

## **EXTENSION OF AND AMENDMENT TO RESTRICTIONS AND COVENANTS FOR INDIAN HILL NO. TWO**

*This document has attempted to combine the three Restriction and Amendment Documents which have been created for our subdivision Indian Hill No. Two. This is an information document.*

1. The initial restriction document was dated February 4, 1966, and signed by J. Ernest Miller, Trustee. The plat was recorded April 11, 1966. The delay was due to negotiations which involved ceding to the TRA the lots in Block 12 adjacent to Tigerville Park, a requirement in obtaining the TRA approval of the plat.
2. The second document titled First Amendment was filed December 12, 1974. This corrected the address of the Architectural Committee and confirmed the reactivated committee which was put together by Byron Sadler, at that time the sales representative. Mr. Miller was deceased and the initial committee had become ineffective. It also approved the continuation of the maintenance fee of \$12.00 per year which was scheduled to expire on January 1 1975.
3. Because of a confusion in the original document regarding the continuation of the restrictions and the need to make some needed revisions, the "extension of and Amendment To" document was prepared, approved and recorded on October 10, 2000.

THE STATE OF TEXAS

COUNT OF POLK

KNOW ALL MEN BY THESE PRESENTS THAT WE, the undersigned, being sole Owners of the lands and premises described as follows: All of Indian Hill No. Two, a subdivision of 80.5 acres out of the A. Viseca Survey, Polk County, Texas, being more particularly described by metes and bounds in plat of said subdivision filed for record in Volume 2, page 40 of the Plat records of Polk County, Texas, have established, and by these presents do establish the following restriction, on the improvement, use and sale of said property, which shall apply equally to all the lots in said subdivision as herein stated, and are (amended on October, 2000, to read as follows) for the mutual protection and benefit of all owners in said subdivision to be considered as covenants running with the land and binding upon all Lots (or tracts) within the Subdivision, and all owners of any Lot (or tract), and enforceable by any one of the land owners in said subdivision, as well as the Association herein after referenced, until November 1, 2040 A.D., at which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of a majority of the Lots (or tracts) has been recorded agreeing to change said covenants in whole or in part as hereinafter provided, to-wit:

### **RESERVATIONS**

1. There shall be reserved the utility easements and drainage easements as shown on said plat of said subdivision and an easement over all streets for the purpose of installing, using, repairing and maintaining public utilities, water, sewer lines, electric lighting and telephone poles, pipe lines and drainage ditches or structure and/or any equipment necessary for the performance of any public or quasi-public service and function, and for all other purposes incident to the development and use of said property as a community unit, with the right of access hereto for the purpose of further construction, maintenance and repairs. Such right of access to include the right, without liability on the part of any one or all of the owners or operators of such utilities, to remove any or all obstructions on said easement right-of-ways, caused by trees, brush, fences, shrubs, or other obstructions which in their opinion may interfere with the installation of or operation of their facilities. Such easement shall be for the general benefit of the Subdivision and the property owners

thereof, and are hereby reserved and created in favor of any and all utility companies entering into and upon said property for the purposes aforesaid, subject to the limitations as to water service hereinafter set forth. There is also reserved for use of all public utility companies an unobstructed aerial easement five (5') feet wide from a plane twenty (20') feet above the ground upward, located adjacent to the said easements reserved hereby.

2. Owners reserve unto themselves, their heirs, administrators, and assigns, the exclusive right at all times to use any and all areas reserved or dedicated as a public utility easement or street, for the purpose of laying, placing or construction, installing, maintaining or repairing of all kinds and types of water lines, mains or pipes as well as other equipment necessary or incidental to the operation and maintenance of water service and/or supply system and its appurtenances, to service, furnish or supply this subdivision with water.

3. There is reserved unto Owners, their heirs, administrators, and assigns, and unto the owners of residential tracts in said subdivision designated as "Boat Landing" on the plat of said subdivision as community ownership for boat launching and parking and other community type activities. The boat parking and launching areas shall be under the supervision of the Architectural committee hereinafter constituted which said Committee for purposes of beautification and conformity shall approve any structures or improvements in the same manner as provided for residential tracts.

