

**AMENDED AND RESTATED DECLARATION OF MAINTENANCE COVENANTS
AND RESTRICTIONS OF
BENEVA OAKS**

THIS AMENDED AND RESTATED DECLARATION is made and executed this 5th day of March 2013, by BENEVA OAKS MAINTENANCE AND PROPERTY OWNERS' ASSOCIATION, INC. (hereinafter referred to as "The Association") a Florida not-for-profit corporation organized and existing under the laws of the State of Florida, and duly authorized to transact business in the State of Florida.

WITNESSETH:



WHEREAS, the Association is responsible for operation and maintenance of certain property in Sarasota County, Florida, known as "Beneva Oaks Subdivision" (hereinafter referred to as the "property"), more particularly described as follows:

Lots 1 through 49, BENEVA OAKS SUBDIVISION, as per plat
there of recorded in plat book 26, pages 9, 9A, 9B & 9C,
Public Records of Sarasota County, Florida

RECORDED IN OFFICIAL RECORDS
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KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLORIDA
CEAGLETO Receipt#1616170

WHEREAS, Beneva Oaks Development Corporation (hereinafter referred to as "Developer"), a dissolved Florida Corporation, the original owner and developer of the property, relinquished control over the Association on September 22, 2006 and executed and recorded a document entitled "Assignment of Developer's Rights" in the official records of Sarasota County, Florida;

WHEREAS, Developer established protective covenants covering the development, improvement and usage of the property for the benefit and protection of Property, and purchasers of lots and homes in Property, and desired to submit said Property to the terms and provisions contained in the original "DECLARATION OF MAINTENANCE COVENANTS AND RESTRICTIONS OF BENEVA OAKS", recorded in Official Records Book 1296, Page 1839, et seq.. Public Records of Sarasota County, Florida;

WHEREAS, the Association desires to amend the original Covenants to maintain a common plan of development and maintenance for the continued enjoyment of all owners of lots in the Property, and to protect the value and desirability of Property;

NOW, THEREFORE, THE Association hereby amends and restates the “DECLARATION OF MAINTENANCE COVENANTS AND RESTRICTIONS OF BENEVA OAKS” in its entirety, as set forth in this AMENDED AND RESTATED DECLARATION OF MAINTENENACE COVENANTS AND RESTRICTIONS OF BENEVA OAKS” and declares that the real property as described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said Property, and be binding on all parties having any right, title, or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

The following words, when used in this Declaration (unless the context shall prohibit such construction) shall have the following meanings:

1. **“Declaration”** shall mean this Declaration of Maintenance Covenants and Restrictions, which is the same Declaration of Maintenance Covenants and Restrictions referred to in the Articles of Incorporation and Amended By-Laws of the Beneva Oaks Maintenance and Property Owners’ Association, Inc., which Articles and By-Laws are attached hereto as Exhibits “A” and “B” respectively.
2. **“Beneva Oaks”** shall mean and refer to all of the property described in Article II hereof.
3. **“Property”** shall mean and refer to any lot located in Beneva Oaks as described in Article II hereof, including all improvements located thereon.

4. **“Lot”** shall mean and refer to any numbered lot as reflected on the plat of Beneva Oaks as described in Article II hereof, including all improvements located thereon.
5. **“Owner”** shall mean and refer to the record owner, whether one or more persons, corporations or other legal entities of the fee simple title to property in Beneva Oaks.
6. **“Common Area”** shall mean all real property within Beneva Oaks, which is owned or leased by the Association or dedicated for use or maintenance by the Association or its members, including, regardless of whether title has been conveyed to the Association:
 - (a) Real Property the use of which is dedicated to the Association or its members by a recorded plat; or
 - (b) Real property committed by Amended and Restated Declaration of Maintenance Covenants and Restrictions of Beneva Oaks, to be leased or conveyed to the Association.
7. **“Association”** shall mean and refer to Beneva Oaks Maintenance and Property Owners Association, Inc., a Florida Corporation not for profit, which corporation has been formed for the primary purpose of owning, improving, maintaining and managing the Common and Public areas and also for the purpose of enforcing these Covenants and Restrictions and improving and maintaining the waterways, canals and other open spaces and to provide such other community services as beneficial to the members.
8. **“Public Roads”** shall mean and refer to those roads or streets within Beneva Oaks heretofore or hereafter dedicated to the County of Sarasota and to be maintained at public expense, with supplemental maintenance, if necessary, by the Association.
9. **“Private Roads”** shall mean and refer to those roads which are common to Beneva Oaks, as a whole, and which are available for the common use of all Owners in

Beneva Oaks, which roads are to be maintained by the Association.

10. **"Commercial Vehicle"** shall be defined as follows:

A. Any vehicle that the owner, lessee or possessor uses primarily for commercial practices and activities;

B. Any specialized car, van or truck used for hire or to advertise (for a business or sales purpose) a business, service, "for hire", be it a profit, non-profit or not-for-profit organization;

C. "Specialized" includes, but is not limited to, signs, ladders, racks, extended hitches, lifts, oversized tool boxes, welding equipment and towing mechanisms;

11. **"Personal Use Vehicle"** shall be defined as any vehicle, including but not limited to, any car, moped, scooter, motorcycle, minivan, van, sports utility vehicle or pickup truck, used primarily by the owner, lessee, or possessor of said vehicle for purposes and uses other than business, sales, or advertising.

12. **"Recreational Vehicle"** shall be defined as follows:

A. Any boat, Jet Ski, or other water craft, whether propelled by self or motor;

B. Any trailer;

C. Any mobile home, motor home, or self-contained camper;

D. Any pop-up camper/tent or other similar recreation-oriented, portable, towable or transportable facility or conveyance;

E. Any dune buggy;

F. Any vehicle designed and/or used primarily for off-road purposes;

G. Any vehicle designed and/or used primarily for racing.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The real property which shall henceforth be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Sarasota County, Florida, and described as follows:

Lots 1 through 49, BENEVA OAKS SUBDIVISION, as per plat thereof recorded in plat book 26, pages 9, 9A, 9B, & 9C, Public Records of Sarasota County, Florida.

ARTICLE III

REQUIRED MEMBERSHIP IN BENEVA OAKS ASSOCIATION

In order to establish, protect and preserve the quality of the development, all property owners in Beneva Oaks shall be required to become members of the Association and to maintain such membership in good standing. Furthermore, membership of each and every property owner in Beneva Oaks in the Association is hereby stated and recognized to be a necessary and essential part of the orderly Maintenance of Beneva Oaks.

ARTICLE IV

MAINTENANCE COVENANTS

In connection with the Beneva Oaks development, certain land areas referred to as "Common Areas" may from time to time hereafter be set aside or deeded to the Association as open space for the development. In some instances, easements for County access may have been granted to the County of Sarasota. Where such open space is being used as water retention areas to meet requirements of Sarasota County, such easements to the extent possible will be granted only for required maintenance by the County not for the general use of the public. The Common Areas will be designated as such either on plats or in other documents which will be recorded from time to time by Association-

1. **Responsibility of Association.** The Association shall be responsible for enforcing the Restrictions herein contained and for maintaining the common areas. The Association shall also provide supplemental maintenance on all lands and easements dedicated to Sarasota County.

2. **Assessments.** The Association shall assess each property owner equally, for his share of the expenses necessary to carry out the responsibilities and duties of the Association.
3. **Lien for Unpaid Assessments.** Unpaid assessments shall bear interest at the highest rate permitted by law from and after the 10th day after same are due until paid in full. The Association shall have a lien for all delinquent assessments, which shall include interest, reasonable attorney's fees and court costs incident to the collection of same, which lien may be foreclosed in the manner provided in the Bylaws of Beneva Oaks Maintenance and Property Owners Association, Inc.

ARTICLE V

ARCHITECTURAL CONTROL AND APPROVAL OF BUILDING PLANS

No major improvement or structure of any kind, including, without limitation any building, fence, wall, swimming pool, tennis court, screen enclosure, water or sewer line, drain, solar energy device, decorative building, landscaping, landscape device or object, or other improvements, shall be commenced, erected, placed or maintained upon any property, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to the Architectural Review Committee consisting of a minimum of three but no more than five community members, none of whom are sitting board members or are related to sitting board members. Upon approval by the Architectural Review Committee, plans will be forwarded to the Board of Directors for review and final approval. All plans and specifications shall be evaluated as to their conformity with the existing character of the neighborhood. If, however, failure to approve occurred, the petitioner may request a special meeting of the general membership to be held for a vote by the community at large. A simple majority vote by the general membership would be required to overturn the decision of the Board of Directors.

1. **Permits.** At the time plans, drawings and specifications are approved, and the building permit procured, the permit must be posted in a conspicuous manner on the property being improved.
2. **Fees.** A schedule of reasonable fees for processing requests for building plan approval may be adopted by the Board of Directors of the Association, such fees, if any, shall be payable to the Association at the time the plans and specifications are submitted.
3. **Failure to Approve.** Should the Board of Directors fail to either approve or disapprove the plans and specifications submitted to it within thirty (30) working days after written request thereof, then such approval shall not be required in such instant; provided, however, that no building or other structure or use shall be erected or remain on any lot which violates any of the other covenants or restrictions herein contained.

ARTICLE VI

IMPROVEMENT RESTRICTIONS

The foregoing shall apply to all property in Beneva Oaks except as specifically indicated otherwise.

1. **Use Requirements.** Except as hereinafter provided, no lot shall be used except for residential purposes. No homeowner can sublet their residence or rent any detached structure or dwelling. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and a private garage for not more than four cars, which garage shall be attached and made part of the dwelling house. Any future deviation of a structural nature, i.e. detached pool house, garage or other structure, must be approved by the Board of Directors.

2. **Size and Design of Building.** The main residence shall have a living area of not less than 2,000 square feet. Living area shall exclude all screened or open porches, breezeways, garages, utility areas, whether finished or unfinished.
3. **Garages.** Each dwelling shall be constructed with an enclosed garage for a minimum of two cars. No garage shall be erected on any lot prior to the construction of a dwelling. The garage shall be of the same kind of materials and construction as the dwelling, and shall conform architecturally to the dwelling, and with the exception of corner lots must provide for entry at the side of the main residence so that garage doors are not visible from the front of the street.
4. **Set-back Lines, Etc.** No structure of any kind, including, but not limited to dwellings, garages, swimming pools and screened cages, shall be erected nearer than 50 feet to any street right of way line, or nearer than 8 feet from any side lot line, nor nearer than 15 feet from the rear lot line of any lot.
5. **Lawns and Driveways.** The front lawn of each lot shall consist of grass, ground cover, trees, shrubs, landscaping, or some combination thereof. All lawns in front of each residence shall extend to the pavement line. No gravel or blacktop or paved parking strips are to be allowed except as shown on the plot plan approved by Board of Directors. All driveways from the garage to the street pavement shall be constructed of reinforced concrete, a minimum of four (4) inches in thickness, with trowel, broom finish, or river rock, brick or pavers.
6. **Other Structures.** No temporary structure, including but not limited to, trailer, house trailer, tent, shack, garage, barn, barracks-type structure or other outbuilding shall be erected, maintained or used on any lot at any time for longer than 72 hours, except that necessary construction sheds may be temporarily maintained during construction of a

dwelling but shall be promptly removed upon completion of such dwelling and not later than six (6) months after original commencement of the construction of such dwelling.

7. **No Re-subdivision**. No lot or group of lots shall be re-subdivided.
8. **Swimming Pools**. Swimming pools and screened enclosed structures may be constructed on any lot contiguous to a dwelling, in compliance with Sarasota County building regulations.
9. **Sanitary Facilities**. No outdoor toilets shall be erected or maintained.
10. **Water System**. All buildings shall be connected to the water system of the franchised utility company, and shall be subject to installation fee, as well as for charges for water consumed. No saline or regenerating solution from water softening equipment shall be discharged in any street right of way.

All owners of lots expressly grant to the franchised utility company, its successors, or assigns, a license for any of its agents or employees to enter upon any lot for the purpose of installation of water meters, water lines, and for the routine reading of meters and servicing and maintenance of any part of the installation.

