



under Clerk's File No. 2013-098171, Official Public Records of Montgomery County, Texas (the "Original Declaration");

**WHEREAS**, Section 23 of the Original Declaration provides that a majority of the Lot Owners of the Subdivision may amend the Original Declaration; and

**WHEREAS**, the requisite number of Lot Owners desire to amend and restate the Original Declaration in full and have approved this Declaration and voted to amend and restate the covenants, conditions, and restrictions thereunder as herein provided.

**NOW, THEREFORE**, in consideration of the premises, and pursuant to the authority of Section 23 of the Original Declaration, the Lot Owners in the Subdivision, acting by and through the Association, hereby adopt, affirm, and ratify the following amended and restated covenants, conditions, and restrictions for the Subdivision and declare that the Subdivision shall be developed, improved, held, used, sold, and conveyed in accordance with and subject to the following easements, restrictions, reservations, dedications, covenants, conditions, and stipulations, all of which are hereby adopted for and placed upon the Subdivision, and which shall run with the Lots in the Subdivision and be binding on all parties, now and at any time hereafter, having or claiming any right, title, or interest in the Subdivision or any part thereof, their heirs, executors, administrators, successors, and assigns, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired, and all of which shall inure to the benefit of each Owner of any part of the Subdivision.

### **ARTICLE I - DEFINITIONS**

The following words, when used in this Declaration, shall have the following meanings:

**SECTION 1.1.** "ACC Guidelines" shall mean and refer to minimum acceptable construction standards for construction of Residences and other improvements in the Subdivision, as promulgated from time to time by the Board of Directors.

**SECTION 1.2.** "Association" shall mean and refer to Texas National Property Owners Association, a Texas nonprofit corporation, its successors, and assigns.

**SECTION 1.3.** "Board of Directors" shall mean and refer to the Association's board of directors established by its Articles of Incorporation and Bylaws.

**SECTION 1.4.** "Common Area" or "Common Areas" shall mean and refer to the entrance, the esplanade on Texas National Boulevard, all areas in any sections that are designated as common areas or reserves on plats, and any other properties, real or personal, now owned or hereafter acquired by the Association for the common use, benefit, and/or enjoyment of Members of the Association. The term shall not apply to any property acquired by the Association pursuant to a foreclosure of the assessment lien provided for in Article VI below

unless such property is later dedicated by the Association for the use and benefit of the Members.

SECTION 1.5. “Lot” or “Lots” shall mean and refer to any of the numbered lots shown on the Subdivision Plats, subject, however, to any consolidation of Lots as provided in Section 4.19 hereof. “Lot” shall not refer to any area designated as a Reserve.

SECTION 1.6. “Member” shall mean and refer to every person or entity that holds a membership in the Association during the period of such membership.

SECTION 1.7. “Owner” shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, and the purchaser(s) under a contract for deed or an executory installment contract for the sale and purchase of a Lot, but, notwithstanding any theory of the mortgage, shall not mean or refer to any mortgagees unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure; and excluding those having an interest merely as security for the performance of an obligation or those owning only an easement right, a mineral interest, or a royalty interest.

SECTION 1.8. “Reserves” shall mean and refer to Reserve A, Section 3; Reserves A, B and C, Section 4; Reserve A, Section 5; Reserves A and B, Section 6; Reserve A, Section 8; and Reserve A, Section 9, each as depicted on the Subdivision Plats as reserves or unrestricted reserves. Reserves are not Lots.

SECTION 1.9. “Residence” or “Residences” shall mean and refer to a site-built frame or brick dwelling intended for use as a residence for one (1) family.

SECTION 1.10. “Rules and Regulations” shall mean and refer to rules and regulations promulgated by the Board of Directors pursuant to this Declaration, the Articles of Incorporation or the Bylaws of the Association, and/or pursuant to the authority conferred upon it by Section 204.010 of the Texas Property Code for the regulation of the use, maintenance, repair, replacement, modification, and appearance of the Subdivision and the governance and operation of the Association.

SECTION 1.11. “Subdivision Plats” shall mean and refer to the recorded maps or plats of the Subdivision as referenced above.

## **ARTICLE II – ARCHITECTURAL CONTROL**

SECTION 2.1. AUTHORITY. Architectural control for the Subdivision is vested in the Board of Directors.

SECTION 2.2. ARCHITECTURAL APPROVAL; SUBMISSION OF PLANS; APPLICATION OF PLANS; APPLICATION FEE; FAILURE TO ACT; PROMULGATION OF CONSTRUCTION STANDARDS; OTHER POWERS. No building or other improvements,

including dwellings, garages, outbuildings, driveways, sidewalks, patios, drainage facilities, fences, animal pens, enclosures, mailboxes, or walks, shall be commenced, constructed, erected, placed, or maintained on any Lot or elsewhere in the Subdivision, nor shall any exterior addition or alteration thereto be made, unless and until (a) a preliminary site plan showing all uses and dimensions, the location of buildings, entries, driveways, parking areas, pedestrian ways, storage areas, and other improvements has been submitted to and approved in writing by the Board of Directors, and thereafter (b) the final working plans and specifications for the work shown on the preliminary site plan have been submitted to and approved in writing by the Board of Directors as to compliance with this Declaration and as to harmony of external design and location in relation to property lines, building lines, easements, grades, and finished ground elevation, surrounding structures, walks, paths and topography. The final working plans and specifications shall not be commenced until the preliminary site plan has been so approved. The final working plans and specifications shall specify, in such form as the Board of Directors may reasonably require, structural, mechanical, electrical, and plumbing details and the nature, kind, shape, height, exterior color scheme, materials, and location of the proposed improvements or alterations thereto. The Board of Directors may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect in its discretion.

The Board of Directors may charge a reasonable application fee, review fee, and/or deposit, in an amount to be determined by the Board of Directors, which shall be deposited in the Association's operating account.

In the event the Board of Directors fails to approve or disapprove the preliminary site plan within thirty (30) days after it has been submitted, the applicant should notify the Board of Directors in writing, via US mail or email for further action. The Board of Directors, at its sole discretion, is permitted to approve deviations in instances where, in its judgment, such deviations will result in a more commonly beneficial use. Such approval must be granted in writing with an additional copy provided to the Association.

Without limitation of the powers herein granted, the Board of Directors shall have the right to specify an outline of minimum acceptable construction standards or ACC Guidelines, including, but not limited to, acceptable exterior materials and/or finishes which may be used in the construction, alteration, or repair of any improvement.

Where not otherwise specified herein, the Board of Directors also shall have the right to specify requirements or ACC Guidelines for each building site as follows: minimum setbacks; the location, height and extent of fences, walls or other screening devices; and the orientation of structures with respect to streets, walks, paths, and structures on adjacent property. The Board of Directors shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in its judgment, with the overall character and aesthetics of the Subdivision.

SECTION 2.3. NON-LIABILITY FOR BOARD OF DIRECTORS ACTION. The granting of approvals by the Board of Directors shall in no way serve as a representation, warranty, or guaranty as to the quality of the plans and specifications, that a Residence or other structure is properly and adequately constructed in accordance with the plans and specifications therefore or in a good and workmanlike manner, or that such construction is in compliance with any personal rights or obligations or other applicable law. In no event shall the Board of Directors or the Association have any liability as a result of the Board of Directors' approval or disapproval of any improvement. No member of the Board of Directors or the Association shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Board of Directors. In reviewing any matter, the Board of Directors shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed an approval of, any building or improvement from the standpoint of safety, whether structural or otherwise, or conformance with existing building codes, governmental laws or regulations. Furthermore, no member or officer of the Board of Directors shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such individuals were acting on behalf of the Association, the Board of Directors, or otherwise. Finally, neither the Association nor the Board of Directors, or their officers, agents, members, or employees, shall be liable for any incidental or consequential damages for failure to inspect any Lot, improvements, or portion thereof, or for failure to repair or maintain the same.

### **ARTICLE III - USE RESTRICTIONS**

SECTION 3.1. RESIDENTIAL USE. Each and every Lot is hereby restricted to Residences for single-family residential use only. No business, professional, commercial, or manufacturing use shall be made of any of said Lots, even though such business, professional, commercial, or manufacturing use be subordinate or incident to use of the premises as a Residence; provided, however, an Owner of a Lot in the Subdivision may use its Residence for professional or other home occupations such as the maintenance of a personal or professional library, the keeping of personal business or professional records or accounts, or for the handling of personal business or professional telephone calls or correspondence so long as there are no external evidences thereof (such as signs, advertising a business or the storing of any equipment, including utility trailers, inventory or other materials of whatever kind or character on the Lot or elsewhere in the Subdivision, or meeting with or consulting in person with clients or customers on the Lot or within the Subdivision) and no unreasonable inconvenience to such Owner's neighbors. No structure other than one (1) private single-family dwelling, said dwelling not to exceed two (2) stories in height, and a private garage for not less than two (2) or more than four (4) cars, shall be constructed or permitted to remain on any Lot in the Subdivision. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes, or apartment houses, and further excludes hospitals, clinics, apartment houses, duplex apartments, boardinghouses, hotels, and any other

buildings used for commercial or professional purposes, whether from Residences or otherwise.

SECTION 3.2. NUISANCES. No activity, whether for profit or not, shall be conducted on any Lot which is not related to single-family residential purposes. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon or therein which may be or become an annoyance, nuisance, or safety hazard to residents of the Subdivision, as determined by the Board of Directors, including, but not limited to, commercial service activities that produce excessive noise levels between the hours of 6:00 p.m. and 7:00 a.m.

SECTION 3.3. RENTAL AND LEASING. Owners may only rent or lease their Lot(s) to parties who will occupy the Lot(s) as their primary residence. All leases and rental agreements shall be for periods of not less than twelve (12) months and renewable in not less than twelve (12) month increments. All leases and rental agreements shall clearly prohibit all forms of subleasing and shall firmly and clearly bind the tenants to abide by this Declaration, the Association's Bylaws, and the Rules and Regulations of the Association, and all other dedicatory instruments affecting the Subdivision. Owners must notify the Association when their properties are leased or rented, to include providing the name of the tenant, a copy of the lease or rental agreement, and current mailing address of the Owner of the Lot(s). The Association shall have the authority to promulgate additional Rules and Regulations respecting the leasing of properties in the Subdivision, any such Rules and Regulations to be consistent with and in furtherance of the general requirements of this Section 3.3. No hotel, weekend transient, or other short-term leasing shall be permitted on any Lot. Notwithstanding anything to the contrary contained in the foregoing, to the extent applicable law conflicts with any of the foregoing, such provisions shall be amended to the limited extent required to otherwise comply with all applicable law, as it may change from time to time.

SECTION 3.4. MAINTENANCE OF LOTS. Lots shall be mowed regularly by the Owner or occupants thereof who shall at all times keep all weeds and grass on such Lots cut and maintained in a sanitary, healthful, and attractive condition. Dead, dying, or damaged trees that might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired. During construction of improvements upon any Lot, the Owner and the Owner's contractors and subcontractors will cause all construction debris and trash to be confined to or disposed of in a commercial dumpster. Under no circumstances shall any debris or trash be allowed to blow freely on the Lot, adjoining Lots, roadway ditches, or streets. Specifically, Owners shall:

- a. Ensure that the house number is posted on their home and mailbox, clearly visible, and readily discernible from the street;
- b. Keep trees, shrubs, lawns, and other plants mowed and trimmed to remove any dead branches and foliage;
- c. Remove dead trees, shrubs, and other plants in a timely manner;

- d. Shape trees, shrubs, and other plants so as to present an aesthetic, healthy, sanitary appearance;
- e. Keep drainage ditches maintained in an aesthetic, healthy, and sanitary manner and keep them unobstructed at all times;
- f. Not permit trees and shrubs to grow out over the street or sidewalk in a manner that would inhibit the unobstructed use of such street or sidewalk;
- g. Not permit any accumulation of garbage, trash, tree trimmings, or rubbish of any kind on a Lot;
- h. Not keep clotheslines on a Lot;
- i. Not store materials, sporting equipment, trailers, and equipment on a Lot unless being used in temporary construction of improvements;
- j. Not construct any bridge or culvert over property line ditches unless it is constructed of concrete pipe and a minimum of eighteen (18) inches in diameter;
- k. Not openly burn any items, including household waste, except in decorative metal or stone pits specifically designed for such purposes. Burn barrels are expressly prohibited; and
- l. Provide exterior maintenance upon each Lot, including, but not limited to, painting, staining, repairing, replacing, and maintaining roofs, gutters, downspouts, garage doors, exterior buildings surfaces, walks, driveways, and other exterior structures.

Upon the failure of an Owner or occupant to comply with the requirements of this Section 3.4, if such default remains after ten (10) days' written notice to the Owner or occupant of its violation of the provisions of this Section, the Association may perform such maintenance or otherwise remedy the default, at the Owner's expense, and shall not be liable for damages caused by such performance. The Association, or its representative, shall have the right of entry onto a Lot for the purpose of maintaining the Lot or otherwise bringing the Lot into compliance with the provisions of this Section 3.4, with the Owner being billed for the expense. If the expense remains unpaid for thirty (30) days, the unpaid account shall be considered an assessment and subject to the lien provided for in Section 6.1 hereof and to collection as set out under Section 6.8 herein.

SECTION 3.5. STORAGE AND DISPOSAL OF GARBAGE AND REFUSE. No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage and other

waste materials shall not be kept except in proper sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition and stored inside and/or not in sight from the street. All Lots, including any Lot being used as a rental, shall maintain and establish minimum weekly scheduled garbage pickup. The Association may, but shall not be obligated to, enter into contracts with a commercial waste disposal company that grants that company the exclusive right for the trash collection and waste disposal in the Subdivision. If the Association has contracted with a commercial waste disposal company for recycling service, the waste disposal company will provide one (1) recycling cart to each residential home. This recycling cart shall remain the property of the waste disposal company, and the Lot Owner will have no ownership or interest in the recycling cart. The recycling cart shall remain at the location of the residential home where it is delivered by the waste disposal company. The Lot Owner shall be responsible for all loss or damage to the recycling cart, except for normal wear and tear or any loss or damage to the cart resulting from the waste disposal company's handling of the equipment. Any recycling cart removed from the residential home shall be deemed lost, and the Association will send an invoice to the Lot Owner for the actual replacement cost of the lost recycling cart. The entire amount of this invoice shall become payable in full on the due date set forth in the invoice. The total amount of this invoice shall be secured by the continuing assessment lien as set out herein and shall be recoverable in the same manner as the annual maintenance charge. No Lot shall be used for the open storage of any materials whatsoever, including garbage containers, which storage is visible from the street, except that new building materials used in the temporary construction of improvements erected upon any Lot may be placed upon such Lot at the time construction commences and may be maintained for a reasonable time as determined by the Board of Directors, so long as the construction progresses without undo delay, until the completion of the improvements, after which such materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on any street.

SECTION 3.6. REMOVAL OF DIRT. The digging of dirt or the removal of any dirt from any portion of the Common Areas is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon.

SECTION 3.7. SEWAGE DISPOSAL AND WATER SUPPLY. No water well, cesspool, or other individual sewage system shall be constructed or used on any Lot. Each Lot Owner must use the water and sewer services provided by state, county, municipal, or other government authorities.

SECTION 3.8. VEHICLES.

- a. No vehicle that is inoperative for longer than one (1) week shall be stored or parked on any Lot, street, or common parking areas. Inoperative vehicles may be stored on Owners' driveway no longer than forty-five (45) days.



- b. All vehicles parked on any Lot or any street or common parking area shall have a current license tag and current vehicle registration.
- c. All vehicles must be parked on driveways, designated parking spaces, or in garages, and vehicles shall park only in paved locations that are intended for parking.
- d. No vehicles shall be parked on a sidewalk or on any non-paved Common Area or on any non-paved private property.
- e. All Owners agree that they will obey posted speed limits and use the streets in a safe, lawful, reasonable, and courteous manner.
- f. No off-road vehicles such as go-carts, 3-wheelers, 4-wheelers, or other motorized vehicles, with the exceptions of golf carts, handicapped conveyances, and properly licensed and registered motorized vehicles, shall be operated on any street or Lot.
- g. No truck larger than two (2) tons shall be kept or parked inside the Subdivision except for temporary delivery or construction purpose.
- h. No 18-wheeler cabs may be parked in any driveway or street.
- i. No boat, trailer, camper, or motor home shall be parked on any street or any common parking areas. These vehicles may be temporarily parked in the street or on a driveway for up to forty-eight (48) hours. The Board of Directors must be notified in advance with any request for variance; otherwise, vehicles will be towed at the owner's expense.
- j. There shall not be more than three (3) vehicles parked on any visible parking space and/or driveway.

SECTION 3.9. GOLF CARTS. Notwithstanding the provisions of Section 3.6, and provided they are permitted by law, golf carts may be operated on paved streets within the Subdivision provided that they are operated by a licensed driver, that they have a "slow moving" triangular symbol appropriately displayed on the rear of the cart, that they have no more passengers than there are seats in the cart, and that they are in compliance with all state, county, and local regulations.

SECTION 3.10. ANIMALS AND LIVESTOCK. Except as specifically permitted in this Section, no animals, livestock, or poultry of any kind (including, but not limited to, swine, bovine, equine, reptiles, big cats, emus, or exotic animals) shall be raised, bred, or kept on any Lot. Not more than two (2) dogs, domestic cats, or other small household common pets may be

kept on a Lot, provided that they are not kept, bred, or maintained for any business or commercial purposes. A request for variance must be submitted to the Board of Directors for approval. No exotic cats or other wild animals shall be allowed. Pets must be confined to the Owner's Residence or kept on a leash at all times. If pets are kept in the yard or in a kennel or run, the yard or kennel must be kept clean, sanitary, and free of odor at all times. Animals must not cause a nuisance or disturbance to Owners or residents in the Subdivision, either visually, auditorily, or by odor. Dogs must not disturb neighbors by uncontrolled barking or growling. All Montgomery County leash laws related to animals shall apply. No animals will be allowed to run loose in the Subdivision.

SECTION 3.11. SIGNS. No signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot except as provided in this Section 3.11. On Lots on which a home is located, one (1) sign shall be permitted advertising the Lot for sale or rent, or signs used by a builder/remodeling contractor to advertise the property during the construction/sales period, provided the sign is not more than five (5) square feet in size and located at least five (5) feet from the curb of the streets. Additionally, political signs may be displayed in accordance with state law, and religious displays shall be permitted on Lots provided such displays are in compliance with the Association's policy on religious displays.

SECTION 3.12. OUTDOOR BURNING PROHIBITED. No outdoor burning of trash, refuse, trees, leaves, and/or limbs shall be permitted on any Lot, unless specifically provided otherwise in this Declaration.

SECTION 3.13. FIREARMS. The use or discharge of firearms in the Subdivision is strictly and expressly prohibited.

SECTION 3.14. INTERFERENCE. No radio or television signal or any other forms of electromagnetic radiation shall be permitted to originate from any Lot that unreasonably interferes with the reception of television or radio signals upon any other Lot. The provisions of this Section shall not be construed or enforced in a manner that would violate the Telecommunications Act of 1996 (the "1996 Act"), as may be amended from time to time; however, these provisions shall be interpreted to be as restrictive as possible without violating the 1996 Act.

SECTION 3.15. SOUND DEVICES. No horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect a Residence, shall be placed or used on any Lot or on any Residence. This paragraph shall not preclude the use of outdoor speakers for hi-fi's stereos or radios if the sound level is maintained at a reasonably low level with respect to the adjoining property.

SECTION 3.16. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying, or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or

other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 3.17. NO FURTHER SUBDIVISION. No Lot in the Subdivision may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Board of Directors. Nothing in this Section 3.17 shall be deemed to prevent an Owner from, or require the approval of the Board of Directors for, (a) selling or leasing of an entire Lot; or (b) transferring or selling any Lot to more than one (1) owner to be held by them as tenants in common, joint tenants, or tenants by the entirety.

SECTION 3.18. COMMON AREA WATER USE. No piers or construction of any kind will be permitted to intrude into the water of the lakes or creeks shown on the Subdivision Plats, and no power boats of any kind, electric or otherwise, shall be permitted or used on said lakes or creeks.

#### **ARTICLE IV - ARCHITECTURAL RESTRICTIONS**

SECTION 4.1. TYPE OF RESIDENCE. Only one (1) Residence shall be erected, altered, or permitted to remain on each Lot. No mobile homes, house trailers, manufactured homes, or modular homes shall be permitted in the Subdivision. There shall be no tents, shacks, garages, trailers, buses, barns, or other outbuildings erected or placed on any of said Lots to be used at any time as a Residence, and all of the outbuildings must be kept painted and in a state of good appearance and repair at all times. No building or other structure shall be erected or placed on any Lot that has not been first approved by the Board of Directors. All structures shall be of new construction and no structure shall be moved from another location onto any Lot without the approval of the Board of Directors. All Residences must be built on a concrete slab or pier and beam foundation. No Residence shall be constructed on blocks. All Residences must be kept in good repair and must be painted or stained when necessary to preserve their attractiveness.

SECTION 4.2. PERMITTED STRUCTURES. Permitted structures on Lots include, in addition to single-family Residences, only an attached or detached garage for not less than two (2) nor more than four (4) vehicles, and an approved storage shed.

SECTION 4.3. LIVING AREA AND MAXIMUM HEIGHT REQUIREMENTS. On Lots, the Residence shall not exceed two (2) stories or thirty-six (36) feet in height. The dwelling size and construction requirements follow:

**Sections 1, 2, 3, 5, 6, 7, 8 & 9:** The livable area of each single-family residential structure, exclusive of open or screened porches, stoops, open terraces, decks, garages, or detached living quarters, shall not be less than 1,600 square feet on all Lots that do not adjoin or abut lakes or the golf course, and all such single-family residential structures shall be not less than 1,800 square feet on all Lots that adjoin or abut lakes or the golf course. All residential structures shall be upon concrete slab or pier and beam. No mobile homes or portable buildings

of any kind shall be allowed.

**Section 4:** The livable area of each single-family residential structure, exclusive of open or screened porches, stoops, open terraces, decks, garages, or detached living quarters, shall not be less than 900 square feet on all Lots. All residential structures shall be upon concrete slab or pier and beam. No mobile homes or portable buildings of any kind shall be allowed.

**Country Club Homes:** The livable area of each single-family residential structure, exclusive of open or screened porches, stoops, open terraces, decks, garages, or detached living quarters, shall not be less than 1,400 square feet on all Lots. All residential structures shall be upon concrete slab. No mobile homes or portable buildings of any kind shall be allowed.

Only new construction materials (except for used brick) shall be used and utilized in constructing any structures situated on a Lot. All exterior construction of the primary residential structure, garage, porches, and any other appurtenances or appendages of every kind and character on any Lot and all interior construction (including, but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, all cabinet work completed, all interior wall, ceilings, and doors completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile, or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the plans are approved by the Board of Directors.

#### **SECTION 4.4. LOCATION OF BUILDINGS ON LOTS.**

**Sections 1, 2, 3, 5, 6, 7, 8 & 9:** No building shall be located on any Lot nearer to the front lot line or nearer to the side street lot line than the minimum building setback lines shown on the Subdivision Plats. In any event, no building shall be located on any Lot nearer than twenty (20) feet to the front Lot line, nor nearer than ten (10) feet to any side street line, nor nearer than five (5) feet to the rear Lot line, nor nearer than three (3) feet to any side Lot line or building site line. All Residences or other structures on Lots that adjoin or abut lakes or the golf course shall be placed or erected not closer than twenty (20) feet to the rear property line. For purposes of this restriction, eaves, steps, and unroofed terraces shall not be considered as part of the building, but this shall not be construed to permit any portion of a building to extend over a boundary line.

**Section 4:** Structures may be built on any Lot with zero (0) side Lot lines and be placed to the front and rear of Lot lines without setback subject to the on-Lot parking requirements set forth herein.

**Country Club Homes:** No Residences or other structures shall be placed or erected within three (3) feet of any side or interior Lot line or building site line. Structures may be placed to the front and rear of Lot lines without setback subject to the on-Lot parking requirements set forth herein.

Residential buildings on corner Lots shall face the street upon which the Lot fronts as shown by the Subdivision Plats. The front of the Lot is defined as being the property line having the smallest dimension on a street. On certain irregular shaped Lots, the facing of the Residence is hereby declared to be under the supervision and control of the Board of Directors.

No fence, wall, deck, gazebo, or in-ground or above-ground pool shall be erected, placed, altered, or maintained on any building site nearer to the front line than the minimum building setback line shown on the Subdivision Plats. No fence, wall, deck, gazebo, or in-ground or above-ground pool shall be erected, placed, altered, or maintained at any other location without written approval of the Board of Directors. No chain link or wire fences shall be constructed on any Lot. No fence may exceed six (6) feet in height

#### SECTION 4.5. GARAGES.

**Sections 1, 2, 3, 5, 6, 7, 8 & 9:** Each Residence shall have not less than two (2) nor more than four (4) private parking spaces that shall be built on the Lot and adjacent to the street. Each Residence shall have a minimum of a two (2)-car garage with a door. The garage shall not be converted for any purpose inconsistent with the garaging of automobiles unless another garage is built in accordance with these restrictions, and then only with the written approval of the Board of Directors. Garages shall not be used as a personal residence.

**Section 4:** Each Residence shall not have less than two (2) nor more than three (3) private parking spaces that shall be built on the Lot and adjacent to the street. If a carport or garage is constructed, it shall not be converted for any purpose inconsistent with the garaging of automobiles. Garages shall not be used as a personal residence.

**Country Club Homes:** Each Residence shall not have less than two (2) nor more than four (4) private parking spaces that shall be built on the Lot and adjacent to the street. If a carport or garage is constructed, it shall not be converted for any purpose inconsistent with the garaging of automobiles. Garages shall not be used as a personal residence.

SECTION 4.6. TEMPORARY BUILDINGS. Except for storage buildings approved by the Board of Directors, no temporary buildings, structures, or canopies shall be permitted on any Lot. No storage building shall exceed eight (8) feet in height at its highest point.

#### SECTION 4.7. LOT AREA AND WIDTH.

**Sections 1, 2, 3, 5, 6, 7, 8 & 9:** Lots may be subdivided into building sites consisting of more or less than one (1) Lot, provided that no dwelling shall be erected or placed upon any building site that contains less than 7,500 square feet in area or has a width of less than seventy (70) feet at the front building setback line.

**Section 4:** Lots may be subdivided into building sites consisting of more or less than one (1) Lot, provided that no dwelling shall be erected or placed upon any building site that contains less than 1,200 square feet in area or has a width of less than twenty (20) feet at the front Lot line.

**Country Club Homes:** Lots may be subdivided into building sites consisting of more or less than one (1) Lot, provided that no dwelling shall be erected or placed upon any building site that contains less than 5,500 square feet in area or has a width of less than forty (40) feet at the front Lot line.

**SECTION 4.8. AERIAL WIRES; ANTENNAE; SATELLITE DISHES.** No radio or television aerial wires, antennae, or satellite dishes shall be erected, located, or maintained on any portion of any Lot on the front of a Residence, or forward of the front elevation of the Residence. Any and all antennae, aerial wires, and satellite dishes should be located on the rear of the dwelling or on the side of the dwelling as close to the rear of the structure as possible. Any pole, bar, or staff on which an antennae or satellite dish is attached must be contiguous to the dwelling and attached to the roof or to the soffit of the dwelling, and must not be freestanding on a Lot. The top of any antennae or satellite dish shall not exceed or extend above the height of the crest line or the upper ridgeline of the roof. Any deviation from these requirements must have written consent of the Board of Directors prior to installation. The provisions of this Section shall not be construed or enforced in a manner that would violate the 1996 Act; however, these provisions shall be interpreted to be as restrictive as possible without violating the 1996 Act.

**SECTION 4.9. WALLS; FENCES; HEDGES.** No wall, fence or hedge shall be erected or maintained on any Lot nearer to the front property line than the front of the dwelling existing on such Lot. No side or rear fence, wall or hedge shall be more than six (6) feet high. On any Lot with lake frontage or that abuts golf course property, no fence, hedge or wall or anything that obstructs site lines to the lake or golf course from other Lots shall be erected beyond the rear wall of the main structure on the Lot. No chain link fence type construction will be permitted on any Lot. Plans of design and materials for use in installation of fencing shall be submitted for approval of the Board of Directors prior to installation.

**SECTION 4.10. MAILBOXES.** All mailboxes and the structures upon which they are mounted shall be of a uniform size and complimentary design as determined by the Board of Directors. Plans for any structure upon which the mailbox sits shall be submitted to the Board of Directors for approval in writing prior to construction. All mailboxes must have legible and slightly house numbers easily visible on the box and must conform to United States Postal Service regulations.

**SECTION 4.11. AIR CONDITIONERS.** No window or wall type air conditioners shall be permitted in any Residence, but the Board of Directors, at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from any street.

SECTION 4.12. SOLAR COLLECTORS. No solar collector shall be installed without the prior written approval of the Board of Directors. Any such installation shall be in harmony with the design of the Residence that it is used in conjunction with. Solar collectors shall be installed in a location not visible from the street in front of the Residence.

SECTION 4.13. BUILDING MATERIAL. Any building material used in constructing any structure on any Lot in the Subdivision must be new material and in compliance with the then current edition of the Southern Building Code and with the Board of Directors' promulgated construction standards and guidelines.

SECTION 4.14. STORAGE SHEDS AND OTHER ITEMS. All storage sheds must be confined within a fenced yard and must be approved for height and building components by the Board of Directors prior to installation or construction. Trampolines, treehouses, playground equipment, swimming pools, and similar items shall be kept and installed in the rear yard of a Lot.

SECTION 4.15. HOUSE IDENTIFICATION. Each Residence shall have its numerical street address clearly displayed upon the Lot in large enough numerals to be legible when viewed from the street.

SECTION 4.16. VISUAL OBSTRUCTIONS AT THE INTERSECTION OF PUBLIC STREETS. No object or thing which obstructs site lines at elevations between two (2) feet and six (6) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines or extensions thereof shall be placed, planted, or permitted to remain on any corner Lots.

SECTION 4.17. DAMAGE OR DESTRUCTION OF IMPROVEMENTS. The Owners are bound and obligated through the purchase of a Lot to maintain the Lot and all improvements thereon in a neat and habitable manner. In the event of damage to any improvements, the Owner shall have the shorter of the period permitted by applicable law or sixty (60) days to begin repairing or demolishing the destroyed or damaged portion, and once commenced, such repairs or demolition must be pursued diligently to completion. If, however, damage to the improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board of Directors within sixty (60) days from the date of such destruction or damage. The Board of Directors shall rule on the Owner's application of a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a "hardship" extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed improvement to be demolished and the Lot to be suitably landscaped,

subject to the approval of the Board of Directors, so as to present a pleasing and attractive appearance.

SECTION 4.18. ENFORCEMENT OF MAINTENANCE REQUIREMENTS. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with the restrictions and restore such Lot and/or the improvements thereon to a neat, attractive, healthful, safe, and sanitary condition. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Association or its agents and employees shall not be liable and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

SECTION 4.19. CONSOLIDATION OF LOTS; RESUBDIVISION. With the prior written approval of the Board of Directors, any person owning two (2) or more adjoining Lots or portions of Lots may consolidate such Lots or portions into a single building site with the privilege of constructing improvements permitted herein. The resulting building site shall be considered a single Lot for certain purposes under this Declaration, including, but not limited to, the purpose of the minimum setback lines. Voting rights and the payment of annual maintenance assessments and special assessments shall be calculated as one (1) Lot owned. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of the Lots in the same block. No Lot may be resubdivided without the express written approval of the Board of Directors.

SECTION 4.20. AUTHORITY TO GRANT VARIANCES. The Board of Directors may authorize variances from strict compliance with any of the ACC Guidelines of this Declaration, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing and must be approved by at least a majority vote of the Board of Directors and shall become effective upon execution of the variances. No Board of Directors member shall participate in any voting, in the capacity as a Board of Directors member, regarding a variance involving that Board of Directors member's Lot or the improvements thereon. If such a variance is granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision thereof, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations. No granting of a variance shall be relied on by any Owner, or any other



person or entity (whether privy or party to the subject variance or not) as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration.

## **ARTICLE V - PROPERTY OWNERS ASSOCIATION**

**SECTION 5.1. ORGANIZATION; PURPOSES; AUTHORITY.** The Association is a Texas nonprofit corporation that serves as the property owners' association (as that term is used and defined in Section 202.001 of the Texas Property Code) for the Subdivision. The principal purposes of the Association are the promotion of the health, safety, and welfare of the Owners and residents within the Subdivision; the collection, expenditure and management of the maintenance funds; enforcement of the restrictive covenants applicable to the Subdivision; providing for the maintenance, repair, preservation, upkeep, and protection of the common properties and facilities in the Subdivision; the architectural control of the Lots; and the general overall supervision of all of the affairs of the Subdivision. To this end, the Subdivision is subject to the jurisdiction of the Association, and the Association has all of the powers and authority set out in its Articles of Incorporation and/or Bylaws consistent with the provisions of this Declaration and all supplemental or amended restrictions, and all of the powers and authority of property owners' associations as provided in Title 11 of the Texas Property Code.

**SECTION 5.2. BOARD OF DIRECTORS.** The Association acts through the Board of Directors, which manages the affairs of the Association as specified in the Articles of Incorporation and Bylaws of the Association.

**SECTION 5.3. MEMBERSHIP.** Every person or entity who is a record Owner of any Lot in the Subdivision is and shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, those owning only an easement right, or those having only an interest in the mineral estate. No Owner shall have more than one (1) membership as to any single Lot. Memberships are appurtenant to and may not be separated from ownership of the Lot. Membership automatically passes with the title to the Lot. Ownership of such Lot is the sole qualification for membership.

**SECTION 5.4. VOTING RIGHTS.** The Members of the Association shall have the voting rights as prescribed in the Association's Articles of Incorporation and Bylaws, as amended.

## **ARTICLE VI - MAINTENANCE ASSESSMENTS**

**SECTION 6.1. MAINTENANCE ASSESSMENTS; LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS.** Each Lot within the Subdivision, and the Owner of each Lot, by acceptance of a deed thereto, whether or not it shall be expressed in the deed or other evidence of conveyance, is deemed to covenant and agree to pay the Association the following:

- a. Annual assessments or charges; and
- b. Special assessments for capital improvements, such assessments or charges to be fixed, established, and collected as hereinafter provided.

These assessments and any other charges levied pursuant to this Declaration, together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the Lot, as applicable, and shall be secured by a continuing lien upon the Lot against which such assessments or charges are made. For the avoidance of doubt, said lien is the continuing lien established as to each and every Lot within the Subdivision pursuant to the Original Declaration, which is hereby ratified and confirmed, effective as of the date of filing of the Original Declaration in the Official Public Records of Real Property of Montgomery County, Texas. The said continuing lien shall apply to, and continue in full force and effect as to the Subdivision and as to each and every Lot contained therein, as herein provided and effective as of the date of filing of this Declaration in the Official Public Records of Real Property of Montgomery County, Texas. Each such assessment or charge, together with such interest, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge falls due notwithstanding any subsequent transfer of title of such Lot. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

SECTION 6.2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the Owners and residents in the Subdivision, and for the improvement and maintenance of the Reserves and other Common Areas. Without limiting the foregoing, the assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums, and repair, maintenance, and acquisition expenses incurred by the Association, and, at the option of the Board of Directors, for any and all of the following purposes: street lighting, parking lots, alleyways, paths, easements, and esplanades in the Subdivision; collecting and disposing of garbage, rubbish, and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement, and administration of all assessments and charges and in connection with the enforcement of this Declaration; providing for the planting and upkeep of trees, grass, and shrubbery in esplanades, easements, and in the Green Belt Reserves and other Common Areas; and doing any other thing necessary or desirable in the opinion of the Board of Directors to keep and maintain the Subdivision in a neat and good order or which they consider of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. The judgment of the Board of Directors in establishing annual assessments, special assessments, and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

SECTION 6.3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS; DUE DATES. The

annual assessment per Lot and the due date thereof shall be set by the Board of Directors each year. Statements for the annual assessments shall be mailed to Owners no less than thirty (30) days in advance of the due date. The Board of Directors may not increase assessments greater than or equal to ten percent (10%) per year without Member approval.

SECTION 6.4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon any Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the Lot Owners of the Subdivision. Special assessments may be collected on an annual, monthly, or quarterly basis at the Board of Directors' discretion.

SECTION 6.5. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action under Section 6.4 above shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

SECTION 6.6. RATES OF ASSESSMENT. Both annual and special assessments on all Lots shall be fixed at uniform rates.

SECTION 6.7. CERTIFICATION OF PAID ASSESSMENTS. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 6.8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessments or charges that are not paid when due shall be delinquent and shall be subject to late charges as set and determined by the Association. If an assessment or charge is not paid within thirty (30) days after the due date, it may bear interest from the original due date until paid at the lesser of eighteen percent (18%) per annum or the highest non-usurious rate permitted by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or against the then Owner of the subject Lot to foreclose the maintenance lien hereinabove prescribed against the respective Lot. Interest and/or late charges, as above specified, costs, and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment as a charge. Subject to the provisions of Texas Property Code §§209.009-209.011, there is vested in the Association or its agents, the right and power to bring all actions against an Owner personally for the collection of such assessments and charges as a debt and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale in connection with the lien. No Owner may waive or otherwise

escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of its Lot.

**SECTION 6.9. SUBORDINATION OF THE LIEN TO MORTGAGES.** As hereinabove provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to any valid purchase money lien, improvement lien, home equity lien, or reverse mortgage (or any renewal and extension or such liens) affecting such Lot. The sale of any Lot shall not affect the lien in favor of the Association; provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge only as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

## **ARTICLE VII - RESERVATIONS, EXCEPTIONS AND DEDICATIONS**

**SECTION 7.1. INCORPORATION OF MATTERS ON SUBDIVISION PLATS.** The Subdivision Plats dedicate for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plats further establish certain restrictions applicable to the Subdivision, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions, and reservations shown on the Subdivision Plats are incorporated herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed conveying said Lot depicted thereon or any part thereof, whether specifically referred to therein or not.

**SECTION 7.2. UTILITY EASEMENTS.** All Lots, streets, and other areas in the Subdivision are subject to the easements depicted on the Subdivision Plats. Such easements are for the general benefit of the Subdivision and the Owners of the properties in the Subdivision and were reserved and created in favor of any and all utility companies serving the Subdivision.

**SECTION 7.3. UTILITY EASEMENTS AND CHARGES.** There are dedicated and reserved permanent unobstructed easements as shown on the Subdivision Plats, as well as certain designated portions of various Lots therein upon, under, and through which to construct and maintain water, telephone, and electric light services and other public utilities, which said easements shall be a burden and charge against such Lots, by whomsoever owned, and there is also dedicated and reserved an unobstructed aerial easement for utilities five (5) feet wide and from a plane twenty(20) feet over the ground upward located adjacent to all easements shown on the Subdivision Plats.

The Association and its assigns reserve the right to make changes in and additions to the

above easements for the purpose of most efficiently and economically installing the improvements. Further, the Association and its assigns reserve the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time, easements for public utility purposes (including, without limitation, gas, electricity, telephone and drainage) in favor of any person or entity furnishing or to furnish utility services to the Subdivision along on either or both sides of any side Lot line, which such easement shall have a maximum width of five (5) feet on each side of such Lot line.

The Owner of each Lot shall, at its own cost, furnish, install, own, and maintain a meter loop (in accordance with the then-current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the Residence constructed on such Owner's Lot.

The utility easements mentioned herein include the right to remove all trees within the easements and the right to trim overhanging trees and shrubs located on the property belonging to the Subdivision.

#### SECTION 7.4. UTILITY RESERVATIONS.

The following reservations and easements shall be considered a part of, and be construed as being adopted in, each and every contract, deed or other conveyance executed or to be executed in the conveyance of the various lots in the Subdivision:

- a. The Association, its successors, and assigns shall have the right to construct, erect, and maintain, or cause to be over, along, upon and under the several streets, drives, lanes, roads, easements, and Reserves, as shown on the Subdivision Plats, a system of electric lights, power, telegraph and telephone lines, and connections, and to construct, lay and maintain along, in, and under any and all of said streets, lanes, drives, roads, easements, and Reserves all pipe, conduits, valves, and other necessary and proper equipment for the construction of systems of drainage, sewage, and water supply (retaining also the right to grant or deny to area beyond said Subdivision connection privileges on said drainage, sewage, or water system), gas, light and power, telegraph and telephone service, and other utilities to the subdivision and the lot owner therein; and for all other purposes incident to the development and use of said property as a community unit and subdivision.
- b. It is agreed and understood that the title conveyed to any lot or parcel of land in said subdivision by deed or other conveyance shall not in any event be held or construed to include the title to the water, gas, sewer, electric lights, electric power or telephone or telegraph lines, poles or conduits or any other utility or appurtenances thereto constructed by the Association or any public utility companies through, along, or upon any portion of the hereinabove mentioned streets, drives, lanes, roads, easements, and Reserves, and the right to maintain,

repair, sell, or lease such lines, utilities, and appurtenance is hereby expressly reserved by the Association.

**SECTION 7.5. NON-LIABILITY OF ASSOCIATION AND UTILITY COMPANIES.**

Neither the Association nor any utility company using the easements referred to herein shall be liable for any damages done by them, or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, structures, or other property situated on the land covered by such easements as a result of construction, maintenance, or repair work conducted by the Association, the utility companies, or their assigns, agents, employees, or servants.

**SECTION 7.6. UNDERGROUND ELECTRICAL SERVICE.** All purchasers of Lots understand and agree that underground electric service lines will extend through and under said Lots in order to serve the Residences thereon, and the area above the underground lines and extending two and one-half (2½) feet to each side of the underground lines shall be subject to excavation, refilling, and ingress and egress for the installation, inspection, repair, replacing, and removing of said underground facilities by the utility company. Owners and purchasers of Lots shall ascertain the location of the underground lines and keep the area over the route of the lines free of excavation and clear of structures, trees, or other obstructions.

**SECTION 7.7. RESERVES AND OTHER COMMON AREAS.** The Reserves depicted on the Subdivision Plats and the other Common Areas in the Subdivision are for the use and benefit of all residents of the Subdivision. Owners shall not block, restrain, or restrict in any way the use of the Reserves or other Common Areas by the Association or the Owners and residents of the Subdivision. The storage of any equipment, toys, or other personal items in greenbelts, Reserves, or Common Areas is expressly prohibited. The Association shall be responsible for maintaining the Reserves and other Common Areas, including, but not limited to, cutting the grass and maintaining the walks and paths, if any, and maintaining all improvements.

**ARTICLE VIII - ENFORCEMENT**

**SECTION 8.1.** The covenants, conditions, and restrictions herein set forth shall inure to the benefit of, be binding upon, and be enforceable by, the Association (and the Association is hereby expressly authorized to use its funds for the purpose of assisting in the enforcement of the terms and provisions hereof) and any and all Owners, each of whom shall be obligated and bound to observe such restrictions, covenants, and conditions; provided however, that no Owner shall be liable except in respect to breaches committed during its ownership of said Lot. The violation of any restriction, covenant, or condition shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against a Lot, or any part thereof, but such liens may be enforced against any and all property covered thereby subject, nevertheless, to the restrictions, covenants, and conditions set forth herein.

**SECTION 8.2.** In the event of any violation or attempted violation of any of the terms or provisions hereof, including any of the restrictions or covenants set forth herein, enforcement of

the terms and provisions hereof shall be authorized by any proceeding at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory, and it shall not be a prerequisite to the granting of any such injunction that there be inadequate remedy at law or that there be any showing of irreparable harm or damage if such injunction is not granted, and against the Lot to enforce any lien created herein. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violation of the terms and provisions hereof. The Owner of any Lot or Lots affected shall have the right to either prevent a breach of any restriction, covenant, or condition, or to enforce the performance of same. Failure by the Association or any Owner to so enforce any covenant or restriction hereof shall not be construed to constitute a waiver of the right to thereafter enforce such provision or any other provision hereof.

SECTION 8.3. FINES FOR VIOLATIONS. In addition to the other remedies and rights of enforcement provided for herein, the Association may assess fines for violations of the restrictive covenants herein contained other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors and made publicly available in the form of a recordable fines policy (as initially shown on Exhibit A, attached hereto), which fines shall be secured by the continuing assessment lien set out herein. Such fines shall be recoverable in the same manner as the maintenance charge; provided, however, the Association may not foreclose the Association's lien if the debt secured by the lien consists solely of fines assessed by the Association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.

SECTION 8.4. APPEAL PROCESS. Any Owner receiving a fine who believes that no violation occurred may submit a written explanation to the Board of Directors. The Owner will be given an opportunity for a hearing and the enforcement fee will be imposed until after the hearing. The final determination of the Board of Directors following such hearing shall be binding on the Owner and the Association.

## **ARTICLE IX - GENERAL PROVISIONS.**

SECTION 9.1 TERM. The covenants, conditions, and restrictions set forth herein shall remain in full force and effect for thirty (30) years from the date hereof, and thereafter shall, as then in force, be extended automatically and without further notice, and without limitation, for successive periods of ten (10) years each, unless modified or terminated in the manner hereinafter set forth.

SECTION 9.2. AMENDMENT; TERMINATION. This Declaration may be amended or modified at any time in any particular manner, or terminated in its entirety, by a vote of fifty-one percent (51%) of the total votes allocated to the Lot Owners in the Association.

SECTION 9.3. SECURITY. NEITHER THE ASSOCIATION NOR ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE SUBDIVISION. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, AND EMPLOYEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNATED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST, AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, AND EMPLOYEES ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS, AND TO THE CONTENTS OF DWELLINGS, AND FURTHER ACKNOWLEDGE THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE SUBDIVISION.

SECTION 9.4. NOTICES. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

SECTION 9.5. SEVERABILITY. Invalidation of one (1) or more of the provisions of this Declaration obtained by judgment, court order, or otherwise shall in no way affect any of the other provisions hereof, which shall continue and remain in full force and effect.

SECTION 9.6. GENDER AND GRAMMAR. The singular whenever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.



SECTION 9.7. TITLES. The titles of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this document.

SECTION 9.8 RIGHT OF ENTRY; ENFORCEMENT BY SELF-HELP. During reasonable hours subject to reasonable security requirements, the Association and its authorized agents and representatives shall have the right, in addition to and not in limitation of all of the rights it may have under this Declaration, to enter upon any Lot, including any improvements located thereon, for emergency, security, maintenance, repair, or safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in any emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of a Lot. Authorized personnel of the Association performing outside lawn and landscape maintenance shall also have such right of entry. Any such entry shall constitute an authorized entry and neither the Association nor its agents and representatives shall be deemed guilty of trespass by reason thereof. In addition to any other remedies provided herein, the Association or its duly authorized agent shall have the power to enter upon any Lot to abate or remove, using such force as is reasonably necessary, any improvement that is made to the Lot, other structures, thing, or condition that violates this Declaration. Unless an emergency situation exists, such self-help shall be preceded by written notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments. All such entries shall be made with as little inconvenience to the Owner as is practicable in the judgment of the Board of Directors and any damages caused thereby (as distinguished from repairs with respect to which the Association is entitled to an assessment and lien to be reimbursed) shall be borne by the Association.

SECTION 9.9. COMPLIANCE WITH APPLICABLE LAW. Notwithstanding any provision to the contrary contained in this Declaration, the Association's collection of maintenance assessments and enforcement of the covenants and restrictions set out herein shall be pursuant to and in accordance with the relevant provisions of the Texas Property Code and other applicable law, and nothing herein shall be construed as authorizing any enforcement procedures or other action by the Association in contravention of any such Texas Property Code provisions or other applicable law.

SECTION 9.10. CERTIFICATE OF REQUIRED APPROVAL. Attached to this instrument and specifically made a part hereof is a Certificate, signed by the President and Secretary of the Association, certifying that the Owners having at least fifty-one percent (51%) of the total votes allocated to the Lot Owners in the Subdivision have voted in favor of and approved this Declaration.

Unless further modified or amended as provided herein, this Declaration is to run with

the land and shall be binding on all Owners of Lots in the Subdivision and all persons claiming under them for the term as set out in Section 9.1 herein.

SECTION 9.11 REPEAL OF ORIGINAL DECLARATION. This Declaration replaces the Original Declaration in its entirety, effective immediately upon the filing of this Declaration in the Official Public Records of Montgomery County, Texas, except to the extent this Declaration may be determined to be invalid or inapplicable to the Subdivision, or any Lot therein or any part thereof, or any right, title or interest therein, in which case and to such extent the Original Declaration shall apply, and in such case and to that extent (but only in such case and to such extent) the Original Declaration is hereby ratified and confirmed and shall continue in full force and effect.



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Notary Public - State of Texas



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Notary Public - State of Texas

Exhibit A

**FINES POLICY**

The following penalties will be imposed if an Owner has not corrected or removed the violation or if the violation is repeated or has returned. Additional monetary penalties will be imposed after inspections have been conducted to coincide with the terms of notice. These penalties may include any and all legal remedies afforded to the Association under law.

- a. Non-continuing violations: For all non-continuing violations reoccurring within six (6) months of the first notice:
  - i. \$50.00 per occurrence.
  
- b. Grass and Shrubbery: For failure to mow, trim, and weed the yard in compliance with Section 3.4 and to maintain the Lot in a neat, attractive, healthy, and sanitary condition:
  - i. Written notice will be sent to the Owner detailing the violation. The Owner will be afforded ten (10) days to remedy the situation before monetary penalties are assessed.
  - ii. \$50.00 per occurrence plus any reasonable costs the Association incurs to keep the yard in compliance with this Declaration. This includes the reasonable costs the Association undertakes by having to hire an outside company to remedy the situation.
  
- c. Board of Directors Violations: For failure to obtain proper Board of Directors approval:
  - i. \$250.00 per occurrence.