directors shall be held as determined by the Board, but not less than quarterly, at such date, place and hour as may be fixed from time to time by resolution of the Board. Notice of all meetings shall be posted conspicuously on the Association property at least forty-eight (48) hours in advance except in an emergency. However, written notice of any meeting at which non-emergency special or regular assessments will be considered or which amendments to rules and regulations will be considered shall be mailed by regular United States mail or delivered to each member and posted conspicuously on Association property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. An assessment shall not be levied at a board meeting unless notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Upon notice to the members, the Board shall, by duly adopted rule, designate a specific location on the Association property upon which all notice of board meetings shall be posted. Any member may attend any Board of Directors meeting. The Board of Directors shall adopt reasonable rules governing the frequency, duration and manner of members' statements. Any item not included in any notice may be taken upon on any emergency basis by at least a majority plus one of the members of the Board and such emergency action taken shall be noticed and ratified at the next regular meeting of the Board.

4.2 SPECIAL MEETINGS

Special meetings of the Board of Directors shall be held when called by the President of the Association or by written request of any two (2) directors after not less than forty-eight (48) hours notice.

4.3 QUORUM

A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board. Members of the Board of Directors may participate in any meeting of the Board, or meeting of a committee, by means of a conference telephone or similar communicative equipment. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.4 WAIVER OF NOTICE

Any director may waive notice of a meeting before, during or after the meeting and such waiver shall be deemed equivalent to the giving of notice. If a true emergency exists, the required notice shall be that which is reasonable under the circumstances.

4.5 DIRECTOR VOTING

A director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting with respect thereto because of an asserted conflict of interest. A vote or abstention for each member present at any meeting shall be recorded in the minutes. A director may not be recorded as present or abstaining from voting unless an asserted conflict of interest is noted and explained. Directors may not vote by proxy or secret ballot at board meetings, except that secret ballots may be used in the election of officers.

4.6 ADJOURNED MEETINGS

If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.7 PRESIDING OFFICER

The President of the Association or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by a majority vote of those present.

4.8 MEMBER ATTENDANCE

All meetings of the Board shall be open to all members except for meetings between the Board and its attorney with respect to proposed or pending litigation when the contents to be discussed would otherwise be governed by an attorney/client privilege.

ARTICLE V

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

5.1 POWERS

The Board shall exercise for the Association all powers, duties, rights and authority vested in or delegated to this Association and not reserved to the membership by other provisions by these By-Laws, the Articles or the Declaration.

5.2 DUTIES

Committees are appointed by the Board and serve in an advisory capacity only. All committee policies, procedures, and operating guidelines are found in the Berkshire Lakes Master Association Procedures Manual

5.3 It shall be the duty of the Board of Directors to:

- A. Cause to be kept a complete record of all its acts and corporate affairs.
- B. Supervise all officers, agents and employees of the Association and to see that their duties are properly performed.
- C. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- D. Cause all officers or employees having physical responsibilities to be bonded in accordance with the requirements of Florida Law.
- E. Prepare the annual budget and fix the amount of the annual assessment against each lot or unit at least thirty (30) days in advance of each annual assessment period and to that end;
 - 1. Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period and
 - 2. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due dates or to bring an action at law against the owner personally obligated to pay the same.
- F. Perform or act upon anything else required by law or the Declaration, By-Laws or Articles.
- G. Procure and maintain adequate liability and hazard insurance on properties owned by the Association.

ARTICLE VI

OFFICERS AND THEIR DUTIES

6.1 ENUMERATION OF OFFICERS

The officers of this Association shall be a president, a vice-president, who shall at all times be members of the Board of Directors, a secretary, a treasurer and such other officers as the Board may, from time to time, by resolution create.

6.2 ELECTION OF OFFICERS

The election of officers shall take place at the first meeting of the Board of Directors immediately following each annual meeting of the members. A secret ballot may be utilized for this purpose.

6.3 TERM

The officers of the Association shall be elected annually by the Board and shall hold office for terms as elsewhere provided for herein.

6.4 SPECIAL APPOINTMENTS

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for the period, have such authority, and perform such duties as the Board may, from time to time, determine.

6.5 RESIGNATION AND REMOVAL

Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice, or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6.6 VACANCIES

A vacancy in any office may be filled by appointment by a majority of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

6.7 MULTIPLE OFFICES

The offices of secretary and treasurer may be held simultaneously by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special appointments created pursuant to Section 6.4 of this Article.

6.8 DUTIES

The duties of the officers are as follows:

A. PRESIDENT

1. The President shall preside at all meetings or the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall appoint committees from among the members from time to time to assist in the conduct of the affairs of the Association as he, in his discretion, may deem appropriate.

B. VICE-PRESIDENT

1. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act; and shall exercise and discharge such other duties as may be required by the Board.

c. SECRETARY

1. The Secretary shall keep the corporate seal of the Association and affix it on all papers requiring said seal, and shall perform such other duties as required by the Board. The Secretary shall ensure that the Management Company performs its duties and obligations in posting, recording and keeping all required records. Any of the foregoing duties may be performed by an Assistant Secretary if one has been designated.

D. TREASURER

1. The Treasurer may ensure the deposit in appropriate bank accounts all monies of the Association and may disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; ensure proper books of account are kept; cause such audits of the Association books to be made by a public accountant as required by Florida law; shall ensure an annual budget and a statement of income and expenditures to be presented to the membership. He shall disburse the funds of the Association, taking proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board; an account of all transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer if one has been designated.

6.9 COMPENSATION OF OFFICERS

No compensation shall be paid to officers of the Association for their services as officers.

ARTICLE VII
INSPECTION OF RECORDS

7.1 OFFICIAL RECORDS

The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

- A. Copies of any plans, specifications, permits and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair or replace.
- B. A copy of the By-laws of the Association and of each amendment thereto.
- C. A copy of the Articles of the Association and of each amendment thereto.
- D. A copy of the Declaration and of each amendment thereto.
- E. A copy or the current rules of the Homeowner's Association.
- F. The minutes of all meetings of the Board of Directors and of the members which must be retained for at least seven (7) years.
- G. A current roster of all members and their mailing addresses and parcel identifications.
- H. All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.
- L. A current copy of all contracts to which the Association is a party, including without limitation, any management agreement, lease or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed shall also be considered official records and shall be kept for a period of one (1) year.
- J. The financial and accounting records of the Association kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:
 - 1. Accurate, itemized and detailed records of all receipts and expenditures,
 - 2. A current account and periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment of the account and the balance due,
 - 3. All tax returns, financial statements and financial reports of the Association and
 - 4. Any other records that identify record, measure or communicate financial information.

7.2 INSPECTION AND COPYING OF RECORDS

The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This section may be complied with by having a copy of the official records available for inspection or copying in the community.

- A. The failure of the Association to provide access to the records within ten (10) business days after receipt of a written request creates a rebuttal presumption that the Association willfully failed to comply with this section.
- B. A member who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this subsection. The minimum damages are fifty dollars (\$50) per calendar day up to ten (10) days, the calculation to begin on the eleventh (11th) business day after receipt of the written request.
- C. The Association may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspections, and may impose fees to cover the costs of providing copies of the official records including, without limitation, the cost of copying. The Association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

ARTICLE VIII

FISCAL MATTERS AND ASSESSMENTS

8.1 ASSESSMENTS

As provided in the Declaration, each member is obligated to pay to the Association, assessments which are secured by a continuing lien upon the property against which the assessment is made. Assessments shall be paid annually and are due January 1 of each year. Assessments shall be collected against members in the manner provided in the Declaration. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate as allowed by law. The Association may bring an action at law against the members personally obligated to pay the same or foreclose the lien against the members' residential unit and all interest, costs and reasonable attorney fees incurred incident to collection of any unpaid assessment shall be added to the amount of such assessment. No member may waive or otherwise escape liability for such assessments provided for herein by non-use of any association property or abandonment of his residential unit.