11. **Sewerage Treatment**. All buildings shall be connected to an approved private treatment facility, (septic tank) to be installed at the expense of the lot owner. The private treatment facility, (septic tank) must conform to current County and Health Department requirements.
12. **Lawn Sprinkling and Irrigation**. Any lot utilizing an underground sprinkling or irrigation system may not connect same to the potable water supply. Any new well installed to provide irrigation must be a deep well (90 feet or deeper) to utilize the deep subsurface water supply.
13. **Unightly Objects**. All garbage or trash containers, oil tanks, and bottled gas tanks on all lots must be underground or placed in walled areas so they shall not be visible from

the adjoining properties. Air conditioner compressors shall be similarly screened from view and buffered by a wall or shrubbery so as to reduce the noise level resulting from operating thereof. No un-mowed weeds or underbrush, refuse piles or other unsightly growths shall be permitted to grow or remain upon any lot. In the event the owner of any lot or lots shall fail or refuse to keep the premises mowed, free of weeds or underbrush, refuse piles, or other unsightly growths, then the Board of Directors, may authorize entry upon said lot or lots and remove such refuse or mow or cut such weeds or underbrush and charge the owner for such services and such entry on the part of the person or entity designated by the Board of Directors shall not be deemed a trespass; nonpayment of such charges shall allow the placement of a lien on said lot or lots.

14. **Unlawful Use of Property.** No unlawful, improper or immoral use shall be made of any lot and same shall at all times be kept mowed and clear of debris and vegetation that may be either a health or fire hazard to the neighborhood.
15. **Nuisances.** No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
16. **Animals.** No animals, livestock or poultry of any kind shall be bred, raised or kept for commercial purposes on any lot. Commonly accepted house pets may be kept on any lot as long as they do not become a nuisance to other residents in the neighborhood. Pet owners shall assume full responsibility for all actions of their pets. Vicious or threatening behavior of free-running dogs shall be considered a nuisance. Exposed excrement on lots, lawns or boulevards shall be considered a nuisance.
17. **Signs.** No "For Sale" sign of any kind shall be displayed to the public view on any vacant lot. One sign of not more than four square feet may be used to advertise an improved property for sale; provided however, signs not more than ten square feet (not

wider than four feet, nor higher than three feet), may be used by a builder to advertise improved property for sale during the construction and initial sales period. The use of flags or other similar advertising material is strictly prohibited.

18. **Utility Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Where more than one lot is used as a single building site, only the outside boundaries of said building site shall carry such easements.

19. **Visible Parking or Storage.** Every recreational vehicle and commercial vehicle, as defined herein, must be parked, stored or maintained inside an enclosed garage with opaque walls, or in any allowed structure that renders said vehicle not visible from the street, from any other residence in Beneva Oaks, or from any common area. Notwithstanding the above, Commercial Vehicles owned or operated by repairmen, servicemen or tradesmen, who are present to perform trades or services, shall be allowed to park commercial vehicles or equipment anywhere in the property described in Article II herein, during the time necessary for the performance of trades or services as may be reasonable. Any construction materials placed on the street must have cautionary flashing lights from dusk to dawn.

Personal Use Vehicles, as defined herein, may be parked or stored in a

garage, or on a driveway or street; however, no such vehicle may be parked at any time on grass or a grassy area, or on the street from sundown to sunup. Personal use vehicles may be parked on the street for up to seventy-two (72) hours during driveway repairs or updates.

20. **Lot Grading.** Floor levels shall be set sufficiently above street grade to provide proper drainage of the respective lot and no filling or grading shall be done that will adversely affect the proper drainage of adjacent property. Protective slopes around all buildings shall be provided on every lot by the respective owner and side lot line swales shall be planned and maintained to prevent standing water in the rear. It shall be the responsibility of each owner to see that his lot conforms to FHA #300, "Minimum Property Standards for One and Two Living Units" (Gen. Rev. #5), Section #1202, Page 234 and 244 inclusive. This places a special responsibility on the first builder in any neighborhood to refrain from blocking side lot line easements in excess of the minimum 1% slope toward the street.
21. **Trees.** In order to protect the wooded homesite environment, property owners must replace each tree removed for construction with two small trees. No trees may be removed from the dedicated public or common areas unless it is required by reason of hazard or disease and then only by the approval of the Board of Directors.
22. **Burning.** No outdoor burning of leaves, trash, etc., will be allowed and all leaves, trash, etc., must be carted to a legal dumping ground or containerized for central pickup.
23. **Underground Utilities and Antenna.** All utility lines and lead-in wires, cable TV lines, including but not limited to, electrical lines and telephone lines, located within the confines of any lot or lots shall be located underground; provided nothing herein contained shall prevent an above ground temporary power line to a residence during the period of construction.

