

**CONSOLIDATED DEED RESTRICTIONS
FOR
CAPE ROYALE SUBDIVISIONS**

WHEREAS, MITCHELL & MITCHELL LAND DEVELOPMENT CO., a TEXAS corporation (referred to herein as "Developer"), which at the relevant times was the owner of all the real property situated in San Jacinto County, Texas, containing what has been platted and restricted as the Cape Royale Subdivisions as reflected in the plats and restrictions filed of record in the office of the County Clerk of San Jacinto County, Texas ("the Subdivision") as follows:

Cape Royale - **Forest Cove** Section Plat, according to the map or plat thereof recorded in Volume 114, Page 384 of the Deed Records of San Jacinto County, Texas; and Cape Royale Subdivision, **Forest Cove** Section Restrictions, being filed of record in Volume 112, Page 39, of the real property records of San Jacinto County, Texas, and amended in Volume 180, Page 273;

Cape Royale – **Harbour Point Estates 1**, Section Plat, according to the map or plat thereof recorded in Volume 240, Page 369/370/371, of the Deed Records of San Jacinto County, Texas and Cape Royale – **Harbour Point Estates 1**, Section Restrictions being filed of record in Volume 240, Page 360 in the real property Records of San Jacinto County, Texas

Cape Royale - **Imperial Estates** Section Plat, according to the map or plat thereof recorded in Volume 6, Page 51 of the Map Records of San Jacinto County, Texas, and Cape Royale - **Imperial Estates** Section Restrictions being filed of record in Volume 234, Page 563, and corrected in Volume 243, Page 916, in the real property Records of San Jacinto County, Texas;

Cape Royale - **Imperial Estates Section 2** Plat, according to the map or plat thereof recorded in Volume 126, Page 800 of the Map Records of San Jacinto County, Texas, and Cape Royale - **Imperial Estates Section 2** Restrictions being filed of record in Volume 127, Page 5, in the real property Records of San Jacinto County, Texas;

Cape Royale – **Kings Point** Section One Plat, according to the map or plat thereof recorded in Volume 8, Page 50 of the Map Records of San Jacinto County, Texas, and Cape Royale – **Kings Point** Section One Restrictions being filed of record in Volume 175, Page 85, in the real property Records of San Jacinto County, Texas;

Cape Royale - **King's Ridge** Section Plat, according to the map or plat thereof recorded in Volume 121, Page 375 of the Deed Records of San Jacinto County, Texas, and Cape Royale – **Kings Ridge** Section Restrictions being filed of record in Volume 122, Page 81, in the real property Records of San Jacinto County, Texas, and amended in Volume 203, Page 258;

Cape Royale - **Kings Ridge Section 2** Plat, according to the map or plat thereof recorded in Volume 6, Page 34 of the Map Records of San Jacinto County, Texas, and Cape Royale – **Kings Ridge Section 2** Restrictions being filed of record in Volume 207, Page 587, in the real property Records of San Jacinto County, Texas, and amended in Volume 209, Page 799;

Cape Royale - **Kings Ridge Cove** Plat, according to the map or plat thereof recorded in Volume 81, Page 531 of the Map Records of San Jacinto County, Texas, and Cape Royale – **Kings Ridge Cove** Restrictions being filed of record in Volume 82, Page 934, in the real property Records of San Jacinto County, Texas;

Cape Royale - **Pine Harbour** Plat, according to the map thereof recorded in Volume 114, Page 385, of the Map Records of San Jacinto County, Texas, and Cape Royale – **Pine Harbour** Restrictions being filed of record in Volume 115, Page 164, in the real property Records of San Jacinto County, Texas, and amended in Volume 180, Page 269;

Cape Royale - **Royale Greens** Section Plat, according to the map or plat thereof recorded in Volume 115, Page 265 of the Deed Records of San Jacinto County, Texas, and Cape Royale – **Royale Greens** Restrictions being filed of record in Volume 117, Page 101, in the real property Records of San Jacinto County, Texas, and amended in Volume 878, Page 990;

Cape Royale - **Villas de Marina** Section Plats, according to the maps or plats thereof recorded in Volume 5, Page 11; Volume 5, Page 15; Volume 5, Page 19; Volume 5, Page 18; and as re-platted in part by map recorded in Volume 5, Page 38, all in the map records of San Jacinto County, Texas, and Cape Royale – **Villas de Marina** Section Restrictions being filed of record in Volume 161, Page 256; Volume 163, Page 720 and Volume 168, Page 554; in the real property Records of San Jacinto County, Texas, and amended in Volume 957, Page 775; and

Certifications of Chapter 211 Election Results for the Cape Royale Property Owners Association, Inc., being Restrictions for the Subdivision filed of record under Clerk's File Nos. 20187536, 20187537, 20187538, 20187539, 20187540, 20187541, 20187542, 20187543, 20187545, 20187546, 20187547, 20187548 and 20187549, in the real property records of San Jacinto County, Texas; and

WHEREAS, pursuant to such plats and restrictions Developer, did thereby adopt, establish and imposed certain restrictions, declarations, reservations, protective Covenants, limitations, conditions and easements (the "Restrictions") for the benefit of all present and future owners of lots in the Subdivision;

NOW THEREFORE, in order to provide greater ease of reference to such Restrictions the Cape Royale Property Owners Association have created this consolidated declaration setting forth in this single document the entirety of the Restrictions for all of the Cape Royale Subdivisions (with the exception of the Harbour Point Condos) that have

adopted the restriction amendment provision pursuant to Chapter 211 of the Texas Property Code, as follows:

CONSOLIDATED DECLARATION

Developer desires to create and carry out a uniform plan for the improvement, development and sale of all of the lots in the Subdivision, for the benefit of the present and future owners of said lots, and for the protection of property values in the Subdivision; and, to that purpose, Developer hereby adopts, establishes and imposes the following declarations, reservations, protective Covenants, limitations, conditions and easements to apply uniformly to the use, improvement, occupancy and conveyance of all lots in the Subdivision; and each contract or deed which may be hereafter executed with regard to any of the lots in the Subdivision shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in full or by reference in said contract or deed):

SUBDIVISION RESTRICTIONS

(paragraph numbers vary in restrictions for different sections)

In hard copy version: Text without Section notation appears in restrictions of all sections

1. Use. None of the lots or the improvements thereon shall be used for anything other than single-family, private residential purposes, and all lots in the subdivision shall be known as residential lots. No commercial activity shall be permitted on any residential lot, nor shall any commercial activity be engaged in from any such residential lot,

other than the temporary sales and administrative activities of the Owner, until all other lots in **VDM** Section have been sold to third parties (**VDM** all sections)

except that a lot owner may from time to time rent his home to another for residential purposes (Imp Est. 2 also in **Kings Point** 1).

2. Lot area. No lot may be resubdivided; provided, however, that individual lots may be divided between abutting owners and thereafter each owner's resulting oversize tract shall be considered as one lot. Nothing herein contained shall prohibit the construction of a single residence on two (2) lots, in which case both such lots shall be considered as one lot for building purposes. Irrespective of the foregoing provisions of this paragraph 2, the maintenance fund assessment hereinafter set forth shall be and remain applicable to all lots as originally platted.

As to lots divided between abutting owners, the said maintenance fund assessment as to the divided lot shall be apportioned on the basis of surface area of the portions of the divided lot added to the adjacent lots for the purpose of creating two oversized lots. (**VDM** all sections)

2. The Property or portions thereof may only be subjected to a declarations of condominium or subdivided into parcels of land for patio or zero-line homes, once the

property or portions thereof has been initially subdivided, the Lots may not be further split or re-subdivided for sale, resale, transfer or otherwise. (**Harbour Point Estates 1**)

3. Architectural Control Committee. An Architectural Control Committee ("Committee") shall be appointed, from time to time, by Developer, whose purpose it shall be to review plans, to insure for all owners harmony of location, and harmony of external and structural design and quality with existing structures. The Committee shall have the right to designate a representative to act for it in all matters arising hereunder. Until such time as the Committee has been constituted and appointed, Developer, or its nominee or representative, shall carry out all functions of the Committee relating to these restrictions. After Developer has sold 75% of the lots in all sections of Cape Royale Subdivision, or sooner at the sole election of Developer, the members of the Committee shall be selected by the Cape Royale Property Owners' Association ("Association").

4. Structures.

(a) No residence shall be constructed or permitted to remain on any residential lot in the Subdivision unless such residence shall meet the following requirements as to living area:

- (remainder of subparagraph (a) by Section)

(1) As to Lots 22 to 51, inclusive, Block 1, each such residence shall have a minimum of 1,000 square feet of living area.

(2) As to all lots except those referred to in Paragraph 4 (a) (1) above, each such residence shall have a minimum of 800 square feet of living area (**Forest Cove**).

(1) As to Lots 20, 21, 22, 34, 35, 36, 41 to 53, inclusive, 65 to 74, inclusive, 79, 80, 81, 101, 102 and 103, all in Block 6, each such residence shall have a minimum of 1,000 square feet of living area.

(2) As to all lots except those referred to in Paragraph 4 (a) (1) above, each such residence shall have a minimum of 800 square feet of living area (**Pine Harbour**).

(1) As to Lots 1 to 31, inclusive, 69, and 73 to 82, inclusive, all in Block 5, each such residence shall have a minimum of 1,000 square feet of living area.

(2) As to all lots except those referred to in Paragraph 4 (a) (1) above, each such residence shall have a minimum of 800 square feet of living area (**Royale Greens**).

each condominium unit must contain at least 500 square feet of enclosed living area; each patio or zero lot line dwelling unit must contain at least 1000 square feet of living area, exclusive of attached garage, porch or other appendage if the unit fronts on Lake Livingston and 800 square feet of living area, exclusive of attached garage, porch or other appendage, if the unit is not located on the water (**Harbour Point Estates 1**).

each such residence shall have a minimum of 1,000 square feet of living area (**Kings Ridge 1 & Kings Ridge 2**).

each such residence shall have a minimum of 1200 square feet of living area (**Imperial Estates. 1 & Kings Ridge Cove**).

each such residence shall have a minimum of 1800 square feet of living area (**Imperial Estates 2 & Kings Point**).

each residence in **VDM** Section shall have a minimum of 800 square feet of enclosed living area. (**VDM** all sections)

(b) No improvements shall be placed on any lot until the building plans, specifications and plot plans showing the location of such improvements on the lot, have been approved in writing by the Committee. Likewise, the alteration of any existing improvements which materially affects or changes the exterior design thereof may not be made until the plans for such alterations have been approved in writing by the committee. In the event the Committee disapproves of any such plans, specifications and/or plot plans, notice of such disapproval shall be delivered in person or by registered or certified letter addressed to the party submitting the same at an address which must be supplied with the submission. In passing upon all of such plans, specifications and/or plot plans, the Committee may take into consideration, among other things, the suitability of any such proposed building or structure or the alteration thereof and the materials of which it is to be constructed to the lot or plot upon which it is to be constructed, and the affect thereof upon adjacent neighboring or other lots or plots. Any such notice shall set forth the elements disapproved and the reason or reasons therefore but need not contain suggestions as to methods of curing any matters or things disapproved. The judgment of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive. If said Committee fails to approve or disapprove said plans, specifications and/or plot plans within thirty (30) days after the same have been submitted to it, it will be presumed that the same have been approved.

These requirements for approval by the Committee as herein set out cover not only the residences to be constructed in the Subdivision, but all piers and other structures built in the water as well as on the land, and also apply to any retaining walls and any significant moving of soil in or out of the water. (sentence not in **Kings Ridge 1** or **Kings Ridge 2**)

(c) All structures which extend into the water shall meet the following requirements:

(1) Such structures shall not extend into the water more than 25 feet.

(1) Such structures shall not extend into the water more than thirty feet (30') (**Kings Point**).

- (remainder of subparagraph (c)(1) for designated Sections)

except for **Forest Cove** Lots 22 and 23 and Lots 43 to 51, inclusive, all in Block 1, as to which such structures may not extend into the water more than fifteen

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(15) feet. Notwithstanding the foregoing, an exception may be made by the committee in cases where such an exception is necessary because of shallow water or other unusual circumstances, approval of such exception to be given in writing to the owner of the lot affected (**Forest Cove**).

except for Lots 20,21, 22, 34, 35, 36, 41, 42, 43, 44 and 45, 67 to 74, inclusive, 79, 80, 81, 97, 98, 101, 102 and 103, all in Block 6, as to which such structures may not extend into the water more than fifteen (15) feet (**Pine Harbour**).

except for Lots 25, 26, 27, 28, 29, 30, 69, 73, 74 and 75, all in Block 5, as to which such structures may not extend into the water more than fifteen (15) feet (**Royale Greens**).

(2) No part of such structures shall be closer to any projected side property lot line than ten (10) feet.

(3) No such structures shall extend more than twenty-five (25) feet parallel to the water's edge.

(the following subsection is only contained in designated sections)

(4) Notwithstanding the foregoing an exception may be made by the Committee in cases where such an exception is necessary because of shallow water or other unusual circumstances, approval of such exception to be given in writing to the owner of the lot affected (**Imperial Estates 2, Kings Ridge Cove, Kings Point, Pine Harbour and Royale Greens**).

- The above subsection (c) is not contained in **Harbour Point Estates 1**, Imperial Point Estates, **Kings Ridge 1, Kings Ridge 2** or **VDM** all sections

- (following three paragraphs are alternative provisions found only in designated Sections)

(c) No part of any building shall be located on any residential lot nearer than twenty (20) feet to any street, on which it fronts, unless otherwise provided upon the recorded plat of **VDM** section. The building set-back lines may be relaxed by decision of the Committee, if the above described distances are not feasible, considering the terrain and/or dimensions of the lot. (**VDM** all sections)

(d) Each residence shall include storage with direct driveway access for at least two (2) automobiles. The storage shall be within an enclosed garage or within an approved carport structure (**Kings Point**).

(c)(d) No residence may be occupied in the Subdivision until such time as electricity and central water and sanitary sewers are available to serve the lot on which such residence is to be constructed (**Imperial Estates 1 & Imperial Estates 2, Kings Ridge 1 & Kings Ridge 2**).

(d) No part of any building shall be located on any residential lot nearer than twenty (20) feet to any street (**Imperial Estates 2 & Kings Point 1** - 25 feet). No part of any building shall be located nearer than five (5) feet to any interior lot line,

No part of any structure shall be located nearer than five (5) feet, with respect to Lots 12 through 58, Block 1, or ten (10) feet with respect to all other lots, to any interior or side yard lot line (**Kings Point 1**).

except that in the event of common ownership of more than one (1) lot and the construction of one (1) building or more than one (1) lot, the combined area owned shall be considered as one (1) lot for this purpose.

unless otherwise specified by the Architectural Control Committee. No part of any structure shall be located on any residential lot nearer than twenty (20) feet to the rear lot line, except that for Lots 11-59, Block 1, no part of any structure shall be located nearer than the boundary line, closest to the street right of way, of the twenty (20) feet sanitary sewer easement ("S.S.E. ") as shown on the plat of the Subdivision (**Kings Point 1**).

- (the following sentence is only contained at the end of subsection (d) in designated sections)

The building set-back lines may be relaxed by decision of the Committee, if the above described distances are not feasible, considering the terrain and/or dimensions of the lot. (**Forest Cove, Harbour Point Est. 1, Kings Ridge 1, Pine Harbour and Royale Greens**)

- The above subsection (d) is not contained in **Harbour Point Estates 1**.

(e) ((c) in **Harbour Point Estates 1** Declaration) No structure shall be occupied or used for residential or storage purposes (other than for the storage of building materials to be used in the construction and completion thereof) until the exterior thereof shall have been fully completed in accordance with the approved plans and specifications. ((d) for **VDM** all sections)

(f) ((d) in **Harbour Point Estates 1** Declaration) Each residence, once commenced, must be "dried in" within six (6) months from the date of commencement thereof. By the term "dried in" is meant that the exterior must have the appearance of being a complete house, including all necessary windows, doors, roof, paint and trim. If any such residence is not "dried in" within six (6) months after the date on which such residence is commenced, the owner of same hereby gives the Committee or its representative or agent the right and authority to enter upon the property upon which such structure is situated, and to disassemble such structure and store the building materials on the premises or elsewhere at the discretion of the Committee. The owner or occupant of any such lot agrees, by the purchase or occupancy thereof, that the Committee shall not be liable in trespass or otherwise in entering upon said lot and disassembling any such structure. ((e) for **VDM** all sections)

(g) ((e) in **Harbour Point Estates 1** Declaration) No trailer, mobile home, tent, shack, camper, garage, barn or other outbuilding or structure of a temporary character shall, at any time, ever be used as a residence, temporary or permanent, nor shall any structure of a temporary character ever be used in any way or moved onto or permitted to remain on any lot except during construction of permanent structures. ((f) for **VDM** all sections)

(h) No fence, wall or hedge having a height of more than three (3) feet shall be located nearer any front street line or waterfront lot line than thirty (30) feet, or nearer any side street line than twenty-five (25) feet.

- (the following sentence is only contained at this point within the Declarations for the designated sections)

Any fence in front of a residence must be 90% open and be decorative (**Imperial Estates 2 & Kings Point**)).

No fence or wall having a height greater than seven (7) feet (6 feet in **Imperial Estates 2 & Kings Point**)) shall be constructed or permitted to remain in the subdivision.

(g) No fence, wall or hedge having a height of more than three feet (3') shall be constructed or employed in VDH Section, with the exception of patio enclosures, nearer any front street line than twenty feet (20'), or nearer any side street line than five feet (5'). Patio enclosures shall be no more than seven feet (7') in height and shall not be located nearer any front street lot line than twenty feet (20'), or nearer any side street line than five feet (5'). (**VDM** all sections)

(k) The Architectural Control Committee shall have the right to Promulgate and adopt rules and regulations necessary to implement these covenants, including but not limited to, an outline or design and development guidelines governing construction on lots ("Rules and Regulations"). The Rules and Regulations may include submission requirements concerning the type of information, reports, plans, and specifications and the like which must be submitted with any application, payment of reasonable fees for processing or reviewing the application and the guidelines governing the development of each lot. The Architectural Control committee shall make the Rules and Regulations available to lot owners and the lot owners shall conduct their operations strictly in accordance therewith. The Architectural Control Committee shall have sole and full authority to modify and amend the Rules and Regulations from time to time without the consent of any lot owner (**Kings Point**).

(j) Notwithstanding anything contained herein to the contrary, the committee shall have the power and the authority, to be exercised in its sole discretion, to authorize variances and exceptions from the terms and provisions of any of the restrictive Covenants and requirements set forth in this Paragraph 4 as to any one or more lots. The rights, powers and duties reserved to Developer in this instrument and by Paragraph 3 and 4 shall remain in force and effect so long as the covenants and restrictions set forth herein shall be and remain in force and effect. The terms and provisions of this Paragraph 3 may be enforced

in the same manner as the terms and provisions hereof are enforced pursuant to Paragraph 25 hereof. (**Imperial Estates 2, Kings Ridge Cove, Kings Point** (subsection (l)))

(k) All lots shall have a concrete driveway that extends from the road right-of-way to the residence (**Imperial Estates 2**).

5. Signs. No "For Sale" sign or "For Rent" sign, or any other advertising structures, may be displayed in the Subdivision without the prior written approval of Developer.

6. Nuisance. No noxious or offensive activity shall be carried on or maintained on any lot in the Subdivision, nor shall anything be, done or permitted to be done thereon which may be or become a nuisance to the neighborhood.

7. Firearms. The use or discharge of firearms in the Subdivision is expressly prohibited.

8. Garbage and trash disposal. No lot shall be used or maintained as a dumping ground for garbage. Trash, garbage or other rubbish shall be kept only in sightly, sanitary containers. Each lot owner shall be responsible for disposing of all of his trash, garbage and rubbish.

9. Unsightly storage. If open carports are used, no unsightly storage and/or unsightly vehicles shall be permitted therein.

10. Camping. No camping shall be permitted in the Subdivision at any time.

11. Animals. No horses, cows, poultry, or livestock of any kind (other than house pets) may be kept on any lot in the Subdivision.

except that dogs, cats, or other usual and common household pets not to exceed a total of four (4) pets may be kept in any dwelling. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times, whenever they are outside a dwelling, be confined on a leash by a responsible person. All animals shall have current rabies inoculation and wear a collar tag bearing the date and place of inoculation (**Kings Point**).

12. Off-street parking. Both prior to and after the occupancy of a dwelling on any lot, the owner shall provide appropriate space for off-street parking for his vehicle and/or boat.

- (substitute the following for "his vehicle and/or boat)
two automobiles (**VDM** all sections)
- (Text of this Paragraph 12 is not in **Harbour Point Estates 1** Declaration)

for all vehicles. The term "appropriate" space, as used herein shall mean a fully enclosed structure or screening approved by the Architectural Control Committee. The term

"vehicles", as used herein shall mean automobiles, trucks, boats, boat trailers, vehicles primarily used for commercial purposes, tractors, recreational vehicles, trailers (either with or without wheels), campers, and camper trailers. Parking of vehicles on public streets or private streets is prohibited, except for temporary situations (**Kings Point**).

13. Weeds. The owner of each lot shall keep the same clean and free of weeds such as will be in keeping with the other property and the community at any particular time. Upon failure to do this, Developer or the Association may have the lot cleaned and the cost or expense thereof shall be payable on demand by the owner to Developer or the Association, as the case may be.

14. Sewerage and water. No building or structure shall be occupied as a residence unless all plumbing fixtures, dishwashers and toilets are connected to the established sewerage system in the Subdivision.

(the following language is not contained in **Harbour Point Estates 1, Imperial Estates 1, Imperial Estates 2** or **Kings Point** Declarations)

A fee of Five Hundred (\$500.00) Dollars will be charged to each lot owner when his residence is connected to the sewerage disposal system serving the Subdivision. Each lot owner shall, at his expense, extend his residence connection line to the sewerage gathering line serving his lot. Nothing herein contained to the contrary, shall prevent the installation and operation of sanitary sewer facilities by a water district or other- governmental authority in said Subdivision.

(following is contained in both **Imperial Estates 1 & Imperial Estates 2** Declarations)
Each lot owner in the Subdivision Covenants and agrees to pay the initial connection charge to connect his residence to the water system and to the sewage disposal system and monthly service charge imposed by the municipal utility district or other governmental authority providing water and sewer service in the Subdivision.

Each lot owner shall, at his expense, connect his residence to the water line and to the sewerage gathering line serving his lot, A monthly charge shall be made for water and sewer service. Nothing herein contained to the contrary shall prevent the installation and operation of water and sanitary sewer facilities by a water district or other governmental authority in **VDM** Section. (**VDM** all sections)

A lien is hereby retained to secure payment of said charges. (**Imperial Estates 1** only)

A lien is hereby retained by Developer, for the benefit of the municipal utility district or other governmental authority providing water and sewer service to the Subdivision, to secure payment of said charges (**Kings Point**).

15. Underground electric connection charge. Each lot owner shall be required to pay the sum of \$75.00 (or such other charge as may be charged by any public utility company) (**VDM** all sections) when and if his residence is connected to an underground electric system, said sum of \$75.00 to be payable to the electric utility company for extension of underground electric

service from the transformers or secondary pedestals to the residence. (the language of this paragraph is not in **Harbour Point Estates 1** Declaration)

15. Underground electric connection charge. Each lot owner in the Subdivision Covenants and agrees to pay the connection charge imposed by the electric utility company for extension of underground electric service from the transformers or secondary pedestals to the residence. (both **Imperial Estates 1** and **2** Declaration)

16. Utility Easements. An easement is expressly reserved in, on, over under and through those portions of the lots as shown on the Subdivision map for the purpose of installing, repairing and maintaining electric Power, water, sewerage, gas, telephone and similar utility facilities and services. There is also reserved and dedicated hereby for the use of the Developer and any public or private utility company an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to and above all dedicated utility easements as shown on the map or plat of the subdivision. The easements reserved and dedicated under the terms and provisions hereof and under the terms and provisions of the Subdivision plat shall be for the general benefit of the Subdivision as herein defined and any other land owned or acquired by Developer in the vicinity thereof, and shall also inure to the benefit and may be used by any public or private utility company entering into and upon said property for the purposes aforesaid, without the necessity of any further grant of such easement rights to such utility companies. Fences, walls and shrubbery hedges shall be permitted on any such easements except those easements being used for underground electric and/or telephone systems, provided: (i) that such fences, walls and hedges do not interfere in any way with the use of such easements by any public or private utilities then utilizing or thereafter designed to utilize the same, (ii) that the right of the owners of such fences, walls and hedges shall at all times be and remain subordinate and inferior in every way to the right of public and private utilities; and (iii) that such public or private utilities at any time may, without liability of any kind to the owner or owners thereof, remove any such fence, wall or hedge where the removal of the same is incidental to or necessary for the performance of public or-private utility operations. No buildings or structures of any character may be erected or allowed to remain on any utility easement. (the language of this paragraph not in **Harbour Point Estates 1** Declaration)

17. Association membership. All purchasers of a lot in the Subdivision must be members of the Association.

18. Park and Recreational Areas. All property owners, members of their families and their guests, shall have the right of ingress and egress to the lake through the park areas as shown on the Subdivision plat. Such right shall extend to and include the owners of lots within the **Forest Cove** Section (name of each section) of the Cape Royale Subdivision as well as subsequent sections developed by the Developer from lands contiguous to or in the vicinity of the said **Forest Cove** Section (name of each section) of the Cape Royale Subdivision. All parks, lakes and beach improvements shall be available for use by such property owners, their families and guests, at their own risk. When 75% of the lots in all sections of Cape Royale Subdivision have been sold, or sooner at the election of the Developer, Developer may transfer title to all park and other community areas to the Association or other civic organization active in the area, after which the

operation of and maintenance and payment of taxes on such park and other community area shall be the responsibility of such transferee.

- (the following language is only contained at this point in the Declarations for the designated sections)

Nothing herein contained shall be construed as dedicating for park use the Reserve, identified as "Park" shown on the plat of the Subdivision, to the general public or to anyone other than owners of lots within the subdivision or other sections of Cape Royale Subdivision developed by Developer (**Kings Point 1, Imperial Estates 1 and Imperial Estates 2**)).

Nothing herein contained shall be construed as dedicating the Reserves shown on the plat of **King's Ridge**, Section II, to the public or to anyone else for park purposes, and Developer hereby declares that such reserves have not been dedicated for use as park areas. (**King's Ridge 2**)

19. Easements in favor of the Trinity River Authority of Texas. The property included in the Subdivision is subject to certain easements in favor of The Trinity River Authority of Texas, and the use of the land area contained in said easements is further subject to the approval by The Trinity River Authority of Texas as set out in that certain conveyance from Mitchell & Mitchell Land Development Co. to The Trinity River Authority of Texas dated January 10, 1966, recorded in Volume 107, Page 506, of the Deed Records of San Jacinto County, Texas,

and corrected by instrument recorded in Volume 122, Page 561 of the Deed Records of San Jacinto County, Texas, (**Harbour Point Estates 1**),

to which instrument and the record thereof reference is hereby made for all purposes.

All references to the improvements to be located within such easement areas as contained in these Restrictions, are hereby expressly made subject to the approval of The Trinity River Authority of Texas. (this sentence not in **Kings Ridge 1, Imperial Estates 1 or Imperial Estates 2** Declarations)

20. Oil, Gas and Mineral Development. No oil or gas drilling, oil or gas development operations, oil or gas refining or treatment, quarrying or mining operations of any kind shall be permitted upon or in any part of the lands included in the Subdivision, nor shall oil or gas wells, or tunnels, mineral excavations or shafts be permitted in or upon any part of said lands at any time while these restrictions remain in full force and effect. No derricks or other structure designed for use in boring or drilling for oil or gas shall be erected, maintained or permitted upon any part of the lands included in the Subdivision at any time while these restrictions remain in force and effect.

21. Drainage structures. Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

22. Cutting of Trees. No growing trees 6" or more in diameter measured at a point 12" from the ground may be cut from any lot without the prior written approval of the Committee, except only for such trees as may be removed where necessary to the construction of improvements on the lot.

23. Maintenance Fund. Each lot in the Subdivision, from and after the sale thereof by Developer,

- **(the following language is contained in the Affidavit and Notice of Change in Maintenance Fund Charges filed with the San Jacinto County Clerk 12/22/1986)**

Each lot within Cape Royale, a development in San Jacinto County, Texas, composed of the following subdivisions: Harbour Villas Sections 1 and 2, **Forest Cove, Pine Harbour, Royale Greens**, Imperial Point, **King's Ridge 1, King's Ridge II, Imperial Estates, Villas de Marina Sections 1 through 4**, Harbour Point Condos and **Harbour Point Estates** and King's Ridge III ("Cape Royale"), from and after January 1, 1987, shall be subject to an annual maintenance charge of \$150.00 per year, per Lot to be paid by the purchaser of each Lot in Cape Royale after the sale thereof by Developer, the same to be secured by a lien upon said Lots. Said maintenance charge to be payable annually in advance as directed by the Cape Royale Property Owners Association, Inc. (the Association").

Further, the annual maintenance charge may be increased from time to time by the Board of Directors of the Association, in its sole discretion, to an annual amount not to exceed 10% of the maintenance charge for the previous year, up to a maximum charge of \$218.00 per Lot per year. After said maximum charge of \$218.00 per Lot has been reached, thereafter the Board of Directors of the Association shall have the right, in its sole discretion, to increase the annual maintenance charge by a percentage increase equal to the percentage increase in the Consumer Price Index – All Items, 1967 equals 100 (as defined by the U. S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made,; should the U. S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index – All Items the Board of Directors of the Association shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index – All Items. **(Forest Cove; Pine Harbour; Royale Greens; Kings Ridge 1; Kings Ridge 2; Imperial Estates 1; VDM 1-4; Harbour Point Estates 1)**

- (the following language is only contained at this point in the Declarations for the designated sections)

Said maintenance charge is to be paid annually in advance as directed by the Association. The annual maintenance charge may be increased from time to time by the Board of Directors of the Association, in its sole discretion, by a percentage increase equal to the percentage increase in the Consumer Price Index -All Items, 1967 equals 100 (as defined by the U. s. Department *at* Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made; should the U.S. Department of Labor, Bureau of Labor Statistics cease to publish the consumer Price Index - All Items, the Board of Directors of the Association shall select such other indices which in its judgment reflect

the then broad range of economic factors represented in the said Consumer Price Index - All Items (**Imperial Estates 2, Kings Point 1 and Kings Ridge Cove**).

- (the following language is only contained at this point in the Declarations for the designated sections)

Funds arising from such charge shall be applied, so far as sufficient, toward the payment of maintenance or improvement expenses incurred for any or all of the following purposes: lighting, streets, sidewalks, paths, parks, parkways, esplanades, areas between curbs and sidewalks, swimming pools, clubhouse facilities, ramps, boat landings, boat basins, and other similar recreational facilities, collecting and disposing of garbage, ashes, rubbish, and the like, employing policemen and watchmen, providing fire protection, caring for vacant lots, collecting of maintenance charges, enforcement of restrictions, and doing any other things necessary or desirable in the opinion of the Developer to keep the property neat and in good order, or which it considers of general benefit to the owners or occupants of the Subdivision, it being understood that the judgment of the Developer (or the Association, as the case may be) in the expenditure of said fund shall be final so long as such judgment is exercised in good faith. Any and all liens securing said maintenance charge are hereby declared to be expressly subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any lot or lots in the Subdivision by an owner thereof for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of improving such lot or lots. Said subordination of liens shall continue and be in full force and effect for so long as such construction or permanent loan is outstanding (**Kings Ridge 1, 2Kings Ridge 2, VDM all sections, Pine Harbour and Royale Greens**).

- (the following language is an amendment to Declarations for **Kings Ridge 1, VDM** all sections, **Pine Harbour, Royale Greens** and **Forest Cove** Declarations; it is contained within the Declarations at the paragraphs as designated at the end of the paragraph)

Utility Lines and Facilities (in Original Restrictions or an Amendment provision as noted).

Each owner of a lot within the Subdivision shall be responsible for maintaining his lot in such a manner as to prevent damage to, public or private utility lines or facilities located in, on, or under his lot. Such maintenance shall include, but not by way of limitation, bulkheading. In the event of a violation or breach of this **Covenant** herein contained which violation or breach continues after fifteen (15) days written notice to the owner of any lot involved setting forth the nature of such violation or breach and the specific action to be taken to remedy such violation or breach, the Developer, its successors or assigns, the Cape Royale Property Owners' Association and/or any municipal utility district owning, operating or maintaining such utility lines or facilities, and their agents, shall have the right at reasonable times to enter upon the land on which such violation or breach exists and to take the actions specified in the notice to the member to remedy, abate and remove, at the expense of the owner thereof, such conditions as may be reasonably necessary to protect the public or private utility lines; and the said party shall not thereby be deemed guilty in any manner of trespass for such entry, abatement or removal. The cost of such remedy or abatement shall be paid to the Developer, the Cape Royale Property Owners' Association or the municipal utility district incurring the expense upon demand and if not paid within thirty (30) days thereof, shall become a lien upon the lot affected in the same manner as a

lien securing the maintenance charge; provided, however, that any such lien shall be subordinate and inferior to any voluntary lien, including any renewal and or extension thereof, created on any lot or lots in the subdivision by an owner thereof for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of improving such lot or lots. The rights and remedies provided for in this paragraph are in addition to, and not in lieu of, all other rights and remedies to enforce the restrictions available at law or in equity. (paragraph 21 in **Harbour Point Estates 1** Declaration, paragraph 17 in **Imperial Estates 1 & Imperial Estates 2, Kings Point, King's Ridge Cove** and **Kings Ridge 2** Declarations)

24. Covenants running with the Land. All of the restrictions, Covenants and conditions herein provided for and adopted shall apply to each and every lot in the Subdivision and shall be Covenants running with the land. Developer, its successors and assigns, shall have the right to enforce observance and performance of the restrictions and Covenants contained and provided for herein, and in order to prevent a breach or to enforce the observance or performance of same, shall have the right, in addition to all legal remedies or remedies elsewhere provided herein, to an injunction either prohibitive or mandatory. The owner of any lot or lots in the Subdivision affected shall likewise have the right either to prevent a breach of any such restrictions or Covenants or to enforce the performance thereof.

25. Partial Invalidity. Invalidation of any of these Covenants, restrictions or conditions by court judgment or otherwise, shall not effect, in any way, the validity of any of the other Covenants, restrictions or conditions, all of which shall remain in full force and effect. Acquiescence in any violation, shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions; and Developer shall have the right to enter the property of the violator and correct the violation, or to require that the same be corrected.

25. Each Lot owner shall be required to pay connection fees to Cape Royale Municipal utility District. To secure the payment of these fees, a lien upon and against each residential Lot is created by this instrument and the title to each Lot sold or conveyed by Owner shall be subject to the lien securing said charge. The lien provided for herein shall be subordinate and inferior to the lien of any first mortgage and/or loan for construction of improvements on the Lot including any renewals or extensions thereof, to the assessments for the Cape Royale Maintenance Fund provided for herein and to the assessments of any Condominium Maintenance Fund (**Harbour Point Estates 1**).

26. Duration of restrictions.

Property Code Chapter 211 Amendment.

The members of the Cape Royale Property Owners Association, Inc. shall have the right at any time hereafter to amend the deed restrictions applicable to the Cape Royale Subdivisions to which this consolidated declaration references, which restrictions were filed of record with the San Jacinto County Clerk, by a majority vote of the members of the Cape Royale Property Owners Association, Inc., at a special or annual meeting at which a quorum is had, voting in favor of such amendment to any or all of the restrictions, conditions, and Covenants applicable to the Cape

Royale Subdivisions, referenced herein by the members of the Cape Royale Property Owners Association, Inc., with each member who is eligible to vote being entitled to one (1) vote for each lot owned in Cape Royale Subdivision.

27. Reserve "A" Tract. With reference to the tract designated as Reserve "A" (unrestricted) on the Subdivision plat, Developer Covenants that said Reserve "A" tract shall not be used for other than residential or recreational purposes in keeping with the restrictions. (not in **Harbour Point Estates 1, Imperial Estates 1, Imperial Estates 2, Kings Point, or Kings Ridge 1** Declarations)

27. Reserve Tracts "A" to "I", inclusive. (**Royale Greens** – Reserve Tracts "A" to "G") With reference to the tracts designated as Reserve "A" to "I", inclusive, on the subdivision plat, Developer Covenants that said tracts shall be used primarily for recreational purposes (**Pine Harbour**).

28. Headings. All sections and paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, Covenants or conditions herein contained.

29. Further Development. Notice is hereby given to each purchaser of a lot in the Subdivision that Developer may in the future add an additional section or sections to the Cape Royale Subdivision. Purchasers of lots in such future sections may be entitled to use recreational facilities, if any, in the Subdivision. (**Imperial Estates 1, Imperial Estates 2, Kings Point, Kings Ridge 1 & Kings Ridge 2**).

27. Assignment to Developer. Owner. For and in consideration of Ten and no/100 Dollars (\$10.00) and other valuable consideration, does hereby transfer and assign unto Developer, its successors and assigns, a nonexclusive and joint right to enforce any of the Covenants and restrictions contained herein (**Harbour Point Estates 1**).

In the further an additional consideration of Developer's **Covenant** and agreement to keep and perform all of the obligations, duties and responsibilities of Owner under these restrictions, does hereby transfer and assign unto Developer, its successors and assigns, all of the rights, privileges, easements, benefits, powers and authority herein reserved and retained by, or for the use and benefit of, Owner (**VDM** all sections).

28. Reservations by Developer. Developer reserves the right to mix and commingle the maintenance assessments and the Cape Royale Maintenance Fund created under these restrictions and under restrictions affecting other present and future subdivisions recorded by Developer as a section of Cape Royale. In this connection Developer reserves the right to collect and receive, expend and apply all such funds for the benefit of all property owners within any such subdivisions recorded by Developer as a section of Cape Royale, past and future, and for the benefit of Developer and all lands within Cape Royale. Developer further reserves the right to assign all or any portion of its rights hereunder to the Association, subject to the assumption by the Association of Developer's duties hereunder. Developer shall not have any obligation to create the Association until at least 75% of all Lots within subdivisions recorded by Developer as a section of cape Royale shall have

been conveyed by general warranty deed to third parties, but if not sooner created, the same shall be created on or before the expiration of the initial term of these restrictions (**Harbour Point Estates 1**).

29. Definition of Recorded Subdivision. As used in these restrictions, the phrase "subdivision(s) recorded by Developer as a section of Cape Royale" shall mean any present or future platted subdivision or property subject to a declaration of condominium filed pursuant to the Texas Condominium Act, V.A.T.S. 1301a, recorded in the Map Records, Deed Records or Condominium Records of the County Clerk of San Jacinto County, Texas which bears the signature of Developer, together with a title or legend bearing the name of "Cape Royale" followed by the name or number of the section within Cape Royale by which such recorded subdivision is intended to be described. The joining by the Developer in the execution and filing of a plat declaration of condominium for the sole purposes of subordinating a lien of the Developer upon the property described in a plat or declaration of condominium, to the terms of such plat or declaration of condominium shall not, in and of itself, be such an execution of the plat or declaration of condominium as to cause any recorded subdivision or condominium resulting therefrom to be included within the meaning of the phrase "subdivision recorded by the Developer as a section of Cape Royale" as used in these restrictions. Such plat or declaration of condominium will come within the meaning of this phrase, however, if a separate statement is added to the plat or declaration of condominium, subscribed by the Developer, to the effect that such subdivision or declaration of condominium, when recorded, shall automatically come within the definition of a "subdivision recorded by the Developer as a section of Cape Royale" as used in these restrictions (**Harbour Point Estates 1**).

Definition of Recorded Subdivision. As used in these restrictions, the phrase "subdivision(s) recorded by Developer as a section of Cape Royale shall mean any present or future platted subdivision recorded in the Map Records or Deed Records of the County Clerk of San Jacinto County, Texas which bears the signature of Developer, together with a title or legend bearing the name "Cape Royale" followed by the name or number of the section within Cape Royale by which such recorded subdivision is intended to be described. The joining by the Developer in the execution and filing of a plat for the sole purposes of subordinating a lien of the Developer upon the property described in a plat, to the terms of such plat shall not, in and of itself, be such an execution of the plat as to cause any recorded subdivision resulting therefrom to be included within the meaning of the phrase "subdivision recorded by the Developer as a section of "Cape Royale" as used in these restrictions. However, by the addition of a separate statement upon the plat, subscribed by the Developer, to the effect that such subdivision represented by the plat is intended to be a section within Cape Royale, such subdivision, when recorded, shall automatically come within the definition of a "subdivision recorded by the Developer as a section of Cape Royale" as used in these restrictions (**VDM all sections**).

29. Joinder of lienholder. The undersigned lienholder joins in the execution hereof solely as lienholder for the purpose of subordinating its liens to these restrictions, reservations,

Covenants and conditions with the understanding, however, that:

Joinder of Developer. Developer hereby joins in the execution hereof for the purpose of evidencing its acceptance of the assignment as set out in Paragraph 28 above. Further, Developer as the owner and holder of certain liens against the property **Covered** by and included in these restrictions as evidenced by the vendor's lien retained in that certain Deed dated May 20, 1976, from Developer to Owner, recorded in Volume 157, Page 189 of the Deed Records of San Jacinto County, Texas, and by Deed of Trust recorded in Volume 41, Page 142 of the Deed of Trust Records of San Jacinto County Texas, does hereby join in the execution hereof as lienholder for the purpose of subordinating its liens to these restrictions, reservations, Covenants and conditions herein set forth, with the understanding, however, that: (VDM all sections).

(a) Except to the extent of subordinating its liens to the restrictions, reservations, Covenants and conditions herein provided for, such liens are continued in full force and effect as first and prior liens upon the property described in the security instruments given to secure the indebtedness now or hereafter held by the lienholder: and

(b) Said subordination excepts from the operation thereof any charge, fee or lien created in this instrument which under any theory or circumstance can be prior or equal to the liens held by the lienholder (also in **Kings Ridge 1**) (VDM all sections, **Pine Harbour** and **Royale Greens**).

20192900

Signed this 29TH day of April, 2019.

Sandra McQuiggin
Sandra McQuiggin, President

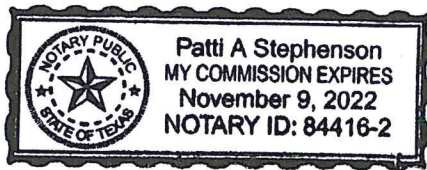
ATTEST:

[Signature]
Don Powell, Secretary

STATE OF TEXAS §

COUNTY OF SAN JACINTO §

This instrument was acknowledged before me on the 29TH day of April, 2019, by Sandra McQuiggin, President, Cape Royale Property Owners Association, Inc., a Texas non-profit corporation on behalf of said corporation.



Patti A. Stephenson
Notary Public, State of Texas

After filing return to:

Cape Royale Property Owners Association, Inc.
#6 Sales Drive
Coldspring, TX 77331

20192900

13612

Filed for Record in:
San Jacinto County

On: May 10, 2019 at 12:03P

As a
Recording

Document Number: 20192900

Amount 97.00

Receipt Number - 31848

By:
Tomi Tinsley

STATE OF TEXAS

COUNTY OF SAN JACINTO

I, Dawn Wright hereby certify that this instrument was filed in number sequence on the date and time hereon by me, and was duly recorded in the OFFICIAL PUBLIC RECORDS of San Jacinto County, Texas as stamped hereon by me on

May 10, 2019

Dawn Wright, County Clerk
San Jacinto County, Texas