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# DECLARATION OF COVENANTS, CONDITIONS

# AND RESTRICTIONS FOR

# GRAYSTONE HILLS

(a subdivision in Montgomery County, Texas)

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAYSTONE HILLS

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

THIS DECLARATION is made on the date hereinafter set forth by Savannah Development, Ltd., a Texas limited partnership ("Declarant").

**W I T N E S S E T H:**

WHEREAS, Declarant is the owner of the following real property located in Montgomery County, Texas (the "Property");

> Graystone Hills, Section One (1), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheet 407, of the Map Records of Montgomery County, Texas,
>
> and
>
> Graystone Hills, Section Two (2), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheets 405 and 406, of the Map Records of Montgomery County, Texas,

and,

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of the Property (and any other real property that may be annexed and subjected to the provisions of this Declaration) for the benefit of the present and future owners of the lots therein;

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions hereinafter set forth.

## ARTICLE I
## DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

**A. ANNUAL MAINTENANCE CHARGE** - The annual assessment made and levied by the Association against each Owner and his Lot in accordance with the provisions of this Declaration.

**B. APPOINTED BOARD** - The Board of Directors of the Association appointed by Declarant pursuant to the provisions of Article IV, Section 4.1, of this Declaration.

**C. ARCHITECTURAL REVIEW COMMITTEE** - The Architectural Review Committee established and empowered in accordance with Article III of this Declaration.

**D. ASSOCIATION** - Graystone Hills Community Association, Inc., a Texas non-profit corporation, its successors and assigns.

**E. BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association, whether the Appointed Board, the First Elected Board or any subsequent Board.

**F. BUILDER** - A person or entity other than Declarant or an affiliate of Declarant who either purchases a Lot within the Subdivision for the purpose of constructing a Residential Dwelling thereon or is engaged by the Owner of a Lot within the Subdivision for the purpose of constructing a Residential Dwelling on the Owner's Lot. The Architectural Review Committee has the authority to approve or disapprove a Builder prior to the commencement of construction on the basis of the experience and reputation of the Builder and the ability of the Builder to obtain (and maintain throughout the entire construction period) all insurance required to be maintained by the Builder pursuant to the Architectural Guidelines, if any. The intent of the requirement that a Builder be approved by the Architectural Review Committee prior to the commencement of construction is to attempt to ensure that the Builder has sufficient experience and financial responsibility to complete the work in accordance with the approved Plans and in a timely manner. The approval of a Builder shall not be construed in any respect as a representation or warranty by the Architectural Review Committee, Declarant, the Association, or any of their representatives, to any person or entity that the Builder has any particular level of knowledge or expertise or that any Residential Dwelling constructed by the Builder shall be a particular quality. Although all Owners are required to comply with the provisions of this Declaration relating to architectural review, it is the responsibility of each person or entity that either purchases a Lot and Residential Dwelling from a Builder or engages a Builder to construct a Residential Dwelling or other Improvement on the Owner's Lot to determine the quality of that Builder's workmanship and the suitability of the Builder to construct a Residential Dwelling or other Improvement of the type and design constructed or to be constructed on the Lot.

**G. BYLAWS** - The Bylaws of the Association.

**H. CERTIFICATE OF FORMATION** - The Certificate of Formation of the Association.

**I. COMMON AREA** - Any real property and improvements thereon owned or maintained by the Association for the common use and benefit of the Owners.

**J. DECLARANT** – Savannah Development, Ltd, a Texas limited partnership, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**K. FIRST ELECTED BOARD** - The Board of Directors of the Association elected at the First Meeting of the Members of the Association.

**L. FIRST MEETING** - The First Meeting of the Association as provided in Article IV, Section 4.4, of this Declaration.

**M. IMPROVEMENT** - A Residential Dwelling, building, structure, fixture, or fence constructed or to be constructed on a Lot; a transportable structure placed or to be placed on a Lot, whether or not affixed to the land; and an addition to or modification of an existing Residential Dwelling, building, structure, fixture or fence.

**N. LOT or LOTS** - Each of the Lots shown on the Plat.

**O. MAINTENANCE FUND** - Any accumulation of the Annual Maintenance Charges collected by the Association in accordance with the provisions of this Declaration and interest, penalties, assessments and other sums and revenues collected by the Association pursuant to the provisions of this Declaration.

**P. MEMBER or MEMBERS** - All Lot Owners who are members of the Association as provided in Article IV hereof.

**Q. MEMBER IN GOOD STANDING** - The Declarant and (a) a Class A Member who is not delinquent in the payment of any Annual Maintenance Charge or Special Assessment levied by the Association against his Lot, or any interest, late charges, costs, or reasonable attorney's fees added to such assessment under the provisions of the Declaration or as provided by law, (b) a Class A Member who does not have any condition of his Lot which violates any provision of the Declaration, the Architectural Guidelines, or the Rules and Regulations which has progressed to the stage of a certified demand for compliance by the Association, or beyond, and which remains unresolved as of the date of determination of the Class A Member's standing, and (c) a Class A Member who has not failed to comply with all terms of a judgment obtained against him by the Association, including the payment of all sums due to the Association by virtue of such judgment. A Member who is not in good standing is not entitled to vote at any meeting of the Members of the Association. No formal action by the Board of Directors to suspend the voting rights of a Member who is not in good standing is required.

**R. MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner of a Lot to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Montgomery County, Texas, and creating a lien or security interest encumbering a Lot and some or all Improvements thereon.

**S. OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

**T. PLAT** - The plat for Graystone Hills, Section One (1), recorded in Cabinet Z, Sheet 407, of the Map Records of Montgomery County, Texas; the plat for Graystone Hills, Section Two (2), recorded in Cabinet Z, Sheets 405 and 406, of the Map Records of Montgomery County, Texas; the plat for any other property duly annexed and subjected to the provisions of this Declaration; and any replat thereof.

**U. PLANS** - The final construction plans and specifications (including a related site plan) of any Residential Dwelling or other Improvement of any kind to be erected, placed, constructed, maintained or altered on any Lot.

**V. PROPERTY** - All of Graystone Hills, Section One (1), a subdivision in Montgomery County, Texas, according to the plat thereof recorded in Cabinet Z, Sheet 407, of the Map Records of Montgomery County, Texas, and Graystone Hills, Section Two (2), a subdivision in Montgomery County, Texas, according to the plat thereof recorded in Cabinet Z, Sheets 405 and 406, of the Map Records of Montgomery County, Texas; and any other property that may be subjected to the provisions of this Declaration by annexation document duly executed by Declarant and recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**W. RESIDENTIAL DWELLING** - The single family residence and appurtenances constructed on a Lot.

X. **RULES AND REGULATIONS** - Rules and Regulations adopted from time to time by the Board concerning the management and administration of the Subdivision for the use, benefit and enjoyment of the Owners, including Rules and Regulations governing the use of any Common Area.

Y. **SPECIAL ASSESSMENT** - Any Special Assessment as provided in Article V, Section 5.5, of this Declaration.

Z. **SUBDIVISION** - The Property, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto.

AA. **UTILITY COMPANY or UTILITY COMPANIES** - Any public entity, utility district, governmental entity (including without limitation, districts created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

## ARTICLE II
## GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY

### SECTION 2.1. USE RESTRICTIONS.

A. **GENERAL.** The Property shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration.

B. **SINGLE FAMILY RESIDENTIAL USE.** Each Owner shall use his Lot and the Residential Dwelling on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Residential Dwelling for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there is no business, professional, or commercial related sign, logo or symbol displayed on the Lot; there is no business, professional, or commercial related sign, logo or symbol displayed on any vehicle on the Lot; there are no clients, customers, employees or the like who go to the Lot for any business, professional, or commercial related purpose on any regular basis; and the conduct of the business, professional, or commercial activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like.

No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of the provisions of this Declaration or any applicable law or (v) unreasonably interfere with the use and occupancy of any Lot in the Subdivision or Common Area by other Owners.

No Owner shall be permitted to lease his Lot for hotel or transient purposes which, for purposes of this Section, is defined as a period of less than six (6) months. No Owner shall be permitted to lease any portion less than the entirety of the Lot, together with the Residential Dwelling and other Improvements on the Lot. Every lease shall provide that the lessee shall be bound by and subject to all the obligations under this Declaration and a failure to comply with the

provisions of this Declaration shall be a default under the lease. The Owner making such lease shall not be relieved from any obligation to comply with the provisions of this Declaration.

No Residential Dwelling shall be occupied by more persons than the total number of bedrooms in the Residential Dwelling (as originally designed) multiplied by two and one half (2 ½); provided that, this restriction shall not be applicable to the immediate members of a single family. For purposes of this Section, the immediate members of a single family shall only include the husband, wife and children and one (1) domestic worker, caregiver or nanny residing on the Lot.

No garage sale, rummage sale, estate sale, moving sale or similar type of activity is permitted on a Lot.

**C. PASSENGER VEHICLES.** Except as provided in Article II, Section 2.1, D, below, no Owner, lessee, or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on a Lot which is visible from any street in the Subdivision or a neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas, and a sport utility vehicle used as a family vehicle (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate); the term "pick-up truck" is limited to a three-quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger vehicle or pick-up truck owned or used by the Owner or occupant of a Lot shall be parked overnight on a street in the Subdivision. No guest of an Owner, lessee or other occupant of a Lot shall park his/her vehicle on a street in the Subdivision overnight or on the driveway of a Lot for a period longer than forty-eight (48) consecutive hours. No vehicle of any kind shall be parked on any unpaved portion of a Lot for any length of time. The Association shall have the authority to cause any vehicle parked in a private street owned by the Association in violation of the provisions of this Declaration or on Common Area to be towed in accordance with the provisions of the Texas Transportation Code.

No inoperable vehicle of any kind shall be parked, kept or stored on a Lot if visible from a street in the Subdivision or a neighboring Lot. As used herein, a vehicle is deemed to be inoperable if it does not display all required current permits and licenses, it is on a jack or blocks, it does not have fully inflated tires, or it is not otherwise capable of being legally operated on a public street or right of way.

**D. OTHER VEHICLES.** No mobile home trailer, utility trailer, recreational vehicle, boat or the like shall be parked, kept or stored on a street in the Subdivision or on any portion of a Lot if visible from a street in the Subdivision or a neighboring Lot. A mobile home trailer, utility trailer, recreational vehicle, boat or the like may be parked in the garage on a Lot or in some other structure approved by the Architectural Review Committee out of public view; provided that, if parked in the garage, there must be adequate space in the garage for all passenger vehicles used or kept by the Owner, lessee, or occupant of the Lot.

**E. VEHICLE REPAIRS.** No passenger vehicle, pick-up truck, mobile home trailer, utility trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed, reconstructed, or repaired on a Lot within the Subdivision if visible from a street in the Subdivision or a neighboring Lot.

**F. NUISANCES.** No Lot or Residential Dwelling or other Improvement on a Lot shall have any conspicuous infestation of pests, rodents, insects or other vermin or accumulation of trash, debris or other waste which the Board of Directors, acting reasonably and in good faith, determines to be offensive to surrounding residents or hazardous to the health or well-being of surrounding residents. No condition or activity shall be permitted on a Lot which the Board of Directors, acting reasonably and in good faith, determines to be offensive to surrounding residents by reason of noise, odor, dust, fumes or the like. No nuisance shall be permitted to exist or operate on a Lot. For purposes hereof, a nuisance shall be an activity or condition on a Lot which is reasonably considered by the Board of Directors to be offensive or an annoyance to surrounding residents of ordinary sensibilities and/or which is reasonably determined to reduce the desirability of the Lot.

**G. TRASH; TRASH CONTAINERS.** No garbage or trash, or garbage or trash container, shall be maintained on a Lot so as to be visible from a street in the Subdivision or a neighboring Lot at ground level except to make the same available for collection and then only the shortest time reasonably necessary to effect such collection. Garbage and trash made available for collection shall be placed in tied trash bags or covered containers, or as otherwise provided in a trash disposal contract entered into by the Association.

**H. CLOTHES DRYING.** No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on a Lot if visible from a street in the Subdivision or a neighboring Lot at ground level. No clothes shall be aired or dried outside if visible from a street in the Subdivision or a neighboring Lot at ground level.

**I. RIGHT TO INSPECT.** During reasonable hours, Declarant, any member of the Architectural Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect a Lot and the exterior of the Improvements thereon, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

**J. ANIMALS.** No animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be maintained on a Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. No exotic animal or breed of animal that is commonly recognized to be inherently aggressive or vicious toward other animals and/or humans is permitted in the Subdivision. No unleashed dog is permitted on a street or on the Common Area. Each dog must be kept either in the Residential Dwelling or other Improvement on the Lot or in a yard fully enclosed by a fence. An "invisible" fence that controls dogs through underground electrical wiring is an acceptable form of maintaining a dog in the yard of a Lot. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of an animal or bird shall be maintained so as to be visible from a street in the Subdivision or a neighboring Lot at ground level without the written consent of the Architectural Review Committee. The Board shall have the authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet, an exotic animal, an inherently aggressive or vicious animal, or a nuisance, or whether the number of animals or birds kept on a Lot is reasonable, and its reasonable, good faith determination shall be conclusive and binding on all parties.

**K. RESTRICTION ON FURTHER SUBDIVISION.** No Lot shall be further subdivided and no portion less than the entirety of a Lot as shown on the Plat shall be conveyed by an Owner to another party.

**L. CONSOLIDATION OF LOTS.** Notwithstanding any provision in this Declaration to the contrary, any Owner of one or more adjoining Lots may consolidate such Lots into one (1) building site, with the privilege of constructing a Residential Dwelling on the resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lot lines indicated on the Plat; provided that, the consolidation of two (2) or more adjoining Lots shall require the prior written consent of Declarant, as long as Class B membership in the Association exists, and in no event shall more than three (3) adjoining Lots be consolidated. The Owner of the Lots to be consolidated must also comply with any replatting requirements imposed by any governmental entity having jurisdiction. Any such consolidated building site must have a frontage at the building setback line of not less than the minimum frontage shown on the Plat. Upon the consolidation of one or more adjoining Lots, the consolidated building site shall not be considered a single Lot for purposes of membership in the Association, voting rights and assessments; rather, the Lots comprising the consolidated building site (as shown on the Plat) shall be treated separately for purposes of voting rights and assessments.

**M. SIGNS.** No sign shall be erected or maintained on a Lot except:

(i) Street signs and such other signs as may be required by law;

(ii) During the time of construction of any Residential Dwelling or other Improvement (defined to be from the date that construction commences until the fourteenth day after substantial completion of the Residential Dwelling or other Improvement), one job identification sign having a face area not larger than three (3) square feet;

(iii) One (1) "for sale" or "for lease" sign not larger than six (6) square feet and not extending more than four (4) feet above the ground;

(iv) Ground mounted political signs as permitted by law; provided that, only one (1) sign for each candidate or ballot item shall be displayed on a Lot earlier than the 90th day before the date of the election to which the sign relates or longer than the 10th day after the election date; and

(v) Home security signs and/or school spirit signs, if approved by the Architectural Review Committee, but then only in strict accordance with any recorded Architectural Guidelines governing such signs.

Declarant, as long as Class B membership in the Association exists, and, thereafter, the Association, shall have the authority to go upon a Lot and remove any sign displayed on the Lot in violation of this Section and dispose of the sign without liability in trespass or otherwise.

**N. EXEMPTIONS.** Nothing contained in this Declaration shall be construed to prevent Declarant, or its duly authorized agents, from erecting or maintaining structures or signs necessary or convenient to the development, advertisement, sale, operation or other disposition of property within the Subdivision. Moreover, any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or Improvements thereon may erect signs on Lots owned by Declarant to identify such lender and the fact that it is providing such financing.

O. **DISPOSAL OF HAZARDOUS SUBSTANCES.** No gasoline, motor oil, paint, paint thinner, pesticide or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and/or regulations shall be disposed of on a Lot nor shall any such material be deposited into a storm sewer manhole or drain, sanitary sewer manhole, drainage channel, roadside ditches, culverts, lake or detention pond within the Subdivision; rather, all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

**SECTION 2.2. DECORATION, MAINTENANCE, ALTERATION AND REPAIRS.**

A. **DECORATION/ALTERATIONS.** Subject to the provisions of Article III, each Owner shall have the right to modify, alter, repair, decorate, redecorate or improve the Residential Dwelling and other Improvements on such Owner's Lot, provided that all such action is performed with a minimum inconvenience to other Owners and does not constitute a nuisance. Notwithstanding the foregoing, the Architectural Review Committee shall have the authority to require an Owner to remove or eliminate any object situated on such Owner's Lot or the Residential Dwelling or other Improvement on the Lot that is visible from a street in the Subdivision or another Lot if, in the Architectural Review Committee's sole judgment, such object detracts from the visual attractiveness of the Subdivision.

B. **MAINTENANCE AND REPAIR.** No Residential Dwelling or other Improvement on a Lot shall be permitted to fall into disrepair, and each such Residential Dwelling or other Improvement on a Lot shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner of the Lot at such Owner's sole cost and expense. The Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot and the Residential Dwelling and other Improvements on the Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Director's reasonable, good faith determination shall be conclusive and binding on all parties. In the event the Owner of a Lot fails to keep the exterior of the Residential Dwelling or other Improvement on the Lot in good condition and repair, and such failure continues after not less than ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant of the Lot in trespass or otherwise, enter upon the Lot and repair and/or paint the exterior of the Residential Dwelling or other Improvement on the Lot and otherwise cause the Residential Dwelling or other Improvement on the Lot to be placed in good condition and repair, and do every other thing necessary to secure compliance with this Declaration, and may charge the Owner of the Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

## SECTION 2.3. TYPE OF CONSTRUCTION AND MATERIALS.

A. **TYPES OF BUILDINGS.** No buildings shall be erected, altered, placed or permitted to remain on a Lot other than (i) one detached, single family dwelling not to exceed the height limitations set forth in Section 2.4, paragraph B, together with an attached or detached private garage for not less than two (2) nor more than four (4) vehicles, (ii) one (1) permitted accessory building, and (iii) one (1) permitted play structure, all of which are subject to approval by the Architectural Review Committee. A two (2) story garage with living area on the second level may be permitted with the prior written approval of the Architectural Review Committee.

B. **STORAGE.** Without the prior written consent of the Architectural Review Committee, no building materials of any kind or character shall be placed or stored on a Lot more than fifteen (15) days before the construction of a Residential Dwelling or other Improvement is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. After the commencement of construction of a Residential Dwelling or Improvement on a Lot, the work thereon shall be prosecuted diligently, to the end that the Residential Dwelling or Improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event, substantial completion of a Residential Dwelling on a Lot must be achieved within twelve (12) months of the date of commencement of construction of the Residential Dwelling, unless a longer period is approved in writing by the Architectural Review Committee; substantial completion of any other Improvement must be achieved within six (6) months of the date of commencement of construction of the Improvement, unless a longer period is approved in writing by the Architectural Review Committee. For purposes hereof, construction of a Residential Dwelling or other Improvement shall be deemed to have commenced on the date that any equipment or building material relating to such construction is moved onto the Lot. Also for purposes hereof, a Residential Dwelling shall be deemed to be substantially completed on the date an occupancy permit is issued by any governmental authority having jurisdiction or, if no such occupancy permit is required, the date the Residential Dwelling is ready to be occupied; any other Improvement shall be deemed to be substantially completed on the date the Improvement is capable of being used for its intended purpose. Upon the completion of the construction, any unused materials shall promptly be removed from the Lot.

C. **TEMPORARY STRUCTURES.** No building or structure of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, tent, shack, barn or other building, other than the permanent Residential Dwelling, an attached or detached garage (with a second level living quarters, if approved by the Architectural Review Committee), one (1) accessory building approved by the Architectural Review Committee, and one (1) play structure shall be placed on a Lot, either temporarily or permanently, and no residence house, garage or other structure shall be moved onto a Lot from another location. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit Builders to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings, and construction of other Improvements in the Subdivision. No permitted accessory building shall exceed six (6) feet in height, measured from the ground to the highest point of the accessory building, or have a ground floor area that exceeds eighty (80) square feet. An accessory building must be located in the rear yard of the Lot and within the applicable building setbacks. Provided that, Declarant, as long as Class B membership in the Association exists, and, thereafter, the Architectural Review

Committee, shall have the authority to require an accessory building on a Lot adjacent to Common Area to be located farther from the rear or side property line of such Lot than the applicable setbacks to minimize the visibility of the accessory building. Further, Declarant, as long as Class B membership in the Association exists, and thereafter, the Architectural Review Committee, shall have the authority to limit the height and size of an accessory building on a Lot adjacent to Common Area to minimize the visibility of the accessory building. No tree house is permitted on a Lot.

**D. CARPORTS/GARAGES.** No carport shall be constructed on a Lot. A porte cochere may be permitted on a Lot if included in the original Plans for the Residential Dwelling and approved in writing by the Architectural Review Committee. Garages must be provided for all Residential Dwellings and in no case shall a porte cochere act as or be substituted for a garage. No garage shall be placed or maintained on any easement. All garages shall be enclosed by metal or wood garage doors with a paneled design that are harmonious in quality and color with the exterior of the appurtenant Residential Dwelling. Each garage on a Lot is required to be used for housing passenger vehicles used or kept by the persons who reside on the Lot. As provided in Section 2.1, paragraph D, a garage may also be used to store or house a mobile home trailer, utility trailer, recreational vehicle or boat so long as there are a sufficient number of other spaces in the garage to park all passenger vehicles used or kept by the residents of the Lot. No parking spaces in a garage may be used for the storage of personal property if the result is that one or more passenger vehicles used or kept by the residents of the Lot must be parked in the driveway of the Lot or in the street in front of the Lot.

