

108

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PEACH CREEK PLANTATION**

THIS DECLARATION, made as of August 1, 2006, by Peach Creek Plantation LTD., hereinafter referred to as "Developer".

WITNESSETH

WHEREAS, Developer is the owner of certain tract of land consisting of 3734 acres in the Elijah Votaw Survey, A-584 and Peter Whitaker Survey, A-598 recorded under County Clerk's file numbers 2006-091547 of the Official Public Records of Real Property of Montgomery County, Texas (said property being hereinafter known as Peach Creek Plantation, Section One (1), Section Two (2) and Section Three (3), as set forth in the subdivision plats thereof recorded in Cabinet Z, as Sheet Numbers: 1156, 1322 and 1479, of Montgomery County, Texas, and together with any other real property made a part of the Subdivision).

WHEREAS, Developer desires to develop the Property for residential purposes and to provide and adopt a uniform plan of covenants, easements, restriction, conditions, reservation, charges and liens designed to govern, control and preserve the values and amenities of the Property for the better development, improvement, sale, use and enjoyment of the Property.

WHEREAS, Declarant has incorporated, or will incorporate, Peach Creek Plantation Homeowners Association, Inc. a nonprofit organization created under the laws of the State of Texas, and has established, or will establish the bylaws by which said corporation shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Developer hereby declares that the Property shall be developed, improved, held, used, sold and conveyed in accordance with and subject to the following easements, restriction, reservations, covenants, conditions and stipulations, all of which are hereby adopted for and placed upon said Property and which shall run with the Property and be binding on all parties, now and at any time hereafter, having or claiming any right, title or interest in the Property 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 Property.

WHEREAS, These covenants and restrictions shall apply to all lots in said subdivision except Reserves.

ARTICLE 1-DEFINITIONS

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

SECTION 1. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot.

SECTION 2. "Corner Lot" shall mean and refer to a Lot which abuts on more than one Street.

SECTION 3. "Developer" shall mean and refer to Peach Creek Plantation LTD., its successors or assigns.

SECTION 4. "Lot" shall mean and refer to any of the numbered lots shown on the Subdivision Plat intended for the construction or placement of a residence.

SECTION 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 6. "Properties" shall mean and refer to the real property within the jurisdiction of the Association including the property included in the plat of the Subdivision and additional lands added to the jurisdiction of the Association as provided herein.

SECTION 7. "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue, or thoroughfare as shown on the Subdivision Plat.

SECTION 8. "Subdivision" shall mean and refer to Peach Creek Plantation, Section One (1), Section Two (2) and Section Three (3), as set forth in the subdivision plats thereof recorded in Cabinet Z, as Sheet Numbers: 1156, 1322 and 1479, of Montgomery County, Texas, and together with any other real property made a part of the Subdivision.

SECTION 9. "Subdivision Plat" shall mean and refer to the recorded maps or plats of the Subdivision, and the plat of any other property that becomes subject to this Declaration and any replat, partial replat, or amendment of the above-described plats.

SECTION 10. "Original Homeowner" shall mean and refer to any purchaser of a Lot from Declarant or a Builder on which a residence has been placed or constructed.

ARTICLE II-ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. CREATION, PURPOSE AND DUTIES. There is hereby created an Architectural Control Committee (herein referred to as the "Committee") comprised of Tom Aikin and Ryan Aikin, each of whom shall serve until his successor is appointed as hereinafter provided. The Committee shall be responsible for enforcing and maintaining the architectural integrity of improvements constructed on the Lots and the quality of workmanship and materials utilized in the construction of such improvement in conformance with the restrictions herein. An action approved by a majority of the members of the Committee shall be deemed to be an act of the Committee. The duties and powers of the Committee, its successors and the designated representatives as provided for hereinbelow, shall cease on the earlier of December 31, 2030 or when 90% of developer's home sites are sold. In the event of the death or resignation of any person serving on the Committee, the Declarant, by recorded written instrument, shall designate a successor, or successors, who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers herein granted to the Committee.

The Committee shall meet from time to time as is necessary to perform its duties hereunder. No person serving on the Committee shall be entitled to compensation for services performed.

SECTION 2 POWERS OF THE COMMITTEE. No building, structure or other improvements shall be commenced, erected, maintained or constructed on any Lot until the site plan (including a description of the trees to be cleared on the Lot) and the final working plans and specifications have been submitted to and approved in writing by the Committee as to conformity with the restrictions herein contained and harmony of external design and location in relation to existing structures and topography. In the event the Committee fails to approve or disapprove the site plan and plans and specifications for proposed improvement or clearing within thirty (30) days after submission of all such materials to the Committee, approval thereof shall be deemed to have been given; provided, however, failure to approve or disapprove such site plan and final working plans and specifications shall not be deemed to permit the construction of any improvements in a manner prohibited under the terms of this Declaration.

The committee shall have the right to specify architectural and aesthetic requirements for building sites, minimum setback lines, the location, height, and extent of fences, walls or other screening devices, the orientation of structures with respect to streets, walks paths and structures on adjacent property and acceptable exterior materials, colors and finishes that may be utilized in construction or repair of improvement. The Committee shall have full power and authority to reject any site plan or final working plans and specification that do not comply with the restriction herein contained or that do not meet its minimum construction or architectural design requirements or that, in the sole and uncontrolled discretion and opinion of the Committee, will not be compatible with the overall character and aesthetics of the Subdivision

Where specifically granted the power by the provisions hereof, the Committee shall have the right, exercisable at its sole discretion, to grant variances to certain restriction in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision. The Committee may require the submission to it of such documents and items as it shall deem appropriate in connection with its consideration of a request for a variance. If the Committee shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the property relative to which such variance has been requested, describing the applicable restriction(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of disapproval from the Committee or (b) failure by the Committee to respond to the request for variance.

SECTION 3. NON-LIABILITY FOR COMMITTEE ACTION. No member of the Committee, or Declarant 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 Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed an approval of, from 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 of the Committee or the Declarant shall be personally liable for any torts committed by or on its members.

ARTICLE III - USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot is hereby restricted to residential usage for single family residential dwellings. No business, professional, commercial or manufacturing use shall be made of any Lot. A lot owner may use the property for home occupation so long as there is no external evidence thereof (such as signs, advertising of business, etc.) No commercial signs will be allowed on homesites, except for real estate signs (No larger than three (3) square feet or signs denoting lot owners installed by Declarant.)

SECTION 2. ANIMALS AND LIVESTOCK. No hogs of any kind shall be raised, bred or kept on any Lot. Consistent with its use as a residence, a maximum of five (5) dogs, cats or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business purposes. Further, provided that one horse per acre will be permitted for all Lots that are 1 acre or more in size, a 4-H or FFA project may be kept by children of an Owner. Additionally, all county leash laws related to animals shall apply.

SECTION 3. NUISANCE No noxious or offensive activity shall be carried on upon any lot, which could become a nuisance to residents of the Subdivision.

SECTION 4. STORAGE AND REPAIR OF VEHICLES. No junk vehicles may be kept on any lot. This includes cars, trucks, boats, etc. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles on Streets other than work of a temporary nature. For the purposes of the foregoing term "temporary" shall mean that the vehicle shall not remain in Streets in excess of seventy-two (72) hours.

SECTION 5, PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Declarant, its successors or assigns outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. and 10:00 p.m.

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight-fitting sanitary covers or lids and placed in an area adequately screened from the view of any streets. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other

governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 7. BUILDING MATERIALS. Unless otherwise approved by the Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these 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 the Street. All structures must be completed within one year of the start of construction.

SECTION 8. SUBDIVIDING LOT. Any Lot that may be re-subdivided, in accordance within Montgomery County Regulations. Whenever a lot is subdivided, the additional lot or lots will be a member of the POA and pay maintenance fees individually as ownership changes.

SECTION 9. BUILDING OF RESIDENCE IN FLOOD PLAIN PROHIBITED. All residences will be constructed outside the boundaries of the 100 year flood plain as reflected on Peach Creek Plantation Subdivision Plat, Section One (1), Section Two (2), and Section Three (3), as Recorded in Cabinet Z, as Sheet Numbers: 1156, 1322 and 1479, of the Montgomery County Plat Records.

ARTICLE IV - ARCHITECTURAL RESTRICTION

SECTION 1. TYPE OF RESIDENCE. Only one residence shall be built or placed on each Lot. A residence is defined as a site built single family home, (not more than three stories). No building shall be erected or placed on said property that has not been first approved by the Committee. All structures shall be of new construction and no structure shall be moved from another location onto any Lot without the approval of the Committee. Mobile homes or modular housing are prohibited from being placed on the property. Any temporary structure such as a camper may be used, but may not be used as a primary residence. No stay over fourteen (14) days at any one time. A tent may be used on a temporary basis, but must be removed after stay (Not to exceed fourteen (14) days). However an RV or Camper may be used as a temporary residence during the time of home construction. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness. Temporary structures must not be visible from the street. Storage of RV's or Boats must not be visible from the street.

SECTION 2. LIVING AREA AND CONSTRUCTION REQUIREMENTS. All residences shall contain not less than fifteen hundred (1500) square feet of living area, excluding garages and porches unless otherwise approved by the Committee

SECTION 3. GARAGES. All residences must be constructed with an enclosed 2 car garage suitable for automobiles. The garage must be approved by the Committee prior to construction.

SECTION 4. LOCATION OF RESIDENCE ON LOT AND SET BACK LINES. The location of each residence on a Lot will be approved by the Committee with its approval of the site plan and the final working plans and specifications. No building shall be located on any Lot nearer than seventy five (75) feet to any street and no building shall be located on any utility easement. No residence shall be located nearer than fifteen (15) feet to an interior lot line. No residence or attached or detached garage shall be located nearer than forty (40) feet to the rear lot line.

SECTION 5. TEMPORARY BUILDINGS. Unless otherwise approved by the Committee, temporary buildings or structures shall not be permitted on any Lot. Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences. Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes on lots within the Subdivision. At the time of the sale of a residence by a Builder any garage appurtenant to such residence used for sales purposes must be reconverted to a garage.

SECTION 6. FENCES. The construction or installation of walls, fences and hedges by Owners shall be subject to the approval by the Committee. The owner will be responsible for maintaining in first class condition all fences on his property. All fences must be made of new material & approved by committee. All fences on road frontages must be constructed of wood, vinyl, wrought iron, or masonry material.

SECTION 7. SIGNS. No signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Committee other than one sign of not more than three (3) square feet advertising the particular Lot on which the sign is situated for sale or rent. The right is reserved by Declarant to construct and maintain, or to allow Builders within the Subdivision to construct and maintain, signs, billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. In addition, the Declarant shall have the right to erect identifying signs at each entrance to the Subdivision.

SECTION 8. TRAFFIC SIGHT AREAS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any Corner Lot within ten (10) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 9. MINIMUM LOT SIZE IN RELATION TO RESIDENCE. Any person owning two or more adjoining Lots may consolidate such Lots into building sites with the privilege of constructing improvements permitted herein. Only the exterior building lines will apply.

SECTION 10. INTERFERENCE. No radio or television signals 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.

SECTION 11. WATER SUPPLY. A central water well system well be constructed within the subdivision and it will be mandantory for each home to be connected to system. However, any homeowner may also have their own private well.

SECTION 12. SOUND DEVICES. No horns, whistles, bells or other sound devices except for security systems used excessively to protect a residence, shall be placed or used on any Lot or in any residence. This paragraph shall not preclude the use of outdoor speakers for hi-fis, stereos, or radios if the sound level is maintained at a reasonable low lever with respect to the adjoining property.

SECTION 13. PROPANE OR NATURAL GAS STORAGE TANKS. All storage tanks which are placed upon a lot for the purpose of storing butane, propane or natural gas, must be set at least 25 feet behind the front line of the residence and reasonably screened from street view by buildings, lattice-work or shrubbery.

SECTION 14. CLOTHES LINES. All clothes lines must be set behind any residence, out of view of any street.

ARTICLE V – EASEMENTS

SECTION 1. GENERAL. Easements for the installation and maintenance of utilities, including cable television, are reserved as shown and provided for on the Subdivision Plat or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized residential subdivision 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, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

ARTICLE VI – ENFORCEMENT

Any Owner or the Committee have the right to enforce, by any proceeding at law or in equity, the covenants, conditions and restrictions contained herein. Failure of the Owner or Committee to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE VII - PROPERTY OWNERS ASSOCIATION

Each lot shall be subject to a monthly maintenance charge to be used for the purpose of maintaining of all common areas, maintenance and installation of street paths, parks, pathway's esplanades, retention pond, vacant lots, lighting, fogging, employing policemen and workmen, paying ad valorem taxes on all common areas, cost of administration of the fund and other purposes necessary or desirable in the opinion of the Administrator of such fund to maintain or improve the property of which it considers to be a general benefit to the Owners or occupants of the property covered by these Restrictions. Such fund may also be used for the purpose of enforcement of all covenants

and restriction of this section or subsequent sections of PEACH CREEK PLANTATION. The amount of the maintenance charge shall be set by the Administrator of the funds from time to time subject to the limitations contained herein.

The Developer shall collect and maintain control over the maintenance fund and administer same until all of the lots in PEACH CREEK PLANTATION, are sold by Deed or Contract or for ten (10) years from this date whichever comes first or at any earlier time if the Developer so elects. At that time the Developer shall cause a Property Owners Association to be organized and formed as a nonprofit corporation under the laws of the State of Texas. No other association, group, corporation, individual or any entity other than the association formed pursuant to these Restrictions shall be authorized to collect and administer the maintenance fund.

The Property Owners Association shall consist of all of the Owners of lots in PEACH CREEK PLANTATION. The name of the Association shall be PEACH CREEK PLANTATION PROPERTY OWNER'S ASSOCIATION. Each residential lot Owner shall be a member of such Association. The Association shall be governed by a Board of Directors consisting of five (5) property owners selected by the Developer at such time as maintenance responsibility and authority is vested in the Association.

Such Association may adopt such By-Laws, Rules and Regulations as it deems appropriate consistent with these restrictions.

No member of the Property Owners Association or their successors or assigns, or the Developer 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 Property Owners Association except for theft, fraud or defalcation.

The maintenance charge shall be paid annually on the first day of each February following the purchase of such lot or lots. The maintenance charge shall not accrue against any lot in which the legal and/or equitable title is vested in PEACH CREEK PLANTATION LTD., notwithstanding that a lot may have been previously sold by a Deed or Contract and title thereto reverted back to PEACH CREEK PLANTATION PROPERTY, LTD. During the time that such fund is administered by the Developer, the monthly charge shall not exceed Two Hundred and No/100 (\$200.00) Dollars per year. However, after the Property Owner's Association assumes responsibility of administration, the Association may adjust such rates pursuant to the rules and regulations of the Association. Interest on past due charges shall accrue at the highest rate allowable by law from date of delinquency. The payment of such maintenance fund shall be secured by a Vendor's Lien on the lots subject to such charge and shall be the personal obligation of the lot owner. The administrator of such funds shall not be entitled to foreclose on such Vendor's Lien to insure payment of such maintenance charge in accordance with the provisions of law. In the event it becomes necessary to employ legal counsel to collect past due maintenance charges, such delinquent lot Owners shall be responsible for reasonable attorney's fees and other reasonable costs incurred in such collection efforts including all costs of Court in any legal proceeding. No Owner may waive or otherwise escape liability for the maintenance charge provided for herein by nonuse of the Common Area or abandonment of his lot.

The Administrator of funds shall have the sole discretion as to how such money shall be used to comply with the provisions of this paragraph. During all times that PEACH CREEK PLANTATION PROPERTY OWNERS ASSOCIATION, INC., is the Administrator of such funds it shall maintain the proceeds in an account separate and apart from all other accounts of PEACH CREEK PLANTATION, and shall keep accurate records of all receipts and disbursements. In the event PEACH CREEK PLANTATION PROPERTY OWNERS ASSOCIATION, INC., is compelled to advance its own funds to defray expenses of maintenance of the facilities and properties to be maintained by this fund, PEACH CREEK PLANTATION PROPERTY OWNERS ASSOCIATION, INC., shall be entitled to repayment at such time as the fund is sufficient.

ARTICLE VIII - GENERAL PROVISIONS

SECTION 1. DURATION. This Declaration shall remain in full force and effect until December 31, 2020 and thereafter shall, as then in force, be extended automatically and without further notice, and without limitation, for successive periods of five (5) years each, unless modified or terminated in the manner hereinafter set forth.

SECTION 2. MODIFICATION OR TERMINATION This declaration may be modified or terminated at any time in any particular or terminated in its entirety by the recording in the Official Public Records of Real Property of Montgomery County, Texas of an amendment or termination instrument, signed by Owners representing 2/3rds of the Owners.

SECTION 3. 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 Official Public Records of Real Property of Montgomery County at the time of such mailing and any notice or submittal for approval required to be sent to the Committee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, Registered or Certified Mail, return receipt requested, to the following address: Peach Creek Plantation Architectural Control Committee 206-A South Loop 336W-230 , Conroe, Texas 77304.

SECTION 4. VIOLATION OF RESTRICTIONS. Enforcement of the provisions hereof shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the Owner of any Lot or by the Declarant, its successors or assigns. The failure of any person entitled to enforce any of the provisions hereof to enforce the same shall in no event be deemed a waiver of the right to enforce this Declaration thereafter.

SECTION 5. VALIDITY OF DECLARATION. Invalidation of one or more of the covenants, conditions, reservation, or restrictions herein contained by judgment or court order or otherwise, shall in no wise affect any other of the covenants, conditions, reservations or restrictions which shall continue and remain in full force and effect.

SECTION 6. GOOD-FAITH LENDERS CLAUSE. Any violation of these restriction shall not affect any lien or deed of trust of record held in good faith, upon any Lot or any part thereof, which liens may be enforced in due course, subject to the covenants, conditions, reservations, and restrictions contained herein.

SECTION 7. CONFLICT WITH DEEDS OF CONVEYANCE. If any part of this Declaration shall be in conflict with any covenant, condition or restriction within a previously recorded deed of conveyance to any portion of the Property, the covenants, conditions or restrictions within the prior deed of conveyance shall control to the extent of such conflict.

SECTION 8. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 9. 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 10. TITLES. The titles of this Declaration 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 Declaration.

SECTION 11. REPLATTING. Declarant shall have the right, but shall never be obligated, to re-subdivide into Lots, by recorded plat or in any lawful manner, any reserve tracts contained within the Subdivision and such Lots as replatted shall be subject to these restriction as if such Lots were originally included herein.

SECTION 12. RETENTION PONDS. Any Lots having retention ponds constructed in the area designated on the plat of the subdivision. These retention ponds will be constructed to depths to provide year round water in the ponds and to allow additional capacity for water retention. The owners of these lots shall be responsible for maintaining and repairing the ponds so as to provide the proper capacity for water retention. The owner shall maintain the retention ponds to prevent unsightly appearance. If the ponds are not properly maintained, the County may repair and maintain the retention ponds at the owners' expense.