8.2 ASSOCIATION ACCOUNTS

The Association shall maintain its accounts in such financial institutions in the State of Florida as may be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest bearing accounts, money market funds, certificates of deposit, United States Government securities and other similar investment vehicles. Reserve and operating funds of the Association shall not be commingled.

8.3 BUDGET

The Board of Directors shall, prior to the end of the fiscal year, adopt an annual budget for common expenses for the next fiscal year. A copy of the proposed budget and a notice stating the time and place of the meeting shall be provided to all members in writing or through the mail no less than thirty (30) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

8.4 RESERVES FOR CAPITAL EXPENDITURES AND MAINTENANCE

In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item, and such formula shall be set forth on the proposed budget. Reserves funded under this section shall be used only for the specific purpose (or which they were reserved unless their use (or other purposes is approved by a majority plus one (1) of the Association Board of Directors.

The Board may also establish one or more additional reserve accounts (or general operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the Deed (or special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year.

8.5 FIDELITY BONDS

The treasurer and all other officers who are authorized to sign checks, and all directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as may be required by law. The premiums on such bonds shall be paid by the Association..

8.6 FINANCIAL REPORTS

The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association shall provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

8.7 APPLICATION OF PAYMENTS

All payments on account by a member shall be in such manner and amounts as the Board of Directors may determine.

8.8 SPECIAL ASSESSMENTS

Special assessments may be made by the Board of Directors when necessary to meet unusual, unexpected, emergency or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these By-laws so as to insure the Association does not operate in a deficit. Special assessments are due on the day specified in the resolution of the Board approving such assessments

8.9 FISCAL YEAR

The fiscal year for the Association shall be the calendar year, beginning on the first day of January of each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time, prescribed in the Internal Revenue Code of the United States of America..

ARTICLE IX

CORPORATE SEAL

The Association shall have a seal in a circular form having within its circumference the words in capital letters BERKSHIRE LAKES MASTER ASSOCIATION, INC., A Florida Corporation, Not-for-Profit.

ARTICLE X

AMENDMENTS

10.1 These By-laws may be amended by a vote of not less than fifty one (51%) percent of the members who are entitled to vote except as otherwise provided herein.

10.2 The Board of Directors, by a majority vote, may approve and record amendments to these by-laws to reflect future revisions to Chapter 617, the Florida Not-for-Profit Corporation Act and other applicable statutes regulating the operation of Berkshire Lakes Master Association, Inc.

ARTICLE XI

COMPLIANCES AND DEFAULT

11.1 DUTY OF MEMBERS, TENANTS, GUESTS AND INVITEES

Each member and the member's tenants, guests, invitees and each association, are governed by, and must comply with Florida Statute 617, the governing documents of the community and the rules of the Association.

11.2 SUSPENSION OF MEMBERS RIGHTS AND THE RIGHT TO IMPOSE REASONABLE FINE

The Association shall have the right to suspend for a reasonable period of time the rights of a member or member's tenants, guests or invitees to use common areas and facilities. The Association shall also have the right to levy reasonable fines, not to exceed the maximum amount allowed by law per violation, against any member, guest or invitee for any violation of the provisions of the instant Declaration, the Articles, By-laws or the Association's Rules or Regulations. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed five-thousand dollars (\$5,000) in the aggregate. No fine or suspension shall be imposed unless the person sought to be suspended or fined is given a notice of at least fourteen (14) days and an opportunity for a hearing before a Fines Committee of at least three members appointed by the Board. The members appointed by the Board shall not be officers, directors or employees of the Association, nor the spouse, parent, child, brother or sister of an officer, director or employee. No fine or suspension may be imposed unless a majority of the committee approves the proposed fine or suspension.

The requirements of this section do not apply to the imposition of penalties upon a member for failure to pay assessments or other charges when due.

The Association may suspend the voting rights of a member for the non-payment of regular annual assessments that are delinquent in excess of ninety (90) days.

If the Association imposes a fine upon a member in accordance with the provisions of this article, the Association shall have a lien against the owner's residential unit for so long as said fine is unpaid. The Association shall have the right to record a claim of Lien in the public records and to foreclose such lien in the same manner as it forecloses liens for non- payment of assessments. Any fine not paid within ten (10) days after it is imposed shall accrue interest at the maximum rate allowed by law. If the Association is required to proceed with collection procedures to collect said fine, the members shall also be liable for said costs, including the Association's attorney fees, and the Association's lien shall include all the said additional charges.

11.3 CORRECTION OF HEALTH AND SAFETY HAZARDS

Any violations which are deemed by the Board to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the member as a specific item which charge may be enforced by lien against said parcel with the same force and effect as if the charge were apart of the common expenses.

11.4 MANDATORY NON-BINDING ARBITRATION OF DISPUTES

In the event of a dispute between one or more members and the Association arising from the operation of the Association, the parties may submit the dispute to voluntary non binding arbitration under the rules of the American Arbitration Association. In any such arbitration, the decision of the arbitrator shall be final. However, the decision shall not preclude the parties from proceeding in a trial de novo. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence. The prevailing party may be awarded costs of the arbitration, reasonable attorney fees or both in an amount determined in the discretion of the arbitrator. Any party to an arbitration proceeding may enforce an arbitration award in a court of competent jurisdiction in Collier County, Florida. The petitioner may recover reasonable attorney fees and costs incurred in enforcing the arbitration award. Alternatively, the parties may have the dispute resolved via jury or non jury trial in Collier County, Florida with the prevailing party being entitled to recovery of its reasonable attorney fees and costs.

ARTICLE XII

MISCELLANEOUS

12.1 GENDER

Whenever the masculine or singular form of the pronoun is used in these by-laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires. Furthermore, whenever the context permits or requires the singular shall include the plural and the plural shall include the singular.

12.2 SEVERABILITY

Should any portion thereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

12.3 PRIORITIES IN CASE OF CONFLICT

In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- a. Florida Statute 617.
- b. The Declaration.
- c. The Articles
- d. These By-laws.
- e. Association Rules and Regulations.

The foregoing constitutes the Third Amended and Restated By-Laws of the Berkshire Lakes Master Association, Inc. and were duly proposed and adopted by a majority of the Board of Directors voting at a special Board of Directors meeting held in the manner required in the originally recorded By-Laws for their amendment.

WHERE FORE the Directors have caused these presents to be executed this
4th day of October, 2000

BERKSHIRE LAKES MASTER
ASSOCIATION, INC
By: Grant Grimm President

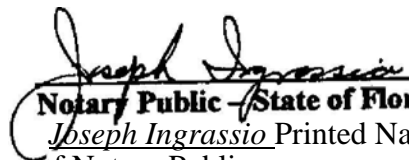
Attest to

Robert N. Stark Secretary

STATE OF FLORIDA
COUNTY OF COLLIER

I hereby certify that on this day, before me, an officer duly authorized to administer - oaths and take acknowledgements, personally appeared Grant Grimm, as President of Berkshire Lakes Master Association, Inc. and Robert N. Stark as Secretary of Berkshire Lakes Master Association, to me Joseph Ingrassio to be the person(s) described herein and/or who personally known produced _____ as identification and who executed the foregoing instrument and acknowledged before me that they executed the same.

WITNESS my hand and official seal in the State and County aforementioned this 4th day of October, 2000


Notary Public - State of Florida
Joseph Ingrassio Printed Name
of Notary Public
My Commission expires:
My Commission CC950714
Expires June 28, 2004