### **EXTENSION OF AND AMENDMENT TO RESTRICTIONS AND COVENANTS FOR INDIAN HILL NO. TWO**

THE STATE OF TEXAS

COUNTY OF POLK

THIS FIRST EXTENSION OF AND SECOND AMENDMENT TO RESTRICTIONS AND COVENANTS FOR INDIAN HILL NO. TWO, sometimes referred to hereinafter as the "First Extension Second Amendment", is made effective on the date of recording hereof in the Official Public Records of Real Property of Polk County, Texas, which effective date shall be on or before November 1, 2000 (i.e., the date of recording is the "effective date").

#### **WITNESSETH:**

**WHEREAS**, INDIAN HILL NO. TWO is a Subdivision located in the A. Viesca Survey, Polk County, Texas, being more particularly described by metes and bounds in the plat of said Subdivision dated April 11, 1996, and recorded in Volume 2, Page 40 of the Plat Records of Polk County, Texas.

**WHEREAS**, Declarant, J. Ernest Miller, Trustee, heretofore executed and caused to be filed certain Restrictions and Covenants for INDIAN HILL NO. TWO SUBDIVISION recorded in Volume 213, at Page 181, of the Deed Records of Polk County, Texas (the "Restrictions and Covenants"). The Plat of INDIAN HILL NO. TWO SUBDIVISION shows three hundred twenty-nine (329) lots; however, twenty-two (22) of such lots were subsequently conveyed (in lieu of condemnation) to The Trinity River Authority of Texas, a body politic and corporate under and by virtue of the laws of the State of Texas. Such twenty-two (22) lots were referred to in a subsequent Amendment of the Restrictions and Covenants, such Amendment being recorded in Volume 297, at Page 182, of the Deed Records of Polk County, Texas. The twenty-two (22) lots previously conveyed to The Trinity River Authority of Texas, and excluded from the Restrictions and Covenants, are as follows: Lots Eighteen (18) through and including Twenty-one (21) in Block Fifteen (15) and Lots One (1) through and including Eighteen (18) in Block Twelve (12).



**WHEREAS**, the first unnumbered paragraph of the Restrictions and Covenants provides, in part, that the Restrictions and Covenants are for the mutual protection and benefit of all future owners in said subdivision to be considered as covenants running with the land and binding upon all future owners and enforceable by any one of the land owners in said subdivision until November 1, 2000, A. D., whereon such restrictions shall terminate and cease unless extended as hereinafter provided.

**WHEREAS**, paragraph No. 1 of the Restrictions and Covenants provides, in pertinent part, as follows: These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until November 1, 2000 A.D., at which time said covenants shall be automatically extended for successive periods of Ten (10) years unless an instrument signed by a majority of the then owners of the tracts has been recorded, agreeing to change said covenants in whole or in part.

**WHEREAS**, the majority of the owners of tracts (or Lots) in INDIAN HILL NO. TWO SUBDIVISION have determined that it is necessary to clarify the apparent inconsistency in the two provisions cited hereinabove, to extend the Restrictions and Covenants, and to update such Restrictions and Covenants by amendment thereof.

**WHEREAS**, the attached Signature Pages/Ballots evidence the approval of at least a majority of the owners of the tracts or Lots within INDIAN HILL NO. TWO SUBDIVISION.

**NOW, THEREFORE**, a majority of the owners of tracts (or Lots) within INDIAN Hill NO. TWO SUBDIVISION, hereby make the following extension, amendments, additions, changes and modifications to the Restrictions and Covenants, which extension, amendments, additions, changes and modifications shall run with the land and be binding and effective equally to all of the Lots (or tracts) within INDIAN HILL NO. TWO SUBDIVISION:

#### DEFINITIONS

- A. "Association" shall mean and refer to INDIAN HILL NO. TWO PROPERTY OWNERS ASSOCIATION, INC., a Texas nonprofit corporation formed or to be formed and its successors and assigns.
- B. "Common Area" shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the Owners, regardless of whether such property was original platted as a Lot.
- C. "Improved Lot" shall mean and refer to a Lot upon which a dwelling has been constructed.
- D. "Lot" or "Tract" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, excluding common area.
- E. "Member" shall mean and refer to every person or entity who holds membership in this Association.
- F. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- G. "Property" shall mean and refer to that certain real property comprising the Subdivision and any additional property as may hereinafter be brought within the Association's jurisdiction.

H.. "Subdivision" shall mean and refer to INDIAN HILL NO. TWO and any additions thereto which may hereafter be brought within the scheme of these Restrictions and Covenants.

I. "Subdivision Plat" shall mean and refer to the map or plat of INDIAN HILL NO. TWO recorded in Volume 2, Page 40 of the Plat Records of Polk County, Texas, or any re-plat of all or a portion thereof.

J. "Unimproved Lot" shall mean and refer to a Lot upon which a dwelling has not been constructed.



## RESTRICTIONS

For the purpose of setting forth a substantially uniform plan of development, Owners of said INDIAN HILL NO. TWO SUBDIVISION, do hereby covenant and provide that they, their heirs, administrators and assigns, and all parties holding title by, through and under them, shall hold such lands subject to the following restrictions running with the land which shall be observed by themselves, their heirs, administrators, and assigns, and shall run in favor of and be enforceable by any person who shall hereafter own any of said tracts of land above described, Save and Except, the boat launching area which shall not be in any manner restricted hereby unless specifically referred to, and further provided that Owners may select a tract for location of water well and facilities:

1. These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until November 1st, 2040 A.D., at which time said covenants shall be automatically extended for successive periods of Ten (10) years unless an instrument signed by a majority of the then owners of the tracts has been recorded, agreeing to change said covenants in whole or in part.
2. If the parties hereto, or any of them, or their heirs, successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for the undersigned Owners, their heirs, administrators, or assigns, to enter and abate such violation without liability, of they, their heirs, administrators, or assigns, and any other persons owning any real property situated in said subdivision shall have the right to prosecute any proceeding at law or equity against the person or persons violating or attempting to violate such restrictions, and either to prevent him or them from doing, or to cause to be removed such violation, or to recover damages for such violation.
3. The violation of any restriction or covenant herein shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against said property or any part thereof, but such lien may be enforced against any and all property covered thereby, subject nevertheless to the restrictions herein.

4.01. APPROVAL OF BUILDING PLANS. No building(s), structure(s), or other improvement(s) 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 by the Board of Directors of the Association, or by an Architectural Control Committee, composed of three (3) or more representatives appointed by the Board (the "Architectural Control Committee" or "committee"). Approval by the board or Architectural Control Committee, as applicable, shall be granted or withheld based on matters of compliance with the provisions of these restrictions and Covenants, quality of material, harmony of external design with existing and proposed structures and location with respect (to) topography and finished grade elevation. The Architectural Control Committee shall have full and complete authority to approve or disapprove the construction or alteration of any improvement on any Lot, and its judgment shall be final and conclusive. No member of the Committee or its designated representatives, as herein defined, shall be entitled to any compensation for services performed pursuant to this section 4.01. The Committee may however employ one or more architects, engineers, attorneys or other



consultants to assist the Committee in carrying out its duties hereunder, and the Association shall pay such consultants for such service as they render to the Committee. In the event that the committee fails to act upon any application within thirty (30) days after receipt thereof, such application shall be deemed DENIED in all respects.

**4.02 COMMITTEE MEMBERSHIP.** The Architectural Control Committee members shall be three (3) in number and shall be appointed by the Board of Directors, who by majority vote may designate a representative to act for them. Alternatively, the Board of Directors of the Association may serve as the Architectural Control Committee.

**4.03. REPLACEMENT.** In the event of death or resignation of any member or members of the Architectural Control Committee, the Association's Board of Directors shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

**4.04. VARIANCES.** The Architectural Control Committee may authorize variances from compliance with any of the provisions of these Restrictions and Covenants or minimum acceptable construction standards or regulations, requirements and/or guidelines as promulgated from time to time by the Architectural Control Committee, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Control Committee. If any such variances are granted, no violation of the provisions of these Restrictions and Covenants, shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of these Restrictions and Covenants for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot and the Plat.

**4.05. ADHERENCE TO GOVERNMENT CODES AND STANDARDS.** Each owner shall be solely responsible for complying in all respects with all applicable Federal, State and local building and/or electrical codes, regulations, guidelines and/or standards.

**5.01. NO IMPLIED WAIVER OR ESTOPPEL.** No action or failure to act by the Architectural Control Committee or by the Association's Board of Directors shall constitute a waiver or with respect to future action by the Architectural Control Committee or Board of Directors with respect to the construction of any improvements within the Subdivision. Specifically, the approval by the Architectural Control Committee or by the Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications or other material submitted with respect to any other residential construction by such person or otherwise.

**5.02. DISCLAIMER.** No approval of plans and specifications and no publication or designation of architectural standards shall ever be construed as representing or implying that such plans, specifications or standards will result in properly designed structure or satisfy any legal requirements of any nature.

**6.** No outside privies or toilets shall be permitted in this subdivision. All toilets shall be inside the houses and prior to the occupancy the same shall be connected to a central sewerage disposal system if there is one in existence at such time to serve the subdivision, but if no central sewerage disposal system is in existence at such time, then all toilets shall be connected to a septic tank at the expense of the person building on the building tract, and such septic tank shall have a field line and shall be constructed and maintained in accordance with the requirements of the State Health Department, and shall be subject to the inspection and approval of



such authority, provided, however, that whenever a central sewerage treatment plant and disposal system shall be established to serve this subdivision, whether publicly owned or privately owned or operated, then all of the tract owners and/or occupants to whom such sewerage disposal service is available shall connect their premises thereto for sewerage disposal, paying the established rates and all connection fees or charges therefore at their expense, and from and after the time such sewerage disposal service becomes available to any lot no septic tank whether therefore or thereafter build or installed, shall be used in connection with any tract.

7. The drainage of sewerage into a road, street, alley, ditch or any water way either directly or indirectly is prohibited. This shall not apply to the discharge of effluent from a sewerage treatment plant servicing this subdivision.

8. No tract other than the areas marked "Reserve" and "Boat Landing" shown on the plat of said subdivision filed for record shall be used except for residential purposes. The term "residential purposes" as used herein shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, boarding houses, hotels, and all other commercial uses, and all such uses of said property are hereby expressly prohibited. No building shall be erected, altered, placed or permitted to remain on any residence tract other than one detached single family dwelling and a private garage for not more than two cars.

8.01. NATURE OF BUILDING AND USE THEREOF. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single family dwelling used for residential purposes only, and with private off street parking facilities for not less than two (2) cars. As used herein, the term "Single family residential purposes" shall also be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for a garage apartment or any other apartment, for any multi-family use or for any business, educational, church, professional or other commercial activity of any type; provided, however, that notwithstanding any provision contained herein to the contrary an Owner may use a portion of his residence as a personal office for a profession or occupation, provided:

(a) the public is not invited, permitted, or allowed to enter the residence or any structure of improvement upon such Lot and conduct business therein;

(b) there is no increase in traffic in the community affiliated in any respect with the personal office;

(c) no signs advertising such profession or business are permitted;

(d) no on site employees are permitted;

(e) no noxious or offensive activity or condition, noise and/or odor are permitted;

(f) no residential address may be utilized for advertising purposes of referenced in the business directory of a telephone book;

(g) the outward appearance of a residence shall not evidence in any manner such profession or business; and

(h) such use in all respects, complies with the laws of the State of Texas, local ordinances, and the laws, rules and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters, and conforms to public policy considerations.

8.02. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents, their dependent grandparents, and their domestic servants; and (b) no more than two (2) unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, their dependent grandparents, and their domestic servants.

8.03. MINIMUM SQUARE FOOTAGE WITHIN IMPROVEMENTS. The living area of the main residential structure (exclusive of porches, garages and servants facilities) shall be not less than One Thousand Two Hundred (1,200) square feet.

8.04. PROHIBITION OF OFF-SITE CONSTRUCTION. Any dwelling or residence shall be or permanent on-site construction. No dwelling shall be constructed off-site for placement on the Lot. Accordingly, any type of prefabricated housing is specifically prohibited.

8.05. CARPORTS AND STORAGE SHEDS. A carport and/or a storage shed may be allowed on each Lot. The determination whether to allow construction of a carport or a storage shed is solely within the discretion of the Architectural Control Committee, in accordance with Paragraph Nos. 4 and 5 of these Restrictions and Covenants. The exterior appearance of the carport and/or the storage shed must be in harmony with the exterior appearance of the residence (dwelling). Neither a carport nor a storage shed may be constructed on a Lot prior to the beginning of residence construction.

8.06. LOCATION OF IMPROVEMENTS UPON THE LOT. No building shall be located on any Lot nearer to the front building line or nearer to the street side line than the minimum building setback line(s) shown on the Subdivision Plat or any re-plat; however, in no instance shall a building be located nearer to the front property line than twenty (20) feet. The main residential structure shall be located not less than twenty (20) feet from the rear property line. The main residential structure shall face the front of the Lot. No building shall be located nearer than five (5) feet to an interior lot line.

8.07. COMPOSITE BUILDING SITE. Subject to the approval of the Architectural Control Committee, any Owner of one or more adjoining Lots or portions thereof may consolidate or redivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case the side setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the Subdivision Plat. Any such resulting building site must have a frontage at the building setback lines of not less than the minimum frontage of the Lots in the same block (if more than one (1) platted Lot) is utilized as a single residence or building site, the owner thereof shall nevertheless be obligated to pay the full assessment amount (to the Association) for each such platted Lot or portion of a Platted Lot which may together constitute a composite building site, with one (1) such platted lot being deemed "improved" and the remaining platted Lot or portion thereof being deemed "unimproved" in accordance with Paragraph No. 22.09 of these Restrictions and Covenants.

9. All residences shall be located in accordance with the building lines shown on the plat if said subdivision and all residences shall be constructed on the tract to front on the street on which such tract faces. No residences shall be located nearer than five (5) feet from any side line.

10. No noxious or offensive activity shall be carried on upon any lot or shall anything be done thereon which may be an annoyance or nuisance to the neighborhood.



11. No structure of a temporary character, trailer, mobile house, basement, tent, shack, garage, barn or other outbuilding shall be used on any tract at any time as a residence either temporarily or permanently.

12. No residential structure shall be placed on a residential tract unless its living area has a minimum of 1,200 square feet of floor area excluding porches and garages.

13. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any residential tract except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purposes.

14. No sign, advertisement or billboard, or advertising structure of any kind other than a normal "For Sale" sign not to exceed nine (9) square feet in total size may be erected or maintained on any Lot in said Subdivision. The Association shall have the right to remove any sign, advertisement or billboard or structure that does not comply with the above, and in so doing shall not be subject to any liability or trespass or other sort in the connection therewith arising with respect to such removal.

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

16. No tract shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes. Garbage and waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

17. No fence, wall, hedge, or detached improvement shall be erected, grown, or maintained on any part of any tract forward of the front building line.

18. Relative to all improved Lots, the Owners or occupants of all such Lots shall at all times keep all weeds and grass thereof cut in a sanitary, healthful and attractive manner. Relative to all Lots, whether improved or otherwise, the owner thereof shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. No lot shall be used or maintained as a dumping ground for trash. Trash, garbage or other waste materials shall be kept in clean and sanitary containers awaiting immediate garbage collection or disposal. No burning of household garbage (e.g, discarded food and such) is permitted on any Lot. New building materials used in the construction of improvements erected upon any Lot may be placed upon such lot at the time of construction so long as the construction progresses without undue delay, until the completion of the improvements.

Each Owner(s) shall at all times repair and maintain his, her or their residence (dwelling), improvements and Lot in good and aesthetic condition. In the event of default on the part of the Owner or occupant of any Lot in regard to the foregoing repair and maintenance obligations, such default continuing after thirty (30) days written notice thereof, the Association, may, without liability to Owner or any occupants, in trespass or otherwise, but without being under any duty to do so, enter upon said Lot, cut, or 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 and Covenants, 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 occupation of the Lot to pay continuing lien upon the Loss against which such sums are due and the Association may reflect such charges on an Owner's assessment account and may exercise all remedies in the collection thereof as set forth in Paragraph No. 22 of these Restrictions and Covenants.



19. All residences shall be completed within four (4) months from date of beginning construction unless such period is extended in writing by Architectural Committee.

20. No boat docks, piers, boat houses, boat storage sheds, slips, pilings or rip-rap shall be constructed, placed or excavated until plans and specifications shall be approved in writing by Architectural Committee.

21. No boats or trailers may be parked in front of the front building line of any tract.

21.b. PARKING OF AUTOMOTIVE VEHICLES. No automotive vehicle shall be parked on a yard, except for temporary off-street parking not exceeding seventy-two (72) hours in duration. No such vehicle may be repaired on a Lot where such vehicle is not concealed inside a garage or other approved enclosure, with the exception of minor repairs not exceeding seventy-two (72) hours in duration. Notwithstanding the foregoing, automotive vehicles may be temporarily parked if in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

22.01. MEMBERSHIP. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot (or tract) within INDIAN HILL NO. TWO SUBDIVISION, including contract sellers, subject by these covenants of record to assessment by the INDIAN HILL NO. TWO PROPERTY OWNERS ASSOCIATION, INC. (hereinafter sometimes referred to as the "Association") and shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership. Any mortgagee or lien holder who acquired title to any Lot which is a part of the Property, through judicial foreclosure, shall be a member of the Association.

22.02. CLASS MEMBERSHIP. The Association shall have one (1) class of voting membership. Class A. Class A Members shall be all those Owners as defined in Section 22.01. Class Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership as referenced in Section 22.01. When more than one person holds 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 (1) vote be cast with respect to any Lot.

22.03. NON-PROFIT CORPORATION. INDIAN HILL NO. TWO PROPERTY OWNERS ASSOCIATION, INC., a Texas non-profit corporation has been or will be organized and it shall be governed by the Articles of Incorporation ("Articles") of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

22.04. BYLAWS. The Association may adopt whatever rules ("Rules and Regulations") or Bylaws it may choose to govern the organization; provided, however, that same are not in conflict with the terms and provisions hereof.

22.05. 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 pursuant to the applicable provision(s) of the Texas Nonprofit Corporation Act, Article 1396 of the Texas Revised Civil Statutes, or any successor statute of the State of Texas.

22.06. MEMBERS' RIGHTS OF ENJOYMENT. Every member shall have a beneficial interest of use and enjoyment in and to the Common Area and such right shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:



(a) the right of the Association to suspend the voting rights of a member for any period during which any assessment against his Lot remains unpaid; and

(b) the right of the Association to dedicate, transfer, sell or otherwise convey all or any part of the Common Area subject to conditions as may be agreed to by the members. No such dedication, transfer, sale or conveyance shall be effective unless approved by two-thirds (2/3) of the members, present in person or by proxy, at a meeting duly called for such purpose, at which meeting a quorum is present. It is anticipated that the Association may sell or convey the areas platted as a park and a boat ramp, and such areas may be sold by the Association once such sale of conveyance is approved at a vote of the membership as aforesaid. Should any such property be sold or conveyed by the Association, the Association may place any restrictions and covenants thereon that the Association's Board of Directors deem appropriate.

**22.07. RENTAL AND LEASING.** Owners must notify the Association if their Lots are leased. The Association needs to know the name of the tenant and also the correct mailing address of the Owner of the Property. Owner and Lessee shall comply in all respect with these Restrictions and Covenants.

**22.08. PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the welfare of the residents in the Property, payment of all legal and other expenses incurred in connection with the enforcement of these Restrictions and Covenants and any Rules and Regulations, payment of all reasonable and necessary expenses in connection with the collection and administration of assessments, and other charges required by these Restrictions and Covenants or that the Board of Directors of the Association shall determine to be necessary to meet the primary purpose of the Association. The use of the annual assessments for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

**22.09. ANNUAL ASSESSMENT.** Until January 1, 2005, the maximum annual assessment shall be THIRTY-FIVE AND NO/100 Dollars (\$35.00) per improved Lot and TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) per unimproved Lot.

(a) From and after January 1, 2005, the maximum annual assessment may be increased by the affirmative votes of a majority of the Association's members who are voting in person or by proxy at a meeting duly called for this purpose, at which meeting a quorum is established, written notice of which meeting shall be sent to all members not less than ten (10) days nor more that sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments resulting from a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(b) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not to exceed the then current maximum annual assessment.

**22.10. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENT.** In addition to the annual assessment authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for



this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Any such special assessments shall be payable (and the payment therefore may be enforced) in the manner herein specified for the payment and enforcement of the annual assessments, with the due dates for such special assessment being established by the Board of Directors.

**22.11. QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 22.09(a) AND 22.10.** At the first such meeting called, the presence at the meeting of members or of proxies entitled to cast thirty percent (30) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, without notice other than announcement at the meeting, and the presence of the meeting of members or of proxies entitled to cast fifteen per cent (15) of all of the votes of the membership shall constitute a quorum at any such subsequent meeting which may be held at any time not more than sixty (60) days following the preceding meeting.

**22.12. DUE DATES.** Annual assessments shall be due and payable in advance on January 1 of each year for so long as these Restrictions and Covenants are in effect. The Board of Directors shall fix the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; however, the failure by the Board of Directors to fix an annual assessment for any year shall not be deemed a waiver with respect to any of the provision of these Restrictions and Covenants or release of the liability of any member to pay assessments, or any installment thereof, for that or any subsequent year. In the event of such failure each Owner shall continue to pay the annual assessments established for the previous year until the new annual assessment is established. The new annual assessment established by the Board of Directors shall be applied retroactively to the commencement of the then current assessment year and the deficit shall be paid within thirty (30) days after receipt of a statement therefore. Written notice of the annual assessment shall be sent to every Owner subject thereto.

**22.13 EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.** Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within sixty (60) days after the due date, the assessment shall bear interest from the date of the delinquency at the rate of ten percent (10%) per annum, the Association may impose a reasonable late charge for late payments of assessment and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. Interest, late charges, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. In addition to the Association's lien for such assessment, each such Owner, by his acceptance of a deed to a Lot, hereby expressly acknowledges personal liability for such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**22.15. EXTENSION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENT/DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS.** Notwithstanding any language contained herein to the contrary or otherwise, the assessment lien provided for herein shall be considered the same vendor's lien created in Paragraph No. 22 of the Restrictions and Covenants as originally filed, and as amended and extended hereby. The assessment obligation commenced heretofore upon the recording of the initial Restrictions and Covenants for INDIAN HILL NO. TWO SUBDIVISION. The owner of each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, and (2) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest and late charges thereon and costs of collecting thereof, as hereinafter provided, shall be a charge on the Lots and shall be a continuing lien upon the property against which each such assessment is made. In order to secure the payment of the assessments hereby levied, a vendor's lien for the benefit of the Association, shall be and is hereby reserved in the Deed to the purchase of each lot of portion thereof.



23. OPERATION OF WATER COMPANY. Notwithstanding anything contained herein to the contrary, a water company may operate within the Subdivision with such wells, equipment, exterior facilities, signs, office facilities and telephone listings as are reasonably necessary or required by federal, state, or local laws, rules and/or regulations. Accordingly, to permit the efficient and legal operation of such water company providing public water to the Subdivision reasonable and necessary exceptions or variances to the requirements set forth herein may be granted by the Association.

24. Although the Subdivision is located entirely within Polk County, Texas, the Association shall nevertheless have all the powers of a property owner's association as delineated in Chapter 204 of Title 11 of the Texas Property Code, or as may be delineated in any successor statute

This FIRST EXTENSION OF AND SECOND AMENDMENT TO RESTRICTIONS AND COVENANTS FOR INDIAN HILL NO. TWO shall be effective immediately upon the recording hereof in the Official Public Records of Real Property of Polk County, Texas. Other than the above extension, changes, modifications, and/or additions, all the terms, covenants, conditions and provisions of the Restrictions and Covenants for INDIAN HILL NO. TWO SUBDIVISION, as previously amended are hereby ratified, confirmed and incorporated herein by reference.

INDIAN HILL NO. TWO PROPERTY OWNERS ASSOCIATION, INC., A TEXAS NON-PROFIT CORPORATION (the "Association") is a signatory hereof for the purpose of evidencing its approval of this FIRST EXTENSION OF AND SECOND AMENDMENT TO RESTRICTIONS AND COVENANTS FOR INDIAN HILL NO. TWO and to certify that the Association circulated a petition (by U.S. mail, hand delivery or otherwise), in the form attached, to all owners of property (i.e., tracts or Lots) located within INDIAN HILL NO. TWO SUBDIVISION as indicated in the association's official list of owners maintained in the Association's normal course of business. The Association further certifies that the Attached Signature Pages/Ballots represent the approval of the required percentage of property owners in INDIAN HILL NO. TWO SUBDIVISION.