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**DECLARATION OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**MCCALL SOUND ESTATES, EASEMENTS & ALL**  
**TRACTS OF LAND GAINING ACCESS THROUGH**  
**MCCALL SOUND ESTATES.**

THIS DECLARATION, made as of June 12, 2008, by Vise Construction & Development LLC., hereinafter referred to as "Declarant".

**WITNESSETH**

WHEREAS, Declarant is the owner of a certain tract of land containing .14.998ac, or - acres of land located in, Montgomery County, Texas, see attached Exhibit "A".

WHEREAS, Declarant desires to develop the Property and to provide for and adopt a uniform plan of covenants, easements, restrictions, conditions, dedications, reservations, charges and liens designed to govern, control and preserve the values and amenities of the Property for the better development, improvement, sale, use and enjoyment of the Property; and,

WHEREAS, Declarant desires to provide for the maintenance of certain common areas, roadways, fencing and entry gates, and to this end desires to subject the Property to the covenants, easements, conditions, dedications, restrictions, reservations, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner of any part thereof; and,

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Property, to create a nonprofit corporation to which shall be delegated and assigned the powers of maintaining, administering and enforcing these covenants and restrictions, and levying, collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Declarant has incorporated, or will incorporate, McCall Sound Property Owners Association, Inc., a Texas nonprofit corporation, and has established, or will establish, the bylaws by which said corporation shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, held, used, sold and conveyed in accordance with and subject to the following easements, restrictions, reservations, dedications, covenants, conditions and stipulations, all of which are hereby adopted for and placed upon said Property and which shall run with the Property and be binding on all parties, now and at any time hereafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of or the

manner in which any such right, title or interest is or may be acquired, and all of which shall inure to the benefit of each Owner of any part of the Property and each Owner of any other sections of McCall Sound that may be brought within the jurisdiction of the Association.

Notwithstanding any provision to the contrary contained in this Declaration, unless otherwise specifically indicated herein, these Covenants, Conditions and Restrictions do not apply in any manner to the areas designated on the Subdivision Plat as Reserves, and such Reserves and Excluded Lots are not restricted or affected in any manner by this instrument except as may be otherwise specifically provided herein. Any reserve and/or easement in which mineral production ceases, must be immediately returned to the Property Owners Association. At which point that reserve would be considered a lot and all restrictions herein would apply.

### **ARTICLE I - DEFINITIONS**

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

**Section 1.** "Association" shall mean and refer to McCall Sound Property Owners Association, Inc., a Texas nonprofit corporation, its successors and assigns.

**Section 2.** "Common Area" shall mean and refer to any properties, real or personal, owned by the Association for the common use and enjoyment of Members of the Association.

**Section 3.** "Corner Lot" shall mean and refer to a Lot which abuts on more than one street.

**Section 4.** "Declarant" shall mean and refer to Vise Construction & Development, a Texas limited liability company, its successors, and any person or entity to whom the developer's rights and privileges hereunder are specifically assigned in writing.

**Section 5.** "Lot" shall mean and refer to any of the numbered lots shown on the Subdivision Plat intended for the construction or placement of a residence, or any property that gains access though McCall Sound.

**Section 6.** "Member" shall refer to every person or entity that holds a membership in the Association.

**Section 7.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation or those owning only a mineral interest, or a royalty interest.

**Section 8.** "Properties" shall mean and refer to the real property within the jurisdiction of the Association including the Property included in the plat of the Subdivision and additional lands, including other sections of McCall Sound, added to the jurisdiction of the Association as provided herein. These covenants also include properties that gain access, now and in the future, through McCall Sound. Including but not limited the adjacent 109+/- ac. tract and gaining access through McCall Sound.

**Section 9.** "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue or thoroughfare as shown on the Subdivision Plat.

**Section 10.** "Subdivision" shall mean and refer to, McCall Sound Estates and any property that obtains an easement through McCall Sound Estates

**Section 11.** "Subdivision Plat" shall mean and refer to the recorded map or plat of the Subdivision and, where apparent from the context, the plat of any other property that becomes subject to this Declaration and any replat, partial replat, or amendment of the above-described plats or any property that gains access through McCall Sound to an adjacent tract.

## **ARTICLE II - ARCHITECTURAL CONTROL COMMITTEE**

**SECTION 1. CREATION, PURPOSE AND DUTIES.** There is hereby created an Architectural Control Committee (herein referred to as the "Committee"), initially comprised of Spencer W. Ashton and Matthew Diffendal, each of whom shall serve until his successor is appointed as hereinafter provided. The Committee shall be responsible for enforcing and maintaining the architectural integrity of the improvements constructed or placed on the Lots and the quality of workmanship and materials utilized in the construction of such improvements in conformity with the restrictions herein. An action approved by a majority of the members of the Committee shall be deemed to be an act of the Committee. The duties and powers of the Committee, its successors and the designated representatives as provided for hereinbelow, shall cease on the earlier of December 31, 2036. A majority of the Committee may designate one member to act for it. In the event of the death or resignation of any person serving on the Committee, the Declarant shall designate a successor or successors who shall have all of the authority and power of his or their predecessor(s). Until such successor member of members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers herein granted to the Committee.

The Committee shall meet from time to time as is necessary to perform its duties hereunder. The Committee shall report in writing to the Board of Directors all final actions of the Committee and the Board of Directors shall keep a permanent record of such reported action.

No person serving on the Committee shall be entitled to compensation for services performed; provided, however, the Committee may 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 services rendered to the Committee; provided, further, however, the members of the Committee shall be entitled to such compensation for services rendered and reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board of Directors may from time to time authorize or approve.

**SECTION 2. POWERS OF THE COMMITTEE.** No building, structure or other improvements shall be commenced, erected, maintained, constructed, or placed on any Lot, and no exterior alteration, including the removal of any trees therein shall be made until the site plan (including a description of the trees to be cleared on the Lot) and the final working plans and specifications have been submitted to and approved in writing by the Committee as to conformity with the restrictions herein contained and harmony of external design and location in relation to existing structures and topography. In the event the Committee fails to approve or disapprove the site plan and plans and specifications for proposed improvements or clearing within sixty (60) days after submission of all such materials to the Committee, approval thereof shall be deemed to have been given; provided, however, failure to approve or disapprove such site plan and final working plans and specifications shall not be deemed to permit the construction of any improvements in a manner prohibited under the terms of this Declaration. Plans must be sent via Certified Mail, return receipt requested or hand delivered to 2017 Airport Rd., Conroe, Texas 77303.

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

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

notice of disapproval from the Committee or (b) failure by the Committee to respond to the request for variance. The Committee shall have no authority to grant any variance except in the instances expressly provided herein.

**SECTION 3. NON-LIABILITY FOR COMMITTEE ACTION.** No member of the Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed an approval of, any building or improvement from the standpoint of safety, whether structural or otherwise, or conformance with existing building codes, governmental laws or regulations. Furthermore, no member of the Committee, any officer or member of the Board of Directors or the Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such individuals were acting on behalf of the Association, the Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board of Directors, or the Committee, or their officers, agents, members or employees, shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements, or portion thereof, or for failure to repair or maintain the same.

### **ARTICLE III - McCall Sound PROPERTY OWNERS ASSOCIATION**

**SECTION 1. ORGANIZATION.** Declarant has caused, or will cause, McCall Sound Property Owners Association, to be organized and formed as a nonprofit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure and management of the maintenance funds, enforcement of the restrictions contained herein, providing for the maintenance, preservation and architectural control of the Lots, the general overall supervision of all of the affairs of and the promotion of the health, safety, and welfare of the Owners and residents within the Properties.

**SECTION 2. BOARD OF DIRECTORS.** The Association shall act through a Board of Directors, which all manage the affairs of the Association as specified in the By-Laws of the Association. The number of Directors shall be as set out on the Bylaws of the Association, as amended from time to time, but not to exceed 5 directors.

**SECTION 3. MEMBERSHIP.** Every Owner in the Properties shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any property that is subject to assessment by the Association. For the adjacent 109ac tract

**SECTION 4. VOTING.**

Each lot and adjacent 109ac tract will be allowed one vote for every home owner membership paid. For example, if two single family house holds are built on the property and \$500 dollars is paid for each house hold, then the said 109ac tract will be represented by two votes.

The adjacent 109ac tract will pay a minimum of a one vote membership per year.

#### **ARTICLE IV - MAINTENANCE ASSESSMENTS**

**SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS.** The Declarant, imposes on each Lot or Tract within the Subdivision, and the Owner of each Lot or Tract, by acceptance of an easement to McCall Sound, whether or not it shall be expressed in the Deed or other evidence of conveyance, is deemed to covenant and agree to pay the Association the following:

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

These assessments and charges ( including fines levied by the Board of Directors of the Association for violations of the covenants, conditions and restrictions herein), together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment, charge or fine, together with such interest, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments, charges and fines shall not pass to successors in title unless expressly assumed by them.

**SECTION 2. PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and residents in the Subdivision and Properties, for the improvement and maintenance of the Common Area, if any. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and acquisition expenses incurred by the Association and, at the option of the Board of Directors of the Association, for any and all of the following purposes: street lighting, improving and maintaining streets, alleyways, paths, easements, and esplanades in the Subdivision; collecting and disposing of garbage, ashes, rubbish and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and

charges and in connection with the enforcement of this Declaration; providing for the planting and upkeep of trees, grass and shrubbery in esplanades, easements, and in the Common Area; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the lands within the Properties in a neat and good order or which they consider of general benefit to the Owners or occupants of the Properties, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. The judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

**SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** The annual assessment per Lot is hereby set at five hundred dollars (\$500.00) Dollars for the calendar year 2006. During the years 2007, the Board of Directors of the Association at its sole discretion may increase the annual assessment by a maximum amount equal to a ten percent (10%) increase over the annual assessment for the previous year without a vote of the Members of the Association. Each year after 2007, the annual assessment may be increased by more than ten per cent (10%) by a vote of two-thirds (2/3rds) of the Members who are voting, in person or by proxy, at a meeting duly called for this purpose. 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 in excess of the maximum. Annual assessments may be collected in advance on a monthly basis at the Board's election.

The associated 109+or- ac will pay a minimum of one a lot membership per year. But if the stated tract is subdivided, each subdivision will be held accountable for an annual assessment. For example, if the tract is divided into six tracts, all six tracts will be accountable for \$500 per tract for a total of \$3000.00.

**SECTION 4. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS.** In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3 rds) of the votes of the Members who are voting, in person or by proxy, at a meeting duly called for this purpose. Special assessments may be collected on a monthly basis at the Board's election. At the sole discretion of the Board, a special assessment may be levied subject to the following limitations: (1) can only exercise this right once every 5 years; and (2) amount cannot be more than twice the annual assessment amount. Special Assessments shall commence as to each Lot on the conveyance of such Lot by the Declarant.

**SECTION 5. NOTICE AND QUORUM.** Written notice of any meeting called for the purpose of taking any action under Sections 3 or 4 above shall be sent to all Members not less than ten (10) days nor more that sixty (60) days in advance of the

meeting. At such meeting, the presence of Members or of proxies entitled to cast twenty per cent (20%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than (60) days following the preceding meeting.

**SECTION 6. RATES OF ASSESSMENT.** Both annual and special assessments on all Lots (except Lots owned by Declarant) shall be fixed at uniform rates.

**SECTION 7. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT.** The annual assessment provided for herein shall commence as to each Lot on the conveyance of such Lot by the Declarant. Such assessment shall be adjusted according to the number of months remaining in the calendar year. On or before the 31st day of December in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. If the Board of Directors does not fix the amount of the annual assessment for the next calendar year, it shall remain the same as the previous year's assessment. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance. Assessments for current year shall be due at closing, but shall be prorated from the date of closing until the end of the year.

**SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION.** Any assessments, charges or fines which are not paid when due, shall be delinquent. If an assessment, charge or fine is not paid within thirty (30) days after the due date, it shall bear interest from the original due date until paid at the lesser of eighteen per cent (18%) per annum or the highest non-usurious rate permitted by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or against the then Owner of the subject Lot(s) to foreclose the lien herein retained against the respective Lot or Lots. Interest as above specified, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment, charge or fine as a charge. Each such Owner, by his acceptance of a Deed, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments, charges and fines as a debt and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with the lien; provided however, the Association may not foreclose the Association's lien if the debt secured by the lien consists solely of fines assessed by the Association or attorney's fees incurred by the Association solely associated with fines assessed by the Association. 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.

**SECTION 9. SUBORDINATION OF THE LIEN TO MORTGAGES.** As hereinabove provided, the title to each Lot shall be subject to a lien securing the payment of all assessments, charges and fines due the Association, but the lien shall be subordinate to the lien of any purchase money first mortgage. The sale of any Lot shall not affect the lien in favor of the Association; **PROVIDED, HOWEVER,** the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment, charge or fine as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

**SECTION 10. EXEMPT PROPERTY.** All properties dedicated to, and accepted by, a local public authority shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot that is used as a residence shall be exempt from said assessments and charges.

**SECTION 11. LOTS OWNED BY DECLARANT.** Notwithstanding any provision to the contrary in this Article IV or in this Declaration in general, no annual or special assessments or charges shall accrue or be assessed against Lots owned by the Declarant, whether such Lots are unsold Lots remaining in Declarant's inventory or have been previously sold or conveyed and subsequently foreclosed or repossessed by Declarant.

## **ARTICLE V-PROPERTY RIGHTS**

**SECTION 1. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT.** Subject to the provisions herein stated, every Member shall have an easement of access and a right and easement of enjoyment in the Common Area, if any, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

- (a) The Association shall have the right to borrow money and, upon approval by Owners representing two-thirds (2/3rds) of the total votes of the Members of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.
- (b) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.

(c) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, if any, and to suspend the enjoyment rights and voting rights of any Member for any period not to exceed ninety (90) consecutive days for any infraction of such rules and regulations.

(d) Upon approval by Owners representing two-thirds (2/3rds) of the total votes of the Members of the Association, the Association shall have the right to dedicate, sell or transfer all or any part of the Common Area, if any, to any public agency or authority for such purposes and subject to such conditions as may be approved by said two-thirds (2/3rds) vote of the Members; provided, however, nothing contained herein shall be construed to limit the right of the Association to grant or dedicate easements in portions of the Common Area, if any, to public or private utility companies.

**SECTION 2. DELEGATION OF USE.** Each Member shall have the right to extend his rights and easements of enjoyment to the Common Area, if any, to the members of his family, to his tenants who reside in the Subdivision, and to such other persons as may be permitted by the Association.

**SECTION 3. LIABILITY OF OWNERS FOR DAMAGE BY MEMBER.** Each Member shall be liable to the Association of any damage to the Common Area or for any expense or liability incurred by the Association, to the extent not covered by insurance, that may be sustained by reason of the negligence or willful misconduct of such Member or for any violation by such Member of this Declaration for any of the rules or regulations adopted by the Board of Directors. The Association shall have the power to levy and collect an assessment against a Member, after notice and hearing, to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of this Declaration or of its rules and regulations, or for any increase in insurance premiums directly attributable to any such damage or any such violation.

**SECTION 4. ASSOCIATION POWERS IN THE EVENT OF CONDEMNATION.** If any Common Area or interest therein is taken under exercise of the power of eminent domain or by private purchase in lieu of condemnation, the award in condemnation or the price payable shall be paid to the Association, except to the extent payable to any mortgagee of any such property, or to any Lot Owner, to the extent such Common Area consists of an easement over the Lot of the Owner in question. The Association shall have the exclusive right to participate in such condemnation proceeding and to represent the interest of all Owners therein. Any award or funds received by the Association shall be held by the Association as determined by the Board of Directors, as reserve for future maintenance, repair, reconstruction, or replacement of the Common Area or may be used for improvements or additions to or operations of the Common Area.

## **ARTICLE VI-USE RESTRICTIONS**

**SECTION 1. RESIDENTIAL USE.** Each and every Lot (including reserve areas) is hereby restricted to residential dwellings for single-family residential use only. No business, professional, commercial or manufacturing use shall be made of any of said Lots, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence; provided, however, an Owner of a Lot in the Subdivision may use his residence for professional or other home occupations such as the maintenance of a personal library, the keeping of personal business or professional records or accounts, or for the handling of personal business or professional telephone calls or correspondence so long as there are no external evidences thereof (such as signs, advertising a business or consulting in person with clients or customers or employees at the Lot), and no unreasonable inconvenience to such Owner's neighbors. No structure other than one single family private residence and its garage appurtenant thereto and no more than one related outbuildings shall be constructed, placed on, or permitted to remain on any Lot in the Subdivision.

( The only exception to the number of single family private homes is to the 109+ or - ac that gain access through McCall Sound Estates. The area shall be allowed six single family private homes, six garages and six associated out buildings.)

No mobile homes, manufactured homes or modular homes will be permitted in the Subdivision or any property that gains access through McCall Sound.) All residences must have a fully enclosed or detached garage capable of accommodating at least two (2) but no more than four (4) vehicles. No mobile homes, manufactured homes or modular homes will be permitted in the Subdivision. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes, or apartment houses. Every lot is hereby restricted from being used as a right of way, easement, or access road of any kind, except as approved by the Declarant.

**SECTION 2. ANIMALS AND LIVESTOCK.** No swine or poultry of any kind shall be raised, bred or kept on any Lot. A maximum of one horse or cow per acre will be allowed. Consistent with its use as a residence, a maximum of five (5) dogs, cats, or other household pets may be kept on a Lot, provided that they are not kept, bred, or maintained for any business purposes. All animal houses must be located out of view from the street. Additionally, all county leash laws related to animals shall apply. Dogs, cats, and other household pets must be contained by a fence or by a leash at all times.

**SECTION 3. NUISANCES.** No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision.

**SECTION 4. STORAGE AND REPAIR OF VEHICLES.** Unless otherwise approved by the Committee, no boat, boat trailer, boat rigging, trailer, truck larger than a one ton pick-up (including commercial vans), bus, inoperable automobile, or camper or RV shall be parked or kept in the street, in front of or side of any Lot, or on any Lot unless such vehicle is stored within a garage or completely concealed from public view

from the street. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets. For the purposes of the foregoing term, "temporary" shall mean that the vehicle shall not remain in driveways or streets in excess of twenty-four (24) hours. All ATV, motorcycles, mower, tractor, or other small engine shall be parked or kept on any Lot unless such vehicle is stored within a garage or completely concealed from public view from the street

All personal vehicles must be parked on a driveway. All driveways shall be constructed of concrete or pavenstone and shall be at least ten (10) feet wide extending from the street to the Owner's residence. The parking of vehicles other than on the driveway is expressly prohibited.

**SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY.**

Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. and 9:00 p.m.

**SECTION 6. OWNER'S LIABILITY FOR CONTRACTOR'S DAMAGE.**

The Board of Directors may establish guidelines for building contractors and home movers whose trucks and equipment will be used on the Properties. A copy of such guidelines may be given to Owner upon approval by the Committee of Owner's plans. It will be Owner's responsibility to provide such guidelines to the contractor or the mover. In the event the Common Areas of the Property are damaged as a result of Owner's contractor or mover, the provisions of Article V, Section 3 shall apply.

**SECTION 7. DISPOSAL OF TRASH.**

No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened from the view of any streets. Equipment used for the temporary storage and/or disposal of such materials prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal, said equipment may not stay on lot more than 30 days. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

**SECTION 8. BUILDING MATERIALS.**

Unless otherwise approved by the Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a

suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the street.

**SECTION 9. MINERAL PRODUCTION.** No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

**SECTION 10. NO FURTHER SUBDIVISION.** No Lot or residential unit thereon in the Subdivision may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof except for the retention of easements and Common Areas by the Declarant, without the prior written approval of the Declarant. Nothing in this Section 10 of Article VI shall be deemed to prevent an Owner from, or require the approval of the Committee for, (a) selling or leasing of an entire Lot; or (b) transferring or selling any Lot to more than one (1) owner to be held by them as tenants in common, joint tenants, or tenants by the entirety. The adjacent 109ac tract may be subdivided into 6 tracts. All subdivide tracts are subject to all the restriction stated here in.

**SECTION 11. MAINTENANCE OF LOT; LANDSCAPING.** Owners shall regularly mow all Lots such that the grass and other vegetation are never permitted to exceed six (6) inches in height. The Lot Owner shall also maintain, in a similar manner, the area between the property line and the pavement of a street, any all areas on the sides or back the residence.

**SECTION 12. OUTDOOR BURNING PROHIBITED.** No outdoor burning of household trash shall be permitted on any Lot except in connection with the initial clearing of such Lot for the construction or placement of a residence thereon.

## **ARTICLE VII-ARCHITECTURAL RESTRICTIONS**

**SECTION 1. TYPE OF RESIDENCE.** Only one residence shall be built on each Lot. There shall be no basements, tents, shacks, garages, trailers, buses, barns, or other outbuildings erected or placed on any of said Lots to be used at any time as a residence, and all of the outbuildings must be kept painted and in a state of good appearance and repair at all times. No building shall be erected or placed on any Lot that has not been first approved by the Committee. Only one non-residence outbuilding (in addition to house & garage) allowed on each lot and it must match house in color and appearance. This outbuilding may not be over 5,000 square feet. All structures shall be of new construction and no structure shall be moved from another location onto any Lot without the approval of the Committee. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

The only exception to the number of single family private homes is to the 109+ or - ac that gain access through McCall Sound Estates. The area shall be allowed six single family private homes, six garages and six associated out buildings.

**SECTION 2. LIVING AREA AND CONSTRUCTION REQUIREMENTS.** All one (1) story residences shall contain not less than three thousand (3,000) square feet unless otherwise approved by the Committee. Unless otherwise approved by the Committee, all two (2) story or one and one-half (1 ½) story residences shall contain not less than three thousand three hundred (3,500) square feet.

Exterior materials must consist of 80% masonry or stone after subtracting window and door area. All areas visible from the street must be covered in stone, stucco and/or brick. No hardy plank or plank type material may be visible from the street.

The committee reserves the right to specify a particular roof pitch, minimum roof pitch may vary from residence to residence.

**SECTION 3. SEQUENCE OF BUILDING.** Without the prior written consent of the Committee, no garage or other service function building of the dwelling establishment shall be erected or placed upon any Lot until construction of the dwelling has been started and is actually being constructed. All structures must be approved by the Committee before construction begins.

**SECTION 4. LOCATION OF RESIDENCE ON LOT.** The location of each residence on a Lot will be approved by the Committee with its approval of the site plan and the final working plans and specifications. No residence or other building shall be located on any Lot nearer to the front or rear boundary lines or nearer to the side boundary lines than the minimum building setback lines as shown or referenced on the Subdivision Plat. If not otherwise depicted or referenced on the Subdivision Plat, the applicable minimum building setback lines on each Lot shall be ten feet (25') for the side and 25 foot rear property lines and sixty feet (60') for the front property line.

**SECTION 5. CONSTRUCTION PERIOD EXCEPTION.** During the course of actual construction of any permitted structure or improvement thereunder, and provided construction is proceeding with due diligence, the Committee temporarily shall suspend the provisions of Article VI contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of the construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of the other properties within the Subdivision.

**SECTION 6. TEMPORARY BUILDINGS.** No temporary buildings or structures shall be permitted on any Lot.

**SECTION 7. FENCES.** The construction or installation of walls, fences, and hedges by Owners shall be subject to the approval by the Committee in accordance with the provisions of this Declaration. All walls or fences on the front of each property shall be a maximum of six (6) feet in height and shall be approved by the Committee. Fences on side and rear can be six (6) feet in height and shall be approved by the Committee. No wall, fence or hedge may be situated on any Lot closer to the street or front boundary line than the front of the residence located on the Lot. Owners shall construct and maintain a fence or other suitable enclosure as approved by the Committee to screen from public view, yard equipment and woodpiles or storage piles. The Owner shall be responsible for maintaining and repairing all walls, fences and hedges located on the Owner's Lot. Any fences that are used fences used on the perimeter of any property must be a minimum of a four board fence and painted black or white in color. Barbed will not be allowed on any perimeter fences.

**SECTION 8. GRASS AND SHRUBBERY.** Grass and weeds shall be kept mowed so that the height from the ground level up does not exceed six (6) inches. All lawns shall consist of San Augustine or Bermuda grass. Shrubs and preserved natural area and other landscaping must be kept in a neat and attractive manner and is subject to committee approval at the discretion of the Committee. If the height of the grass on a Lot exceeds six (6) inches and after ten (10) days written notice to Owner of his violation of these covenants and said condition remains, the Association by its representative shall have the right of entry onto the property for the purpose of mowing the grass and/or underbrush with the Owner being billed for the expense. If the expense remains unpaid for thirty (30) days, the unpaid account shall be considered an assessment and subject to collection as set out under Article IV Section 8 herein. Dead or damaged trees which might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damages caused by such removal. Trees having a diameter of six (6) inches or greater shall not be removed without the consent of the Committee. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that the Declarant may designate fill areas into which materials specified by Declarant may be placed. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain and replace such shrubbery or other screening devices.

**SECTION 9. GARAGES.** Garages must be a 2, 3, or 4 car garage. Garage square footage is limited to 35% of the living space square footage of the residence. Garages must be located on the side or back of home. No front loading garages will be allowed.

**SECTION 10. SIGNS.** No signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Committee other than one sign of not more 600 square inches advertising the particular

Lot on which the sign is situated for sale or rent; provided however such sign must be located in a window of the dwelling unless otherwise approved by the Committee. The right is reserved by Declarant to construct and maintain in any location signs, billboards, and advertising devices as is customary in connection the sale of newly constructed residential dwellings. In addition, the Declarant and the Association shall have the right to erect identifying signs at each entrance to the Subdivision.

**SECTION 11. TRAFFIC SIGHT AREAS.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be permitted to remain on any Corner Lot within ten (10) feet of the point formed by the intersection of the building set back lines of such Lot.

**SECTION 12. EXTERIOR ANTENNAE.** No radio or television wires, antennae or satellite dish shall be placed so as to be visible to the public view from any street, except as approved by the Committee.

**SECTION 13. CONSOLIDATION OF LOTS.** Any person owning two or more adjoining Lots may consolidate such Lots into a single building site with the privilege of constructing improvements permitted herein. The resulting building site shall be considered a single Lot for the purpose of the minimum setback lines. However, for all other purposes, including voting and the payment of annual maintenance assessments and special assessments, the Lots comprising the building site shall remain separate and distinct.

**SECTION 14. MAILBOXES.** Mailboxes, house numbers and similar matter used in the Subdivision must be harmonious with the overall character and aesthetics of the community. All mailboxes must be brick or stone to match the home and have a permanently lighted address block. A house number must be placed on each house within two (2) weeks after the later of the date of closing or the date that the Owner moves into the house.

**SECTION 15. AIR CONDITIONERS.** No window or wall type air conditioners shall be permitted in any residence, but the Committee, at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from any street.

**SECTION 16. INTERFERENCE.** No radio or television signal or any other forms of electromagnetic radiation shall be permitted to originate from any Lot that unreasonable interferes with the reception of television or radio signals upon any other Lot.

**SECTION 17. WATER SUPPLY.** Water well systems shall be constructed or used on any Lot, each owner may use the utility services provided by the Declarant or other designated utility operator for the Subdivision. No privy, cesspool or outdoor toilets shall be placed or maintained on any part of the Properties and all indoor toilets



and baths shall be installed with and connected to the sanitary sewer system. Temporary toilets may be used during initial construction of the residence.

**SECTION 18. SOUND DEVICES.** No horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect a residence, shall be placed or used on any Lot or on any residence. This paragraph shall not preclude the use of outdoor speakers for hi-fi's, stereos, or radios if the sound level is maintained at a reasonably low level with respect to the adjoining property.

**SECTION 19. TRASH OR WASTE DISPOSAL.** The Association may enter into contracts with a commercial waste disposal company that grants that company the exclusive right for the trash collection and waste disposal in the Subdivision. Owner shall be responsible to contract individually with such company for the collection and removal of Owner's trash or waste from the Subdivision.

**SECTION 20. SOLAR COLLECTORS.** No solar collector shall be installed without the prior written approval of the Committee. Any such installation shall be in harmony with the design of the residence that is it used in conjunction with. Solar collectors shall be installed in a location not visible from any street in front of the residence.

**SECTION 21. PRIVATE UTILITY LINES.** All electrical, telephone, and other utility lines and facilities that are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

**SECTION 22. PROPANE AND BUTANE STORAGE TANKS.** No tanks for the storage of propane or butane shall be placed in public view on any Lot

**SECTION 23. NATURAL GAS SUPPLY.** All homes have the option of natural gas powered water heaters, natural gas powered home heating systems, and natural gas powered stoves and ovens.

**SECTION 24. CLOTHESLINES.** All clotheslines must be set behind any residence, completely concealed from public view from any street.

**SECTION 25. ENFORCEMENT OF LOT MAINTENANCE.** In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, Declarant or the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with the restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Declarant or Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt.

In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Declarant, the Association, or their agents and employees shall not be liable and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

**SECTION 26. DAMAGE OR DESTRUCTION OR IMPROVEMENTS.** The Owners are bound and obligated through the purchase of a Lot to maintain the Lot and all improvements thereon in a neat and habitable manner. In the event of damage to any improvements, the Owner shall have the shorter of the period permitted by applicable law or sixty (60) days to begin repairing or demolishing the destroyed or damaged portion, and once commenced, such repairs or demolition must be pursued diligently to completion. If, however, damage to the improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board of Directors within sixty (60) days from the date of such destruction or damage. The Board of Directors shall rule on the Owner's application of a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a "hardship" extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Committee, so as to present a pleasing and attractive appearance.

## **ARTICLE VIII-STREETS AND EASEMENTS**

**SECTION 1. ROADS AND STREETS.** The roads and streets in the Subdivision are not private and shall be operated as county maintained roads.

Subject to the terms and conditions of this Section, the roads and streets in the Subdivision as shown on the Subdivision Plat are hereby dedicated as utility easements strictly for the purpose of constructing, operating, maintaining or repair a system(s) of electric lighting, electric power, telegraph and telephone lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utilities that the Declarant sees fit to install (or permit to be installed) in, across and/or under the Property. The dedication of the roads and streets as utility easements shall not affect operation of the roads and streets in the Subdivision as private streets.

**SECTION 2. UTILITY EASEMENTS.** Easements for the installation and maintenance of utilities are reserved as shown or provided for on the Subdivision Plat or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the

Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

**SECTION 3. CABLE TELEVISION.** Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies and Declarant shall have the right and power in such agreement or agreements to grant to such cable television companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements and right-of-ways dedicated by the Subdivision Plat or by separate instruments pertaining to the Subdivision. Declarant does hereby reserve unto itself, its successors and assigns, the sole and exclusive right to receive and retain all income, revenue or other things of value paid by such cable television company or companies pursuant to any such agreements.

#### **ARTICLE IX-ENFORCEMENT.**

**SECTION 1. STANDING TO ENFORCE; REMEDIES.** The Declarant, the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions and liens contained herein. Owners shall not have the right to enforce annual assessments and special assessments. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. Nothing herein shall be construed as imposing any obligation on the Declarant, the Association or any Owner to enforce the covenants, conditions, restrictions or liens contained herein.

**SECTION 2. FINES FOR VIOLATIONS.** The Association may assess fines for violations of the By-Laws of the Association, any architectural design guidelines promulgated by the Committee, any rules and regulations adopted by the Association relating to use of the Common Area, and the restrictive covenants contained in this Declaration (other than non-payment or delinquency in assessments) in amounts to be set by the Board of Directors, which fines shall constitute a lien on each Lot of the Owner against whom such fine is imposed, and such fines shall be recoverable in the same manner as the annual and special assessments; provided however, the Association may not foreclose the Association's lien if the debt secured by the lien consists solely of fines assessed by the Association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.

#### **ARTICLE X-GENERAL PROVISIONS.**

**SECTION 1. DURATION.** This Declaration shall remain in full force and effect until December 31, 2036 and thereafter shall, as then in force, be extended automatically

and without further notice, and without limitation, for successive periods of five (5) years each, unless modified or terminated in the manner hereinafter set forth.

**SECTION 2. AMENDMENT, MODIFICATION OR TERMINATION.** This Declaration may be amended or modified at any time in any particular or terminated in its entirety by the recording in the Official Public Records of Real Property of Montgomery Count, Texas of an amendment or termination instrument, signed by Owners representing two-thirds (2/3rds) of the total votes of the Members of the Association. Additionally, Declarant reserves the right to amend this Declaration without the joinder of any Owner or Member.

**SECTION 3. NOTICES.** Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

**SECTION 4. VIOLATION OF RESTRICTIONS.** Enforcement of the provisions hereof shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain or prevent such violations or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the Owner of any Lot, or by the Declarant, its successors or assigns, or by the Association. Additionally, the Association may enforce the restrictive covenants herein contained by the assessment of fines as provided in Section 2 of Article IX above. The failure of any person entitled to enforce any of the provisions hereof to enforce the same shall in no event be deemed a waiver of the right to enforce this Declaration thereafter.

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

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

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

**SECTION 8. SEVERABILITY.** Invalidation of any one of these covenants by judgment or other court order shall in no way affect any other provision, which shall

remain in full force and effect except as to any terms and provisions which are invalidated.

**SECTION 9. GENDER AND GRAMMAR.** The singular whenever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

**SECTION 10. TITLES.** The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

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

**SECTION 12. ANNEXATION.** Additional property may be annexed into the jurisdiction of the Association by recorded restrictions upon the consent of two-thirds (2/3rds) of the total votes of the Members of the Association; provided, however, Declarant may annex additional stages of development without such approval by the Members. The Owners of Lots in such annexed property, as well as all Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Areas, if any, that may become subject to the jurisdiction of the Association, Provided that such annexed property shall be impressed with and subject to the annual maintenance assessment imposed hereby on a uniform per Lot basis.

**SECTION 13. MERGER AND CONSOLIDATION.** Upon a merger or consolidation of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights and obligations may be transferred to the surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants, conditions, and restrictions established by this Declaration, together with the covenant, conditions, and restrictions applicable to the properties of the other association, as one scheme. However, such merger or consolidation shall not affect any revocation, change or addition to the covenants established by this Declaration and no merger or consolidation shall be permitted except with the assent of Owners representing two-thirds (2/3rds) of the total votes of the Members of the Association

**SECTION 14. DISSOLUTION.** The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3rds) of each class of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for conveyances to an

appropriate public or governmental agency of Montgomery County, Texas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization devoted to such similar purposes.

**SECTION 15. RIGHT OF ENTRY; ENFORCEMENT BY SELF-HELP.** During reasonable hours subject to reasonable security requirements, the Association and its authorized agents and representatives shall have the right, in addition to and not in limitation of all of the rights it may have under this Declaration, to enter upon any Lot, including any improvements located thereon, for emergency, security, maintenance, repair or safety purposes, which right may be exercised by the Associations' Board of Directors, officers, agents, employees, managers and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in any emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of a Lot. Authorized personnel of the Association performing outside lawn and landscape maintenance shall also have such right of entry. Any such entry shall constitute an authorized entry and the Declarant, the Association, or their agents and representatives shall not be deemed guilty of trespass by reason thereof. In addition to any other remedies provided herein, the Association or its duly authorized agent shall have the power to enter upon any Lot to abate or remove, using such force as is reasonably necessary, any improvement that is made to the Lot, other structures, thing or condition that violates this Declaration, or any use restrictions. Unless an emergency situation exists, such self-help shall be preceded by written notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments. All such entries shall be made with as little inconvenience to the Owner as is practicable in the judgment of the Association and any damages caused thereby (as distinguished from repairs with respect to which the Association is entitled to an assessment and lien to be reimbursed) shall be borne by the Association.

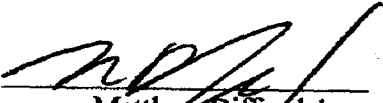
**SECTION 16. EASEMENT CONDITIONS**

As condition of any property that gains easement through McCall Sound Estates, all conditions of these restrictions will apply to that easement and any property that the easement is granted to. **THESE CONDITIONS MUST BE FILE ON THE PROPERTY GAIN THE EASEMENT BEFORE THE EASEMENT IS GRANTED, only the Declarant is not subject to this condition.**

IN WITNESS WHEREOF, the Declarant, has executed this Declaration this the 27  
day of July, ~~2006~~ 2009.

Vise Construction & Development  
LLC., a Texas Limited Liability  
Company

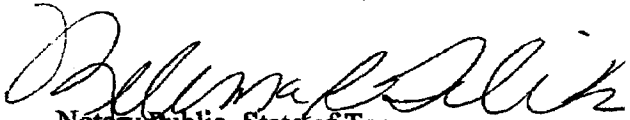
By:

  
Matthew Diffendal,  
President

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

~~2003~~<sup>2009</sup> This instrument was acknowledged before me this the 27 day of July, 2003, by Matthew Diffendal, President of Vise Construction & Development, L.L.C., a Texas limited liability company.

  
Notary Public, State of Texas



RETURN TO:  
STEWART TITLE CO.  
14080 FM 2920 #E  
TOMBALL, TEXAS 77377

**EXHIBIT "A"**

**FIELD NOTES**

January 14, 2008

14.991 Acres

Samuel Stokes Survey, A-520  
Montgomery County, Texas

Being 14.991 acres of land situated in the Samuel Stokes survey, A-520, Montgomery County, Texas, described in deed as 15 acres recorded under County Clerk's File No. 8320896 of the Real Property Records of Montgomery County, Texas, said 14.991 acres of land being more particularly described by metes and bounds as follows:

**BEGINNING** at an axle found for the southeast corner of a certain 30 acres of land as described in deed recorded under County Clerk's File No. 2001-041751 of the Real Property Records of Montgomery County, Texas, the northeast corner of a certain 9.8 acres of land as described in deed recorded under County Clerk's File No. 99019782 of the Real Property Records of Montgomery County, Texas, and the westerly northeast corner of a certain 27.64 acres of land as described in deed recorded in Volume 270, Page 392 of the Deed Records of Montgomery County, Texas, same being the southwest corner and **POINT OF BEGINNING** of the herein described tract;

**THENCE** North 03 degrees 28 minutes 21 seconds West, along the east boundary line of the said 30 acres of land and the west boundary line of the herein described tract, a distance of 870.35 feet to a 5/8 inch iron rod found for the southwest corner of a certain 64.77 acres of land as described in deed recorded in Volume 565, Pages 197 and 198 of the Deed Records of Montgomery County, Texas, and the northwest corner of the herein described tract;

**THENCE** North 87 degrees 55 minutes 52 seconds East, along the south boundary line of the said 64.77 acres of land and the north boundary line of the herein described tract, a distance of 753.74 feet to a 5/8 inch iron rod found in the west boundary line of a certain 310.7536 acres of land as described in deed recorded under County Clerk's File No. 8344373 of the Real Property Records of Montgomery County, Texas, for the northeast corner of the herein described tract;

**THENCE** South 03 degrees 04 minutes 29 seconds East, along the west boundary line of the said 310.7536 acres of land and the east boundary line of the herein described tract, a distance of 870.03 feet to a 5/8 inch iron rod with survey cap (Moyer) set in the north boundary line of McCall Sound Section Two, according to the map or plat thereof recorded in Cabinet Z, Sheet 544 of the Map Records of Montgomery County, Texas, for the southwest corner of the said 310.7536 acres of land and the southeast corner of the



herein described tract from which a 1-1/2 inch iron bar found for reference bears North 09 degrees 18 minutes 50 seconds East, a distance of 24.82 feet;

THENCE South 87 degrees 57 minutes 03 seconds West, along the north boundary line of said McCall Sound Section Two and the south boundary line of the herein described tract, a distance of 397.22 feet to a 5/8 inch iron rod with survey cap (RPLS 5206) found for the northwest corner of said McCall Sound Section Two and an angle point of the herein described tract;

THENCE South 87 degrees 52 minutes 38 seconds West, continuing along the south boundary line of the herein described tract, passing at 65.84 feet, a 5/8 inch iron rod with survey cap (Moyer) set for reference and the northeast corner of the said 27.64 acres of land, continuing in all a distance of 350.47 feet to the POINT OF BEGINNING and containing 14.991 acres of land.

07449

**RECORDER'S MEMORANDUM:**

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded

FILED FOR RECORD

2009 JUL 29 PM 2: 42

*Mark Turnbull*  
COUNTY CLERK  
MONTGOMERY COUNTY TEXAS

STATE OF TEXAS  
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property at Montgomery County, Texas.

JUL 29 2009



*Mark Turnbull*  
County Clerk  
Montgomery County, Texas