**E. AIR CONDITIONERS.** No window, roof or wall type air conditioner that is visible from a street in the Subdivision or a neighboring Lot at ground level shall be used, placed or maintained on or in a Residential Dwelling, garage or other Improvement.

**F. ANTENNAS.** Satellite dish antennas which are forty inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided they are installed in the least obtrusive location that allows reception of an acceptable quality signal. All other antennas are prohibited, unless expressly authorized in any recorded Architectural Guidelines and then only in strict accordance with such recorded Architectural Guidelines.

**G. FOUNDATIONS.** Not more than six (6) inches of vertical surface of the concrete slab of a Residential Dwelling shall be exposed to view from a street in the Subdivision or an adjacent Lot. Any slab in excess of six (6) inches in height above finished grade shall have at least that excess in height covered with the same type, quality and grade of siding or masonry material used in the construction of the Residential Dwelling. A Residential Dwelling with a pier and beam foundation shall have all mechanical, electrical, plumbing lines and fixtures located thereunder screened from view from all streets in the Subdivision and adjacent Lots. The Architectural Review Committee, in its sole discretion, shall have the authority to determine the adequacy of any screening device or technique.

**H. EXTERIOR FINISH.** The exterior of the front of the Residential Dwelling on each Lot, excluding doors, shutters, trim work, eaves and dormers, must be comprised of one hundred percent (100%) brick, stone or masonry material and the exterior of each side and the rear of the Residential Dwelling on a Lot, excluding doors, shutters, trim work, eaves and dormers, must be comprised of not less than fifty percent (50%) brick, stone or masonry material, unless otherwise approved in writing by the Architectural Review Committee. For purposes of this provision, stucco and Hardiplank shall be considered a masonry material. All brick, stonework, masonry material and mortar must be approved by the Architectural Review Committee as to type,

size, color and application. Concrete steps, stoops or porches must be finished in tile, brick or stone, unless otherwise approved by the Architectural Review Committee. No concrete, concrete block or cinder block shall be used as an exposed building surface. Any concrete, concrete block or cinder block utilized in the construction of a Residential Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Residential Dwelling. Metal flashing, valleys, vents and gutters installed on a Residential Dwelling shall blend or be painted to blend with the color of the exterior materials to which they are adhered or attached. Brick or stone on the exterior of a Residential Dwelling may not be painted without the prior written consent of the Architectural Review Committee.

I. **EXTERIOR LIGHTING AND STREET NUMBERS.** All exterior lighting on a Lot must be approved by the Architectural Review Committee as to type, location and illumination. No exterior lighting shall be directed toward another Lot or illuminate beyond the boundaries of the Lot on which the lighting fixture is situated. All street numbers displayed on a Lot must be approved by the Architectural Review Committee.

J. **MAILBOXES.** All mailboxes erected on a Lot, if any, shall be of a standard design approved by the Architectural Review Committee. If cluster mailboxes are used in the Subdivision, individual mailboxes shall not be permitted.

K. **ROOFING.** The roofing material proposed to be used on a Residential Dwelling or other Improvement on a Lot must be approved in writing by the Architectural Review Committee prior to construction. The Architectural Review Committee shall have the right to establish specific requirements for the pitch of a roof for a Residential Dwelling or other Improvement. No solar or other energy collection panel, equipment or device shall be installed or maintained on a Lot, Residential Dwelling, or other Improvement including, without limitation, the roof of a Residential Dwelling, if visible from a street in the Subdivision. No plumbing or heating vents, stacks and other projections of any nature shall be placed on the roof on the front of a Residential Dwelling. All such vents, stacks and other projections from the roof of a Residential Dwelling shall be located on the rear roof of such Residential Dwelling and shall blend or be painted to blend with the color of the roofing material and, to the extent practicable, not be visible from a street in the Subdivision.

L. **CHIMNEYS.** The exterior of all chimneys shall be constructed of either brick, stone, stucco, synthetic plaster (e.g., dryvit) or other material approved in writing by the Architectural Review Committee. If a fireplace utilizes a metal spark arrestor or other metal venting apparatus at the top of the chimney, then a painted metal cowling or surround shall be installed atop the chimney. All metal or other materials placed on top of or around a chimney shall blend or be painted to blend with the color of the roofing material used for the Residential Dwelling.

M. **WINDOW TREATMENTS AND DOORS.** Reflective glass shall not be permitted on the exterior of a Residential Dwelling or other Improvement on a Lot. No foil or other reflective materials shall be installed on windows or used for sunscreens, blinds, shades or other purposes except as approved in writing by the Architectural Review Committee. Burglar bars or doors shall not be permitted on the exterior of any windows or doors. Screen doors shall not be used on the front or side of a Residential Dwelling. No aluminum or metal doors with glass fronts (e.g., storm doors) shall be allowed on the front of a Residential Dwelling.

N. **UTILITY METERS AND HVAC EQUIPMENT.** All electrical, gas, telephone and cable television meters shall be located, to the extent possible, at the rear of each Residential

Dwelling, with the exception of meters on Lots adjacent to Common Area which, to the extent possible, shall be located at the side of the Residential Dwelling, out of view. All exterior heating, ventilating and air-conditioning compressor units and equipment shall be located at the rear of the Residential Dwelling or at the side of the Lot screened from view in a manner approved by the Architectural Review Committee.

**O. PLAY STRUCTURES.** One (1) free-standing play structure is permitted on a Lot with the prior written approval of the Architectural Review Committee; provided that, in no event shall a permitted play structure exceed twelve (12) feet in height, measured from the ground to the highest point of the play structure and in no event shall a platform of a play structure extend above the ground by more than five (5) feet. The canopy on a play structure, if any, shall be a solid color approved by the Architectural Review Committee; a multi-colored canopy is not permitted. A play structure on a Lot must be located within the rear yard of the Lot and in accordance with the applicable side and rear building setbacks. Provided that, Declarant, as long as there is Class B Membership in the Association, and, thereafter, the Architectural Review Committee, shall have the authority to require a play structure on a Lot adjacent to Common Area to be located farther from the rear or side property line than the applicable building setbacks to minimize the visibility of the play structure. A free standing play structure shall not be deemed to be an accessory building for purposes of Section 2.3A of this Declaration.

**P. LANDSCAPING.**

(1) The landscaping plan for each Lot shall be submitted to the Architectural Review Committee for approval pursuant to the provisions of Article III.

(2) The front and side yards of each Lot shall be sodded with grass.

(3) All landscaping for a Lot shall be completed in accordance with the landscaping plan approved by the Architectural Review Committee no later than thirty (30) days following the date of substantial completion of the Residential Dwelling situated thereon.

(4) No hedge or shrubbery planting shall be placed or permitted to remain on a Lot where such hedge or shrubbery interferes with traffic sight-lines for streets within the Subdivision. The determination of whether any such obstruction exists shall be made by the Board of Directors and its reasonable, good faith determination shall be conclusive and binding on all parties.

(5) Rock or similar hardscape may be incorporated into the landscaping if approved in writing by the Architectural Review Committee; provided that, a solid rock yard or similar type of hardscape is not permitted in the front yard of a Lot or in the side yard of a Lot if visible from the street in front of the Lot or, if a corner Lot, the side street adjacent to the Lot.

(6) No rocks, rock walls or other items shall be placed on a Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. No bird baths, foundations, reflectors, flag poles, statues, lawn sculptures, artificial plants, rock gardens, rock walls, free-standing bird houses or other fixtures and accessories shall be placed or installed within the front or side yards of a Lot, or in the rear yard of a Lot adjacent to Common Area, without the prior written approval of the Architectural Review Committee.

(7) No vegetable, herb or similar gardens or plants shall be planted or maintained in the front or side yards of a Lot or in the rear yard of a Lot if visible from a street in the Subdivision.

(8) No Owner shall allow the grass on his Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground.

(9) Seasonal or holiday decorations shall be displayed on a Lot or Residential Dwelling or other Improvement on the Lot only for a reasonable period of time before and after the holiday

to which the holiday decorations relate. In the event of any dispute, the reasonable, good faith decision of the Board of Directors concerning a reasonable period of time before and after a holiday shall be conclusive and binding on all parties.

**Q. SWIMMING POOLS AND OTHER WATER AMENITIES.** No swimming pool, outdoor hot tub, reflecting pond, sauna, whirlpool, lap pool, and other water amenity shall be constructed, installed, and maintained on a Lot without the prior written approval of Architectural Review Committee. The Architectural Review Committee shall have the right to adopt Guidelines governing the construction of swimming pools, outdoor water features and other amenities on Lots within the Subdivision. Permanent, above-ground swimming pools are not permitted.

**R. DRIVEWAYS AND SIDEWALKS.** All driveways and sidewalks on a Lot which are visible from a street in the Subdivision shall be constructed of concrete and paved with concrete, natural stone or unit masonry. Asphalt paving or white portland cement is prohibited. All driveways and sidewalks which are visible from a street in the Subdivision shall be paved; chert, gravel and loose stone driveways and sidewalks are prohibited. No driveway or sidewalk shall be painted or stained without the prior written approval of the Architectural Review Committee. Driveways shall not exceed twenty (20) feet in width except as required for garage or porte cochere access or as otherwise permitted in writing by the Architectural Review Committee. All driveways and sidewalks on a Lot shall be properly maintained and repaired by the Owner of the Lot. The Board of Directors shall have the authority to determine whether a driveway or sidewalk on a Lot is being properly maintained in accordance with the standards of the Subdivision and its reasonable, good faith determination shall be conclusive and binding on all parties.

**S. LOT MAINTENANCE.** The Owner or occupant of a Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner. In no event shall an Owner use a Lot for storage of materials and equipment (except for normal residential requirements or incident to construction of Improvements thereon as herein permitted) or permit the accumulation of garbage, trash or rubbish of any kind thereon. An Owner shall not burn trash, debris, leaves or the like on a Lot. The Owner or occupant of a Lot at the intersection of streets where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a suitable enclosure approved in writing by the Architectural Review Committee to screen yard equipment, wood piles and storage piles. Until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, Declarant shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision, and Declarant's reasonable, good faith determination shall be conclusive and binding on all parties; thereafter, the Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' reasonable, good faith determination shall be conclusive and binding on all parties. In the event the Owner or occupant of a Lot fails to maintain the Lot in a reasonable manner as required by this Section and such failure continues after not less than ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the Lot to be mowed, edged and cleaned, cause the landscaping beds to be weeded and cleaned, cause shrubs and trees to be trimmed or pruned, and do every other thing necessary to secure compliance with the provisions of this Declaration, and may charge the Owner of such Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such

charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

T. **EXTERIOR COLORS.** The color(s) of paint and color impregnation proposed to be used of the exterior of the Residential Dwelling or other Improvement on a Lot must be approved in writing by the Architectural Review Committee prior to application. The Owner of a Lot is required to submit to the Architectural Review Committee a request for approval of the proposed paint color(s), together with paint samples. The Architectural Review Committee shall have the authority to disapprove a proposed paint color if the color is not compatible with colors commonly used on the exteriors of Residential Dwellings and Improvements in the Subdivision, or if two (2) or more colors proposed to be used on a Residential Dwelling or other Improvement on a Lot are not compatible with each other. Exterior colors shall be generally limited to those colors used on Residential Dwellings and other Improvements at the time of original construction. The purpose of this covenant is to maintain harmony of the exterior paint colors of Residential Dwellings and other Improvements throughout the Subdivision. Iridescent colors or tones considered to be brilliant are not permitted. For the purpose of this paragraph, "brilliant" means a color that is not in the general texture of both the overall community and natural setting of the Subdivision.

U. **BASKETBALL GOALS.** A pole-mounted or wall or roof mounted basketball goal shall not be installed on a Lot without the prior written approval of the Architectural Review Committee. Upon reviewing an application for a pole-mounted or wall or roof mounted basketball goal, the Architectural Review Committee is expressly authorized to consider, in addition to all other factors, the location of the proposed basketball goal in relation to the Residential Dwelling on an adjacent Lot and the potential impact on the Owner or occupant of any adjacent Lot with regard to noise. A portable basketball goal shall not be located on a Lot nearer to the front property line than the front wall of the Residential Dwelling on the Lot, whether or not in use. No portable basketball goal may be placed in or at a street for any length of time.

V. **TREE REMOVAL.** No tree with a caliper of more than six (6) inches, measured twelve (12) inches above grade, shall be removed from a Lot without the prior written approval of the Architectural Review Committee, unless the tree is dead. Plans submitted to the Architectural Review Committee for the construction of a Residential Dwelling or other Improvement on a Lot must identify all trees with a caliper of six (6) inches or more (measured 12 inches above grade) to be removed from the Lot. In the event that a tree with a caliper of six (6) inches or more (measured 12 inches above grade) which is not dead is removed from a Lot without the prior written approval of the Architectural Review Committee, the Architectural Review Committee may, in its discretion, require the Owner of the Lot to replace the tree with a hardwood tree or other type of tree approved by it in writing. Further, the written approval of the Architectural Review Committee to remove trees from a Lot in conjunction with the construction of a Residential Dwelling or other Improvement may be conditioned on the obligation of the Owner of the Lot to replace a certain number of trees with hardwood or other types of trees. A replacement tree must have a caliper of at least six (6) inches, measure twelve (12) inches above grade and otherwise be proportionate in height and size given its type.

W. **SEPTIC TANKS.** No privy, cesspool or septic tank of any kind is permitted on a Lot.

X. **FLAGPOLES.** One (1) in-ground flagpole is permitted on a Lot with the prior written approval of the Architectural Review Committee. An in-ground flagpole must be located in the rear yard of a Lot within the applicable side and rear building setbacks; provided that, the Architectural Review Committee may condition the approval of a flagpole on the requirement that it be placed farther away from a side or rear property line than the applicable setback to minimize any inconvenience to the Owner or occupant of a neighboring Lot. No in-ground flagpole may exceed fifteen (15) feet in height. An in-ground flagpole may be illuminated but the type of illumination must be approved in writing by the Architectural Review Committee prior to installation. A flagpole may not be illuminated after ten o'clock p.m. Only one (1) flag may be displayed on a flagpole at any give time. In-ground flagpoles are intended to display the American flag and the flag of the State of Texas. The Board of Directors shall have authority to cause the removal of any flag that is reasonably determined to be offensive because of the content or condition of the flag.

## SECTION 2.4. SIZE AND LOCATION OF RESIDENCES/BUILDER GUIDELINES.

A. **MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.** The minimum allowable area of interior living space in a one-story Residential Dwelling shall be one thousand three-hundred (1,300) square feet. The minimum allowable area of interior living space in a two-story Residential Dwelling shall be one thousand six-hundred (1,600) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies, and garages.

B. **MAXIMUM ALLOWABLE HEIGHT OF BUILDING.** No Residential Dwelling shall exceed a reasonable height required for two (2) stories of living space (above finished grade) plus a pitched roof. No Residential Dwelling shall have more than two (2) stories of living space above finished grade, except in a case where a third (3rd) story of living space is contained within the volume defined by the roof plans of the Residential Dwelling. Notwithstanding the foregoing, no Residential Dwelling shall exceed a height of forty-five (45) feet above finished grade.

C. **LOCATION OF IMPROVEMENTS - SETBACKS.** No Residential Dwelling, garage or Improvement on a Lot other than landscaping approved by the Architectural Review Committee shall be located nearer to the front property line of the Lot than the building setback shown on the Plat. No Residential Dwelling, garage or Improvement on a Lot other than approved fencing and/or landscaping shall be located nearer to the rear property line than twenty (20) feet or a side property line of the Lot than five (5) feet, except a corner Lot in which case no Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping shall be located nearer to the side property line adjacent to the street than the building setback shown on the Plat. Notwithstanding the foregoing, the Architectural Review Committee may grant variances from these setbacks, in the manner provided in Article III, Section 3.12, when, in its sole discretion, a variance is deemed necessary or appropriate.

## SECTION 2.5. WALLS AND FENCES.

A. **FENCES.** No fence or wall shall be constructed of chain link or wire. No fence or wall shall be located nearer to the front property line of a Lot than the front of the Residential Dwelling. No fence or wall shall be located nearer to the side street adjacent to a corner Lot than the side wall of the Residential Dwelling. No fence or wall shall exceed six (6) feet in height;

provided that a fence not exceeding eight (8) feet in height is permitted along the rear property line of a perimeter Lot (i.e., a Lot adjacent to the land that is not within the boundaries of the Subdivision). All of the provisions in this Section relating to the existence and location of a fence or wall shall be applicable to a hedge or pergola that serves as a fence or wall. The type of materials utilized for (including the color thereof) and the location of all fences and walls must be approved in writing by the Architectural Review Committee prior to construction. No wood fences shall be painted or stained without the prior written approval of the Architectural Review Committee.

**B. MAINTENANCE OF FENCES.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and it shall be the Lot Owner's responsibility to maintain such wall or fence. If a fence is located on the property line separating two (2) Lots, the Owners of the two (2) Lots shall have equal responsibility to maintain, repair and/or replace the fence. In the event the Owner or occupant of a Lot fails to maintain a wall or fence on the Lot in a reasonable manner as required by this Section and such failure continues after ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the wall or fence to be repaired or maintained and to do every other thing necessary to secure compliance with this Declaration, and may charge the Owner of such Lot for the cost of such work. The Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining a fence or wall on his Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' reasonable, good faith determination shall be conclusive and binding on all parties. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

**C. FENCES ERECTED BY DECLARANT.** Declarant, as long as there is Class B membership in the Association, and, thereafter, the Association, shall have the right, but not the obligation, to erect fencing on or adjacent to the property line of any Lot which abuts Common Area. Declarant reserves for itself and the Association a perpetual easement upon and across any Lot which abuts Common Area for the purpose of erecting, maintaining, repairing and replacing fencing erected along the property line (or portion thereof) of a Lot abutting Common Area. The area subject to the easement shall be five (5) feet in width and shall extend across the entire property line that abuts Common Area.

Declarant shall also have the right, but not the obligation, to construct fences or walls within or around the Subdivision which are deemed by the Declarant to enhance the appearance of the Subdivision. An Owner shall be responsible for any damage to a fence or wall constructed by or at the direction of the Declarant which is caused by such Owner or his family members, or the negligent, but not the intentional, acts of his guests, agents or invitees.

**SECTION 2.6. RESERVATIONS AND EASEMENTS.**

**A. UTILITY EASEMENTS.** Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service,

cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it shall be expressly permissible for the Utility Companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 2.6.A., no utilities or appurtenances thereto may be installed or relocated on the Subdivision until approved by Declarant or the Board.

**B. ADDITIONAL EASEMENTS.** Declarant reserves the right to impose further restrictions and dedicate additional easements and roadway rights of way by instrument recorded in the Official Public Records of Real Property of Montgomery County, Texas or by express provisions in conveyances, with respect to Lots that have not been sold by Declarant.

**C. CHANGES TO EASEMENTS.** Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility systems.

**D. MINERAL RIGHTS.** It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or upon said easements or any part thereof to serve said Lot or parcel of land or any other portions of the Subdivision. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the fact that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed, or other conveyances shall not be held or construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals, Declarant shall have no surface access to the Property for mineral purposes.

**E. DRAINAGE.** Except as shown on the drainage plan for the Subdivision, if any, no Owner of a Lot shall be permitted to construct Improvements on such Lot or to grade such Lot or permit such Lot to remain in or be placed in such condition that rain water falling on such Lot drains to any other Lot. It is the intent of this provision to preserve natural drainage. The Declarant may, but shall not be required to, install drainage inlets or underground drains within the utility easement on one or more Lots. If so, no Owner shall in any manner obstruct or interfere with such drainage system. If drains are not installed by Declarant, an underground drainage system may be required on each Lot by the Architectural Review Committee to assure proper drainage on the Lot. This Section shall not be construed to impose an obligation upon Declarant to adopt or implement a drainage plan.

**F. ELECTRIC DISTRIBUTION SYSTEM.** An electric distribution system will be installed in the Subdivision, which service area embraces all of the Lots which are platted in the Subdivision. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and

secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the underground residential subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowner's to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as service is maintained, the electric service to each dwelling unit therein shall be uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for residential dwelling units, consisting solely of homes, all of which are designed to be permanently located where originally constructed which are built for sale or rent.

The provisions of the two preceding paragraphs also apply to any future residential development in Graystone Hills.

**G. COMMON AREA.** The Common Area is reserved for the common use, benefit and enjoyment of the Owners, subject to such reasonable Rules and Regulations governing the use thereof as may be promulgated by the Association. An Owner's right to use the Common Area (as limited by any Rules and Regulations) is appurtenant to title to a Lot. The Association shall have the right to charge a reasonable fee for the use of any facility situated on any Common Area. Each Owner shall observe and comply with any reasonable Rules and Regulations promulgated and published by the Association relating to the Common Area and shall be deemed to acknowledge and agree that all such Rules and Regulations, if any, are for the mutual and common benefit of all Owners. All Common Area shall be maintained by the Association.

## ARTICLE III
## ARCHITECTURAL APPROVAL

**SECTION 3.1. ARCHITECTURAL REVIEW COMMITTEE.** The Architectural Review Committee shall consist of three (3) members, all of whom shall be appointed by

Declarant, except as otherwise set forth herein. Declarant shall have the continuing right to appoint all three (3) members until the earlier of (a) the date the last Lot owned by Declarant is sold (except in connection with a conveyance to another party that is a successor Declarant), or (b) the date Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint all members. As long as Declarant has the authority to appoint members of the Architectural Review Committee, members of the Architectural Review Committee may, but need not be, Members of the Association. After Declarant's authority to appoint members of the Architectural Review Committee ceases, members of the Architectural Review Committee must be Members in Good Standing of the Association. Members of the Architectural Review Committee appointed by Declarant may be removed at any time and shall serve until resignation or removal by Declarant. Members of the Architectural Review Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

**SECTION 3.2. APPROVAL OF IMPROVEMENTS REQUIRED.** In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the development, to establish and preserve a harmonious design for the development and to protect and promote the value of the Property, the Lots and Residential Dwellings and all Improvements thereon, no Improvement of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on a Lot by an Owner, other than Declarant, which affect the exterior appearance of a Lot or the Residential Dwelling or other Improvement on a Lot unless Plans therefor have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article. Without limiting the foregoing, the construction and installation of a Residential Dwelling, sidewalk, driveway, deck, landscaping, swimming pool, tennis court, greenhouse, play structure, awning, wall, fence, exterior light, garage, or any other Improvement, shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to a Residential Dwelling or other Improvement, unless the Plans for the same have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article.

The Architectural Review Committee is hereby authorized and empowered to approve all Plans for the construction of a Residential Dwelling or other Improvement on a Lot and the Builder of such Improvement. Prior to the commencement of a Residential Dwelling or other Improvements on a Lot, the Owner thereof shall submit to the Architectural Review Committee Plans and related data for each proposed Improvement, which shall include, as appropriate, the following:

(i) A check in the amount of the then applicable Submission Fee, if any, made payable to "Graystone Hills Community Association, Inc."

(ii) Two (2) copies of an accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Residential Dwelling to be constructed on the Lot, the location of all driveways, walkways, decks, terraces, patios and other Improvements and the relationship of the same to the building setbacks applicable to the Lot.

(iii) Two (2) copies of a foundation plan, floor plans and exterior elevation drawing of the front, back, and sides of the Residential Dwelling or other Improvement to be constructed on the Lot.

(iv) Two (2) copies of written specifications and, if requested by the Architectural Review Committee, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Residential Dwelling or other Improvement on the Lot, including, without limitation, the type and color of all brick, stone, stucco, roofing and other materials to be utilized on the exterior of a Residential Dwelling or other Improvement and the color of paint or stain to be used on all doors, shutters, trim work, eaves and dormers on the exterior of such Residential Dwelling or other Improvement.

(v) Two (2) copies of the lighting plan, including specifications for any exterior lighting to be utilized with respect to such Lot.

(vi) Two (2) copies of the landscaping and irrigation plans prior to the installation of any landscaping or irrigation.

(vii) Two (2) copies of information or documentation which clearly identifies all trees with a caliper of more than six (6) inches, measured twelve (12) inches above grade, proposed to be removed from the Lot.

(viii) A written statement of the estimated date of commencement, if the proposed Improvement is approved, and the estimated dated of completion.

(ix) The name and address of the Builder.

(x) Such other Plans or other information or documentation as may be required by the Architectural Review Committee.

The Architectural Review Committee shall, in its sole discretion, determine whether the Plans and other data submitted by an Owner for approval are acceptable. One copy of the Plans and related data so submitted to the Architectural Review Committee shall be retained in the records of the Architectural Review Committee and the other copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". The Architectural Review Committee may establish and change from time to time, if deemed appropriate, a reasonable fee sufficient to cover the expense of reviewing Plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such Plans and to monitor and otherwise enforce the terms hereof (the "Submission Fee").

The Architectural Review Committee shall have the right to disapprove Plans upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations; failure to comply with any of the provisions of this Declaration or the Architectural Guidelines; failure to provide requested information; objection to exterior design, appearance or materials; objection on the ground of incompatibility of any such proposed Improvement with the scheme of development proposed for the Subdivision; objection to the

location of any proposed Improvements; objection to the landscaping plan for such Lot; objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of the Residential Dwelling or other Improvement; or any other matter which, in the sole judgment of the Architectural Review Committee, would render the proposed Residential Dwelling or other Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Review Committee shall have the right to approve any submitted Plans with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the Plans for such Residential Dwelling or other Improvement. Approval of Plans by the Architectural Review Committee for Improvements on a particular Lot shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve similar Plans of any of the features or elements of proposed Improvements on any other Lot within the Subdivision.

Any revisions, modifications or changes in any Plans previously approved by the Architectural Review Committee must be approved by the Architectural Review Committee in the same manner specified above.

If construction a Residential Dwelling or other Improvement has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing related construction work) within ninety (90) days of approval by the Architectural Review Committee of the Plans for such Residential Dwelling or other Improvement, then no construction may be commenced (or continued) on such Lot and the Owner of such Lot shall be required to resubmit all Plans for any Residential Dwelling or other Improvement to be constructed on the Lot to the Architectural Review Committee for approval in the same manner specified above.

**SECTION 3.3. ADDRESS OF COMMITTEE.** The address of the Architectural Review Committee shall be at the principal office of the Association.

**SECTION 3.4. ARCHITECTURAL GUIDELINES.** The Architectural Review Committee from time to time may promulgate, supplement or amend the Architectural Guidelines, which provide an outline of minimum acceptable standards for proposed Improvements; provided, however, that such outline will serve as a minimum guideline only and the Architectural Review Committee may impose other requirements in connection with its review of any proposed Improvements. If the recorded Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, without directly conflicting with the provisions of the Declaration, the provisions of the recorded Architectural Guidelines shall control, it being the intent of Declarant to allow the Architectural Guidelines to supplement the Declaration on matters generally relating to architectural control and the discretionary authority vested in the Architectural Review Committee.

**SECTION 3.5. FAILURE OF COMMITTEE TO ACT ON PLANS.** Any request for approval of a proposed Improvement on a Lot shall be deemed to be approved by the Architectural Review Committee unless disapproval is transmitted to the Owner by the Architectural Review Committee within forty-five (45) days after the date of actual receipt by the Architectural Review Committee of the request at its office. If the Architectural Review Committee requests additional information or materials from an applicant in writing within the specified forty-five (45) day period, the applicant's request shall be deemed to be disapproved, whether so stated in the written communication or not, and a new forty-five (45) day period for review shall not commence until the date of actual receipt by the Architectural Review Committee of the requested information or materials. No approval shall operate to permit an Owner to construct or maintain an Improvement

on a Lot that violates any express provision in this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates any express provision in this Declaration or the Architectural Guidelines. After the date that the Board of Directors obtains the authority to appoint the members of the Architectural Review Committee, an applicant shall have the right to appeal an adverse decision of the Architectural Review Committee to the Board of Directors. The Board of Directors shall have the authority to adopt procedures for appeals of decisions of the Architectural Review Committee. In the event of an appeal, the decision of the Board of Directors shall be conclusive and binding on all parties.

**SECTION 3.6. PROSECUTION OF WORK AFTER APPROVAL.** After approval of a proposed Improvement on a Lot, the proposed Improvement shall be prosecuted diligently and continuously and shall be completed within the time frame approved by the Architectural Review Committee and in strict conformity with the description of the proposed Improvement in the Plans submitted to and approved by the Architectural Review Committee. No building materials shall be placed on a Lot until the Owner is ready to commence construction. Owners shall keep the job site and all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot shall be properly disposed of at least weekly. In no event shall any used construction material be buried in a Lot or beneath a Residential Dwelling or other Improvement. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on a street in the Subdivision. All construction vehicles must be parked on the Lot or in areas designated by the Architectural Review Committee. Construction on a Lot is permitted only between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday, unless special permission to proceed with construction at other times is given in writing by the Architectural Review Committee. No Improvement on a Lot shall be deemed completed until the exterior fascia and trim on the structure has been applied and finished and all construction materials and debris have been cleaned up and removed from the Lot and all rooms in the Residential Dwelling, other than attics, have been finished. Removal of materials and debris shall occur not later than thirty (30) days following completion of the exterior of the Residential Dwelling or other Improvement.

**SECTION 3.7. NOTICE OF COMPLETION.** Promptly upon completion of the Improvement on a Lot, the applicant shall deliver a notice of completion ("Notice of Completion") to the Architectural Review Committee and, for all purposes hereunder, the date of receipt of such Notice of Completion by the Architectural Review Committee shall be deemed to be the date of completion of such Improvement, provided that the Improvement is, in fact, completed as of the date of receipt of the Notice of Completion.

**SECTION 3.8. INSPECTION OF WORK.** The Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement on a Lot before or after completion, provided that the right of inspection shall terminate sixty (60) days after the Architectural Review Committee shall have received a Notice of Completion from the applicant.

**SECTION 3.9. NOTICE OF NONCOMPLIANCE.** If, as a result of inspections or otherwise, the Architectural Review Committee finds that any Improvement on a Lot has been constructed or undertaken without obtaining the approval of the Architectural Review Committee, or has been completed other than in strict conformity with the description and materials provided by the Owner to the Architectural Review Committee and approved the Architectural Review Committee, or has not been completed within the required time period after the date of approval by the Architectural Review Committee, the Architectural Review Committee shall notify the Owner in writing of the noncompliance ("Notice of Noncompliance"), which notice shall be given, in any

event, within sixty (60) days after the Architectural Review Committee receives a Notice of Completion. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. If the Owner does not comply with the Notice of Noncompliance within the period specified by the Architectural Review Committee, the Association may, acting through the Board, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the Lot on which the noncompliance exists in the Official Public Records of Real Property of Montgomery County, Texas; (b) remove the non-complying Improvement on the Lot; and/or (c) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question); and, if the Board elects to take any action with respect to such violation, the Owner shall reimburse the Association upon demand for all expenses incurred therewith. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Board to take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise. Any expenses incurred by the Association as a result of the noncompliance, plus fifty percent (50%) of such costs for overhead and supervision and interest thereon (from the date an invoice is submitted to Owner) at the rate of eighteen percent (18%) per annum, or the maximum, non-usurious rate, whichever is less, shall be charged to the Owner's assessment account and collected in the same manner as provided in Article V.

**SECTION 3.10. FAILURE OF COMMITTEE TO ACT AFTER NOTICE OF COMPLETION.** If, for any reason other than the Owner's act or neglect, the Architectural Review Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt by the Architectural Review Committee of a written Notice of Completion from the Owner, the Improvement on a Lot shall be deemed in compliance if the Improvement on a Lot in fact was completed as of the date of Notice of Completion; provided, however, that no such deemed approval shall operate to permit an Owner to construct or maintain an Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to an Improvement on a Lot that violates this Declaration or the Architectural Guidelines.

**SECTION 3.11. NO IMPLIED WAIVER OR ESTOPPEL.** No action or failure to act by the Architectural Review Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Architectural Review Committee or the Board of Directors. Specifically, the approval by the Architectural Review Committee of an Improvement on a Lot shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement on another Lot or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement on a Lot.

**SECTION 3.12. POWER TO GRANT VARIANCES.** The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of Improvements on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant 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 Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance

shall not (a) operate to waive any of the provisions of this Declaration or the Architectural Guidelines for any purpose except as to the particular property and particular provision hereof covered by the variance, (b) affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance, or (c) affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

**SECTION 3.13. COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE MEMBERS.** The members of the Architectural Review Committee shall not be compensated for their services but shall be entitled to reimbursement for reasonable expenses actually incurred by them in the performance of their duties, subject to the approval of the Board. Provided, however, if the managing agent of the Association is appointed to serve on the Architectural Review Committee, the managing agent may be compensated for such services, as deemed appropriate by the Board of Directors.

**SECTION 3.14. ESTOPPEL CERTIFICATES.** The Board of Directors, upon the reasonable request of an interested party and after confirming any necessary facts with the Architectural Review Committee, shall furnish a certificate with respect to the approval or disapproval of an Improvement on a Lot or with respect to whether an Improvement on a Lot was constructed in compliance with the provisions of this Declaration and the Architectural Guidelines. Any person, without actual notice of any falsity or inaccuracy of such a certificate, shall be entitled to rely on such certificate with respect to all matters set forth therein.

**SECTION 3.15. NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION.** None of the members of the Architectural Review 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 Architectural Review Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Architectural Review Committee shall not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Furthermore, none of the members of the Architectural Review Committee, any member of the Board of Directors, or 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 other individuals were acting on behalf of the Association, the Architectural Review Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Review Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect an Improvement.

**SECTION 3.16. CONSTRUCTION PERIOD EXCEPTION.** During the course of actual construction of a permitted Improvement on a Lot, and provided construction is proceeding with due diligence, the Architectural Review Committee may temporarily suspend the provisions of Article II contained in this Declaration as to the Lot upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that 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 construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Subdivision.

**SECTION 3.17. SUBSURFACE CONDITIONS.** The approval of Plans by the Architectural Review Committee for a Residential Dwelling or other Improvement on a Lot shall

not be construed in any respect as a representation or warranty by the Architectural Review Committee or Declarant to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvement contemplated by such Plans. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of the Lot for the construction of any contemplated Improvement thereon.

**SECTION 3.18. LANDSCAPING.** No landscaping, grading, excavation or fill work of any nature should be implemented or installed by an Owner on a Lot unless and until landscaping plans therefor have been submitted to and approved by the Architectural Review Committee in accordance with the provisions of this Article III.

## ARTICLE IV
## MANAGEMENT AND OPERATION OF SUBDIVISION

**SECTION 4.1. MANAGEMENT BY ASSOCIATION.** The affairs of the Subdivision shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, administration, and operation of the Subdivision as herein provided for and as provided for in the Certificate of Formation, the Bylaws and Rules and Regulations. The business and affairs of the Association shall be managed by its Board of Directors. The Declarant shall determine the number of Directors and appoint, dismiss and reappoint all of the members of the Board until the First Meeting of the Members of the Association is held in accordance with the provisions of Section 4.4 of this Declaration and a Board of Directors is elected (the Board of Directors appointed by Declarant, at any given time, being referred to herein as the "Appointed Board"). The Appointed Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the management, administration and operation of the Subdivision. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with the provisions of this Declaration, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, patrol services, traffic, operation of recreational facilities, or other matters of mutual interest.

**SECTION 4.2. MEMBERSHIP IN ASSOCIATION.** Each Owner of a Lot, whether one or more persons or entities, shall upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

**SECTION 4.3. VOTING OF MEMBERS.** Subject to any limitations set forth in this Declaration , each Member other than Declarant shall be a Class A Member entitled to one (1) vote per Lot owned on each matter submitted to a vote of the Members. Declarant shall be a Class B Member having ten (10) votes for each Lot owned. No Owner other than Declarant shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Lot in the Subdivision to the Secretary of the Association. In the event that ownership interests in a Lot are owned by more than one Class A Member of the Association, such Class A Members shall exercise their right to vote in such manner as they may among themselves

determine, but in no event shall more than one (1) vote be cast for each Lot. Such Class A Members shall appoint one of them as the Class A Member who shall be entitled to exercise the vote of that Lot at any meeting of the Association. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Class A Member of the Association, and no single Class A Member is designated to vote on behalf of the Class A Members having an ownership interest in such Lot, then the Class A Member exercising the vote for the Lot shall be deemed to be designated to vote on behalf of the Class A Members having an ownership interest in the Lot. All Members of the Association may attend meetings of the Association and all Members in Good Standing may exercise their vote at such meetings either in person or proxy. Any person who occupies a Residential Dwelling on a Lot in the Subdivision but is not an Owner may attend meetings of the Association and serve on committees (other than the Architectural Review Committee after the election of the First Elected Board) and, if authorized by the Bylaws, serve on the Board of Directors of the Association. Fractional votes and split votes shall not be permitted. Cumulative voting shall not be permitted.

Class B membership in the Association shall cease and be converted to Class A membership at the conclusion of the meeting at which the First Elected Board is elected, as provided in Section 4.4 of this Declaration, or on any earlier date selected by Declarant and evidenced by a written notice recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 4.4. MEETINGS OF THE MEMBERS.** The first meeting of the Members of the Association ("First Meeting") shall be held when called by the Appointed Board upon no less than ten (10) and no more than fifty (50) days prior written notice to the Members. Such written notice may be given at any time but must be given not later than thirty (30) days after all of the Lots subject to this Declaration have been sold by Declarant as evidenced by a deed recorded in the Official Public Records of Real Property of Montgomery County, Texas for each Lot. The First Elected Board shall be elected at the First Meeting of the Members of the Association. Thereafter, annual and special meetings of the Members of the Association shall be held at such place and time and on such dates as shall be specified or provided in the Bylaws.

**SECTION 4.5. PROFESSIONAL MANAGEMENT.** The Board shall have the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the management, administration and operation of the Subdivision as provided for herein and as provided for in this Declaration in the Bylaws.

**SECTION 4.6. BOARD ACTIONS IN GOOD FAITH.** Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

**SECTION 4.7. IMPLIED RIGHTS; BOARD AUTHORITY.** The Association may exercise any right or privilege given to it expressly by the provisions of this Declaration or its Certificate of Formation or Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board of Directors without a vote of the membership except where any provision in this Declaration, the Certificate of Formation, the Bylaws or applicable law specifically requires a vote of the membership.

The Board may institute, defend, settle or intervene on behalf of the Association in litigation, administrative proceedings, binding or non-binding arbitration or mediation in matters pertaining to (a) Common Areas or other areas in which the Association has or assumes responsibility pursuant to the provisions of this Declaration, (b) enforcement of this Declaration, the Bylaws, the Rules and Regulations and the Architectural Guidelines or (c) any other civil claim or action. However, no provision in this Declaration or the Certificate of Formation or Bylaws shall be construed to create any independent legal duty to institute litigation on behalf of or in the name of the Association.

**SECTION 4.8. STANDARD OF CONDUCT.** The Board of Directors, the officers of the Association, and the Association shall have the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Certificate of Formation, ByLaws and the laws of the State of Texas, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing shall not be a breach of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, officer or committee member. A court shall not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

## ARTICLE V
## MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND

**SECTION 5.1. MAINTENANCE FUND.** All Annual Maintenance Charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Board, at its discretion, for the benefit of the Subdivision and the Owners of Lots therein. The Board shall by way of illustration and not by way of limitation, expend the Maintenance Fund for the administration, management, and operation of the Subdivision; for the maintenance, repair and improvement of the Common Area; for the maintenance of any easements granted to the Association; for the enforcement of the provisions of this Declaration by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Subdivision and the Lots therein. The Board and its individual members shall not be liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings.

**SECTION 5.2. COVENANTS FOR ANNUAL MAINTENANCE CHARGES AND ASSESSMENTS.** Subject to Article V, Section 5.7, below, each and every Lot in the Subdivision is hereby severally subjected to and impressed with an Annual Maintenance Charge or assessment in an amount to be determined annually by the Board, which Annual Maintenance Charge shall run with the land. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the Annual Maintenance Charges and assessments levied against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand.

The Annual Maintenance Charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each Annual Maintenance Charge or assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such Annual Maintenance Charge or assessment accrued, but no Member shall be personally liable for the payment of any Annual Maintenance Charge or assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such Annual Maintenance Charge or assessment by waiver of the use or enjoyment of the Common Area, or any part thereof, or by abandonment of his Lot or his interest therein.

**SECTION 5.3. BASIS AND MAXIMUM ANNUAL MAINTENANCE CHARGE.** Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment shall be $650.00 per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be automatically increased, effective January 1 of each year, by an amount equal to a ten percent (10%) increase over the prior year's maximum Annual Maintenance Charge or assessment without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be increased above ten percent (10%) only if approved in writing by a majority of the Members in Good Standing or by the vote of not less than two-thirds (2/3) of the Members in Good Standing present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the Annual Maintenance Charge or assessment at an amount not in excess of the maximum amount established pursuant to this Section. Except as provided in Section 5.7, the Annual Maintenance Charge or assessment levied against each Lot shall be uniform.

**SECTION 5.4. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL MAINTENANCE CHARGE.** The initial maximum Annual Maintenance Charge or assessment provided for herein shall be established as to all Lots on the date this Declaration is recorded in the Official Public Records of Real Property of Montgomery County, Texas. However, the Annual Maintenance Charge or assessment shall commence as to each Lot on the date of the conveyance of the Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the Annual Maintenance Charge or assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the Annual Maintenance Charge or assessment shall be sent to every Owner. Provided that, the failure to fix the amount of an Annual Maintenance Charge or assessment or to send written notice thereof to all Owners shall not affect the authority of the Association to levy Annual Maintenance Charges or assessments or to increase Annual Maintenance Charges or assessments as provided in this Declaration.

**SECTION 5.5. SPECIAL ASSESSMENTS.** If the Board at any time, or from time to time, determines that the Annual Maintenance Charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by this Declaration, then the Board shall have the authority to levy a special assessment ("Special Assessment") as it shall deem necessary to provide for such continued maintenance and operation

of the Subdivision. No Special Assessment shall be effective until the same is approved in writing by at least a majority of the Members in Good Standing, or by the vote of not less than two-thirds (2/3) of the Members in Good Standing present and voting, in person or by proxy, at meeting of the Members called for that purpose at which a quorum is present. Any such Special Assessment shall be payable in the manner determined by the Board and the payment thereof shall be subject to interest, late charges, costs and attorney's fees, shall be secured by the continuing lien established in this Article, and may be enforced in the manner herein specified for the payment of the Annual Maintenance Charges.

**SECTION 5.6. ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE/ SUBORDINATION OF LIEN.** The Annual Maintenance Charge assessed against each Lot shall be due and payable, in advance, on the date of the sale of such Lot by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each January thereafter. Any Annual Maintenance Charge which is not paid and received by the Association by the thirty-first (31st) day of each January thereafter shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent Annual Maintenance Charge. The monthly late charge, if imposed, shall be in addition to interest. To secure the payment of the Annual Maintenance Charge and Special Assessments levied hereunder and any other sums due hereunder (including, without limitation, interest, costs, late charges, attorney's fees), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all Improvements thereon for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section and the superior title herein reserved shall be deemed subordinate to a Mortgage for the purchase of the Lot and any renewal, extension, rearrangements or refinancing of such purchase money Mortgage. The collection of such Annual Maintenance Charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Notice of the lien referred to in the preceding paragraph may, but shall not be required to, be given by recording in the Official Public Records of Real Property of Montgomery County, Texas an affidavit, duly executed, and acknowledged by a duly authorized representative of the Association, setting forth the amount owned, the name of the Owner or Owners of the affected Lot, according to the books and records of the Association, and the legal description of such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid Annual Maintenance Charge, Special Assessments and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid Annual Maintenance Charge, Special Assessments and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be

changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the Official Public Records of Real Property of Montgomery County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as same may hereafter be amended. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer.

**SECTION 5.7. PAYMENT OF ANNUAL MAINTENANCE CHARGE BY DECLARANT.** Improved Lots owned by Declarant are not exempt from assessment by the Association. Unimproved Lots which are owned by Declarant shall be assessed at the rate of one-half (1/2) of the Annual Maintenance Charge. As used herein, the term "improved Lot" means a Lot on which a Residential Dwelling has been constructed and is ready for occupancy.

**SECTION 5.8. NOTICE OF SUMS OWING.** Upon the written request of an Owner, the Association shall provide to such Owner a written statement setting out the then current total of all Annual Maintenance Charges, Special Assessments, and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as same may be identified by said Owner to the Association in the written request for such information. The Association shall be entitled to charge the Owner a reasonable fee for such statement.

**SECTION 5.9. FORECLOSURE OF MORTGAGE.** In the event of a foreclosure of a Mortgage on a Lot that is superior to the continuing lien created for the benefit of the Association pursuant to this Article, the purchaser at the foreclosure sale shall not be responsible for Annual Maintenance Charges, Special Assessments, or other sums, if any, which accrued and were payable to the Association by the prior Owner of the Lot, but said purchaser and its successors shall be responsible for Annual Maintenance Charges, Special Assessments, and other sums, if any, becoming due and owing to the Association with respect to said Lot after the date of foreclosure.

**SECTION 5.10. TRANSFER FEES/RESALE CERTIFICATES.** The Board of Directors of the Association shall establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing information in connection with the sale of a Lot in the Subdivision and changing the ownership records of the Association ("Transfer Fee"). A Transfer Fee shall be paid to the Association or the managing agent of the Association, if agreed to by the Association, upon each transfer of title to a Lot. The Transfer Fee shall be paid by the purchaser of the Lot, unless otherwise agreed by the seller and purchaser of the Lot. The Association shall also have the authority to establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing a Resale Certificate in connection with the sale of a Lot. The fee for a Resale Certificate shall be paid to the Association

or the managing agent of the Association, if agreed to by the Association. The fee for a Resale Certificate shall be in addition to, not in lieu of, the Transfer Fee.

## ARTICLE VI
## INSURANCE; SECURITY

**SECTION 6.1. GENERAL PROVISIONS.** The Board shall have the authority to determine whether or not to obtain insurance for the Association and, if insurance is obtained, the amounts thereof. In the event that insurance is obtained, the premiums for such insurance shall be an expense of the Association which shall be paid out of the Maintenance Fund.

**SECTION 6.2. INDIVIDUAL INSURANCE.** Each Owner, tenant or other person occupying a Residential Dwelling shall be responsible for insuring his Lot and his Residential Dwelling, its contents and furnishings. Each Owner, tenant or other person occupying a Residential Dwelling shall, at his own cost and expense, be responsible for insuring against the liability of such Owner, tenant or occupant.

**SECTION 6.3. INDEMNITY OF ASSOCIATION.** Each Owner shall be responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Residential Dwelling, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs.

**SECTION 6.4. SECURITY. THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, ("ASSOCIATION AND RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. THE ASSOCIATION AND RELATED PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. OWNERS, LESSEE AND OCCUPANTS OF ALL LOTS, ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. OWNERS, LESSEES, AND OCCUPANTS OF LOTS ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT AN INSURER AND THAT EACH OWNER, LESSEE AND OCCUPANT OF ANY LOT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL DWELLINGS AND TO THE CONTENTS OF THEIR RESIDENTIAL DWELLING AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE,**

**RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVISES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.**

## ARTICLE VII
## FIRE OR CASUALTY: REBUILDING

**SECTION 7.1. REBUILDING.** In the event of a fire or other casualty causing damage or destruction to the Residential Dwelling or other Improvement on a Lot, the Owner of such damaged or destroyed Residential Dwelling or Improvement shall, within ninety (90) days after such fire or casualty (or longer period if agreed to in writing by the Board of Directors), contract to repair or reconstruct the damaged portion of Residential Dwelling or Improvement and shall cause the Residential Dwelling or Improvement to be fully repaired or reconstructed in accordance with the original Plans therefor, or in accordance with new Plans presented to and approved by the Architectural Review Committee, and shall promptly commence repairing or reconstructing such Residential Dwelling or Improvement, to the end that the Residential Dwelling or Improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. Alternatively, such damaged or destroyed Residential Dwelling or Improvement shall be razed and the Lot restored as nearly as possible to its original condition within ninety (90) days of its damage or destruction (or longer period if agreed to in writing by the Board of Directors). In the event that the repair and reconstruction of the Residential Dwelling or Improvement has not been commenced within ninety (90) days after such fire or casualty (or longer period if agreed to in writing by the Board of Directors) and the damaged or destroyed Residential Dwelling or Improvement has not been razed and the Lot restored to its original condition, the Association and/or any contractor engaged by the Association, shall upon not less than thirty (30) days written notice to the Owner at the Owner's last known mailing address according to the records of the Association, have the authority but not the obligation to enter upon the Lot, raze the Residential Dwelling or Improvement and restore the Lot as nearly as possible to its original condition. Any costs incurred by the Association to raze the Residential Dwelling or Improvement and to restore the Lot to its original condition, plus fifty percent (50%) of such costs for overhead and supervision, shall be charged to the Owner's assessment account, secured by the lien created in Article V of this Declaration and collected in the manner provided in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

## ARTICLE VIII
## AMENDMENT, DURATION, ANNEXATION AND MERGER

**SECTION 8.1. AMENDMENT.** For a period of ten (10) years after the date this Declaration is recorded, Declarant shall have the authority to amend this Declaration, without the joinder or consent of any other party, so long as an amendment does not adversely affect any substantive rights of the Lot Owners. After the expiration of the ten (10) year period, Declarant shall have the right to amend this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions; provided, however, any such amendment shall be

consistent with and in furtherance of the general plan and scheme of development for the Subdivision. In addition, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the Secretary of the Association certifying that Owners representing not less than two-thirds (2/3) of the Lots have approved such amendment, in writing, setting forth the amendments, and duly recorded in the Official Public Records of Real Property of Montgomery County, Texas; provided that, until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, an amendment of this Declaration must also be approved in writing by Declarant. Provided further that, without the joinder of Declarant, no amendment may diminish the rights of or increase the liability of Declarant under this Declaration. In the event that there are multiple Owners of a Lot, the written approval of an amendment to this Declaration may be reflected by the signature of a single Co-Owner. Any legal challenge to the validity of an amendment to this Declaration must be initiated by filing a suit not later than one (1) year after the date the amendment document is recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 8.2. DURATION.** The provisions of this Declaration shall remain in full force and effect until January 1, 2030, and shall be extended automatically for successive ten (10) year periods; provided however, that the provisions of this Declaration may be terminated on January 1, 2030, or on the commencement of any successive ten (10) year period by filing for record in the Official Public Records of Real Property of Montgomery County, Texas, an instrument in writing signed by Owners representing not less than seventy-five percent (75%) of the Lots in the Subdivision.

**SECTION 8.3. ANNEXATION.** Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, without the consent of the Members, within ten (10) years of the date that this Declaration is recorded in the Official Public Records of Real Property of Montgomery County, Texas. Further, additional land may be annexed and subjected to the provisions of this Declaration with the consent of not less than two-thirds (2/3) of the Members in Good Standing of the Association present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present; provided that, as long as there is Class B membership in the Association, the annexation of additional land shall also require the written consent of Declarant. The annexation of additional land shall be effective upon filing of record an annexation instrument in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 8.4. DEANNEXATION OF LAND.** Land made subject to this Declaration may be deannexed by an instrument signed by Owners representing not less than two-thirds (2/3) of the Lots in the Subdivision and filed of record in the Official Public Records of Real Property of Montgomery County, Texas. Provided that, no land made subject to this Declaration may be deannexed within ten (10) years of the date this Declaration is recorded without the written consent of Declarant.

**SECTION 8.5. MERGER.** Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another 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 and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation shall effect any revocation, change or addition to the provisions of this Declaration.

## ARTICLE IX
## MISCELLANEOUS

**SECTION 9.1. SEVERABILITY.** In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

**SECTION 9.2. NUMBER AND GENDER.** Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

**SECTION 9.3. ARTICLES AND SECTIONS.** Article and section headings in this Declaration are for convenience of reference and shall not affect the construction or interpretation of this Declaration. Unless the context otherwise requires references herein to articles and sections are to articles and sections of this Declaration.

**SECTION 9.4. DELAY IN ENFORCEMENT.** No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

**SECTION 9.5. LIMITATION OF LIABILITY.** Notwithstanding anything provided herein to the contrary, neither the Declarant, the Architectural Review Committee, the Association, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in any Plans submitted, reviewed, or approved in accordance with the provisions of Article III above, (b) any defects, structural or otherwise, in any work done according to such Plans, (c) the failure to approve or the disapproval of any Plans submitted by an Owner for approval pursuant to the provisions of Article III, (d) the construction or performance of any work related to such Plans, (e) bodily injuries (including death) to any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or occupant, or other damage to any Residential Dwelling, Improvements or the personal property of an Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or occupant, which may be caused by, or arise as result of, any defect, structural or otherwise, in any Residential Dwelling or Improvements or the Plans or any past, present or future soil and/or subsurface conditions, known or unknown and (f) any other loss, claim, damage, liability or expense, including court costs and attorney's fees suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of a Lot, Residential Dwelling, or any other Improvements situated thereon.

**SECTION 9.6. ENFORCEABILITY.** The provisions of this Declaration shall run with the Property and shall be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each Owner and occupant of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. If notice and an opportunity to be heard are given, the Association shall be entitled to impose reasonable fines for violations of the provisions of this Declaration or any Rules and Regulations or the Architectural Guidelines adopted by Declarant, the Association or the Architectural Review Committee pursuant to any

authority conferred by any of them by the provisions of this Declaration and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the provisions of this Declaration, the Rules and Regulations and/or the Architectural Guidelines. Such fines, fees and costs may be added to the Owner's assessment account and collected in the manner provided in Article V of this Declaration. In the event any one or more persons, firms, corporations or other entities shall violate or attempt to violate any of the provisions of this Declaration, Declarant, the Association, each Owner or occupant of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on this the 8th day of August, 2006, to become effective upon recording in the Official Public Records of Real Property of Montgomery County, Texas.

**Savannah Development, Ltd.**
**a Texas limited partnership, Declarant**

By: Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, d/b/a Friendswood Development Company, as attorney-in-fact

By: Lennar Texas Holding Company,
a Texas corporation,
its General Partner

By: Nanette R Peavey

Print Name: Nanette R. Peavey
Authorized Agent

Its: _____

146-11-2171

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Nanette R. Peavey, Authorized Agent, of Lennar Texas Holding Company, General Partner of Lennar Homes of Texas Land and Construction, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 8th day of August, 2006.

Notary Public in and for the State of Texas

DEED RESTRICTIONS

Retu
Rick
Butle
1616 Road, Suite 500
Houston, Texas 77057

RECORDS 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 blackouts, additions and changes were present at the time the instrument was filed and recorded.

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.

AUG 08 2006

County Clerk
Montgomery County, Texas

FILED FOR RECORD
06 AUG -8 PM 1:59

COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

# FIRST AMENDMENT TO
# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
# FOR
# GRAYSTONE HILLS

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

WHEREAS, Savannah Development, Ltd., a Texas limited partnership, as Declarant, caused that certain instrument entitled "Declaration of Covenants, Conditions and Restrictions for Graystone Hills" (the "Declaration") to be recorded in the Official Public Records of Real Property of Montgomery County, Texas on August 8, 2006 under Clerk's File No. 2006-0991233, which instrument imposes various covenants, conditions and restrictions upon the following real property:

> Graystone Hills, Section One (1), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheet 407, of the Map Records of Montgomery County, Texas,
>
> and
>
> Graystone Hills, Section Two (2), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheets 405 and 406, of the Map Records of Montgomery County, Texas

and,

WHEREAS, the Declaration grants to Declarant, for a period of ten (10) years from the date the Declaration is recorded, the authority to amend the Declaration, without the joinder or consent of any other party, so long as an amendment does not adversely affect substantive rights of the Lot Owners; and

WHEREAS, Declarant desires to amend the Declaration in a manner that does not adversely affect substantive rights of the Lot Owners;

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

The following provisions are added at the end of the existing provisions in Article V, Section 5.7, of the Declaration:

> If the Annual Maintenance Charges levied by the Association are insufficient in any given year to cover the operating costs of the Association, Declarant may, with the

consent of the Association, fund the deficit in the operating budget. If Declarant funds a deficit in the operating budget, the funds advanced shall be deemed to be a loan to the Association and the parties shall agree on the appropriate terms and conditions of the loan and the documents necessary to evidence the loan. Provided that, under no circumstances shall this Section be construed to require Declarant to fund a deficit in the Association's operating budget or to loan funds to the Association, such action being at all times within the discretion of Declarant.

All capitalized terms used herein have the same meanings as that ascribed to them in the Declaration.

Except as amended herein, the provisions of the Declaration remain in full force and effect.

Executed on the date set forth below, to be effective upon recording in the Official Public Records of Real Property of Montgomery County, Texas.

**Savannah Development, Ltd.**
**a Texas limited partnership,**
**Declarant**

By: Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, d/b/a Friendswood Development Company, as attorney-in-fact

By: Lennar Texas Holding Company, a Texas corporation, its General Partner

By: Nanette R Peavey

Print Name: Nanette R Peavey

Its: Authorized Agent

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Janette L Peavy authorized agent of Lennar Texas Holding Company, General Partner of Lennar Homes of Texas Land and Construction, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 24 day of January, 2006.

ANGELA V. SPRAY
Notary Public
STATE OF TEXAS
My Comm. Exp. 10-13-2007

Notary Public in and for the State of Texas

Return to:

Rick S. Butler
Butler & Hailey, P.C.
1616 S. Voss Road, Suite 500
Houston, Texas 77057

2007-026764

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297-11-1651

# SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAYSTONE HILLS

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

WHEREAS, Savannah Development, Ltd., a Texas limited partnership, as Declarant, caused that certain instrument entitled "Declaration of Covenants, Conditions and Restrictions for Graystone Hills" (the "Declaration") to be recorded in the Official Public Records of Real Property of Montgomery County, Texas on August 8, 2006 under Clerk's File No. 2006-091233, which instrument imposes various covenants, conditions restrictions, liens and charges upon the following real property:

> Graystone Hills, Section One (1), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheet 407, of the Map Records of Montgomery County, Texas,
>
> and
>
> Graystone Hills, Section Two (2), a subdivision in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Z, Sheets 405 and 406, of the Map Records of Montgomery County, Texas

and,

WHEREAS, Section 8.1 of the Declaration grants to Declarant, for a period of ten (10) years from the date the Declaration is recorded, the authority to amend the Declaration, without the joinder or consent of any other party, so long as an amendment does not adversely affect substantive rights of the Lot Owners; and

WHEREAS, the Declaration was previously amended by that certain instrument entitled "First Amendment to Declaration of Covenants, Conditions and Restrictions for Graystone Hills" recorded in the Official Public Records of Real Property of Montgomery County, Texas under Clerk's File No. 2007-017820; and

WHEREAS, Declarant desires to further amend the Declaration in a manner that does not adversely affect substantive rights of the Lot Owners;

NOW, THEREFORE, pursuant to the authority granted to it by the provisions of the Declaration, Declarant hereby amends the Declaration as follows:

1. Section 2.3O of the Declaration is hereby amended to read as follows:

> O. **PLAY STRUCTURES.** One (1) free-standing play structure is permitted on a Lot with the prior written approval of the Architectural Review Committee; provided that, in no event shall a permitted play structure exceed twelve (12) feet in height, measured from the ground to the highest point of the play structure, and in no event shall a platform of a play structure extend above the ground by more than five (5) feet. The canopy on a play structure, if any, shall be a solid color approved in writing by the Architectural Review Committee; a multi-colored canopy is not permitted. A play structure on a Lot must be located within the rear yard of the Lot and in accordance with the applicable side and rear building setbacks. Provided that, Declarant, as long as there is Class B Membership in the Association, and, thereafter, the Architectural Review Committee, shall have the authority to require a play structure on a Lot adjacent to Common Area to be located farther from the rear or side property line than the applicable building setbacks to minimize the visibility of the play structure. Provided further that, a play structure on a corner Lot shall not be located nearer to the side property line adjacent to the side street than twenty (20) feet. A free standing play structure shall not be deemed to be an accessory building for purposes of Section 2.3A of this Declaration.

2. Section 2.3T of the Declaration is hereby amended to read as follows:

> T. **EXTERIOR COLORS.** The color(s) of paint and color impregnation proposed to be used on the exterior of the Residential Dwelling or other Improvement on a Lot must be approved in writing by the Architectural Review Committee prior to application. The Owner of a Lot is required to submit to the Architectural Review Committee a request for approval of the proposed paint color(s), together with paint samples. The Architectural Review Committee shall have the authority to disapprove a proposed paint color if the color is not compatible with colors commonly used on the exteriors of Residential Dwellings and Improvements in the Subdivision, or if two (2) or more colors proposed to be used on a Residential Dwelling or other Improvement on a Lot are not compatible with each other. Exterior colors are required to be earthtone colors. Iridescent colors or tones considered

by the Architectural Review Committee to be brilliant or extremely bold are prohibited. Further, yellow, blue and green pastels and primary colors are prohibited.

3. Section 2.5A of the Declaration is hereby amended to read as follows:

A. **FENCES**. No fence or wall on a Lot shall be constructed of chain link or wire. No fence or wall shall be located nearer to the front plane of the Residential Dwelling on the Lot than ten (10) feet. No fence or wall shall be located nearer to the side street adjacent to a corner Lot than the plane of the side wall of the Residential Dwelling adjacent to the side street. No fence or wall shall exceed a height of six (6) feet; provided that, a fence not exceeding eight (8) feet in height is permitted along the rear property line of a perimeter Lot (i.e., a Lot adjacent to the land that is not within the boundaries of the Subdivision). All of the provisions in this Section relating to the existence and location of a fence or wall shall be applicable to a hedge or pergola that serves as a fence or wall. The type of materials utilized for (including the color thereof) and the location of all fences and walls must be approved in writing by the Architectural Review Committee prior to construction. No wood fences shall be painted or stained without the prior written approval of the Architectural Review Committee.

Except as amended herein, the provisions of the Declaration remain in full force and effect.

All capitalized terms used herein have the same meanings as that ascribed to them in the Declaration.

Executed on the date set forth below, to be effective upon recording in the Official Public Records of Real Property of Montgomery County, Texas.

**Savannah Development, Ltd.**
**a Texas limited partnership,**
**Declarant**

By: Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, d/b/a Friendswood Development Company, as attorney-in-fact

By: Lennar Texas Holding Company, a Texas corporation, its General Partner

By: Nanette R Peavey

Print Name: Nanette R. Peavey

Its: Authorized Agent

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.

MAR 07 2007

Mark Turnbull
County Clerk
Montgomery County, Texas

Date: 1/29/07

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 blackouts, additions and changes were present at the time the instrument was filed and recorded.

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Nanette Peavy Attorney-in-Fact of Lennar Texas Holding Company, General Partner of Lennar Homes of Texas Land and Construction, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 29th day of January, 2007.

Monica D. Vega Duffield
My Commission Expires
February 23, 2008

Monica D Vega Duffield
Notary Public in and for the State of Texas

Return to:

Rick S. Butler
Butler & Hailey, P.C.
1616 S. Voss Road, Suite 500
Houston, Texas 77057

FILED FOR RECORD
07 MAR -7 PM 4:27

Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS