

9670176

209-00-0553

29/5/3

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ENCHANTED WATERS SUBDIVISION**

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This Declaration of Covenants, Conditions, and Restrictions for Enchanted Waters, a subdivision in Montgomery County, Texas, is made on the date hereinafter set forth by San Jo Cove, Inc., a Texas corporation, hereinafter called "Declarant".

WITNESSETH:

Whereas, Declarant is the owner of that certain real property known as Enchanted Waters, Section 4, a subdivision in Montgomery County, Texas, according to the map or plat thereof recorded in Cabinet I Sheet 120&121, of the Map Records of Montgomery County, Texas; and,

Whereas, the above cited recorded map or plat represents an enlargement of the subdivision as recorded in the map or plat thereof at Cabinet G, Sheet 075A, of the Map Records of Montgomery County, Texas, the aforementioned subdivision may be further enlarged in the future by recorded map or plat; and,

Whereas, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against such property as presently constituted and as it may be enlarged in order to establish a uniform plan for the development, improvement and sale of such property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots in said subdivision; now,

THEREFORE, Declarant hereby adopts, establishes and imposes upon ENCHANTED WATERS, and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to the Enchanted Waters Community Improvement Association, its successors and assigns, provided for in Article V herein.

Section 2. "Properties" shall mean and refer to Enchanted Waters, and any additional properties which are hereafter made subject to the terms hereof by Developer. Such properties as may be subsequently added and made subject to the terms hereof shall be considered a part of the subdivision.

Declaration of Covenants
Enchanted Waters Subdivision, Sec. 4

Section 3. "Lot and/or Lots" shall mean and refer to the Lots shown upon the subdivision Plat which are restricted hereby to use for single family residential dwellings and/or single family camping purposes only. Lots "A" are those containing 3000 or more square feet. Lots "B" are those containing less than 3000 square feet. In no event may a modular home or mobile home be situated on lots designated "B". Lots designated "A" may be used for all types of housing described in these restrictions except for conventional homes, which are prohibited within the subdivision. Further, in no event may the Lots be used to store inoperable/junk motor vehicles, or to maintain junk yards, or to run a commercial business of any kind or description. Owners of lots shall comply with all governmental environmental and pollution regulations and shall not disturb the adjoining residences by unreasonable noise or otherwise.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, but in the event the execution of a contract for sale covering any Lot, the "Owner" shall be the purchaser named in the contract, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 5. "Subdivision Plat" shall mean and refer to the map or plat of Enchanted Waters recorded in the Map Records of Montgomery County, Texas.

Section 6. "Architectural Control Committee" shall mean and refer to the Enchanted Waters Architectural Control Committee provided for in Article IV herein.

Section 7. "Developer" shall mean San Jo Cove, Inc., a Texas corporation, and any assignee to whom San Jo Cove, Inc., specifically transfers its rights and interests as Developer hereunder.

Section 8. "Uniform plan for the development, improvement and sale of property" shall mean and refer to a uniformity of plan for each section of the subdivision. Each section shall be uniform in plan although not necessarily uniform with the remaining sections of the subdivision which may differ from section to section.

ARTICLE II

Reservations, Exceptions and Dedications

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets, and easements shown thereon and such Subdivision Plat further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Declaration of Covenants
Enchanted Waters Subdivision, Sec. 4

Section 2. Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, sewers, or any other utility Declarant sees fit to install in, across and/or under the Properties.

Section 3. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements.

Section 4. Declarant reserves the right, during installation of roads or streets as shown on the Subdivision Plat, to enter onto any Lot or Lots for the purpose of disposing of street excavations, including the removal of any trees, if necessary, whether or not the Lot or Lots have been conveyed to and/or contracted for by any other Owner or Owners.

Section 5. Neither Declarant nor any utility company using the easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or any other property of the Owner situated on the land covered by said easements.

Section 6. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances, thereto constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties, and where not affected, the right to maintain, repair, sell or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party, and such right is hereby expressly reserved.

ARTICLE III

Use Restrictions

Section 1. Land Use and Building Type. All lots shall be known and described as Lots for single-family residential dwellings and/or single family camping purposes only. Two story dwellings shall not exceed a height of thirty-five (35) feet. As used herein, the term "Residential Purposes" shall be construed to prohibit the use of said Lots for duplex houses, garage apartments for rent or commercial activity, or apartment houses. In no event may Lots be used for any industrial purposes, for the manufacture, sale or repair of motor vehicles, boats or heavy equipment, for junk yards, or for commercial/rental motor vehicle or boat storage facilities. The use of lots or allowable structures thereon to conduct business or commercial activities is prohibited. The renting or leasing of any lot or single family residential dwelling by an owner or his agent shall not be construed as prohibited commercial activity. No building of any kind or character shall ever be moved unto any Lot within said Subdivision without the prior approval of the Architectural Control Committee.

Section 1a. Camping Vehicles, Buildings and Other Structures. Subject to the limitations and other provisions of these Restrictions, the following may be used for residential or camping purposes:

- (1) Travel trailers);
- (2) Modular structures);
- (3) Motor homes;
- (4) Mobile homes;
- (5) Tents; and,
- (6) Storage buildings.

Section 2. Prior Approval Required. No building, fence or other structure shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structures thereon have been approved by the Architectural Control Committee as to harmony with existing structures with respect to exterior design and color and as to location with respect to topography and finished grade elevation and as to compliance with minimum construction standards more fully described in these Restrictions.

Section 2a. No travel trailer, modular structure, mobile home, motor home, tent or other movable structure of any kind shall be erected, placed or maintained on any Lot nor brought into the subdivision, until the Architectural Control Committee has approved the design, color, appearance and condition of same and has issued a written letter of approval.

Section 3. Minimum Camper and/or Structure Requirements for Approval.

The following are mandatory requirements to be used by the Architectural Control Committee in it's approval of design, appearance, materials, and condition of camper and/or structure facilities:

(a) Travel Trailers. The unit must be of professional construction and in good repair and of an attractive design and appearance. A recent photograph of the unit shall be submitted with the application for approval referred to in these Restrictions.

(b) Modular Structures. The Unit must be of commercial quality, in good repair and of an attractive design and appearance. Modular structures shall contain not less than 400 square feet of floor space in the enclosed living area, exclusive of open or screened porches or breezeways. It is especially provided that all exterior walls except redwood and cedar must be painted or stained but if not painted then it must be constructed of an approved commercial exterior material other than metal. Within 60 days of approval, each modular structure shall be tied down and fully enclosed around the bottom in a manner and with materials approved by the Architectural Control Committee.

(c) Motor Homes. The unit must be of professional construction and in good repair and of an attractive design and appearance. A recent photograph of the unit shall be submitted with the application for approval referred to in these Restrictions.

(d) Mobile Homes. The unit must be of professional construction and in good repair and of an attractive design and appearance. Mobile homes shall be of a minimum of 10 feet by 40 feet. A recent photograph of the unit shall be submitted with the application for approval referred to in these Restrictions. Within 60 days of approval, each mobile home shall be tied down and fully enclosed around the bottom in a manner and with materials approved by the Architectural Control Committee.

(e) Tents. Tents shall be of professional construction and in good repair and of an attractive design and appearance. Tents can be used for temporary camping only and cannot be left set up on the Lot unattended for more than 24 hours at any one time.

(f) Storage Buildings. The unit may not exceed 100 square feet and must be of commercial quality, in good repair, and of an attractive design and appearance. All exterior walls except redwood and cedar must be painted or stained, or if not painted, then constructed of an approved commercial exterior material other than metal. A recent photograph of the unit shall be submitted with the application for approval to the Architectural Control Committee.

Section 4. Residential Building Location. No building shall be located on any Lot nearer the front lot line or nearer the side street than the minimum building setback lines shown on the recorded plat. No garage or other out building shall be located nearer than three (3) feet to any side lot line. Nor may the main residential building or any part thereof be located nearer than five (5) feet from the side lot line. For the purpose of this covenant, eaves, and steps shall not be construed as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot. For the purpose of these restrictions, the front of each Lot shall coincide with and be the property line having the smallest or shortest dimension abutting a street. Unless otherwise approved in writing by the Architectural Control Committee, each main residential building will face the front of the Lot.

Section 5. Resubdivision. No Lot shall be resubdivided without the express written approval of the Architectural Control Committee.

Section 6. Annoyance or Nuisances. No noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may become an annoyance to the neighborhood. The display or shooting of firearms, fireworks, or firecrackers is expressly forbidden. No boat trailers, boats, travel trailers, inoperative motor vehicles, campers, vehicles of any kind, or portable buildings are to be permanently or semi-permanently stored in the public street right-of-way or upon utility or drainage easements.

Section 7. Removal of Non Conforming Campers or Structures. In the event of default on the part of the owner or occupant of any Lot in observing the requirements of these Restrictions, and/or the requirements of the Architectural Control Committee and with such default continuing after ten (10) days written notice thereof to the violator's last known address, Developer, the Architectural Control Committee, or their assigns or representatives shall, without liability to the owner or occupant in trespass, damage or otherwise, enter upon said Lot and remove the travel trailer, modular structure, motor home, mobile home, or other structure in default. The owner or

occupant, as the case may be, agrees by the purchase or occupation of the property to pay all reasonable costs associated with the notice and removal and any storage fees, if any, immediately upon the receipt of a statement thereof. The mailing of ten (10) days written notice to the address shown on Owner's Contract of Sale shall be deemed to be full compliance by Developer or the Architectural Control Committee of its duty to notify in writing as set out above.

Section 8. Signs and Billboards. No signs, billboards, posters, or advertising devices of any character shall be erected, permitted, or maintained on any Lot or plot. Declarant or the Architectural Control Committee, or its agents shall have the right to remove any sign not complying with the above restriction, and, in so doing, shall not be liable and are expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal. The right is reserved by Declarant to construct and maintain such signs, billboards or advertising devices as is customary in connection with the general sale of property.

Section 9. Oil and Mining Operations. Except for reserved tracts, plots of land, and easements shown on the recorded plat, no oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 10. Storage and Disposal of Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in 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. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street.

Section 11. Water. The owner of each Lot shall be responsible for paying the tap-on fee for water service and shall bear the responsibility of furnishing and installing, in conformance with governmental requirements, the water line which extends from the house to the easement. Each Lot owner shall be responsible for purchasing a water meter from the water supplier and installation fees. In addition, each lot owner shall pay a tap-on fee and water usage charges at the prevailing rates. No lot owner may drill or install a water well on any Lot in the subdivision.

Section 12. Walls, Fences, and Hedges. All fences and walls must be at least four (4) feet in height unless otherwise approved in writing by the Architectural Control Committee. Fences must be of ornamental iron, chain link, wood or masonry construction and must be kept in good repair at all times. The express written consent of the Declarant or Architectural Control Committee must be acquired before erecting a fence. Any wall, fence or hedge erected as a protective screening on a Lot by Declarant shall pass ownership with title to the property and it shall be the Owner's responsibility to maintain said protective screening thereafter. In the event of default on the part of the Owner or occupant of any Lot in maintaining said protective screening or fence and such failure continues after ten (10) days' written notice thereof, Declarant or its assigns may, at their option, without liability to the Owner or occupant in trespass or otherwise,

enter upon said Lot and cause said protective screening or fence to be repaired or maintained or to do any other thing necessary to secure compliance with these restrictions, so as to place said protective screening or fence in a satisfactory condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the property to pay such statement immediately upon receipt thereof.

Section 13. Walls, Fences and Hedges on Lake Front Lots.

No wall, fence or hedge may be erected farther than fifty (50) feet from the front property line of a water front lot.

Section 14. Lot Maintenance. So long as a Lot is in a natural state, the Owners or occupants of all such Lots shall not be required to alter the natural state of the Lot. However, once a portion of the a Lot is altered and grass is planted, the Owners or occupants of all such altered Lots shall be required to cut, trim, and maintain said portions in a sanitary, healthful and attractive manner. In no event shall any Lot be used for storage of materials and equipment except for normal residential requirements or incident to construction or improvements thereon as herein permitted or permit the accumulation of garbage, trash or rubbish of any kind thereon and shall not burn anything at any time. Refrigerators and other large appliances shall not be placed out of doors. The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds, or other facilities where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, and such default continuing after ten (10) days' written notice thereof, Declarant or its assigns may, at their option, without liability to the Owner or occupant in trespass or otherwise enter upon said Lot and cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the property to pay such statement immediately upon receipt thereof.

Section 15. Motor Vehicles. No motor bikes, motorcycles, motor scooters or other vehicles of that type shall be permitted or operated within the subdivision, if they are a nuisance by reason of noise or manner of use in the sole judgment of the Architectural Control Committee.

Section 16. Septic Tanks And Sewage Disposal. No septic tank may be installed on any Lot.

The owner of each Lot shall be responsible for paying the usual and customary tap-on and usage fees imposed by the entity furnishing sewer services to the subdivision.

No outside toilet or privy shall be erected or maintained on any Lot hereunder. Self contained

sanitation systems may be used by temporary campers, provided each meets the State of Texas environmental and pollution regulations and is constructed to be gas and odor tight. All self contained sanitation systems (permanently installed in a mobile camper or motor home with holding tanks, or self contained portable units) must be evacuated when needed and maintained in a sanitary condition without odor. Self contained systems may be emptied in a designated dump station only. The dumping, emptying or evacuation of sewage or waste water onto the ground or into any ditch or drainage facility within the subdivision is strictly prohibited.

Section 17. Livestock and Pets. No animals, other than dogs and cats, which are household pets, shall be kept on any lot. Such pets must be enclosed within a suitable fence, in the living structure, or on a leash at all times. Should such pets become a nuisance in the opinion of the Declarant or the Architectural Control Committee, they must be removed from the premises and the subdivision.

Section 18. Drainage. Natural drainage of streets, Lots or roadway ditches will not be impaired by any person or persons. Driveway culverts will be of sufficient size to afford proper drainage of ditches without backing water up into ditch or diverting flow. In no event shall culverts be less than eighteen (18) inches. Declarant may remove any culvert that obstructs the flow of water through the street ditches. The breaking of curbs for drive installations will be accomplished in a good and workmanlike manner and such break will be recemented without hindrance to drainage and such work is subject to the inspection and approval of the Architectural Control Committee.

Section 19. Completion of Construction. Construction of any allowable modular or storage buildings must be completed within one (1) from time of commencement.

ARTICLE IV.

Architectural Control Committee

Section 1. Purpose. The purpose of the Architectural Control Committee is to provide compliance with these restrictions; to maintain proper use of the lots; to preserve, so far as practicable, the natural beauty of the property; to insure against the erection or placement of buildings, campers, mobile homes, and/or temporary stationary or movable structures built of improper, unsuitable, or unsightly materials, and to obtain harmonious architectural schemes.

Section 2. Approval of Building Plans. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction or placement. The Architectural Control Committee 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 at its entire discretion. All applications to the Architectural Control Committee

must be accompanied with the payment of a \$25 processing fee. In the event the Architectural Control Committee determines that the plans are so unique that consultation with a qualified engineer or other expert is advisable, then the applicant shall pay, in advance, a deposit to cover the cost of the engineer or expert consultation fee. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days working days after submission, approval will not be required and full compliance with this Section will be deemed to have occurred.

Section 3. Committee Membership. The Architectural Control Committee shall initially be composed of L. P. Carlson, and Cheryl Hubbell, who by unanimous vote may designate a representative to act for them.

Section 4. Replacement. In the event of death or resignation of any member said Committee, the remaining member or members shall appoint a successor, and until such successor shall have been so appointed, the remaining member or members shall have full authority to carry out the responsibilities of the Committee or to designate a representative with like authority.

Section 5. Minimum Construction Standards. The Architectural Control Committee may, from time to time, promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 6. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on and after fifteen (15) years from the date of this instrument. Thereafter, all power in said Committee shall automatically pass to the Enchanted Waters Community Improvement Association.

Section 7. Nonliability. Neither the Declarant, Developer, its directors, shareholders, or officers, nor the Architectural Control Committee or any of its members shall have any liability nor responsibility at law or in equity on account of the enforcement of, nor on account of the failure to enforce, these restrictions.

Article V.

Enchanted Waters Community
Improvement Association

Section 1. Membership. Every person or entity who is an Owner of any of the Properties which are subject to maintenance assessed by the Association, shall be a member of the Enchanted Waters Community Improvement Association. The foregoing does not include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two classes of membership:

Class A. Class A members shall be all those Owners as defined in Section 1, with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant as defined in the Declaration. The Class B members shall be entitled to three (3) votes for each Lot in which they hold the interest required for membership by Section 1; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership.
- (b) On January 1, 2010.

The Class A and Class B members shall have no rights as such to vote as a class, except as required by the Texas Nonprofit Corporation Act, and both classes shall vote together upon all matters as one group.

Section 3. Nonprofit Corporation. Enchanted Waters Community Improvement Association, may incorporate and in such event, all duties, obligations, benefits, liens, and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. Bylaws. The Association may make whatever rules or bylaws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during normal business hours.

Section 6. Board of Directors. The affairs of the Association and/or nonprofit corporation shall be managed and governed initially by a board of directors composed of L. P. Carlson, Sandy Carlson and Cheryl Hubbell. A majority vote of such directors is required for action by the Board. Such board of directors will serve until title to seventy-five percent (75%) of Lots within the subdivision have been transferred to parties other than the Declarant/Developer (or at any prior time, at the election of said directors), at which time a membership meeting shall be called and a new board of directors shall be elected by the members of the Association and/or nonprofit corporation. The judgment of the board of directors in the management of the affairs of the Association and/or nonprofit corporation shall be final and without liability to such directors so

long as such judgment is made in good faith.

ARTICLE VI.

Maintenance Charge
And Other Assessments

Section 1. Each lot owner in Enchanted Waters, except Developer, is hereby subject to an annual maintenance fee of \$298.00, (or such other amount determined reasonably necessary by the Enchanted Waters Community Improvement Association board of directors) for the purpose of creating a fund to be designated and known as the "maintenance fund". Said maintenance charge and assessment will be paid by the Owner or Owners of each Lot within Enchanted Waters, to the Enchanted Waters Community Improvement Association. In the discretion of the Board of Directors, owners of multiple lots may be assessed a maintenance charge which may be lesser than the maintenance charge assessed upon single property owners. The maintenance charge is payable yearly in advance. The maintenance fund assessment shall commence to accrue from the date of the deed or other conveyance of the Lot from the Developer to the purchaser. Any assessment not paid within thirty (30) days from due date shall bear interest from due date until paid at the rate of fifteen percent (15%) per annum. The Declarant may loan the Association such monies as Declarant desires to assist the Association in discharging it's duties. However, the Association shall repay Declarant all loans with interest at the rate of ten percent (10%) per annum. The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year as the needs of the subdivision, may in the judgment of the Association, require. The Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of Enchanted Waters. The uses and benefits to be provided by said Association shall include, by way of clarification and not limitation and at its sole option, any and all of the following: maintaining and operating parks, parkways, agreements for provision of recreational amenities at San Jo Cove, both temporary and permanent rights-of-way, easements, esplanades, and other public and common areas, taxes on common areas, payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing policemen and watchmen, and doing any other thing or things necessary or desirable in the opinion of the Directors of the Association to keep the Properties in the subdivision neat and in good order, or which is considered of general benefit to the Owners or occupants of the Properties, it being understood that the judgment of the Directors in the expenditure of said funds or the variance in maintenance charge assessments on multiple-lot owners shall be final and conclusive so long as such judgment is exercised in good faith.

Section 2. To secure the payment of assessments, reimbursements and obligations to the maintenance fund established hereby and to be levied on individual Lots, there shall be reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such Lots, a Vendor's Lien for benefit of the Association, said lien to be enforceable through

appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be secondary, subordinate, and inferior to all liens, present and future, given, granted and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such assessments, reimbursements, obligations and maintenance fund charge accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, which notice shall be sent to the nearest office of such first lien mortgage holder by prepaid U. S. certified mail, and shall contain a statement of the delinquent charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such first mortgage lien to the holder thereof.

Section 3. The above maintenance charge and assessment will remain effective for the full term (and extended term if applicable) of the within covenants.

Section 4. It is specifically agreed that any Lot sold to persons or entities by the Declarant by contract for sale of land or deed with lien and note or other instrument and the purchaser defaults in the contract for non-payment or in any other manner and said Lot is repossessed, foreclosed or such contract canceled by Declarant, its successors or assigns, the Association will release its rights to collect the past due maintenance charges, assessments, and penalties on such Lots from the Declarant. Nothing herein contained shall relieve the purchaser in default from whom the Lot was repossessed from his obligation to pay such delinquent charges, assessments, maintenance charges and penalties to the Association.

ARTICLE VII

General Provisions

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty (20) years from the date this instrument is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at the end of the 20 years, or anytime thereafter, an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association, the Declarant, or any other Lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from doing so or to recover damages or other dues for such violations. Failure by the Association, the Declarant or any Lot owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

209-00-0566

Page 14

Declaration of Covenants
Enchanted Waters Subdivision, Sec. 4

ATTEST:

Sandra P. Carlson
Sandra P. Carlson
Secretary

ACKNOWLEDGMENT

STATE OF TEXAS *

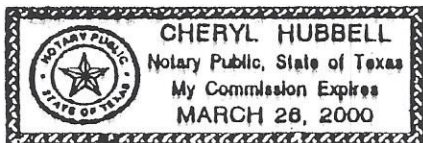
COUNTY OF MONTGOMERY *

This instrument was acknowledged before me by L. P. Carlson on this 7th day of
November, 1996.

Cheryl Hubbell
Notary Public in and for
the State of Texas

Cheryl Hubbell
(Printed Name of Notary)

My commission expires: 3-26-2000



AFTER RECORDING, RETURN TO:

San Jo Cove, Inc.
P. O. BOX 91495
Houston, Texas 77291-1495

FILED FOR RECORD

96 NOV - 8 AM 10: 01

MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS

[Signature] DEPUTY

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the official Public Records of Real Property of
Montgomery County, Texas

NOV - 8 1996



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS