

**Scott Ellis**

Clerk Of Courts, Brevard County

APGS: 22 #Names: 2  
Trust: 11.50 Rec: 88.00 Serv: 0.00  
Deed: 0.00 Excise: 0.00  
MG: 0.00 Int Tax: 0.00



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

THIS DECLARATION, made as of the date hereinafter set forth by HERITAGE OAKS DEVELOPMENT COMPANY, INC., a Florida Corporation, hereinafter referred to as "Declarant" or as "Developer",

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the County of Brevard, State of Florida, which is more particularly described in Exhibit A hereof and which is platted as

**BROOKSHIRE AT HERITAGE OAKS**

according to the Plat thereof recorded in Plat Book 47 Page(s) 3, 4, 5-6 Public Records of Brevard County, Florida.

NOW, THEREFORE, Declarant hereby declares that all of the properties 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, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall accrue to the benefit of each owner thereof.

**DEFINITIONS**

"Association" and "Homeowners Association" shall both mean and refer to as BROOKSHIRE AT HERITAGE OAKS SUBDIVISION HOMEOWNERS ASSOCIATION, INC., a not-for-profit corporation organized under the laws of the State of Florida, its successors and assigns, and the terms may be used interchangeable from time to time herein.

"Builder" shall mean an owner of one or more developed but unimproved lots purchased for the purpose of the construction of a single family residential dwelling unit for sale, and who holds a license for such construction.

"Common Area(s)" for the purposes of this Declaration shall mean those portions of the Subdivision named as Tracts J, K, D, A, I, B, M, C, H on the plat of Brookshire at Heritage Oaks as recorded in the Public Records of Brevard County, Florida, which are intended for the common use and benefit of all Owners of the Association. Additional parcels may be added to the Common Areas in the future.

"Declarant" and "Developer" shall mean and refer to HERITAGE OAKS DEVELOPMENT COMPANY, INC., its successors and assigns.

"Landscape Buffer" shall mean all subdivision walks, fences, gates and landscaping erected by the developer, his successor(s) in interest or the Association, (including the improvements thereto).

"Lot", whether or not capitalized, shall mean each lot platted as such in the Subdivision, the total number of which may increase if subsequent phases are platted and added to the Subdivision.

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"Owner" shall mean each person or entity who owns record title to a Lot, excluding those having such title merely as security for performance of an obligation as described in Chapter 697, Florida Statutes.

"Subdivision" shall mean that property platted as Brookshire at Heritage Oaks Subdivision, the legal description of which is attached hereto as Exhibit "A", and such other property as may be brought within the jurisdiction of the Association and as may be submitted to this Declaration. It is Developer's intent that only a portion of the total Subdivision be made subject to the Declaration at this time and to make additional property subject to this Declaration subsequently in phases.

"Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

**ARTICLE I**  
**MEMBERSHIP AND VOTING RIGHT IN THE ASSOCIATION**

**Section 1. General Purposes of Association.**

The Association is organized for the purpose of providing common services to the Lot Owners; owning and maintaining landscaping and lighting on the Common Areas; maintaining the drainage easements, Conservation Easement Areas, Common Areas, surface water and/or stormwater management systems; providing enforcement of these covenants and restrictions; and engaging in activities for the mutual benefit of the Owners. In order to pay for these services, the Association will charge assessments against the Lots and their Owners. A Lot may be subject to lien for any unpaid assessments, but additionally each Owner is personally obligated for assessments coming due during the time such Owner owns the Lot. The functions of the Association shall be performed by a Board of Directors. Provisions relating to the Association and the Board of Directors are also contained in the Articles of Incorporation and By-Laws of the Association.

**Section 2. Lot Owner Membership.**

Every Owner of a platted Lot shall be a member of the Association upon acquiring title to the Lot. There shall be a one time initiation fee of \$250.00 per Lot, payable to the Association at the time a Lot is conveyed to its initial Owner. Each subsequent Lot Owner may be reimbursed the previous owner the initiation fee that was paid at the time of the initial lot acquisition. A Lot acquired by a Builder from Declarant shall be subject to the initiation fee at that time of acquisition. The Association may spend some or all of the initiation fee for inspection of the Lot after completion of the improvements to certify compliance with the terms and provisions of this Declaration as provided in Article III, Section 5.

Membership shall be appurtenant to and may not be separated from ownership of any Lot. The initiation fee may be increased from year to year after December 31, 2001 in the same manner and amount as annual assessments may be increased pursuant to Article V, Section 5.

**Section 3. Classification of Membership.**

The Homeowners Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and



shall be entitled to one vote for each Lot owner. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Class A members shall also include all owners, with the exception of the Declarant, of lots in additional phases if additional phases are subjected to these restrictions as elsewhere provided in the Declaration.

Class B. The Class B members shall be the Declarant or successor developer and shall be entitled to three (3) votes for each Lot owned (to include each owned lot in additional phases if additional phases are subjected to these restrictions as elsewhere provided in the Declaration). The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) 3 months after 90% of the residential lots in all phases of the subdivision have been conveyed by the developer (or successor developer) to members (excluding conveyances to builders, contractors, or others who purchase a parcel for the purpose of construction improvements thereon, for resale), or
- (b) Upon the election of the Declarant or successor Developer or
- (c) January 1, 2008.

Section 4. Membership Vote.

Voting will be allowed and conducted as called for in the By-Laws. Voting will be allowed by certified written mailed-in ballot on all issues that require a vote by the full Association. The maximum number of votes that may be cast is the sum of all votes held by qualified Class A members and the Class B member either present in person or by written proxy at the time the vote is taken at a meeting, or by actual recorded ownership of platted lots if by certified written ballot. The number of votes needed for a quorum on any vote in person or by certified written ballot of the Association shall be a minimum of 30% of the sum of all the votes held by qualified Class A members and Class B members for any ballot to be valid. All matters to be voted on by the Association shall require a quorum and shall be decided by a majority of those votes cast by owners represented by the quorum. Voting shall also be permitted by general or limited proxy at any meeting of the Association.

Section 5. Voting Qualifications.

To be qualified to vote, a Class A member must be current in payment of all assessments and any liens which have been levied against that member or any Lot owned by that member as of the date of the vote. Any person designated in writing by the Declarant shall be qualified to cast the votes for each Lot owned by the Class B member.

**ARTICLE II**  
**ARCHITECTURAL AND AESTHETIC REQUIREMENTS**

Section 1. Architectural Control Review Committee.

(a) There shall exist an Architectural Control Committee (hereinafter referred to as "Committee") which shall consist of three (3) or more members. So long as there is a Class B membership of the Association, control of the Committee and approval of all plans and specifications and other functions herein shall be vested in the Declarant, who shall appoint all Committee Members. Appointive Committee members need not be Owners, and shall serve indefinitely, at Declarant's pleasure.



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(b) After Declarant's Class B membership in the Association converts to Class A membership, a minimum of five (5) Committee members shall be elected by a majority vote of the Board of Directors of the Association at its annual meeting. Members may include members of the Board of Directors and Association Managers. Three (3) elected Committee members must be Owners, and shall serve until their successors are elected at the next annual meeting. Committee members may be re-elected.

(c) A quorum of the Committee shall consist of a majority of its members; it shall take the affirmative vote of a majority of the members at the meeting at which a quorum is present to approve or perform any action. The Committee shall keep written records of its actions. The Committee shall meet from time to time as necessary.

## Section 2. Construction Plan Review.

(a) No dwelling, building or structure of any kind shall be constructed, erected, or altered on any Lot or in any part of the Subdivision, nor shall any exterior additions, changes or alterations therein be made until the plans and specifications showing the nature, kind, color, shape, height, materials, and location thereof shall have been first submitted to and approved by the Committee.

(b) Two sets of construction plans and specifications shall be submitted to the Committee showing all intended construction and alterations on the subject Lot, including but not limited to site plan, tree survey, landscape plan, sidewalk construction, exterior elevations, paint colors, shingle samples, exterior materials samples, and other descriptions necessary to describe project. An administrative fee of \$25.00 shall be paid to the Association for processing the house plans, payable at the time of submission. Plans and specifications in regards to topography and finished grade elevation must also be submitted for approval by the Committee prior to the commencement of any excavation work or activity which will alter the existing topography of the Lot. The Committee shall notify the Lot Owner, in writing, within thirty (30) days of receipt of all required evidence, of the Committee's approval or disapproval of any project. Said written notice may be signed by any one member of the Committee.

(c) Builders who have contracted with the Developer to purchase 5 or more lots may submit plans of their models and landscape designs for general approval by the Committee but shall still notify the Committee in writing as provided herein as to which model, colors, landscaping, etc. are to be used on each specific lot. The administrative fee may be waived by the Committee for a specific lot so long as one of the generally approved models and landscape design is being used.

(d) The plans, specifications, and location of all contemplated construction shall be in accordance with the terms hereof and with all applicable codes and ordinances of the local governing agency issuing permits for construction or land alteration in effect at the time of such proposed construction or alteration. The Committee shall have the right, in its sole discretion based upon these Covenants and Restrictions, to approve or disapprove any Lot improvement, including but not limited to building, fence, wall, screened enclosure, grading, floor elevation, drainage plan, mailbox, solar energy device, posts, antennas, fountains, decorative building features, landscaping plan, landscape device or object, yard decorations, or other improvement, whether as new construction or additions, modifications or alterations to Lots.

(e) In the event any required approvals are not obtained prior to commencement of improvements, or in the event improvements are made which vary from those approved, it shall be deemed that no approvals were given and that a violation and/or breach of this Declaration has occurred. A fine of \$50.00 per occurrence shall be assessed against the Lot and shall accrue with interest as provided in Article VI until the fine is paid and approval is obtained or improvements corrected to comply with an approval given. If after 60 (sixty) days from the date the first fine is assessed and the non-compliance has not been corrected, the Committee may re-assess the \$50.00 fine as a second occurrence of the same violation and may continue to do so every 60 days until the violation has been corrected.



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### Section 3. Clearing.

For any clearing activities on a lot the Owner must comply with the City of West Melbourne requirements.

Prior to any construction the Committee will be furnished a tree survey showing the location and type of all trees 4" or more in caliper at breast height. This survey shall also show types and general location of existing vegetation. A site plan will be provided showing the location of any structures, driveways, and sidewalks to be constructed and which vegetation and trees are proposed to be removed.

It is the intent of the Committee that as much of any existing wooded character of a Lot be retained as reasonably possible. All yard areas of a Lot not left in their natural state shall be sodded or replanted. For any Lot fronting a lake, the Owner of same shall also be responsible for sodding and maintaining areas between his property line and the water's edge, if any.

If any unauthorized clearing takes place on any Lot or Common Areas, restoration of said Lot or Common Areas to their original condition must be made. The restoration plans as to location of plant material, size and type must be submitted to the Committee for approval. If the Owner of any Lot (or his contractors, agent or invitees) that has been cleared without written authorization of the Committee fails to restore said Lot or Common Area damaged by the Owner (or his contractors, agents or invitees) within thirty (30) days of receipt of written notice from the Committee, then the Committee may make such restoration, the cost of which shall be a lien against the Lot and a debt of Owner which may be enforced in the same manner as enforcement of Assessments as set forth herein.

### Section 4. Grading, Drainage and Floor Elevations.

i.) Each Lot shall be filled and graded to elevations as defined in this document and as designed by Temouri & Associates and as approved by the City of West Melbourne. Drainage of each Lot shall be accomplished by grading Lots so runoff from one Lot does not drain onto another Lot. Grading of each lot shall comply with the grading plan approved by the City of West Melbourne.

ii.) Sidewalks for each Lot shall be constructed at the time of home construction and shall be graded so as not to impound water in the Lot or on the sidewalk as it shall be slanted toward the street to assure proper drainage. The sidewalk elevation and location shall comply with the City of West Melbourne requirements and blend in smoothly with the finished sodded yard of each lot.

iii.) Finish floor elevations shall be a minimum of 20 inches above the centerline of the road as measured from the center of the lot or greater if required by the City of West Melbourne or other government agency.

### Section 5. Landscaping.

(a) All landscaping must conform to all codes and requirements of the local governing agencies. A typical or several master landscape plan(s) may be submitted to the committee for approval by Builders in accordance with above Sections 2 and 3. This plan may be altered to accommodate existing vegetation on individual lots. All areas of the yard of each Lot not left in this natural vegetated condition shall be replanted with trees, shrubs and flowers, or sodded including all easements and right of ways directly in front, side and rear of all lots.

(b) No existing living tree four (4) or more inches in caliper, measured at breast height, shall be removed from a Lot unless said tree is diseased or interferes with erecting or placing the house or other permanent structures on said Lot and grading for proper drainage.

(c) A minimum of four (4) trees, which must be live or laurel oak, are required to be planted for each



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residence. Two (2) of those trees must be planted in the front setback area of each residence. These trees shall be a minimum of 8' in height, have a drip line of a minimum of 4', and be a minimum of 1 1/8" in diameter measured 4' above the finished grade. The trees shall remain perpetually on each lot. Notwithstanding the foregoing, trees must conform to any stricter standards required by any applicable governmental entity. In the event any of the trees die, they shall be replanted with the same or other approved type of tree to comply with these minimum requirements. Upon notification by the Association and/or the local governing agency, each homeowner shall have thirty (30) days to replant/replace said trees required under these restrictions.

(d) A minimum of twenty (20) 3 gallon shrubs must be planted in the front and side yard of each residence. This requirement shall meet or exceed the City of West Melbourne landscape code, whichever is greater.

(e) All lots shall be fully sodded with floratum sod and shall include an underground sprinkler system adequate to provide sufficient coverage for the entire sodded area and landscaped areas.

(f) Each Lot shall be entirely sodded including all easements, right-of-ways and common areas directly in the front and rear of all Lots. All Lots that have lot frontage on a lake must be sodded and maintained down to the waterline.

(g) The underground sprinkler system shall comply with the City of West Melbourne requirements. In addition, each system must be split into a minimum of four zones and designed and operated in such a manner that it does not have a negative impact on adjoining lot sprinkler systems.

#### Section 6. Roof Shingle Material and Exterior Elevations.

No primary portion of a straight gable or hip roofs may be build with a pitch lower than 5/12. All roofs shall be pitched except for those areas over porches and patios. All roof structures shall be integrated to conform with the roof lines materials used for the primary roof structure. In no event shall any aluminum or vinyl roof be permitted over any area of any improvement. Screened roofs over patios and pool areas shall be permitted subject to approval by the Committee.

All roofs within Brookshire at Heritage Oaks shall be of a uniform color, style and material to be approved by the Developer. Architectural grade shingles will not be required. The Committee may reject any exterior elevation based on the roof line or exterior elevation appearance that in its judgement is not within character in keeping up with the standards of the Subdivision or does not comply with the uniform color, style or material requirements established by the Developer.

#### Section 7. Exterior Covering, Siding and Paint.

There shall be no artificial brick, stone, stucco, aluminum, vinyl, T-11 or other siding materials used on the exterior of the buildings or other structures without first receiving written approval of the Committee as to type, color, and texture of the material.

All paint used on the exterior body of any residence shall be subdued in its tone. Colors should be selected to harmonize with the natural environment of the subdivision and should be soft and unobtrusive. No colors should be loud or bright. No more than one paint color (may be used) for the body of each residence and no more than two accent trim colors. paint colors must be submitted for approval prior to being applied on any residence. A written approval listing the manufacturer and paint sample number of all paint colors including body and trim paint must be obtained for each residence from the Committee.



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Section 8. Overhead Garage Doors.

All overhead garage doors shall be decorative in design and should complement the exterior elevation of each individual residence. Under no circumstances may fiberglass or plastic type garage doors be used. Garage doors should remain closed when not in use.

Section 9. Dwelling Size:

The ground floor of the main structure exclusive of any open porches, patios (enclosed or otherwise), breezeways and garages, shall not be less than 1,200 square feet for a one-story dwelling and not less than 1,000 square feet for the ground floor of a dwelling of one and one-half or two stories. Each residence shall have an closed garage for a minimum of two cars. No carports shall be permitted.

Section 10. Building Location.

No building, other than that allowed by City of West Melbourne Code, shall be located on any Lot nearer than 25 feet to the front Lot line or nearer than 20 feet to any side street line. No building shall be located nearer than 5 feet to an interior Lot, or nearer than 25 feet to the rear Lot line. For the purpose of this covenant, caves, concrete slabs, steps and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot or easement. If there is any conflict between this covenant and zoning regulations of the proper governing authority said zoning regulations shall apply to the extent that such zoning regulations require a greater building setback.

Section 11. Street Address Numbers and Mail Boxes.

The location of street address numbers shall be as uniform as possible on each residence. All mail boxes and street addresses shall be uniform as to type, color and design. The location and type of the mail boxes shall be determined by the Declarant. All mail boxes and street numbers are required to be installed by the builder prior to the occupancy of each residence.

ARTICLES III

GENERAL RESTRICTIONS - USE AND OCCUPANCY

Section 1. General Prohibition.

No residential dwelling, garage, outbuilding, structure or appurtenance of any kind, including additions or substantial alterations thereto, shall be erected, placed or maintained on the Properties or any portion thereof that does not conform to the standards, requirements, prohibitions and provisions of this Declaration or applicable governmental regulations, as same may exist or be changed from time to time. All such construction shall be performed, completed, erected, placed and maintained only in accordance with the plans and specifications required herein as approved by the Committee and governmental building code requirements.

Section 2. Only Residential Purposes.

No Lot shall be used in whole or in part for anything other than residential purposes, except for model residential dwelling units which may be maintained by the builder or developer only for purposes of the sale of residential dwellings within the subdivision, and except such construction and sales trailers as may be permitted by Developer and any applicable governmental entity. Other than conducting the sale of residential dwellings, no trade,



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traffic of business of any kind, whether professional, commercial, industrial, manufacturing or other non-residential use shall be engaged in or carried on within the subdivision or any part thereof, nor any other activities which may be or which may become an annoyance or a nuisance to any Lot, Owner or property adjacent to the subdivision.

Section 3. Single-Family Residential Use.

No building or structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single-family residential dwelling, nor may any dwelling be occupied by more than one family.

Section 4. Subdivision.

No Lot shall be subdivided or split by any means what so ever into any greater number of residential lots nor into any residential plat or plats of smaller size.

Section 5. Occupancy Before Completion.

No building or structure upon the Properties shall be occupied until the same is approved for by such governmental agency which is responsible for regulation of building construction and until it complies with the terms and provisions of these covenants and restrictions. Upon completion, the Committee shall inspect the Lot and improvements and issue the Lot Builder a certificate of compliance acknowledging that said terms and provisions have been met or itemizing any non-compliance. The certificate of compliance shall be delivered to the Owner upon the transfer of title or prior to occupancy.

Section 6. Maintenance and Repair.

All improvements placed or maintained on a Lot shall at all times be maintained in good condition and repair.

Section 7. Completion of Construction.

All construction and landscaping approved by the Committee shall be completed within six (6) months from the date of written approval. The Committee may grant a greater period of time to complete said construction or may grant an extension of said six-month period.

Section 8. No Temporary Buildings.

No tent, shack, trailer, house trailer, garage, or other space shall at any time be used on any Lot as a residence temporarily or permanently. No building or dwelling of a temporary character shall be permitted, except that: buildings necessary for construction or sales taking place in the Subdivision and not intended to be used for living accommodations may be erected and maintained only during the course of construction and sales and after receipt of written approval from the Declarant.

Section 9. Ground Maintenance.

(a) Grass, hedges, shrubs, vines, trees, and mass plantings of any type on each Lot shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed and replaced.

(b) No weeds, vegetation, rubbish, debris, garbage, objects, waste, or materials of any kind what so ever shall be placed or permitted to accumulate upon any portion of a Lot which would render it unsanitary, unsightly, offensive, or detrimental to the Subdivision or to the occupants of any property in the vicinity.



(c) No building material of any kind or character shall be placed or stored upon any Lot so as to be open to view by the public or neighbors, unless such material will be used and is used for the construction of buildings or structures upon the Lot on which the material is stored.

(d) All Lot Owners owning Lots adjoining Common Areas shall be required to install grass or to landscape to the edge of the water or vegetation located in that Common Area, and to maintain such grass or landscaping, regardless of where the exact boundary line lies between the Lot and the Common Area.

Section 10. Fences, Walls, Hedges, Mass Planting of Any Type.

(a) Fences, walls, hedges or mass planting of any type shall not exceed a height of six (6) feet above the finished graded surface of the grounds upon which it is located and shall not be constructed, planted, placed or maintained upon any Lot without the written consent and approval of the Homeowners Association's Architectural Control Review Committee.

(b) No hedge or mass planting of any type, exceeding three (3) feet above the finished graded surface of the ground upon which it is located shall be constructed, planted, placed or maintained between the street and the front setback line of any Lot without the written consent and approval of the Homeowners Association's Architectural Control Review Committee.

(c) No fences, walls, hedges or mass planting of any type shall be built further forward on a Lot than ten (10) feet behind the front building line of any residence, and shall not exceed six (6) feet in height, except as otherwise provided herein. All fences built on the street side of any corner Lot shall have a minimum setback requirement equal to the side setback of the residence. As to any Lot which adjoins a lake or retention area, any fence or wall or portion thereof constructed behind the rear building setback line of the residence may not exceed four (4) feet in height. All fences must be in conformance with all governmental regulatory codes and setback requirements. No fence shall be constructed without the written approval and consent of the Committee.

(d) No fence may be constructed of wire, chain link or cyclone style of fencing on any Lot.

(e) All fences to be constructed in the Subdivision shall be of uniform design and finish. The type and style shall be decided by the Committee. Prior to construction of a fence or wall on any Lot, the Owner must submit a detailed sketch showing the type and location, and confirming the use of the pre-approved style and color of the proposed fence or wall to the Committee for approval.

Section 11. Animals, Birds and Powl.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that a reasonable number of dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. No kennel or other commercial animal operations shall be maintained on any Lot. No pet shall be allowed to run loose and uncontrolled within the Subdivision. All pets shall be maintained in a quiet and orderly fashion so as not to disturb other Lot Owners. Pet Owners shall comply with all governmental regulations concerning the proper care, maintenance, licensing, and control of their individual pets.

Section 12. Laundry.

No clothes, sheets, blankets or other articles shall be hung out to dry in the side or front yards of any Lot except in a service yard or yard enclosed by a lattice, fence, wall or other screening device.

Nothing contained in these deed restrictions shall be in conflict with Florida Statutes 163.94 Renewable.



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## Entry Sources.

### Section 13. Exterior Light Fixtures.

No exterior lighting fixtures shall be installed on any Lot or residential dwelling without adequate and proper shielding of the fixture. No lighting fixture shall be installed that is an annoyance or a nuisance to the residents of adjacent Lot or Lots.

### Section 14. Parking.

The parking of commercial vehicles, which description shall include trucks (larger than a pick-up truck), tractor-trailers, semi-trailers, and commercial trailers, at any time on driveways, otherwise on said premises, on common areas, or on the public streets of said subdivision, is prohibited except for loading and unloading purposes or when parked entirely within a closed garage permitted to be built under the provisions of these restrictions. Boats, motor homes, watercraft, campers, travel trailers and similar recreational vehicles may only be placed and kept or stored upon a Lot containing a residence, placed no further forward than 10' behind the front building line of the residence, with landscape or with (6') foot fence screening so as to make same not visible from the street (including side street in the case of a corner Lot or adjoining Lot), or in a closed garage. Inoperable vehicles or vehicles under repair may only be placed and kept on a Lot in a closed garage.

### Section 15. Drainage Easements, Easements and Common Areas.

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the plat, or are of record, and the same are reserved for such use. Within these easements, or on any Lot, 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 in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, or which may otherwise disturb the surface water or stormwater system. It is important that the banks, swales and drainage areas located within the Subdivision remain undisturbed and properly maintained in order to perform their function. Where any portion of such berms, swales, banks lie within a Lot, the owner of that Lot shall maintain the same continuously and shall not disturb, damage or otherwise interfere with the berm, swale, drainage canal or other portion of said lake, drainage canal or system which is located on or adjoins said Owner's Lot. Lot swales/berms which are required to be located on certain Lots in the Subdivision, pursuant to the Subdivision construction plans and the St. John's River Water Management District permit, shall be constructed, maintained and repaired by the respective Lot Owners in accordance with said plans and permit. The initial construction of the Lot swales/berms shall be completed prior to the issuance of a certificate of occupancy for any residence to be constructed on said Lot; provided, however, initial construction of said berms and swales must be completed no later than the mandatory completion date established pursuant to the St. John's River Water Management District permit, even if a residence has not been constructed on the Lot(s).

(b) All Lot Owners who adjoin a Common Area shall assist the Association in maintaining that Common Area. No Lot Owner shall disturb or damage any wetland plantings or Common Areas. In the event an Owner does damage wetland plants or Common Areas, the Owner shall be responsible for the replacement and replanting of all damaged or destroyed plants and restoration of disturbed areas within thirty (30) days of written notification by the Declarant or the Homeowners Association.

(c) Easements for ingress, egress and access are hereby reserved in favor of the Developer and the Association over and across the platted utility and drainage easements encumbering all Lots adjacent to Common Areas for the purpose of access to said Common Areas for repair and maintenance. The Developer and Association may, without incurring any liability to the Lot Owner for trespass or damages, remove any impediments to these access rights, and may levy a special assessment as provided in Article V for the cost of such removal.



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Section 16. Excavations.

No excavations for stone, gravel, dirt or earth shall be made on any portion of the Properties, except for the construction of dwellings, walls, foundations, swimming pools, structures and other appurtenances. The plans and specifications for such excavations must be approved by the Committee in writing prior to construction.

Section 17. Signs.

Except for signs permitted by the Declarant and except for signs utilized by the Developer and Builders to advertise the sale of lots or dwelling units for sale and except as otherwise permitted by the Homeowners Association's Board of Directors, no sign of any character shall be displayed or placed upon any Lot or living unit except "for rent" or "for sale" signs, which signs may refer only to the particular premises on which displayed. Said signs shall not exceed the normal and customary standard size for the local Real Estate Industry, shall not extend more than four (4) feet above the ground, and shall be limited to one (1) sign per Lot or living unit, and displayed only upon the Lot sought to be rented or sold. No signs may be attached in any manner to a tree.

Section 18. Refuse.

No trash, garbage, rubbish, debris, waste or materials or other refuse shall be deposited or allowed to accumulate or remain on any Lot. Unless otherwise approved by the Committee.

Section 19. Nuisances.

No noxious or offensive trade or activity shall be permitted on any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 20. Preservation of Common Area.

No person shall reconstruct, damage or destroy, clear, open, reduce, remove, alter, modify or install any thing or improvement within, over or upon any Common Area, easement or preservation area without first obtaining written approval from the Committee. No construction or excavation in the proximity of any preservation area, canal, bank slope or swale, shall be permitted which may substantially impair the stability of the character or drainage in said area.

Section 21. Wells.

No water wells shall be dug on any Lot or on the Properties except for purposes of irrigation of landscaping and only in accordance with the requirements of the applicable governmental agencies.

Section 22. Open Burning.

(b) Open burning to reduce solid waste on any Lot is not permitted.

Section 23. Swimming Pools.

A Swimming Pool may be constructed on a Lot within the appropriate setbacks and with the approval of the location and material by the Committee. Access to a pool from the boundaries of the lot must be controlled from all directions by fencing and the residential structure. If pools are protected by screens, such screens and their structures shall be approved by the Committee. Swimming pools shall be only inground type and shall be constructed of fiberglass, concrete, or concrete materials. The pool deck shall be no higher than two (20") inches below the grade level

of the first floor house pad.



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Section 24. Right to Inspect.

The Homeowners Association's Board of Directors may at any reasonable time or times during periods of construction or alteration and within thirty (30) days thereafter enter upon and inspect any Lot and any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction or alteration of structures thereon are in compliance with the provisions hereof; and neither said Board nor any of its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 25. Antennae, Aerials and Satellite Dishes.

All exterior antennas or aerials shall be placed in the rear yard of the Lot and in such a manner so as to be as unobtrusive as possible, and in no event shall exceed a height greater than ten (10) feet above the highest point of roof. Any earth satellite signal reception equipment shall not be visible from any street and shall be screened from other property within the Subdivision.

Section 26. Games and Play Apparatus.

All games and play apparatus remaining outdoors for more than three days shall be located at the rear or side of the dwelling, so as not to be visible from any street. The Committee may make exceptions and permit basketball backboards or similar play apparatus that is visible from the street. Any permitted basketball standards must be in writing by the Committee and shall be constructed of uniform black enamel pole and white backboard and shall be a minimum of 25' from any paved public street.

Section 27. Oil and Mining Operations.

No oil or gas drilling, oil or gas development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 28. Water Supply.

No individual water supply systems for drinking purposes or household use shall be permitted on any Lot unless approved by the Committee. This provision, however, shall not preclude the installation of any individual water systems for irrigation purposes, provided that such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the applicable governmental agencies.

Section 29. Sewage Disposal.

No individual sewage disposal systems shall be permitted on any Lot.

Section 30. Air Conditioning.

No window or wall air conditioning units shall be permitted in any improvements located within the Subdivision. All air conditioning units shall be placed no further forward than 10 feet behind the front building line of the residence with landscape or fence screening so as to make same not visible from the street (including side street in the case of a corner lot).



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Section 31. Tanks.

No permanent above ground oil tanks or bottled gas tanks may be placed on Lots containing residences.

**ARTICLE IV**  
**PROPERTY RIGHTS AND REQUIREMENTS**

Section 1. Owner's Easements of Enjoyment.

Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) The right of the Association to dedicate or transfer all or any parts of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association, provided, no such dedication or transfer shall be effective unless: (i) such dedication or transfer is approved by Declarant, so long as Declarant owns a Lot, or if Declarant no longer owns a Lot, then by a vote of 30% of the Class A Members; and (ii) the approval of such dedication or transfer has been properly recorded.

Section 2. Owner's Use of Lot.

An Owner's use of his or her Lot shall be limited to residential purposes, but nothing herein shall be deemed to prevent a Owner from leasing his or her residence to a single family for the purpose of a residence, subject to these covenants and restrictions. All Owners leasing or renting their Lots or Homes shall be required to incorporate the following provision in their lease or rental agreements, substantially in the following form:

The Lease Premises are a part of a Subdivision. All person occupying property in Brookshire at Heritage Oaks are required to observe the Covenants and Restrictions of the Brookshire at Heritage Oaks Homeowners Association, Inc. Copies of all Covenants and Restrictions are to be obtained from the Landlord.

In addition, all Owners leasing their Lots or Homes are required to provide the Association with a copy of the lease or the names and addresses of the Landlord and the Tenant that are contained in the lease or rental agreement.

Section 3. Notice of Conveyance.

At any time an Owner conveys his Lot, he and the transferee shall be jointly obligated to notify the Association of the transferee's name, mailing address and date of transfer. A notice will be provided by the Association upon the transfer of any Lot providing the current written status of the Association dues.

Section 4. Others' Use.

Any Owner may share his right or enjoyment to the Common Area and facilities with the members of his family, his tenants, or visiting guest so long as same observe and abide by these covenants and restrictions.

Section 5. Damage by Lot Owners Including Builders.

The Owner of a Lot including Builders shall be responsible for any expense incurred by the Association or the Developer to repair or replace Common Area vegetation and topography, right-of-ways, swales,



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drainage facilities and utility lines when such repair or replacement is necessary as a result of the negligent or intentional errors or omissions of the Owner, his family, tenants, guests, agents or invitees. This shall specifically include repairs or replacements resulting from the actions of the owner's contractor in constructing any improvements on the Owner's Lot. Any such expense if not paid upon demand shall be added to the Assessment to which the Owner's Lot is subject and shall be due and payable in the same manner as the Assessments provided in these covenants.

**Section 6. Surface Waters / Retention Areas Restrictions.**

Only man-powered, wind propelled or electric operated boats may be used on any surface waters or retention areas situated in the Subdivision. Swimming and or wading is expressly prohibited in all Surface Waters / Retention Areas.

**Section 7. Maintenance and Operation of Recreational Facilities Located On Tract "I"**

The Association shall be responsible for the maintenance, operation and repair of the recreational facilities located on Tract I. The Association shall maintain the recreation area to a reasonable standard for the health, safety and attractive appearance for the residents. The Association may repair, reconstruct or modify the recreational facilities to meet the needs and expectations of the members of the Association. Access to and use of this recreational tract may be restricted to the general public and is intended for the private use of the members of the Association and their invited guests. The Association may establish rules of operation governing the use of this facility. These rules shall be posted at the recreational facility and shall be given to each resident including any modifications or amendments thereof. Each member of the Association agrees to abide by the rules of operation governing the recreational facilities and may be restricted from the use of these facilities for violations thereof. The Association shall be responsible for carrying general liability insurance covering the members of the Association for the use of the recreational facility and other common areas within the subdivision.

**Section 8. Maintenance of Operation of Surface Water or Stormwater Management System.**

The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. John's River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or Stormwater management system shall be as permitted, or if modified as approved by the St. John's River Water Management District.

The St. John's River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Declaration which relate to the maintenance, operation and repair of the surface water or Stormwater management system.

**Section 9. Maintenance of Drainage Easements.**

The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.



Section 10. Private Streets and Roads:

All streets, roads, drives, courts, ways and cul-de-sacs shown on the plat of the Subdivision and designated as Tract A are for the private use to be owned and maintained by the Association. Said roadways shall be subject to an easement granted to the City of West Melbourne, All other applicable governmental entities, and all utility providers for the purpose of access for installation, maintenance and operation of utilities, as well as emergency vehicle access. 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 or drainage, or which are or might be prohibited by the public or private authority to whom said easement is given. All paving, curbs, pavers, and other improvements, facilities and appurtenances located within said roadways, including street lights shall be maintained by the Association except for maintenance and installation of sidewalks, sodding and irrigation which will be installed and maintained by the adjacent lot owner as set forth in other provisions hereof.

Section 11. Maintenance of Tracts.

The Association shall be responsible for the maintenance, operation and repair of all improvements, Landscapa Buffer and property located in all Common Areas. Where an individual lot owner adjoins one of the above tracts their responsibility for the maintenance, operation and repair within these tracts is as called for within this Declaration. There is an agreement with the adjoining property owner regarding the maintenance of Tracts J and K that the Association is responsible for complying with.

Section 12. Maintenance of Insurance Policy.

The Association shall be responsible for the insurance and maintenance of a general liability insurance policy covering all of the subdivision improvements. This liability policy will cover all of the improvements that are the property of the Association and general liability regarding their use. In addition, the Homeowners Association shall maintain an Officers and Directors policy for those members of the Association who are members of the Board of Directors. Such policy shall be reviewed on an annual basis to assure that they meet current governmental rules and standards, and generally acceptable insurance practices. At no time shall coverage be less than a one million dollar general liability policy. The insurance must be purchased from an insurance company that is certified to be business in the State of Florida and is in good standing with the Department of Insurance.

Section 13. Adjoining Property.

THE PROPERTY LYING BETWEEN MINTON ROAD AND BROOKSHIRE AT HERITAGE OAKS AND WOODFIELD AT HERITAGE OAKS ARE COMMERCIAL PARCELS, ZONED C-P (COMMERCIAL PARKWAY DISTRICT) PURSUANT TO THE CITY OF WEST MELBOURNE ZONING CODE AND SUCH, MAY BE USED FOR COMMERCIAL PURPOSES.

THE BROOKSHIRE AT HERITAGE OAKS HOMEOWNERS' ASSOCIATION IS PROHIBITED FROM SPENDING ANY FUNDS FOR THE PURPOSE OF CHALLENGING ANY PROPOSED DEVELOPMENT ON THE COMMERCIAL PARCELS. THIS PROHIBITION CANNOT BE AMENDED WITHOUT THE AFFIRMATIVE VOTE OF 75% OF THE LOT OWNERS.

THE COMMERCIAL PARCELS HAVE BASEMENTS OVER TRACT J AND TRACT K FOR VEHICULAR AND PEDESTRIAN ACCESS. THESE BASEMENTS HAVE BEEN RECORDED IN OFFICIAL RECORDS BOOK 4254, PAGE 3465, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

HERITAGE OAKS BOULEVARD IS A PUBLIC ROADWAY WHICH MAY BE EXTENDED TO THE EAST TO PROVIDE ACCESS TO THE PROPERTY LYING EAST OF BROOKSHIRE AT HERITAGE OAKS AND WOODFIELD AT HERITAGE OAKS.

ARTICLE V  
COVENANT FOR ASSESSMENTS



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Section 1. Assessments.

(a) All Lots shall be subject to annual and special assessments as herein provided in order to fund the costs of fulfilling the purposes of the Association. In the event of a conveyance, the grantee is jointly and severally liable with the grantor for all assessments outstanding against the grantor and subject Lot, without prejudice to any right the grantee may have to recover from the grantor any amounts paid by the grantee. Each Lot Owner is deemed to covenant and agree by acceptance of a deed to a Lot to pay all assessments and no Lot Owner may waive or avoid responsibility for payment of any assessment by not using his Lot or the Common Areas or by disputing the purpose of the assessment or for any other reason; provided however, that no Lot while owned by the Developer shall be subject to either annual or special assessments. The Developer hereby obligates itself to pay any operating expenses that exceed assessments received from the members and other income sources of the Association. This obligation shall terminate when the Developer no longer controls the Association. This payment of current expenses may be in the form of a loan at a rate of 7% to the Association from the Developer for which he may be reimbursed.

(b) Both annual and special assessments must be fixed at a uniform rate per Lot subject to assessments and may be collected monthly, quarterly or annually as determined by the Board of Directors. As to any individual Lot or Lot Owner who has not paid an assessment when due or is in violation of these Covenants and Restrictions, however, the amount of the assessment outstanding shall be increased by interest, late charges, costs, fines, damages and attorneys fees, as referenced throughout this Declaration.

Section 2. Annual Assessments.

The Association shall fix the amount and the due date of the annual assessment. Initially, annual assessments shall be payable in one annual installment, payable when the Owner takes title and prorated from that date to the end of the fiscal year. The title company shall forward the proceeds of the prorated annual assessment to the Homeowners Association. The Association shall notify the Owners of each Lot of the amount, the date on which the assessments are payable, and the place of payment.

Section 3. Date of Commencement of Annual Assessments.

The annual assessments for each Lot shall be payable upon conveyance of that Lot to a Class A Member, and at the beginning of each fiscal year of the Association thereafter. Builders may become liable for annual or special assessments prior to receiving conveyance of a Lot, as may be provided by contract between Developer and the Builders.

Section 4. Special Assessments.

The Association may levy a special assessment to pay in whole or in part for the cost of any shortfall in the annual budgeted operating revenues, or for any repair or replacement of an existing capital improvement, or for the construction/acquisition of a new capital improvement, without concurrence of the Owners unless the cost of such repair/replacement/acquisition/construction is major. "Major" as referenced herein shall be defined to mean that the amount of the proposed special assessment per Owner, plus any other special assessments levied during that same fiscal year exceeds 50% of the then current year's annual assessment. Major capital improvements shall require the special assessment to be approved by a majority of a minimum of 30% of the membership. The Association may also levy special assessments without limitation or the concurrence of any Owner to pay for the cost of maintenance or



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enforcement of these covenants and restrictions with regard to specific lots; any such assessment shall be levied against the Owner of such lot. Special assessments shall be payable at such time and place determined by the Association and stated in the assessment notice.

Section 5. Maximum Annual Assessment.

Until January 1, 2002, the annual assessment shall be \$200.00 per Lot.

(a) From and after January 1, 2002, the annual assessment shall be set by the Association and may be increased each year by up to ten (10%) percent above the maximum allowable assessment for the previous year without a vote of membership. "Maximum allowable assessments" as referred to herein shall be calculated by assuming a cumulative 10% increase per year from and after the year 2002.

(b) From and after January 1, 2002, the maximum annual assessment may be increased by more than said ten (10%) percent only by a majority vote of those needed for a quorum of 30% of each class of members who are voting. The vote should be by certified written ballot mailed to each owner 30 days after their receipt of written notification that a vote will be taken on the proposed increase in assessment.

Section 6. Assessments For Stormwater Management.

Assessments shall also be used for the maintenance and repair of the surface water or stormwater management system including but not limited to work within retention areas, drainage structures and drainage easements.

**ARTICLE VI**  
**ENFORCEMENT PROVISIONS**

Section 1. Creation of Lien for Assessments.

(a) Assessments, including any increases in same due to interest, late charges, costs, fines, damages and attorney fees, shall be a charge upon each Lot and a continuing lien thereon until paid. The lien will become effective from the after recording a Claim of Lien in the Public Records of Brevard County, Florida, stating the Lot description, the name of the record Owner, the amount due, and the due date. The lien will remain in effect until all sums due to the Association have been fully paid and the Association is hereby authorized to take any and all actions provided in law or equity to collect such sums. Any payment received by the Association from that payor shall first be applied to any interest accrued, any outstanding penalties and costs, reasonable attorney's fees incurred in collection, and then to the outstanding assessment. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment.

(b) All Lots shall be sold subject to the terms and provisions of the continuing lien described in this paragraph. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. A properly executed Certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 2. Effect of Non-Payment of Assessment: Remedies of the Association.

Remedies of the Association for non or late payment of any assessment shall be as called for in the By-Laws of the Association.



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**Section 3. Violation and Enforcement of Restriction and Covenants.**

(a) The Association and each lot owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the rights to do so thereafter. In any action for enforcement brought hereunder, the prevailing party shall be entitled to reasonable attorneys fees including attorneys fees through appellate proceedings.

(b) Upon learning of a violation, the Association shall issue the Owner a written notice either by certified return receipt mail or posting on the property requesting the Owner to cure the violation and advising the Owner that a fine will begin to accrue if the violation is not cured within 30 days of receipt of the notice and that the Owner's Lot may be subject to a lien for such fine together with any costs expended by the Association for notice, investigation, attorney's fees and costs, and curative actions, the Association may take, including but not limited to demolition and/or storage costs for any construction or items placed on a Lot in violation of this Declaration.

(c) Should the violation not be cured within said 30 days receipt of said written violation, a fine shall automatically begin to accrue and continue until the violation is cured. The amount of the fine at the time of filing this Declaration is \$50.00 per day, but said amount may be increased from time to time by the Board of Directors without vote of the Association or amendment of this Declaration.

(d) The Association shall have the authority but is not obligated to cure any violation through whatever action it deems reasonable and the expenses thereof shall be chargeable to the Owner of the Lot or Lots on which or in connection with the violation has occurred. Said expense shall be payable forthwith and upon demand. In the event the Association has expended funds in connection with curing such violation, then and in such event the funds so expended shall become an assessment upon the Lot or Lots enforceable as provided herein for unpaid assessments.

**Section 4. Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any recorded mortgage. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Failure to pay Assessments does not constitute a default under the terms of a federally insured mortgage. Nothing contained herein shall require mortgagees to collect Assessments.

**ARTICLE VII  
RIGHTS RESERVED BY DEVELOPER**

**Section 1. Eminent Domain.**

If all or part of any Common Area, private right-of-way, or private easement for access, is taken by eminent domain, Developer shall be entitled to the proceeds thereof and no claim shall be made by the Association or any Owner other than Developer for any portion of any award.

**Section 2. Easements for Utilities.**

The Developer reserves a perpetual easement on, over and under all easements within the Subdivision and



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Common Areas shown on the subdivision plat for construction and maintenance of electric and telephone poles, wires, cables, conduits, water mains, drainage lines or drainage ditches, sewers, irrigation lines, roadways, natural gas, cable television, and other conveniences or utilities. To the extent permitted by law, the Developer may grant an exclusive easement over each Lot for the installation and maintenance of radio and television cables within the Subdivision. The Owners of Lots subject to the easements reserved in this paragraph shall acquire no right or interest in utility or cable television equipment placed on, over or under the portions of the Subdivision which are subject to said easements.

All easements reserved by Developer are and shall remain private easements and the sole and exclusive property of the Developer, to be held or else conveyed in Developer's discretion to utility companies, the Association, or appropriate government agency.

Section 3. Drainage.

Drainage flow shall not be obstructed or diverted from drainage easements. Developer may but shall not be required to cut drainways for surface water drainage and other utility repairs wherever and whenever necessary to maintain reasonable standards of health, safety and appearance; provided, however, any maintenance, clearing, grading or cutting of drainways must be permitted or as approved by the St. John's River Water Management District and the City of West Melbourne pursuant to a permit modification. Except as provided in this Section, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.

Section 4. Maintenance Easement.

The Developer and the Association reserves an easement within all designated drainage and utility easements in, on, over, and upon each Lot for the sole purpose of preserving, maintaining or improving the Common Areas.

Section 5. Developer Rights Regarding Temporary Structures, Etc.

Developer reserves the right to erect and maintain temporary dwelling, model houses, and/or other structures upon Lots owned by Developer or Developer's assignees and to erect and maintain such commercial and display signs and devices as Developer, in its sole discretion, deems advisable. Developer reserves the right to do all acts necessary in connection with the construction of such improvements on the Lots. Nothing contained in these covenants and restrictions shall be construed to restrict the foregoing rights of the Developer.

Section 6. Further Restrictions, Conditions and Dedications.

Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any Lot in the Subdivision owned by Developer and on the Common Areas, so long as the easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with use of the Common Areas.

**ARTICLE VIII**  
**GENERAL PROVISIONS**

Section I. Severability and Interpretation.

Invalidation of any of these covenants or restrictions by judgment or court order shall in no way effect any other provisions hereof, which shall remain in full force and effect. Should any conflict in interpretation arise between the provisions of this Declaration and of the Articles of Incorporation, the provisions of this Declaration shall prevail.

**Section 2. Duration, Modification and Amendment.**

Except as the same may be changed, modified or amended as provided for hereafter, the covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of this Declaration is recorded, at which time they shall be automatically extended for two (2) successive periods of ten (10) years, unless modified or terminated by a duly recorded written instrument executed in conformance with the requirements described below.

So long as Declarant owns one or more Lots within the Subdivision, the Declarant may, in its sole discretion and without any notice to or vote by other Lot Owners, change, modify or amend any provision of this Declaration in whole or in part by executing a written instrument making such changes and having the same duly recorded in the Public Records of Brevard County, Florida.

At any time after the Declarant no longer owns any Lot or Lots within the Subdivision, the covenants, agreements, conditions, reservations, restrictions, and charges created and established herein may be waived, abandoned, terminated, modified, altered, or changed upon notice to all members of the Association and with the approval of two-thirds (2/3) of the total membership vote. Such action may be taken at any annual or special meeting of the Association or by certified written ballot, so long as written notice of such proposed action or amendment is given 30 days prior to the meeting or scheduled vote. Any such proposed action must be initiated in the same manner as amendments to the By-Laws of the Association. No such waiver, abandonment, termination, modification or alteration shall become effective until a properly executed instrument in writing shall be recorded in the Public Records of Brevard County, Florida.

The foregoing notwithstanding, any amendments to the covenants and restrictions which alter any provisions relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portion of the Common Areas, must have the prior approval of the St. John's River Water Management District.

**Section 3. Federal Housing Administration (FHA) or Veterans Administration (VA) Approvals.**

So long as there is a Class B membership the following actions shall require the prior approval of the FHA or VA agencies: annexation of additional properties outside the boundaries of the Subdivision, dedication of Common Areas to other than the Association, encumbrance of a Common Area, or amendment of this Declaration or the Articles of Incorporation of the association, provided such approval is not unreasonably withheld by the FHA or VA.

**Section 4. Mortgage or Conveyance of Common Areas:**

In addition to any approvals required of the St. John's River Water Management District, the FHA or VA, any mortgage or conveyance of a Common Area or any portion thereof shall require the approval of at least two-thirds of the Lot Owners excluding the Developer.

**Section 5. Future Development Within the Project.**

The Declarant reserves to itself the sole and absolute right to determine the timing, method of ownership, and manner of development of any and all phases of the Subdivision and the addition of other property to the Subdivision. In no event shall any provision of this Declaration be construed as imposing upon the Declarant any obligation whatsoever to submit to the jurisdiction of the Association or vote of the members or provisions of this Declaration any additional property, improvements or lots other than those herein described. No consent of the Lot Owners shall be





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required to add any lands, improvements or portions of additional property to the jurisdiction or ownership of the Association or to subject the same to provisions of this Declaration.

**Section 6. Expandable Association.**

(a) Upon the recordation of this Declaration of Covenants and Restrictions for Brookshire at Heritage Oaks Subdivision, the Association shall have as members all Owners of Lots in that portion of the Subdivision to which this Declaration has been made applicable, and said portion shall be subject to the jurisdiction of the said Association, the provisions of this Declaration of Covenants and Restrictions, and the terms of the Articles of Incorporation and By-Laws of the Association, as amended from time to time.

(b) If the Declarant elects to submit additional phases of the Subdivision to this Declaration and to the jurisdiction of the Association, the owners of lots included therein shall also be Members of the Association, and shall enjoy the use of and contribute toward the costs of maintenance, repair and operation of the Common Areas on an equal basis with all other Owners.

(c) Any additions of portions of the Subdivision which Declarant elects to submit to this Declaration shall be made by filing of record a supplementary declaration of covenants and restrictions with respect to the additional property, which if applicable shall extend these covenants and restrictions to such property, and provided if applicable that the FHA and VA have determined that the annexation is in accord with the general plan heretofore approved by them.

(d) Such supplementary declaration may contain such complementary additions, deletions, changes to this Declaration as may be required to reflect the different character, if any, of the added properties. In no event, however, shall such supplementary declaration revoke, or otherwise modify the covenants and restrictions established by this Declaration upon the existing subject properties unless properly amended in accordance with the amendment procedures set forth herein.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused these presents to be executed in its name by its duly authorized officer, as of the 5th day of July, 2001.

Signed, sealed and delivered  
in the presence of:

HERITAGE OAKS DEVELOPMENT COMPANY, INC.

Charles E. Mathe  
Witness

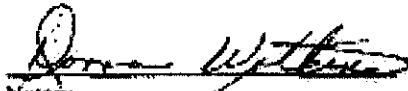
BY: [Signature]  
Roy J. Pence, President

Barbara Steele  
Witness

STATE OF FLORIDA  
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me an officer duly authorized in the State and in the County aforesaid to take acknowledgments, personally appeared ROY J. PENCE, as President of HERITAGE OAKS DEVELOPMENT COMPANY, INC., a Florida Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same. The said person was not under oath.

WITNESS my hand and official seal this 5<sup>th</sup> day of July, 2001.

  
Notary



Donna Watkins  
My Commission CC968776  
Expires October 08 2004



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Scott Ellis  
Clerk Of Courts, Brevard County  
#Pages: 6 #Names: 2  
Trust: 3.50 Rec: 25.00 Serv: 0.00  
Mgt: 0.00 Excl: 0.00  
Int Tax: 0.00

AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
BROOKSHIRE AT HERITAGE OAKS

HC

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Brookshire at Heritage Oaks Subdivision (hereinafter referred to as "Amendment") is dated as of the 9th day of August, 2001, by the undersigned.

WITNESSETH:

WHEREAS, Heritage Oaks Development Company (the "Developer") created a single family subdivision development in Brevard County, Florida know as Brookshire Heritage Oaks according to the plat thereof as recorded in Plat Book 47, Pages 3, 4, 5 and 6, Public Records of Brevard County, Florida (the "Subdivision"); and

WHEREAS, the Developer encumbered the property within the Subdivision with that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, pursuant to Article VIII of the Declaration, the Declaration may be amended by the Developer who owns all of the Subdivision lots and who holds all of the membership votes in Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Association"); and

WHEREAS, Developer wishes to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the undersigned Developer does hereby amend the Declaration as follows.

1. The definition of "Association" and "Homeowners Association" is hereby amended by substituting the following correct name of the Association: **BROOKSHIRE AT HERITAGE OAKS HOMEOWNERS ASSOCIATION, INC.**

2. Article I, Section 3 is hereby replaced in its entirety with the following:

3. Classification of Voting Membership. The Homeowners Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote of each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, as more fully described in the By-Laws, but in no event shall more than one vote be cast with respect to any Lot. Class A Members shall also include all Owners, with the exception of the Developer, of platted Lots in additional phases if additional phases are subjected to these restrictions as elsewhere provided in this Declaration.



b. This Declaration may be modified or amended only in the following manner:

(i) Amendments While Developer Holds Two-Thirds (2/3) of Total Membership Votes. At any time Developer holds two-thirds (2/3) of the total membership votes (Class A and Class B combined), this Declaration may be amended by the vote of the Developer without a meeting.

(ii) Amendments While Developer Does Not Hold Two-Thirds (2/3) of Total Membership Votes. At any time the Developer does not hold two-thirds (2/3) of the total membership votes (Class A and Class B combined), amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning not less than one third (1/3) of the Lots, whether meeting as members or by instrument in writing signed by them. Upon any Amendment to the Declaration being proposed by said Board of Directors, or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association or, in the absence of the President, such other Officer of the Association who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from the receipt by him or her of the proposed Amendment or Amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such special meeting. If mailed, such notice shall be deemed to have been given when deposited in the United States mail addressed to the member at his post office address as it appears on the records of the Association, the postage thereon prepaid. Any member may waive such notice, by written waiver of notice. And, when such waiver of notice is filed in the records of the Association (whether before or after the holding of the meeting), it shall be deemed equivalent to the giving of such notice to such member.

At such meeting, if the Developer maintains a Class B membership, the Amendment or Amendments proposed must



CFN 2001188019

OR Book/Page: 4398 / 2791

be approved by the Developer and the affirmative vote of members holding at least two-thirds (2/3) of the total membership votes in the Association in order for such Amendment or Amendments of the Declaration to be transcribed and certified by the President and Secretary of the Association as having been duly adopted, and the original or an executed copy of such Amendment or Amendments so certified and executed with the same formalities as a deed shall be recorded in the Public Records of Brevard County within twenty (20) days from the date on which the same became effective, such Amendment or Amendments to refer specifically to the recording data identifying the Declaration. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the Officers of the Association shall be mailed or delivered to all of the members of the Association, but mailing or delivering a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments. At any meeting held to consider such Amendment or Amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented there at by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

At such meeting, if the Developer no longer maintains a Class B membership, the Amendment or Amendments proposed must be approved solely by the affirmative vote of members holding at least two-thirds (2/3) of the total membership votes in the Association and the above referenced procedure for certification, filing and recording shall be followed.

- c. Notwithstanding any other terms or conditions contained herein, any amendments to the Declaration which alter any provisions relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portion of the Common Areas, must have the prior approval of the St. Johns River Water Management District.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the day and year first set forth above.

HERITAGE OAKS DEVELOPMENT COMPANY,  
a Florida corporation

Signed, sealed and delivered in the presence of

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS

Barbara Steele

Witness

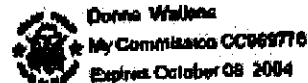
Print Name: Barbara Steele

BY: [Signature]  
Roy J. Pence, as its President

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of July, 2001, by Roy J. Pence, as President of Heritage Oaks Development Company, a Florida corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public  
Print Name: DONNA WALKER  
Commission expires: \_\_\_\_\_



CFN 2001168019  
OR Book/Pgs: 4398 / 2793

The foregoing Amendment is hereby joined in and consented to by the undersigned.

BROOKSHIRE AT HERITAGE OAKS  
HOMEBOWNERS ASSOCIATION, INC., a Florida  
not-for profit corporation

Signed, sealed and delivered in the presence of

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS

Barbara Steele

Witness

Print Name: Barbara Steele

BY [Signature]

Roy J. Pence, as its President

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of Aug  
2001, by Roy J. Pence, as President of Brookshire at Heritage Oaks Homeowners Association, Inc., a  
Florida not-for-profit corporation,  who is personally known to me, or  
 who has produced a Florida driver's license as identification.

[Signature]  
Notary Public

Print Name: DONNA WATKINS

Commission expires: \_\_\_\_\_



Donna Watkins

My Commission CC969776

Expires October 08 2004



CFN 2001168019

OR Book/Page: 4398 / 2794

**SUBMISSION OF ADDITIONAL PHASE TO  
BROOKSHIRE AT HERITAGE OAK SUBDIVISION AND ITS  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Submission of Additional Phase to Brookshire at Heritage Oaks Subdivision and its Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Submission") is dated as of the 2<sup>nd</sup> day May, 2002, by Heritage Oaks Development Company, a Florida corporation (hereinafter referred to as "Declarant" or "Developer").

**WITNESSETH**

**WHEREAS**, Heritage Oaks Development Company, as the Developer platted certain property into Brookshire at Heritage Oaks Subdivision, Phase 1 as described in Plat Book 47, Pages 3, 4, 5 and 6, Public Records of Brevard County, Florida; and

**WHEREAS**, said platted property was made subject to that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, of the Public Records of Brevard County, Florida, as it may be or have been subsequently amended (hereinafter referred to as "Declaration"); and

**WHEREAS**, pursuant to Article VIII, Sections 5 and 6 of the Declaration, the Developer reserved unto itself the right to add additional property to the Declaration and include such additional property within the Subdivision as defined in the Declaration; and

**WHEREAS**, Developer is the owner of that certain property described in Exhibit "A" attached hereto which property is contiguous to the property platted into Phase 1; and

**WHEREAS**, Developer wishes to amend the Declaration to include the Exhibit "A" property as part of the Subdivision as defined in the Declaration.

**NOW, THEREFORE**, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, Developer, pursuant to Article VIII, Sections 5 and 6 of the Declaration, does hereby elect to add and submit the Exhibit "A" property to the definition of Subdivision as set forth in the Declaration, and elects to submit the Exhibit "A" property to the terms of the Declaration for all intents and purposes as if the Exhibit "A" property had been included in the original Declaration. This Submission shall be deemed a supplementary declaration and supplement to the Declaration for the purpose of submitting the Exhibit "A" property to the Subdivision, to the Declaration, and to the jurisdiction of Brookshire at Heritage Oaks Homeowners Association, Inc.

**IN WITNESS WHEREOF**, the undersigned has executed this Submission as of the day year first set forth above.



\\saw\info-draw\bring\sub add phase -042602

CFN:2002109459 05-02-2002 01:52 pm  
OR Book/Page: 4584 / 3340

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 3	#Names: 2	
Trust: 2.00	Rec: 13.00	Serv: 0.00
Deed: 0.00		Exclse: 0.00
Mfg: 0.00		Int Tax: 0.00

HERITAGE OAKS DEVELOPMENT  
COMPANY

Barbara Steele

Witness

Print Name: Barbara Steele

Charles E. Mathe

Witness

Print Name: CHARLES E. MATHE

By: [Signature]

Roy J. Pence, as its President

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 2nd day of May 2002, by  
Roy J. Pence, as President of Heritage Oaks Development Company on behalf of said corporation  
 who is personally known to me, or  who has produced a Florida driver's license as identification.



Dorcas Watkins  
My Commission CC989776  
Expires October 08 2004

[Signature]  
Notary Public

My commission expires:



CFN:2002109439  
OR Book/Page: 4584 / 3341

## EXHIBIT "A"



CFN:2002109439

OR Book/Page: 4584 / 3342

## SURVEYOR'S DESCRIPTION:

A SUBDIVISION LYING IN SECTION 7, TOWNSHIP 27 SOUTH, RANGE 37 EAST, BEING A REPLAT OF TRACT No. 1, BROOKSHIRE AT HERITAGE OAKS, PHASE 1, AS RECORDED IN PLAT BOOK 47, PAGES 3 THROUGH 6, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

BEGIN AT THE SOUTHWESTERLY CORNER OF TRACT D, BROOKSHIRE AT HERITAGE OAKS, PHASE 1 AS RECORDED IN PLAT BOOK 47, PAGES 3 THROUGH 6, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. THENCE NORTH 52 DEGREES 19 MINUTES 18 SECONDS EAST ALONG THE NORTH LINE OF SAID TRACT No. 1, A DISTANCE OF 158.62 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 317.27 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 37 SECONDS WEST, A DISTANCE OF 120.00 FEET; THENCE NORTH 88 DEGREES 47 MINUTES 23 SECONDS WEST, A DISTANCE OF 27.77 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 37 SECONDS WEST, A DISTANCE OF 170.00 FEET; THENCE NORTH 88 DEGREES 47 MINUTES 23 SECONDS WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 40 SECONDS WEST, A DISTANCE OF 57.70 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 355.00 FEET AND A CENTRAL ANGLE OF 08 DEGREES 11 MINUTES 32 SECONDS; THENCE SOUTHERLY ALONG THE ARC A DISTANCE OF 50.76 FEET; THENCE SOUTH 07 DEGREES 51 MINUTES 52 SECONDS EAST, A DISTANCE OF 4.46 FEET; THENCE SOUTH 59 DEGREES 21 MINUTES 08 SECONDS EAST, A DISTANCE OF 238.51 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES SOUTH 45 DEGREES 46 MINUTES 37 SECONDS EAST, A RADIAL DISTANCE OF 170.00 FEET; THENCE EASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 48 DEGREES 59 MINUTES 09 SECONDS, A DISTANCE OF 138.41 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 39.51 FEET; THENCE SOUTH 62 DEGREES 13 MINUTES 29 SECONDS EAST, A DISTANCE OF 55.90 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 170.00 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 37 SECONDS WEST, A DISTANCE OF 95.00 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 39.27 FEET; THENCE SOUTH 04 DEGREES 30 MINUTES 01 SECONDS EAST, A DISTANCE OF 50.25 FEET; THENCE SOUTH 01 DEGREES 12 MINUTES 37 SECONDS WEST, A DISTANCE OF 120.00 FEET; THENCE SOUTH 13 DEGREES 44 MINUTES 54 SECONDS EAST, A DISTANCE OF 143.78 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES SOUTH 00 DEGREES 08 MINUTES 39 SECONDS WEST, A RADIAL DISTANCE OF 645.01 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 09 DEGREES 15 MINUTES 05 SECONDS, A DISTANCE OF 104.15 FEET; THENCE SOUTH 80 DEGREES 53 MINUTES 46 SECONDS WEST, A DISTANCE OF 189.01 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 355.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 18 MINUTES 51 SECONDS; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 63.91 FEET; THENCE NORTH 88 DEGREES 47 MINUTES 23 SECONDS WEST, A DISTANCE OF 292.43 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 40 SECONDS WEST, A DISTANCE OF 43.89 FEET; THENCE NORTH 88 DEGREES 40 MINUTES 20 SECONDS WEST, A DISTANCE OF 120.00 FEET; THENCE SOUTH 88 DEGREES 52 MINUTES 50 SECONDS WEST, A DISTANCE OF 50.02 FEET; THENCE NORTH 88 DEGREES 40 MINUTES 20 SECONDS WEST, A DISTANCE OF 140.00 FEET TO A POINT ON THE WEST LINE OF SAID BROOKSHIRE AT HERITAGE OAKS PHASE 1; THENCE NORTH 00 DEGREES 19 MINUTES 40 SECONDS EAST, A DISTANCE OF 919.17 FEET TO THE POINT OF BEGINNING, CONTAINING 638,705.87 SQUARE FEET OR 14.6645 ACRES, MORE OR LESS.

Page: 3  
Trust: 2.00  
Debit: 0.00  
MBR: 0.00  
Chk Of Counts, Brevard County  
Scott Ellis  
Inlines: 2  
Rec: 13.00  
Srv: 0.00  
Endser: 0.00  
Inv Tax: 0.00

**SUBMISSION OF ADDITIONAL PHASE TO  
BROOKSHIRE AT HERITAGE OAKS SUBDIVISION AND ITS  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Submission of Additional Phase to Brookshire at Heritage Oaks Subdivision and its Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Submission") is dated as of the second day May, 2002, by Heritage Oaks Development Company, a Florida corporation (hereinafter referred to as "Declarant" or "Developer").

**WITNESSETH**

**WHEREAS**, Heritage Oaks Development Company, as the Developer platted certain property into Brookshire at Heritage Oaks Subdivision, Phase 1 as described in Plat Book 47, Pages 3, 4, 5 and 6, and Phase 2 as described in Plat Book 48, Pages 3 and 4, Public Records of Brevard County, Florida; and

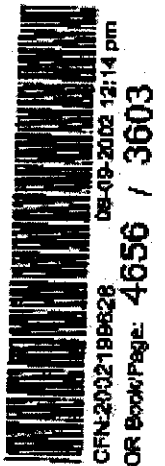
**WHEREAS**, said platted property was made subject to that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, of the Public Records of Brevard County, Florida, as it may be or have been subsequently amended (hereinafter referred to as "Declaration"); and

**WHEREAS**, pursuant to Article VIII, Section 5 and 6 of the Declaration, the Developer reserved unto itself the right to add additional property to the Declaration and include such additional property within the Subdivision as defined in the Declaration; and

**WHEREAS**, Developer is the owner of that certain property described in Exhibit "A" Attached hereto which property is contiguous to the property platted into Phase 2; and

**WHEREAS**, Developer wishes to amend the Declaration to include the Exhibit "A" property as part of the Subdivision as defined in the Declaration.

**NOW THEREFORE**, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, Developer, pursuant to Article VIII, Sections 5 and 6 of the Declaration, does hereby elect to add and submit the Exhibit "A" property to the definition of Subdivision as set forth in the Declaration, and elects to submit the Exhibit "A" property to the terms of the Declaration for all intents and purposes as if the Exhibit "A" property had been included in the original Declaration. This Submission shall be deemed a supplementary declaration and supplement to the Declaration for the purpose of submitting the Exhibit "A" property to the Subdivision, to the Declaration, and to the jurisdiction of Brookshire at Heritage Oaks Homeowners Association, Inc.





CFN:2002199628

OR Book/Page: 4656 / 3604

EXHIBIT "A"

LEGAL DESCRIPTION

BEGIN AT THE SOUTHWEST CORNER OF LOT 147, BROOKSHIRE AT HERITAGE OAKS, PHASE 1 AS RECORDED IN PLAT BOOK 47, PAGES 1 THROUGH 6 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE SOUTH 89 DEGREES 47 MINUTES 23 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 147 AND ALONG THE SOUTH LINE OF TRACT B, BROOKSHIRE AT HERITAGE OAKS, PHASE 1, A DISTANCE OF 130.00 FEET; THENCE NORTH 64 DEGREES 38 MINUTES 43 SECONDS EAST ALONG THE SOUTHWEST LINE OF SAID TRACT B, A DISTANCE OF 55.80 FEET; THENCE SOUTH 89 DEGREES 47 MINUTES 23 SECONDS EAST ALONG THE SOUTH LINE OF SAID TRACT B, A DISTANCE OF 38.51 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 180 DEGREES 00 MINUTES 00 SECONDS; THENCE SOUTHERLY ALONG THE ARC AND ALONG THE WESTERLY LINE OF SAID TRACT B AND TRACT NO. 1, BROOKSHIRE AT HERITAGE OAKS, PHASE 1, A DISTANCE OF 534.47 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 23 SECONDS WEST ALONG THE NORTH LINE OF SAID TRACT NO. 1, A DISTANCE OF 38.51 FEET; THENCE NORTH 62 DEGREES 13 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY LINE OF SAID TRACT NO. 1, A DISTANCE OF 95.00 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 23 SECONDS WEST ALONG THE NORTH LINE OF SAID TRACT NO. 1, A DISTANCE OF 300.00 FEET TO THE SOUTHWEST CORNER OF LOT 126, BROOKSHIRE AT HERITAGE OAKS, PHASE 2 AS RECORDED IN PLAT BOOK 48, PAGES 3 THROUGH 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE NORTH 01 DEGREES 12 MINUTES 37 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 126, A DISTANCE OF 120.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 126; THENCE NORTH 04 DEGREES 30 MINUTES 07 SECONDS WEST ALONG THE EASTERLY LINE OF TRACT A, BROOKSHIRE AT HERITAGE OAKS, PHASE 2, A DISTANCE OF 50.28 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE POINTS NORTHWESTERLY ALONG THE ARC AND ALONG THE NORTHEASTERLY LINE OF SAID TRACT A, THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS, A DISTANCE OF 34.27 FEET; THENCE NORTH 01 DEGREES 12 MINUTES 37 SECONDS EAST ALONG THE EAST LINE OF SAID TRACT A, A DISTANCE OF 95.00 FEET TO THE POINT OF BEGINNING CONTAINING 3.7918 ACRES.



CFN:2002199628

OR Book/Page: 4656 / 3605

IN WITNESS WHEREOF, the undersigned has executed this Submission as of the day year first set forth above.

Barbara Steele

Witness

Print Name: Barbara Steele

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS

HERITAGE OAKS DEVELOPMENT  
COMPANY

By: [Signature]

Roy J. Pence, as it President

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of Aug, 2002, by Roy J. Pence, as President of Heritage Oaks Development Company on behalf of said corporation ✓ who is personally known to me, or     who has produced a Florida driver's license as identification.

[Signature]

Notary Public

My commission expires:



Donna Watkins

My Commission CC285775

Expires October 08 2004

**SUBMISSION OF PHASE 4 TO BROOKSHIRE  
AT HERITAGE OAKS SUBDIVISION AND ITS DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Submission of Phase 4 to Brookshire at Heritage Oaks Subdivision and its Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Submission") is dated as of the 22nd day January 2003, by Heritage Oaks Development Company, a Florida corporation (hereinafter referred to as "Declarant" or "Developer").



**WITNESSETH**

CFN:2003025087 01/29/2003 09:46 am  
OR Book/Page: 4802 / 3471

**WHEREAS**, Heritage Oaks Development Company, as the Developer platted certain property into Brookshire at Heritage Oaks Subdivision, Phase 1 as described in Plat Book 47, Pages 3, 4, 5 and 6, Public Records of Brevard County, Florida; and

**WHEREAS**, Phase 1, Phase 2 and Phase 3 were made subject to that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, of the Public Records of Brevard County, Florida, as it may be or have been subsequently amended (hereinafter referred to as "Declaration"); and

**WHEREAS**, pursuant to Article VIII, Sections 5 and 6 of the Declaration, the Developer reserved unto itself the right to add additional property to the Declaration and include such additional property within the Subdivision as defined in the Declaration; and

**WHEREAS**, Developer is the owner of that certain property described in Exhibit "A" attached hereto which property is contiguous to the property platted into Phases 1, 2 and 3; and

**WHEREAS**, Developer wishes to amend the Declaration to specifically reference and include the Exhibit "A" property as Phase 4 of the Subdivision as defined in the Declaration.

**NOW, THEREFORE**, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, Developer, pursuant to Article VIII, Sections 5 and 6 of the Declaration, does hereby elect to add and submit the Exhibit "A" property as Phase 4 to the definition of Subdivision as set forth in the Declaration, and elects to submit the Exhibit "A" property to the terms of the Declaration for all intents and purposes as if the Exhibit "A" property had been included in the original Declaration. This Submission shall be deemed a supplementary declaration and supplement to the Declaration for the purpose of submitting the Exhibit "A" property as Phase 4 to the Subdivision, to the Declaration, and to the jurisdiction of Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Association"). The plat of the Phase 4 Exhibit "A" property filed by the Declarant, and the conditions, restrictions and dedications thereon, shall control over any conflicting provisions in the Declaration with respect to the Exhibit "A" property; and Tracts on such plat of Phase 4 designated to be owned, controlled and operated by the Association shall be deemed Common Areas under the Declaration subject to the terms and conditions of the plat.

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 3	#Names: 2
Trust: 2.00	Rec: 13.00
Deed: 0.00	Serv: 0.00
Mfg: 0.00	Exclsr: 0.00
	Int Tax: 0.00

IN WITNESS WHEREOF, the undersigned has executed this Submission as of the day year first set forth above.

HERITAGE OAKS DEVELOPMENT COMPANY

[Signature]

Witness

Print Name: William Beacock

[Signature]

By:

Roy J. Pence, as its President

[Signature]

Witness

Print Name: Jan Pence



CFN:2003025007

OR Book/Page: 4802 / 3472

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June, 2003, by **Roy J. Pence**, as President of **Heritage Oaks Development Company** on behalf of said corporation  
 who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public

My commission expires:



Dennis Watkins

My Commission C0088778

Expires October 08 2004

EXHIBIT "A"

BROOKSHIRE  
PHASE 4



CFN:2003025087

OR Book/Page: 4802 / 3473

LEGAL DESCRIPTION: (BY SURVEYOR)

BEGIN AT THE SOUTHEAST CORNER OF LOT 27, BROOKSHIRE AT HERITAGE OAKS, PHASE 1 AS RECORDED IN PLAT BOOK 47, PAGES 3 THROUGH 6 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE SOUTH 00 DEGREES 31 MINUTES 32 SECONDS WEST ALONG THE EAST LINE OF TRACT 1, BROOKSHIRE AT HERITAGE OAKS, PHASE 1, A DISTANCE OF 980.07 FEET; THENCE NORTH 88 DEGREES 47 MINUTES 23 SECONDS WEST ALONG THE SOUTH LINE OF SAID TRACT 1, A DISTANCE OF 1,931.11 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 40 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT 1, A DISTANCE OF 240.00 FEET TO THE SOUTHWEST CORNER OF LOT 80, BROOKSHIRE AT HERITAGE OAKS, PHASE 2 AS RECORDED IN PLAT BOOK 48, PAGES 3 THROUGH 4 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE ALONG THE SOUTHERLY AND EASTERLY BOUNDARIES OF BROOKSHIRE AT HERITAGE OAKS, PHASE 2 AND PHASE 1 AS FOLLOWS: SOUTH 89 DEGREES 40 MINUTES 20 SECONDS EAST, A DISTANCE OF 140.00 FEET; THENCE NORTH 88 DEGREES 52 MINUTES 50 SECONDS EAST, A DISTANCE OF 50.02 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 20 SECONDS EAST, A DISTANCE OF 120.00 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 40 SECONDS EAST, A DISTANCE OF 43.99 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 299.43 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 355.00 FEET AND A CENTRAL ANGLE OF 10 DEGREES 18 MINUTES 51 SECONDS; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 83.91 FEET; THENCE NORTH 80 DEGREES 53 MINUTES 49 SECONDS EAST, A DISTANCE OF 169.01 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 645.00 FEET AND A CENTRAL ANGLE OF 09 DEGREES 14 MINUTES 53 SECONDS; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 104.11 FEET; THENCE NORTH 13 DEGREES 44 MINUTES 54 SECONDS WEST, A DISTANCE OF 143.78 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 300.00 FEET; THENCE SOUTH 82 DEGREES 13 MINUTES 29 SECONDS EAST, A DISTANCE OF 55.90 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 23 SECONDS EAST, A DISTANCE OF 39.51 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 128 DEGREES 06 MINUTES 33 SECONDS; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 382.58 FEET; THENCE NORTH 69 DEGREES 07 MINUTES 32 SECONDS EAST, A DISTANCE OF 199.17 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES NORTH 80 DEGREES 33 MINUTES 42 SECONDS WEST, A RADIAL DISTANCE OF 355.00 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 08 DEGREES 54 MINUTES 46 SECONDS, A DISTANCE OF 55.22 FEET; THENCE NORTH 09 DEGREES 31 MINUTES 32 SECONDS EAST, A DISTANCE OF 110.00 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 28 SECONDS EAST, A DISTANCE OF 120.00 FEET; THENCE NORTH 83 DEGREES 43 MINUTES 27 SECONDS EAST, A DISTANCE OF 50.35 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 28 SECONDS EAST, A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING. CONTAINING 21.3892 ACRES.



CFN 2003025124 01-28-2003 10:02 am

DR Book/Page: 4802 / 3667

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BROOKSHIRE AT HERITAGE OAKS**

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Brookshire at Heritage Oaks Subdivision (hereinafter referred to as "Amendment") is dated as of the 21<sup>st</sup> day of JANUARY, 2003, by the undersigned.

**WITNESSETH:**

WHEREAS, Heritage Oaks Development Company (the "Developer") created a single family subdivision development in Brevard County, Florida know as Brookshire Heritage Oaks according to the plat thereof as recorded in Plat Book 47, Pages 3, 4, 5 and 6, Public Records of Brevard County, Florida (the "Subdivision"); and

WHEREAS, the Developer encumbered the property within the Subdivision with that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, as amended in Official Records Book 4398, Page 2789, all of the Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, pursuant to Article VIII of the Declaration, the Declaration may be amended by the Developer who owns all of the Subdivision lots and who holds all of the membership votes in Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Association"); and

WHEREAS, Developer wishes to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the undersigned Developer does hereby amend the Declaration to include Article IX as follows:

**ARTICLE IX**  
**POWER AND AUTHORITY OF WEST MELBOURNE**

**Section 1. Definition.** For purposes of this Article, the definitions in the "DEFINITIONS" section of this Declaration shall apply, in addition, the term, "City" shall mean the municipal operation known as the City of West Melbourne, Brevard County, Florida.

**Section 2. Power of City to Provide Maintenance.** The City shall have the power and authority, but not the obligation, to provide maintenance and repairs to drainage facilities and other facilities in the Common Area of the Project as necessary to provide for the health, safety and welfare of the Owners of the Lots. The power of the City in this regard shall be exercised in the complete and sole discretion of the City Council. As a pre-requisite to the exercise of such power and authority, the governing body of the City shall adopt a resolution finding that the Association

**Scott Ellis**

Clerk Of Courts, Brevard County

#Page: 5	#Names: 2	
Trust: 3.00	Rec: 21.00	Serv: 0.00
-----: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00



CFN 2003025124

OR BookPage: 4802 / 3668

has failed to maintain or repair a common facility identified in the resolution to those standards or specifications set forth in the applicable ordinances or construction codes which are generally applicable to similar public facilities.

If the City exercises its power to provide maintenance or repairs in any given instance, nothing herein shall prevent the Association from later resuming viable control of its maintenance responsibilities.

Nothing in this Article shall be deemed to require the City to exercise the power provided herein if the City Council, in its discretion, elects not to provide the maintenance and repair work which is the subject of this Section. The exercise by the City of any power described in this Section shall not obligate the City to exercise any similar power in any future circumstance.

The discretionary powers of the City set forth in this Section shall remain available notwithstanding any assignment by the Association of its duties set forth in the Declaration. No such assignment shall affect the City's ability to exercise any part of its discretionary powers provided for herein.

Section 3. Right of Assessment to Pay the Costs of Maintenance or Repair of Common Area.

In the event the City makes the determination as provided in the preceding Section that the City will provide maintenance or repair to any Common area of the Project, the City shall have the power under this Declaration to assess all costs thereof (including, but not limited to, inspection, engineering, advertising, legal, construction and administration costs) to the Owners of all Lots. If less than the maximum number of Lots described in this Declaration are actually developed, any assessment is made pursuant to this Section, the Owners of all lots actually developed shall equally share in the costs of such assessments.

The said assessment may be accomplished by resolution using the methods and procedures set forth for municipal special assessments in Chapter 170, Florida Statutes, or any other method provided by law; provided, however, that the assessments described herein may, at the discretion of the City's governing body, be made for all purposes generally described in this Section, including those purposes not described in the said Chapter 170. The assessments described in this Section shall not be constructed to the "Special Assessment" under the said Chapter 170, and the reference herein to Chapter 170 is solely for the purpose of defining the methods and procedures to be used by the City for the assessments described herein. Additionally, the "benefit" analysis set for in Chapter 170 shall be inapplicable, and any assessment by the City pursuant to this Section shall be sufficient to pay all costs of the repair or improvements for which the assessment is made.

At a minimum, the resolution establishing the assessment provided for herein shall set forth the total amount of the assessment and shall equally divide the said total assessment among the total number of all then-existing Lots.

No assessment made pursuant to this Section shall become final unless and until all Owners

of Lots subject to the assessment have been notified in writing, mailed to such Owners' addresses shown in the most recent tax roll and the City has concluded a public hearing at which such Owners have had the opportunity to appear and be heard with respect to the assessment. Failure of an Owner to receive said notice shall not be deemed to be sufficient reason to invalidate any assessment made hereunder.

Section 4. Declaration of Assessment; Interest on Installment Payments. An assessment made by the City as authorized in this Article may be payable in a single installment or in annual installments over a period of not more than five (5) years, in the sole discretion of the City. If the City elects to collect any assessment in installments, the principal sum shall be payable in equal payments, and interest at the rate of twelve (12%) per annum shall be payable on the unpaid balance, beginning ninety (90) days after adoption of the resolution confirming the assessment. In no event shall any initial payment of any assessment be due sooner than ninety (90) days after the adoption of the final resolution confirming the assessment.

Section 5. Lien for Payment of Assessment Foreclosure. When the final assessment roll for any assessment provided for in this Article is adopted by the City, and a certified copy thereof is recorded in the Public Records of Brevard County, The City shall have a lien on each Lot, subject to the assessment in the full amount of the principal assessment and all interest thereon. Such a lien shall have a priority relating back to the date of recording of the assessment roll.

The City shall have the right to foreclose such lien by bringing an action for foreclosure in an appropriate court in Brevard County. No such action shall be brought unless the payment of an assessment, or any installment thereof, is more than ninety (90) days past due. The City shall be entitled to an award of a reasonable attorney's fee and court costs of any such action.

Section 6. Authority For Code Enforcement. The City shall have the full right and power to enforce the provisions of its City Code within the Project, and all Owners are subject to enforcement of the City Code by the City's Code Enforcement Board. This Section shall be deemed to be a grant by the Developer and the Owners of all Lots of full authority for access to all of the Project for such purposes.

Section 7. City's Consent to Modify. Article VIII shall not be amended, modified, revised or changed in any way without the prior written consent of the City of West Melbourne.

IN WITNESS WHEREOF, the Developer and sole Member of the Association has executed this Amendment as of the day and year first set forth above.



CFN 2003025124

OR Book/Page: 4802 / 3669

HERITAGE OAKS DEVELOPMENT  
COMPANY, a Florida corporation

Signed, sealed and delivered in the presence of

[Signature]  
Witness  
Print Name: William A. Cook

BY: [Signature]  
Roy J. Pence, as its President

[Signature]  
Witness  
Print Name: Jan Pence



CFN 2003025124  
OR Book/Page: 4802 / 3670

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of January, 2003, by Roy J. Pence, as President of Heritage Oaks Development Company, a Florida corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public  
Print Name: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

 Dorra Wallens  
My Commission OC060775  
Expires October 08 2004

The foregoing Amendment is hereby joined in and consented to by the undersigned.

BROOKSHIRE AT HERITAGE OAKS  
HOMEOWNERS ASSOCIATION, INC., a Florida  
not-for profit corporation

Signed, sealed and delivered in the presence of

*William H. Cook*

Witness

Print Name: William H. Cook

*Roy J. Pence*

Witness

Print Name: Roy J. Pence

BY: *[Signature]*

Roy J. Pence, as its President and Secretary



CFN 2003025124

OR Book/Page: 4802 / 3671

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of January, 2003, by Roy J. Pence, as President and Secretary of Brookshire at Heritage Oaks Homeowners Association, Inc., a Florida not-for-profit corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

*Donna Watkins*

Notary Public

Print Name: \_\_\_\_\_

Commission expires: \_\_\_\_\_



Donna Watkins  
My Commission CC000770  
Expires October 08 2004

AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
BROOKSHIRE AT HERITAGE OAKS

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Brookshire at Heritage Oaks Subdivision (hereinafter referred to as "Amendment") is dated as of the 3<sup>rd</sup> day of July, 2003, by the undersigned, Brookshire Development Company.

WITNESSETH:

WHEREAS, Brookshire Development Company (the "Developer") created a single family subdivision development in Brevard County, Florida know as Brookshire at Heritage Oaks according to the plat thereof as recorded in Plat Book 47, Pages 3, 4, 5, and 6, Public Records of Brevard County, Florida (the "Subdivision"); and

WHEREAS, the Developer encumbered the property within the Subdivision with that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, as amended in O.R. Book 4398, Page 2789, all in the Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, pursuant to Article VIII of the Declaration, the Turnover Date has not occurred and the Declaration may be amended by the Developer who owns in excess of ten (10%) percent of the Subdivision Lots and who retains Class B membership votes in Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Association"); and

WHEREAS, Developer wishes to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the undersigned Developer does hereby amend the Declaration as follows.

1. Article II, Section 5 (c) is hereby replaced in its entirety with the following for the purpose of describing additional permitted trees and required tree locations:

A minimum of five (5) trees, which must be Live Oak, Laurel Oak, Red Maple, Bald Cypress, Sycamore, Magnolia, Shumard Oak, Sweet Gum, Florida Elm, Carolina Ash, River Birch, Drake Elm, Southern Red Cedar, Ligustrum Lucida or American Holly are required to be planted for each residence. Three (3) of these trees must be planted in the front setback area of each residence. One (1) of these trees planted in the front setback must be Live Oak or Laurel Oak. These trees shall be a minimum of 8' in height, have a drip line of a minimum of 4', and be a minimum of 1 1/2" in diameter measured 4' above the finished grade. These trees shall remain perpetually on each lot. Notwithstanding the foregoing, trees must conform to any stricter standards required by any applicable governmental entity.

HC

Scott Ellis

Clerk Of Courts, Brevard County

MPs: 3      #Names: 2  
Trust 2.00      Rec: 13.00      Serv: 0.00  
0.00      Excise: 0.00  
Mtg: 0.00      In Tax: 0.00



CFN 2003200393      07-03-2003 01:34 pm  
OR Book/Page: 4966 / 2997

In the event any of the trees die, they shall be replanted with the same or other approved type of tree to comply with these minimum requirements. Upon notification by the Association and/or the local governing agency, each homeowner shall have thirty (30) days to replant/replace said trees required under these restrictions.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the day and year first set forth above.

BROOKSHIRE DEVELOPMENT COMPANY, a  
Florida corporation

Signed, sealed and delivered in the presence of

Barbara Steele

Witness

Print Name: Barbara Steele

BY:

Roy J. Pence

Roy J. Pence, as its President

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS



CFN 2003200393

OR Book/Page: 4966 / 2998

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of July, 2003, by Roy J. Pence, as President of Brookshire Development Company, a Florida corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

Donna Walters  
Notary Public  
Commission expires: \_\_\_\_\_



The foregoing Amendment is hereby joined in and consented to by the undersigned.

Brookshire AT HERITAGE OAKS  
HOMEOWNERS ASSOCIATION, INC., a Florida  
not-for profit corporation

Signed, sealed and delivered in the presence of

Barbara Steele

BY: [Signature]

Roy J. Pence, as its President

Witness

Print Name: Barbara Steele

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS



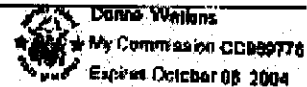
CFN 2003200393

OR Book/Page: 4966 / 2999

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 2nd day of July, 2003, by Roy J. Pence, as President of Woodfield at Heritage Oaks Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public  
Commission expires: \_\_\_\_\_



**AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
BROOKSHIRE AT HERITAGE OAKS**

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Brookshire at Heritage Oaks Subdivision (hereinafter referred to as "Amendment") is dated as of the 17<sup>th</sup> day of July, 2003, by the undersigned, Brookshire Development Company.

**WITNESSETH:**

WHEREAS, Brookshire Development Company (the "Developer") created a single family subdivision development in Brevard County, Florida know as Brookshire at Heritage Oaks according to the plat thereof as recorded in Plat Book 47, Pages 3, 4, 5, and 6, Public Records of Brevard County, Florida (the "Subdivision"); and

WHEREAS, the Developer encumbered the property within the Subdivision with that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 2974, as amended in O.R. Book 4398, Page 2789, all in the Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, pursuant to Article VIII of the Declaration, the Turnover Date has not occurred and the Declaration may be amended by the Developer who owns in excess of ten (10%) percent of the Subdivision Lots and who retains Class B membership votes in Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Association"); and

WHEREAS, Developer wishes to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the undersigned Developer does hereby amend the Declaration as follows.

1. Article II, Section 5 (c) is hereby replaced in its entirety with the following for the purpose of describing additional permitted trees and required tree locations:

A minimum of four (4) trees, which must be Live Oak, Laurel Oak, Red Maple, Bald Cypress, Sycamore, Magnolia, Shumard Oak, Sweet Gum, Florida Elm, Carolina Ash, River Birch, Drake Elm, Southern Red Cedar, Ligustrum Lucida or American Holly are required to be planted for each residence. Two (2) of these trees must be planted in the front setback area of each residence. One (1) of these trees planted in the front setback must be Live Oak or Laurel Oak. These trees shall be a minimum of 8' in height, have a drip line of a minimum of 4', and be a minimum of 1 1/2" in diameter measured 4' above the finished grade. These trees shall remain perpetually on each lot. Notwithstanding the foregoing, trees must conform to any stricter standards required by any applicable governmental entity.

Formal to: true/Woodfield Dec 03.105 - 01/16/03

HC → Heritage Oaks Development Co.

Scott Ellis  
Ora. Of Courts, Brevard County  
#Pgs: 3  
Title: 2.00  
Fees: 4.00  
Mfg: 0.00  
Whimms: 2  
Rate: 13.00  
Spw: 0.00  
Judge: 1.00  
nl Tax: 0.00

CFN 2003218445 07-17-2003 11:52 am  
OM Book/Pages: 4983 / 0242



In the event any of the trees die, they shall be replanted with the same or other approved type of tree to comply with these minimum requirements. Upon notification by the Association and/or the local governing agency, each homeowner shall have thirty (30) days to replant/replace said trees required under these restrictions.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the day and year first set forth above.

BROOKSHIRE DEVELOPMENT COMPANY, a  
Florida corporation

Signed, sealed and delivered in the presence of

Charles E. Mathis

Witness

Print Name: CHARLES E. MATHIS

BY:

Roy J. Pence

Roy J. Pence, as its President

Barbara Steele

Witness

Print Name: Barbara Steele



CFN 2003216445

OR Book/Pgs: 4983 / 0243

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of \_\_\_\_\_, 2003, by Roy J. Pence, as President of Brookshire Development Company, a Florida corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

Donna Wiggins  
Notary Public  
Commission expires: \_\_\_\_\_



Donna Wiggins  
My Commission CC988715  
Expires October 08 2004

The foregoing Amendment is hereby joined in and consented to by the undersigned.

BROOKSHIRE AT HERITAGE OAKS  
HOMEOWNERS ASSOCIATION, INC., a Florida  
not-for profit corporation

Signed, sealed and delivered in the presence of

Charles C. Mathis

BY:

Roy J. Pence

Roy J. Pence, as its President.

Witness

Print Name: CHARLES C. MATHIS

Barbara Steele

Witness

Print Name: Barbara Steele



CFN 2003216445

OR Book/Page: 4983 / 0244

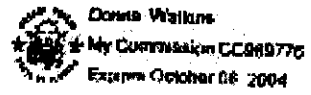
STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of \_\_\_\_\_, 2003, by Roy J. Pence, as President of Woodfield at Heritage Oaks Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

Doris Watkins

Notary Public

Commission expires: \_\_\_\_\_



AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
WOODFIELD AT HERITAGE OAKS

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Woodfield at Heritage Oaks Subdivision (hereinafter referred to as "Amendment") is dated as of the 4<sup>th</sup> day of MAY, 2004, by the undersigned, Woodfield Development Company.

WITNESSETH:

WHEREAS, Woodfield Development Company (the "Developer") created a single family subdivision development in Brevard County, Florida know as Woodfield at Heritage Oaks according to the plat thereof as recorded in Plat Book 47, Pages 7, 8 and 9, Public Records of Brevard County, Florida (the "Subdivision") which includes Woodfield at Heritage Oaks, Phase 2 as recorded in Plat Book 49, Pages 54 through 56 and which includes Woodfield at Heritage Oaks, Phase 3 as recorded in Plat Book 50, Pages 71 and 72, and which includes; and

WHEREAS, the Developer encumbered the property within the Subdivision with that certain Declaration of Covenants, Conditions and Restrictions as recorded in Official Records Book 4375, Page 3205, as subsequently amended, all in the Public Records of Brevard County, Florida (the "Declaration"); and

WHEREAS, pursuant to Article VIII of the Declaration, the Turnover Date has not occurred and the Declaration may be amended by the Developer who owns in excess of ten (10%) percent of the Subdivision Lots and who retains Class B membership votes in Woodfield at Heritage Oaks Homeowners Association, Inc. (the "Association"); and

WHEREAS, Developer wishes to amend the Declaration as hereinafter set forth.

NOW, THEREFORE, the undersigned Developer does hereby amend the Declaration as follows:

- I. Article IV, Section 8, is amended to add the following provision:

Developer has constructed certain stormwater system improvements which service both the Subdivision and the adjacent subdivision known as Brookshire at Heritage Oaks (hereinafter "Brookshire Subdivision"). Therefore, notwithstanding any other provision set forth above or contained herein, the Association and Brookshire at Heritage Oaks Homeowners Association, Inc. (the "Brookshire Association") shall equally share in the costs associated with the operation, maintenance and repair of the following common elements of the surface water/stormwater management system: (i) the 36 inch pipes, associated manholes, and pipe end sections connecting Stormwater Tract "C" of the Subdivision and Stormwater Tract "M" of Brookshire Subdivision; and (ii) the type "E"

Scott Ellis  
Clerk Of Courts, Brevard County  
Pages: 3  
Trial: 2.00  
Fees: 0.00  
Misc: 0.00  
Returns: 2  
Rec: 13.00  
Srv: 0.00  
Sched: 0.00  
In Trac: 0.00



outfall structure, 42 inch pipes, associated manholes and pipe end section connecting Stormwater Tract "M" of Brookshire Subdivision to the Melbourne-Tillman Canal Number 62.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the day and year first set forth above.

WOODFIELD DEVELOPMENT COMPANY, a Florida corporation

Signed, sealed and delivered in the presence of

[Signature]  
Witness  
Print Name: Jam Pence

BY: [Signature]  
Roy J. Pence, as its President

[Signature]  
Witness  
Print Name: William Alcock



CFW:2004137333  
OR Book/Page: 5280 / 2259

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 2004, by Roy J. Pence, as President of Woodfield Development Company, a Florida corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public  
Commission expires: \_\_\_\_\_

Donna Walters  
My Commission OC090776  
Expires October 08 2004

The foregoing Amendment is hereby joined in and consented to by the undersigned.

WOODFIELD AT HERITAGE OAKS  
HOMEOWNERS ASSOCIATION, INC., a Florida  
not-for profit corporation

Signed, sealed and delivered in the presence of

[Signature]  
Witness  
Print Name: Jan Pence

BY: [Signature]  
Roy J. Pence, as its President

[Signature]  
Witness  
Print Name: William Brock



CFN:2004137333  
OR Book/Page: 5280 / 2260

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 4th day of May, 2004, by Roy J. Pence, as President of Woodfield at Heritage Oaks Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of said corporation  who is personally known to me, or  who has produced a Florida driver's license as identification.

[Signature]  
Notary Public  
Commission expires: \_\_\_\_\_

 Donna Wilkins  
My Commission CC000770  
Expires October 06 2004