No antenna and no satellite dish more than one (1) meter (39 inches) in diameter, other than FCC-approved devices shall be permitted. There shall not be permitted or maintained, any type of radio, television or other communication system antenna, or satellite dish more than 1 meter (39 inches) in diameter on any exterior portion of a dwelling house, nor shall any such antenna be maintained inside a dwelling house if it emanates or creates radio or television reception interference with any neighboring dwelling house. Any exceptions that exist at the time of amending these covenants shall be consider grandfathered in and apply only to the then current object and to the then current owner.

24. **Mailboxes and Street Signs.** No mailbox or receptacles of any kind for use in the delivery of mail or newspapers or magazines or similar materials shall be erected on any lot which does not conform to the Association's specifications as to design, size, type of material and location. Each lot owner shall be responsible for repairing and/or replacing damaged mailboxes in accordance with the Association's specifications. To maintain the uniformity of appearance, however, the Association shall repaint the mailboxes and the street signs as needed to maintain an acceptable appearance determined by the Association membership. The Association shall have the right but not the obligation to repair or replace a damaged mailbox if the lot owner fails or refuses to do so after written notice from the Association. All costs and expenses incurred by the Association shall be charged to the lot owner; nonpayment of such charges shall allow the placement of a lien on said lot or lots.
25. **Window Coverings.** Windows shall not be covered with unfinished plywood except during a hurricane or tropical storm, or during a time when a hurricane or tropical storm warning or watch is in effect for Sarasota County. Windows may be covered with painted wood panels (provided that the color is the same color as the exterior of the house,)

Plexiglas, or any form of transparent covering at any time during hurricane season, defined as June 1 through November 30.

ARTICLE VII

GENERAL PROVISIONS

1. **Remedies for Violation.** If the owner of any property in “Beneva Oaks” shall violate or attempt to violate any of the covenants and restrictions herein, it shall be lawful for any other property owner within “Beneva Oaks” to prosecute any proceedings at law or in equity against the person violating or attempting to violate any such covenant or restrictions, either to restrain him from such violation, or to recover damages therefore, or both. Any person, or the Association, who shall bring successful legal proceedings to enforce these covenants and restrictions shall be entitled to recover his costs and reasonable expenses of such proceedings, including a reasonable attorneys’ fee, including appellate proceedings, from any person found to be in violation of these covenants and restrictions, provided the violator shall have first been given written notice of his violation and at least ten (10) days in which to correct it.
2. **Term of Restrictions.** These covenants and restrictions are to run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of lots in the subdivision subsequently executed, and same shall be binding on all parties and all persons claiming under such deeds and conveyances for a period of thirty (30) years from the date of recording, after which time such covenants and restrictions shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots in the subdivision, agreeing to terminate or change same in whole or in part.
3. **Amendments.** This Declaration may be amended as follows:
 - (a) By written consent of a majority of the membership of the Association.

All amendments shall take effect when duly executed and recorded in the Public Records of Sarasota County, Florida.

4. **Invalidation**. Invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Dated this 29th day of April, 2013.

Witness signature *G.R. Baise MD*

Witness signature *Charles D'Amico*

Print name of witness G. R. BAISE MD

Print name of witness Charles D'Amico

Beneva Oaks Homeowner Association

Mark Hostetler

By: Mark Hostetler, President/Board Member

State of Florida, County of Sarasota

The foregoing instrument was acknowledged before me this 29th day of April, 2013 by Mark Hostetler, as the current president of Beneva Oaks Homeowners Association. He is personally known to me or has produced a current State of Florida driver's license as proper identification.

John S. Loria, Jr.
Notary Public

JOHN LORIA

Print name of notary

State of Florida

My Commission Expires:

