

**RIVERS EDGE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

*Table of Content*

**ARTICLE I DEFINITIONS .....1**  
A. "Architectural Control Committee" or "Committee" .....1  
B. "Association" .....1  
C. "Common Facilities" .....1  
D. "Common Properties" .....2  
E. "Declarant" .....2  
F. "Development Period" .....2  
G. "Lot" and/or "Lots" .....2  
H. "Member" and/or "Members" .....2  
I. "Owner" .....2  
J. "Properties" .....2  
K. "Rules and Regulations" .....2  
L. "Subdivision" .....2  
M "Subdivision Plat" .....3  
N. "Supplemental Declaration" .....3

**ARTICLE II - RESERVATIONS, EXCEPTIONS AND DEDICATIONS .....3**

**ARTICLE III – ARCHITECTURAL CONTROL COMMITTEE .....4**

**ARTICLE IV - USE OF LOTS.....6**  
A. Buildings .....6  
B. Accessory Buildings.....6  
C. Prohibited Activities.....7  
D. Temporary Structures.....8  
E. Signage .....8  
F. Oil and Mining Activity.....8  
G. Mailboxes.....8  
H. Exterior Lighting.....8  
I. Sound Devices .....8  
J. Window Treatment .....8  
K. Air Conditioners.....8  
L. Pools .....8  
M. Tents, Mobile Homes and Temporary Structures .....9  
N. Drainage and Septic Systems.....9  
O. Sight Distance at Intersections .....9  
P. Artificial Vegetation, Exterior Sculpture and Similar Items .....9  
Q. Playgrounds and Decks.....9  
R. Walls, Fences and Hedges.....10  
S. Exterior Paint .....10  
T. Minimum Lot Areas .....10  
U. Composite Building Site .....10  
V. Development Period.....11  
W. Occupants Bound .....11

X. Quiet Enjoyment .....	11
Y. Garage Sales.....	12
Z. Unsightly or Unkempt Conditions .....	12
AA. Leasing of Lots.....	12
BB. Laws and Ordinances.....	12
CC. Subdivision of Lots.....	13
DD. Parking and Prohibited Vehicles .....	13
EE. No Hazardous Activities .....	13
FF. On-Site Fuel Storage .....	13
GG. Removal of Trash and Debris During Construction .....	13
HH. Excavation and Tree Removal .....	14
II. Damage or Destruction of Improvements .....	14
JJ. Restrictions on Garbage and Trash.....	14
KK. Clothes Drying .....	15
LL. Animals .....	15
MM. Storage .....	15
NN. Association Perimeter Wall/Retaining Wall Easement and Maintenance.....	15
OO. Pergolas and Arbors.....	16
PP. Roof Top Antenna, Satellite Dishes and Accessory Structures.....	16
QQ. Antenna and Satellite Dishes.....	16
<b>ARTICLE V - LOCATION OF IMPROVEMENTS .....</b>	<b>17</b>
A. Dwellings .....	17
B. Garages and Driveways.....	17
C. Other Structures.....	18
D. Minimum Square Footage within Improvements .....	19
E. Building Material.....	19
F. Roofing Material.....	19
G. Fences.....	19
H. Party Fences and Party Retaining Walls.....	20
I. Trees .....	21
J. Lot Grading and Drainage.....	21
K. Visual Obstructions at the Intersections of Public Streets .....	21
L. Utility Easements.....	21
M. Underground Electric Distribution System .....	21
N. Lot Maintenance and Maintenance of Improvements.....	22
O. Grass, Shrubbery and Landscaping.....	22
P. Enforcement of Owner's Responsibilities .....	23
<b>ARTICLE VI - COMMUNITY MAINTENANCE .....</b>	<b>23</b>
A. Assessments .....	23
B. Special Assessments.....	25
C. Capitalization Fees .....	26
D. Enforcement .....	26
E. Expenditures .....	28

<b>ARTICLE VII - THE ASSOCIATION.....</b>	<b>28</b>
A. Membership .....	28
B. Voting Class .....	28
C. Authority .....	29
D. Indemnification .....	30
E. Limitation on Liability .....	30
F. Reimbursement of Declarant .....	31
G. Power to Grant Easements .....	31
H. Inspection of Records .....	31
I. Additional Powers of the Association .....	31
<b>ARTICLE VIII – ENFORCEMENT .....</b>	<b>31</b>
<b>ARTICLE IX – SEVERABILITY.....</b>	<b>32</b>
<b>ARTICLE X - AMENDMENT TO THIS DECLARATION.....</b>	<b>32</b>
<b>ARTICLE XI - ADJACENT PROPERTY.....</b>	<b>33</b>
<b>ARTICLE XII - NO PARTITION .....</b>	<b>33</b>
<b>ARTICLE XIII – MISCELLANEOUS.....</b>	<b>33</b>
A. Security .....	33
B. Additional Restrictions.....	34
C. Delay in Enforcement.....	34
D. Violations of Law.....	34
E. Governing Law and Notice .....	35
F. Management Office .....	35
G. Lawsuits Against Declarant .....	35

**RIVERS EDGE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THE STATE OF TEXAS           §  
  §           KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF MONTGOMERY   §

THAT RIVERS EDGE INTERESTS, LTD., a Texas limited partnership, hereinafter referred to as Declarant, being the owner of that certain 61.658 acres, more or less, in the James Hodge Survey, Abstract 19 in the City of Conroe, Montgomery County, Texas, which has been subdivided into that certain subdivision known as RIVERS EDGE, SECTION 1 (“Subdivision”), according to the plat of said Subdivision recorded under Montgomery County Clerk’s File Number 2021172502 and in Cabinet 00Z, Sheets 8031-8037 in the Real Property Records of Montgomery County, Texas, intending to create and carry out a uniform plan for development of the lots in the Subdivision (individually, a “Lot” and collectively, the “Lots”), for the benefit of the present and future owners of said Lots, does hereby impose the following reservations, restrictions, agreements, covenants and easements to apply uniformly to the use, occupancy and conveyance of all Lots and each contract or deed which may be hereafter executed as to any Lots in the Subdivision. Such Lots shall be held subject to the following reservations, restrictions, covenants and easements, regardless of whether said reservations, restrictions, covenants and easements are specifically referred to or not in said contract or deed.

**ARTICLE I  
DEFINITIONS**

A.    **“Architectural Control Committee”** or **“Committee”** shall mean and refer to the Committee provided for in Article III hereof.

B.    **“Association”** shall mean and refer to Rivers Edge Homeowners Association, a Texas non-profit corporation, its successors and assigns, provided for in Article VII hereof.

C.    **“Common Facilities”** shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, for the use and benefit of all Owners in the subdivision except those as may be expressly excluded. By way of illustration, Common Facilities may include, but not necessarily be limited to the following: structures for recreation, storage or protection of equipment; fountains; statuary; sidewalks; common driveways; landscaping; swimming pools; tennis courts; boat ramps; and other similar and appurtenant improvements. References herein to “the Common Facilities (any Common Facility) in the Subdivision” shall mean and refer to Common Facilities as defined respectively in this Declaration and all Supplemental Declarations.

D.    **“Common Properties”** shall mean and refer to property as the Association may, at any time or from time to time, acquire by purchase or otherwise, subject, however, to the

easements, limitations, restrictions, dedications and reservations applicable thereto by virtue of prior grants or dedications by Declarant, Declarant's predecessors in title or those from whom the property is purchased. References herein to "the Common Properties in the Subdivision" shall mean and refer to Common Properties as defined respectively in this Declaration and all Supplemental Declarations.

E. **"Declarant"** shall mean and refer to Rivers Edge Interests, Ltd., a Texas limited partnership, its successors and assigns.

F. **"Development Period"** shall mean and refer to the period of time during which the Declarant reserves the right to facilitate the development, construction, and marketing of the Properties and the right to direct the size, shape, an composition of the Properties; which period of time begins upon the recordation of this Declaration in the Real Property Records of Montgomery County, Texas, and shall terminate on the earlier of: (i) the date on which construction of a single family home on each Lot within the Subdivision has been completed and the single family home is occupied; or (ii) such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Real Property Records of Montgomery County, Texas.

G. **"Lot"** and/or **"Lots"** shall mean and refer to the Lots shown upon the Subdivision Plat. Reference herein to "the Lots in the Subdivision" shall mean and refer to Lots as defined respectively in this Declaration and all Supplemental Declarations.

H. **"Member"** and/or **"Members"** shall mean and refer to all those Owners who are members of the Association as provided in Article VII, together with all the Owners in the Subdivision who are members of the Association as provided in all other Supplemental Declarations.

I. **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate. References herein to the "Owners in the Subdivision" shall mean and refer to Owners as defined respectively in this Declaration and all Supplemental Declarations.

J. **"Properties"** shall mean and refer to all of Rivers Edge, which shall be covered by this Declaration and any additional properties which may hereafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and brought within the jurisdiction of the Association.

K. **"Rules and Regulations"** shall mean those rules and regulations which may be established from time to time by the Declarant or the Board of Directors of the Association (the "Board") pursuant to this Declaration.

L. **"Subdivision"** shall mean and refer to the Properties and any additional properties which may hereafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and hereafter brought within the jurisdictions of the Association.

M. **“Subdivision Plat”** shall mean and refer to the map or plat of Rivers Edge, Section 1, a subdivision in the City of Conroe, Montgomery County, Texas, and recorded in the Official Public Records of Montgomery County, Texas, under County Clerk’s File No. 2021172502 and in Cabinet 00Z, Sheets 8031-8037 of the Plat Records of Montgomery County, and any recorded replat thereof and any plats and replats of property annexed into the Subdivision.

N. **“Supplemental Declaration”** shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions bringing additional property within the scheme of this Declaration under the authority provided in Article XI. Provisions set forth in “all (any) Supplemental Declarations” shall be deemed to relate to the respective properties covered by such Supplemental Declarations.

## **ARTICLE II RESERVATIONS, EXCEPTIONS AND DEDICATIONS**

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

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

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

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

E. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to (1) any easement affecting same for roadways or drainage, water, gas, cable television, sewer, electric light, electric power, telegraph, telephone or other utility purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any easement Owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties and (2) the right of Declarant, its successors and assigns, to maintain repair, sell or lease

such easements to any municipality, or other governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved).

### **ARTICLE III ARCHITECTURAL CONTROL COMMITTEE**

A. Construction plans, specifications and a plot plan showing the location of any structure or improvements, landscaping, easements, and building lines must have been submitted to and approved by the Committee, its successors or assigns, as to compliance with these restrictions, as to quality of material, harmony of external design with existing and proposed structures and as to location with respect to topography and finish grade elevation before any building or improvements of any character shall be erected or placed, or the erection begun on Lot.

B. The Committee will be appointed by the Declarant. Upon the death or resignation of any member of the Committee, the Declarant will have the full authority to designate a successor. No member of the Committee, nor its representative, shall be entitled to any compensation for services performed pursuant to this Declaration, nor shall any member of the Committee be personally liable for any act relating to approval or disapproval of construction plans and specifications or the enforcement of any of the restrictions. The Committee hereby agrees to assign its rights to approve or disapprove plans and specifications, locations of structures, construction contracts, permitted deviations and all other documents or approvals required to be submitted to it, to the Committee created by and controlled by the Association, or its designees, when One Hundred Percent (100%) of all of the Lots in the Subdivision are occupied by residents. Portions of the Committee's right of approval may be transferred to the Association prior to One Hundred Percent (100%) of the Lots being occupied at the sole discretion of the Declarant.

C. In the event that within thirty (30) days after receipt of the required documents, the Committee fails to approve or disapprove the plans and specifications submitted, approval shall be deemed denied. In instances where, in its judgment, such deviations will result in a more commonly beneficial use, the Committee, at its sole discretion, is hereby permitted to approve deviations in building location and such other deviations from the terms of this Declaration as are herein expressly authorized to be permitted by the Committee. Such approval must be granted in writing and recorded in the Real Property Records of Montgomery County, Texas, and when given, will become a part of these restrictions. Such approval shall not indicate the Committee's approval for any other purposes and shall not be construed as any representation by the Committee as to, or responsibility for, the design or quality of the improvements or the ultimate construction thereof. The Board of Directors of the Association (the "Board"), at its sole discretion, is hereby authorized to establish standards and architectural guidelines beyond the restrictions set herein on items including, but not limited to, house elevations, landscaping, sidewalk construction, garage placement, exterior materials and colors, roofing and grading.

D. Notwithstanding anything contained in this Declaration to the contrary, the members of the Committee shall be entitled to reimbursement by the Association for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve. It is understood that the Committee may delegate all or part of its authority hereunder to review the documents submitted to it and that the Committee may retain



the services of architects, engineers and others (and the Owner making application shall pay all fees for such services) from time to time for the purpose of reviewing such documents and making recommendations as to approval, disapproval or modification thereof. In addition, the Committee may charge and collect a fee for processing an application submitted to the Committee for approval in an amount to be determined by the Board in its sole discretion. The Committee may also charge and collect such other fees or deposits as the Board may determine are reasonable and necessary. All fees and deposits are subject to change by the Board without prior notice.

E. After approval of any proposed improvement to a Lot, the proposed improvement shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed improvement in the materials submitted to the Committee. Failure to complete the proposed improvement within three (3) months after the date of approval or such other period of time as shall have been designated in writing by the Committee (unless an extension has been granted by the Committee in writing) or to complete the improvement in strict conformity with the description and materials furnished to the Committee, shall operate automatically to revoke the approval by the Committee of the proposed improvement. No improvement shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the dwelling unit, other than attics, have been finished. Removal of materials and debris shall not take in excess of ten (10) days following completion of the exterior.

F. The Committee or its duly authorized representative shall have the right, but not the obligation, to inspect any improvement before or after completion.

G. If, as a result of inspections or otherwise, the Committee finds that any improvement has been constructed or undertaken without obtaining the approval of the Committee, or has been completed other than in strict conformity with the description and materials furnished by the Owner to the Committee, or has not been completed within the required time period after the date of approval by the Committee, the Committee may notify the Owner in writing of the noncompliance ("Notice of Noncompliance"). 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 or remove the noncompliance within the period of time set forth therein.

H. If the Committee finds that a noncompliance continues to exist after such time within which the Owner was to remedy the noncompliance as set forth in the Notice of Noncompliance, the Association may, 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 Office of the County Clerk of Montgomery County, Texas; (b) remove the noncomplying improvement; 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 and such costs and expenses shall constitute a Charge as set forth in Article VI hereof. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Association 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.

I. No action or failure to act by the Committee shall constitute a waiver or estoppel with respect to future action by the Committee or the Board, with respect to any improvement. Specifically, the approval by the Committee of any improvement shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar improvement or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement by such Owner or otherwise.

J. None of the members of the Committee, the Association, any member of the Board, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an improvement be deemed approval of the improvement from the standpoint of safety, whether structural or otherwise, or conformance with building codes, or other governmental laws or regulations. Furthermore, neither Declarant, the Association, the Board, the Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements, Lot or portion thereof, or for failure to repair or maintain the same.

K. During the course of actual construction of any permitted structure or improvement to a Lot, and provided construction is proceeding with due diligence, the Board may temporarily suspend certain provisions of 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 Properties.

#### ARTICLE IV USE OF LOTS

A. **Buildings.** All buildings shall be designed by a registered architect or a member in good standing of American Institute of Building Design or Texas Institute of Building Design. No building shall be constructed, altered, or permitted to remain on any Lot for other than single family residential purposes. No single-family residential dwelling (a "Dwelling"), shall be constructed on less than one (1) Lot. The Dwelling is not to exceed three (3) visible stories in height with a maximum height of all stories not to exceed forty feet (40') in height and shall include a private garage for not less than two (2) automobiles. The Committee may allow, at its sole discretion, the Dwelling to be of three and one-half stories, provided that the additional level is not visible from the street. If a Dwelling is to be constructed upon a lot along with portions of adjacent lots, the Committee may waive the side lot line setback requirements as to the lot line which is crossed by such Dwelling.

B. **Accessory Buildings.** The Committee may also allow at its sole discretion, an accessory building ("Accessory Building") to be constructed on a Lot in addition to a Dwelling, provided the Accessory Building has a maximum height from the ground to the top of the roof lines of eight (8') feet and satisfies the requirements herein expressed for Accessory Buildings. Any Accessory Building shall adhere to building line requirements and shall be placed behind the

primary Dwelling on the Lot. Accessory Buildings shall also comply with the Building Materials provisions of this document. The construction of any Accessory Building upon a Lot may not begin until the construction of the primary Dwelling upon the Lot has begun and in all circumstances, the primary Dwelling must be completed and a certificate of occupancy granted by the appropriate governmental agency prior to the substantial completion of any outbuilding upon the Lot.

C. **Prohibited Activities.** Except as herein referred to, no activity, whether or not for profit, which is not related to single family residential purposes, shall be performed on any Lot. No noxious or offensive activity shall be permitted upon any Lot, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. No fireworks or firearms shall at any time be discharged in the Subdivision. As long as it owns any property in the Subdivision, the Declarant may maintain in or upon such portions of the property as the Declarant determines, such facilities as in its sole discretion may be necessary or convenient, including but not limited to, offices, sales offices, storage areas and signs. Under the provisions of this section, real estate offices, builders' sales offices, construction offices, builders' business offices, residential sales company offices and real estate brokers' offices are specifically prohibited without the express written consent of the Declarant.

As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multifamily use or for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his residence as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the Dwelling or any structure or improvement upon such Lot and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise, odor, or traffic (vehicular or pedestrian) is generated and (e) such use in all respects complies with the laws of the State of Texas, any applicable ordinances, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. For purposes of these restrictions, a single family residential purposes shall be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents, their dependent grandparents, and domestic servants; or (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, their dependent grandparents, and their domestic servants. A person shall be deemed to be a dependent hereunder only if they are considered to be a dependent by the Internal Revenue Service, such that the person supporting the dependent person properly qualifies for an exemption with regard to federal income taxes, as a result of furnishing such support. It is not the intent of this Declaration to exclude from a Dwelling any individual who is authorized to so remain by any state or federal law. If it is found that this definition, or any other provision in this Declaration, is in violation of any law, then this Section shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

D. **Temporary Structures.** Except as expressly provided in this Declaration, no structure of a temporary character, trailer, tent, shack, barn, garage or other out-building shall be used on any Lot at any time as a residence temporarily or permanently, nor shall any temporary residence or other temporary structure be moved onto any Lot.

E. **Signage.** Other than school spirit signs and alarm security signs as set forth below, signs of any kind shall not be displayed to the public view on any Lot except one (1) sign per Lot of not more than five (5) square feet advertising the property for sale or for rent and except signs used by the Declarant and by the original builders of any Dwelling to advertise the property during the construction and sales period. Declarant, its assigns, or the Association, will have the right to remove any such sign(s) exceeding the size or number limits set forth in this provision which are placed on any Lot and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising with such removal. School spirit signs and alarm security signs will be allowed as long as they are reasonable in size and number, as determined by the Board, in its sole discretion.

F. **Oil and Mining Activity.** Oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall not be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavations of shafts be permitted upon or in any Lot or Common Properties of the Subdivision. Derricks or other structures designed for use in boring for oil or natural gas shall not be erected, maintained or permitted upon any Lot or Common Properties of the Subdivision. With respect to all mineral interests in the land of which the subdivision is comprised, Declarant, for itself and its successors and assigns, hereby waives all surface rights.

G. **Mailboxes.** The Properties will be served by cluster boxes by the U.S. Post Office. Individually Lots may not have mailboxes.

H. **Exterior Lighting.** All exterior lighting on all houses and on all lots shall be approved by the Committee.

I. **Sound Devices.** No external horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect the Dwelling, shall be placed or used on any Lot or improvements. This paragraph shall not preclude the use of outdoor speakers for hi-fis, stereos, or radios if the sound level is maintained at a reasonably low level with respect to adjoining property.

J. **Window Treatment.** No window in any Dwelling or other improvement that is visible from any other Lot or a street may be covered with any aluminum foil or other reflective material. Window coverings must be installed pursuant to the Rules and Regulations or architectural guidelines.

K. **Air Conditioners.** No window, roof or wall-type air conditioner are allowed.

L. **Pools.** Portable or permanent above ground swimming pools are prohibited. Smaller prefabricated installed above ground, spas or hot tubs are acceptable. Above ground spas or hot tubs, visible from public view or from other Lots must be skirted, decked, screened or

landscaped to hide all plumbing, heaters, pumps, filter, etc. Swimming pool appurtenances such as rock waterfalls and sliding boards must not be over five feet (5') in height. Skimmer nets, long handle brushes, pool chemicals, filters, pumps, heaters, plumbing, etc. must not be visible from public view. Pool walls shall not encroach on utility or drainage easements. If anything, including pool plumbing is required in utility easements, contact Montgomery County, Texas, before conducting any work including digging. Wood or concrete pool decks, subject to approval of the easement holder, may be placed on utility easements, but are subject to removal by utility companies or by the owner should the utility company require. Swimming pools, spas, hot tubs, etc. must be approved in writing by the Committee prior to being installed. Above-ground wood or concrete pool decks may encroach over the building line. Swimming pool backwashes shall not drain water to the street. Swimming pool backwashes shall be tied directly to the sewer.

**M. Tents, Mobile Homes and Temporary Structures.** Except as may be permitted by the Committee during initial construction within the Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Lot or any part of the Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior approval of the Committee, as appropriate, in accordance with Article III hereof. All permitted structures shall be properly maintained at all times and positioned on the Lot so as to not be visible from the fronting street and/or side street in the event of a corner lot. Materials, color and design of all permitted structures must be the same as the primary Dwelling. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

**N. Drainage and Septic Systems.** Catch basins and drainage areas are for the purposes of natural flow of water only. No obstructions or debris shall be placed in these areas. Provided, however, the Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, storm sewer, sanitary sewer, stream, or pond within the Properties.

**O. Sight Distance at Intersections.** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

**P. Artificial Vegetation, Exterior Sculpture and Similar Items.** No artificial vegetation, including but not limited to plastic plants or other artificial or simulated plants, shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance the Rules and Regulations or architectural guidelines.

**Q. Playgrounds and Decks.** No decks, wooden or otherwise, jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Lot without prior written approval of the Committee in accordance with Article III hereof. These items shall be positioned on the Lot so as not to be visible from any street. Any playground or other play areas or equipment

furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof. Decks, jungle gyms, swing sets or similar playground equipment must be placed on the rear of the Lot no closer than three (3') feet to the side and fourteen (14') feet to the rear lot lines unless stated otherwise herein or approved in writing by the Committee.

R. **Walls, Fences and Hedges.** Prior to the completion of a Dwelling upon the Lot, the Lot must be fenced pursuant to the standards and specifications set forth in Rules and Regulations or architectural guidelines. No hedge in excess of three feet (3') in height shall be erected or maintained nearer to the front Lot line than the building set-back line. Unless approved by the Committee, no chain link, chicken wire, or other wire fence will be permitted on any Lot. No fence or wall shall be erected on any Lot nearer to the street than the building setback lines as shown on the Subdivision Plat. The Committee has the right to deviate any height restriction and its approval for the style and materials to be used based on the location within the Properties. It is the intent to maintain visual continuity especially along entryways and/or main thoroughfares and/or adjacent to Common Properties. Title to any wall or fence shall pass ownership with title to the Lot and it shall be the Owner's responsibility to maintain said wall or fence thereafter in the manner prescribed by the Association. Notwithstanding the foregoing, walls attached to the Dwelling (commonly known as "wing walls") are allowed with prior written approval of the Committee.

S. **Exterior Paint.** The exterior surfaces of buildings, fences or walls located in the Properties shall not be painted or stained unless the Committee gives its prior written approval of the color of paint or stain to be used; such approval is required even when painting with the existing color. The purpose of this covenant is to maintain harmony of the exterior paint colors of the buildings throughout the Properties. Iridescent colors or tones considered to be brilliant are not permitted. Accordingly, the Committee shall not be obligated to approve any color of exterior paint that is different from the original paint applied to the exterior of the buildings. Any perimeter fence or wall shall be maintained in its natural state.

T. **Minimum Lot Areas.** No Lot shall be re-subdivided or replatted without the prior approval of the Board.

U. **Composite Building Site.** Any Owner of one (1) or more adjoining Lots (or portions thereof) may, with prior written approval of the Board, consolidate such Lots or portions into one (1) building site, with the privilege of placing or constructing improvements on such resulting composite site, in which case the side set-back lines along the common lot lines shall be eliminated and said set-back lines shall thereupon be measured from the resulting side property lines rather than from the center adjacent Lot lines as indicated on the Subdivision Plat. Further, any utility easements along said common lot lines shall be eliminated and abandoned upon approval of a composite building site, provided such easements are not then being used for utility purposes. Any such composite building site must have a front building set-back line of not less than the minimum front building setback line of all Lots in the same block. For purposes of the Assessments set forth in Article VI hereof, such composite building site will be assessed by the number of Lots contained within such composite building site.

V. **Development Period.** During the Development Period and notwithstanding anything contained herein to the contrary, Declarant and builders authorized by Declarant may construct and maintain upon portions of the Common Properties and other property they own, such facilities, activities, and things as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of homes on the Lots. Such permitted facilities, activities, and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant and builders authorized by Declarant may park vehicles in areas other than garages or driveways, including on streets. The rights of builders authorized by Declarant under this Section are subject to Declarant's approval. Declarant and builders authorized by Declarant shall have easements for access to and use of such facilities at no charge. Sales offices authorized pursuant to this Section shall comply with the standards imposed by the Declarant.

Furthermore, during the Development Period, no rule, regulation or restriction shall be enacted or implemented by the Association or the Board which would limit or otherwise restrict routine home construction.

W. **Occupants Bound.** All provisions of the Declaration, Bylaws of the Association ("Bylaws") and of any Rules and Regulations or other guidelines or restrictions promulgated by the Board which govern the conduct of Owners shall also apply to all occupants, guests and invitees of any Lot. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws, and the Rules and Regulations or other guidelines or restrictions promulgated by the Board, and shall be responsible for all violations and losses to the Common Properties caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, Rules and Regulations and other guidelines or restrictions promulgated by the Board.

X. **Quiet Enjoyment.** No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any structure, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No speaker (unless otherwise authorized herein), horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Lot. The use and discharge of firecrackers and other fireworks is prohibited within the Properties. No musical group may

perform or play, and no outside instruments may be played without the prior written approval of the Committee.

Y. **Garage Sales.** Garage sales, moving sales, rummage sales or similar activity shall be limited to a total of two (2) per year to be held on the specific date(s) and in the manner designated in writing by the Board.

Z. **Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis and are either conducted entirely within an enclosed garage or other approved enclosure.

**AA. Leasing of Lots.**

(1) **Definition.** "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner received any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(2) **Leasing Provisions.** Lots may only be leased for single family residential purposes as defined in this Declaration. 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 ninety (90) days. No Owner shall be permitted to lease less than the entire Lot. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner under this Declaration. The Owner making such lease shall not be relieved from any of such obligations. Upon the execution of a lease agreement, the Owner shall notify the Association in writing of the Owner's designated address and the name of Owner's lessee. No lessee shall be entitled to use the recreational facilities or Common Properties until the information specified in this Section is provided to the Association in writing and the Owner further notifies the Association in writing that the lessee has been granted the authority to use the recreational facilities and Common Properties by such Owner. The use of the Common Properties and/or recreational facilities is limited to the benefit of one (1) family per residence and the granting of such rights to a tenant excludes the right of the Owner during such period.

**BB. Laws and Ordinances.** Every Owner and occupant of any Lot, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.



**CC. Subdivision of Lots.** Notwithstanding anything contained herein to the contrary, Declarant hereby expressly reserves the right to replat any Lot or Lots owned by Declarant in accordance with all applicable subdivision and zoning regulations.

**DD. Parking and Prohibited Vehicles.** No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot, easement, or right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the Committee. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed seven feet (7') in height, or eight feet (8') in width, or twenty-four feet (24') in length; and (e) have no commercial advertising located thereon, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block a sidewalk or upon any portion of the grassed areas or yard. No vehicle may be kept or stored on any public or private street within the Subdivision for longer than a period of four (4) consecutive hours. No vehicle may be repaired on a Lot unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure. This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity; provided, however, Owners or occupants of Lots may seek a temporary variance from this restriction for their guests; however, any such request for a variance must receive the prior written approval of the Board. Owners or occupants of Lots should refrain from parking their vehicles in front of their neighbor's private residences and should use care when parking behind neighbors' driveways. The continuous parking of multiple cars on the public or private streets located within the Subdivision is prohibited. The Declarant and the Board may adopt additional Rules and Regulations regulating parking on the streets in the Properties. No motor bikes, motorcycles, motor scooters, "go-carts", 3 or 4 wheelers, golf carts or other similar vehicles shall be permitted to be operated in the Properties, if, in the sole judgment of the Declarant or the Board, as the case may be, such operation, by reason of noise or fumes emitted, or by reason of manner of use, shall constitute a nuisance or annoyance.

**EE. No Hazardous Activities.** No activity shall be conducted on and no improvements shall be constructed on any property within the Properties that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior or exterior fireplace.

**FF. On-Site Fuel Storage.** No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools of equipment, and the Declarant and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

**GG. Removal of Trash and Debris During Construction.** Pursuant to the Rules and Regulations or architectural guidelines and during the construction, repair, and restoration of

improvements, each builder shall remove and haul from the Lot all tree stumps, tree limbs, branches, underbrush, and all other trash or rubbish cleared from the Lot to permit construction of the Improvements, including landscaping. No burning of trash or other debris is permitted on any Lot, and no materials or trash hauled away from any Lot may be placed elsewhere within the Properties, unless approved in writing by the Committee. Additionally, each Owner or builder, during construction of the improvements, shall continuously keep the Lot in a reasonably clean and organized condition, Papers, rubbish, trash, scrap, and unusable building materials are to be kept, picked up, and hauled from the Lot on a regular basis. Other useable building materials are to be kept stacked and organized in a reasonable manner. No trash, materials, or dirt shall be placed in the street. Any such trash, materials, or dirt inadvertently spilling or getting into the street or street gutter shall be removed, without delay.

**HH. Excavation and Tree Removal.** The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as may be necessary in conjunction with the landscaping of or construction on such Lot. No trees shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees; provided, however, that removal of any tree in excess of a four inch (4") caliper requires the approval of the Committee and the replacement, one for one, of such tree with a tree of equal or greater caliper. Any void, depression or hole created by the removal of dirt or a tree must be filled in accordance with the requirements of the Committee.

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

**JJ. Restrictions on Garbage and Trash.** No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot except within an enclosed container of a type, size and style approved by the Board and appropriately screened from view, except that any such container may be placed in a designated area for garbage or trash pickup no earlier than six o'clock p.m. on the day preceding trash pickup of such garbage and trash and shall be returned to an enclosed structure or an area appropriately screened from view no later than midnight of the

day of pickup of such garbage or trash.

**KK. Clothes Drying.** No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot if visible from any other Lot, nor shall clothing or household fabric or any other article be hung, dried or aired on any Lot in such a way as to be visible from other Lots/streets or the Common Properties.

**LL. Animals.** No animals of any kind shall be raised, bred, or kept on any Lot except as hereinafter provided. A total of three (3) dogs, cats, or other typical household pets may be kept on a Lot (except for fish of a type customarily kept within normal home aquariums, with respect to which there shall be no limitation on amount) provided that: (a) they are not kept, bred, or maintained for commercial purposes; (b) they do not make objectionable noises, create any objectionable odor, or otherwise constitute an unreasonable nuisance to other Owners, as determined by the Board in its sole discretion; (c) they are kept within the Dwelling, an enclosed yard on the Lot occupied by the Owner of such pets, or on a leash being held by a Person capable of controlling the animal; and (d) they are not in violation of any other provision of this Declaration and such limitations as may be set forth in the Rules and Regulations. Further, no savage or dangerous animals, as determined by the Board in its sole discretion, shall be kept or housed within the Properties. Pets which have a history of harming other pets or residents in the Properties are not allowed. However, the Declarant or the Board may modify this provision and allow more than a total of three (3) dogs, cats or other typical household pets. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal that, in the sole opinion of the Board, is not being maintained in accordance with the foregoing restrictions. Each Owner, tenant, or guest of an Owner shall have the absolute duty and responsibility to clean up after such animals to the extent they have used any portion of the Lot of another Owner or Common Properties. Any resident who causes an animal to be brought or kept within the Properties shall indemnify and hold harmless the Declarant and the Association for any loss, damage or liability which they may sustain as a result of the presence of such animal within the Properties. The pet owner shall be responsible for repairs of any and all damages or loss resulting from the acts of his or her animal while kept within the Properties. The Board may adopt additional rules and regulations from time to time pertaining to pets within the Properties.

**MM. Storage.** No article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or the streets.

**NN. Association Retaining Wall Easement and Maintenance.** The Declarant has constructed or caused to be constructed a concrete or brick or wooden retaining wall, (the "Association Perimeter Retaining Wall") along portions of the perimeter of the Subdivision and being located upon Lots One (1) through Five (5) and Twenty-Seven (27) through Fifty-Nine (59), in Block Two (2) of the Properties (collectively, the "Association Perimeter Retaining Wall Properties"). The Association, acting by and through the Board, shall maintain, repair and replace the Association Perimeter Retaining Wall as it deems necessary and may maintain, repair and replace the Association Perimeter Retaining Wall with any materials it deems appropriate. Declarant hereby reserves for itself and for the Association a non-exclusive and perpetual right-of-way and easement on, under, across and through the five foot (5') strip of land being located upon the Association Perimeter Retaining Wall Properties and being immediately adjacent to

Reserve A or Reserve D of the Properties, as the case may be (the "Association Perimeter Retaining Wall Easement Area"). The Association, from time to time, and at any time, shall have a right of ingress and egress on, under, over, along, across and through the Association Perimeter Retaining Wall Easement Area for purposes of maintaining, operating, repairing, removing, reconstructing, and/or inspecting the Association Perimeter Retaining Wall. With regard to the Association Perimeter Retaining Wall Properties, except for fencing, the Association Perimeter Retaining Wall, an irrigation system installed not deeper than two (2') feet below the natural surface grade, and grass planted on the surface, no structures or improvements of any type or kind, including but not limited to storage sheds, patios, decking, play-forts, swing sets, etc., nor any vegetation, including but not limited to trees and bushes, may be located within five (5') feet of the rear Lot boundary line. Dirt and mulch may not be piled against the Association Perimeter Retaining Wall. Further, with regard to Lots that are adjacent to the Association Perimeter Retaining Wall Properties, except for fencing, the Association Perimeter Retaining Wall, an irrigation system installed not deeper than two (2') feet below the natural surface grade, and grass planted on the surface, no structures or improvements of any type or kind, including but not limited to storage sheds, patios, decking, play-forts, swing sets, etc., nor any vegetation, including but not limited to trees and bushes, may be located within five (5') feet of the Association Perimeter Retaining Wall.

**OO. Pergolas and Arbors.** No pergola and/or arbor will be permitted on any Lot without the prior written approval of the Committee.

**PP. Roof Top Antenna, Satellite Dishes and Accessory Structures.** The roofs, as an expressive design element, should be kept as visually unobstructed as possible. To the extent possible, radio/television antenna, satellite dishes, and radio must be located to the rear one-half (1/2) of the Lot, not extend above the roof line of the house located on the Lot and not be visible from the frontage street or any adjoining street or both. Vent stacks and other necessary roof protrusions should be located to be away from public view and where possible, located on the backside of the roof. All vent stacks and flashing are to be painted to match color of shingles. Shingles are to be overlapped at valleys so that no valley flashing is exposed. No rooftop or window HVAC equipment is permissible. Extreme care should be taken in location of condensers to avoid noise infiltration of adjoining bedrooms and other "quiet" zones. Aluminum screen rooms will not be allowed. All accessory building must receive Committee written approval prior to placement.

**QQ. Antenna and Satellite Dishes.** No antenna or satellite dish which exceeds one meter (39 inches) in diameter is permitted on any Lot. To the extent feasible, the antenna, satellite dish and any mast must be located to the rear one-half (1/2) of the Lot. To the extent feasible, the antenna, satellite dish, including its base and anchoring structure, shall not extend above the roofline of the house located on the Lot and shall not be visible from the frontage street or any adjoining street. If placement at such location precludes reception of an acceptable quality signal, the antennae, satellite dish and related mast shall be placed in the least visible location where reception of an acceptable quality signal is still possible. To the extent feasible, no antenna, satellite dish or mast shall be constructed or placed or permitted to remain on any utility easement or other easement of right-of-way located on any Lot. The antenna, satellite dish and any mast shall be one solid color only, either white or black or shades of brown, gray or tan.

**ARTICLE V.  
LOCATION OF IMPROVEMENTS**

**A. Dwellings**

(1) Dwellings shall face the street on which the Lot on which they are located has the smallest frontage.

(2) Dwellings shall not be located on any Lot nearer to the lot lines than the minimum corresponding building set back lines shown on the recorded Subdivision Plat. No Dwelling or other allowed structures and improvements may be built on a lot except within the building lines shown below:

Front Building Line — twenty feet (20') back from the front property line for main structures and garages on all Lots, except as shown otherwise on the final recorded Subdivision Plat.

Side Building Line — Five feet (5') back from each side lot line. Corner Lot building setback lines are ten feet (10') from the side property line, except as shown otherwise on the final recorded Subdivision Plat.

(3) An Accessory Building permitted by the Architectural Control Committee shall be subject to the foregoing restrictions except that such Accessory Building shall not be taller than eight feet (8') from the ground may not be located closer than ten feet (10') from any side lot line.

(4) The first-floor plate line on the sides of the buildings shall not exceed twelve feet (12') in height. The height of the predominant portion of the slab shall be between eighteen inches (18") and thirty inches (30") above the crown of the street.

(5) The foregoing setbacks are in addition to any municipal or governmental requirements.

**B. Garages and Driveways**

(1) The Committee shall specify and approve in writing the location of all garages and driveways.

(2) Each residential structure shall be accompanied by a garage structure which will contain no less than three hundred fifty square feet (350 sq. ft.) which shall have no more than three (3) single garage doors or one (1) double garage door and one (1) single garage door facing the street. Each house shall have a garage which shall accommodate a minimum of two (2) vehicles. The garages shall be attached or connected to the main structure unless otherwise approved by the Committee.

(3) No detached garage or garages behind the main building shall be permitted on any Lot.

(4) All driveways shall front on the street address side of the Lot. No driveway shall be nearer than six feet (6') to the side lot line. The driveway proper shall be no more than eighteen (18') feet wide at the point of intersection with the street; however, the apron may widen appropriately to facilitate ingress and egress.

(5) Side loaded attached garages must be mixed with other types and not all loaded from the same side.

(6) Carports are prohibited on any Lot without the express written approval of the Architectural Control Committee unless in conjunction with a garage and previously approved by the Architectural Control Committee.

(7) No particleboard garage doors will be permitted. All garage doors are to be metal or solid wood. Glass fenestrations are permitted. No reflective film or foil is permitted on windows.

(8) When a garage is detached and side loading on a corner lot, a fence between the Dwelling and garage is required (Fence shall be the same as required for property line fencing).

(9) All driveways shall be constructed with materials specifically approved by the Committee, which approval must be obtained in writing before commencement of driveway construction.

(10) The garage portion of any model home may be used by builders for sales purposes, storage purposes, and other related purposes. Upon (or before) the sale of any such model home to the first purchaser thereof, the garage portion of the model home shall be converted by the builder to a fully enclosed garage capable of housing not less than two (2) vehicles with fully functional and operational garage doors. If the garage portion of the model home is not converted to a fully enclosed garage with garage doors by the builder upon the sale of such model home, it shall be the obligation of the first purchaser of the model home and each subsequent Owner of the Lot (if not done by the first purchaser) to convert the garage portion of the model home to a fully enclosed garage with fully functional and operational garage doors.

#### C. Other Structures

(1) No basketball goals shall be permitted in front of the front building line or within five (5') feet of any side lot line.

(2) Portable basketball goals must be kept concealed from the street when not being used.

(3) No fence, wall, hedge, pergola, basketball goal, or other detached structure may be erected, grown or maintained on any part of any lot between the building set back line and the adjoining street(s) unless approved by the Committee. Any wall, fence or hedge erected as

protective screening on a Lot by Declarant or by any original builder of any building shall pass ownership with title to the Lot, and it shall be Owner's responsibility to maintain such protective screening thereafter.

(4) No above-ground pools are permitted.

D. **Minimum Square Footage within Improvements.** The air-conditioned livable area of each Dwelling shall not be less than one thousand (1,000) square feet for a one (1) story house, a one and a half (1.5) story house, and for a two (2) story house. Any multiple story home must have not less than one thousand (1,000) square feet of air-conditioned livable area on the first floor. The square footage shall be determined by measuring to the outside of the exterior walls.

E. **Building Material.** All construction plans submitted for approval by the Committee must specify the color and type of materials of which the structure will be built. The exterior wall on the first floor of the front of all homes and garages shall be one hundred percent (100%) brick, stone or other masonry material acceptable to the Committee (collectively, "Masonry Material"), or a combination thereof. "Hardi-board", "Hardi-plank" or similar products as determined by the Committee are considered to be Masonry Material. Further, a minimum of three feet (3') of the exterior wall adjacent to the exterior wall portion of all homes and garages on the first floor shall be Masonry Material, or a combination thereof (In other words, the Masonry Material, or a combination thereof, will wrap around each side from the front of the house and garage on the entire first floor a minimum of three [3'] feet). Any exception must be approved by the Committee. Exceptions will generally be granted only if there is an area of the house where the structure cannot support Masonry Material, in which case the Committee may approve the siding material to be used. Unpainted aluminum finish windows shall not be permitted.

F. **Roofing Material.** Roofing shall be consistent in color. The shingles shall be within the weathered wood color ranges. The Committee may consider the use of alternative roofing materials (i.e., clay, slate, and tile).

G. **Fences**

(1) **Materials.** Fences must only be constructed of Masonry Material, wood or wrought iron. No chain link, concrete, metallic or plastic fences shall be built. Notwithstanding anything contained herein to the contrary, fences constructed or installed by, or at the direction of, the Declarant may be concrete or any other material or combination of materials as determined by the Declarant, in its sole and absolute discretion. A "wrought iron" fence may be made of wrought iron, steel or aluminum as long as it has the appearance of wrought iron.

(2) **Wood Fences.** All wood fences between Lots shall be six feet (6') tall and shall consist of six inch (6") wide wood pickets in Western Red Wood Cedar. All wood fences shall comply with Committee specifications. No wood fence on a side yard may extend closer to the front of the Lot than three feet (3') behind the main structure of the Dwelling.

(3) **Fencing on Corner, Lots.** Corner, lots are required to have a wooden fence six feet (6') tall and consisting of six inch (6") wide wood pickets in Western Red Wood Cedar (or

other material approved in writing by the Committee) with the “finished” side to the street side (and otherwise comply with the Committee specifications) along the side yard facing the street unless other fencing has been previously installed by the Declarant.

#### H. Party Fences and Party Retaining Walls

The following provisions do not apply to the Association Perimeter Retaining Walls.

(1) General Rules of Law to Apply. Each fence and each retaining wall built which shall serve or separate any two (2) adjoining Lots shall constitute a party fence and/or a party retaining wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party fences and party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(2) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party fence and/or a party retaining wall shall be shared by the Owners who the fence and/or the retaining wall serves in equal proportions.

(3) Damage and Destruction. If a party fence and/or a party retaining wall is destroyed or damaged by fire or other casualty, or is in need of maintenance, repairs, or replacement for any reason, then to the extent that such damage, maintenance, repairs, or replacement is not covered by insurance and therefore not maintained, repaired or replaced out of the proceeds of insurance, any Owner who the party fence and/or the party retaining wall serves may maintain, repair, or replace it, and all other Owners who the party fence and/or the party retaining wall serves shall contribute to the cost of such maintenance, repairs, or replacement thereof in equal proportions without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

(4) Easement. There is granted herein an easement the width of six (6') feet running along all rear Lot boundary lines on each Lot and an easement the width of four (4') feet running along all side Lot boundary lines on each Lot for the benefit of each of the present and future Owners, for so long as an Owner owns any interest in the Lot for the maintenance, repair, and replacement of the party fence and/or party retaining wall situated on such Owner's Lot or such adjacent Owner's Lot as is reasonably necessary for such work.

(5) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successor-in-title.

(6) Arbitration. In the event of any dispute arising concerning a party fence and/or a party retaining wall, or under the provisions of this Section, the Owner(s) of each Lot shall appoint one (1) arbitrator. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all appointed arbitrators shall be binding upon the



parties and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof located in Montgomery County, Texas.

I. **Trees.** On or before the occupancy of each Dwelling (“Occupancy”), the owner of each Lot shall plant trees as specified in this Article V, Section I. The front yard of the Lot shall be planted with a minimum of one (1) hardwood tree or the number directed by the Committee, whichever is greater. Unless otherwise directed by the Committee, hardwood is defined as a deciduous tree.

All required planted trees which are not installed in a timely manner or which subsequently die or are uprooted for any reason must be planted or replaced within one growing season following the occurrence or omission involved.

J. **Lot Grading and Drainage.** After the conveyance of each Lot or Lots from the Declarant, each Lot must be graded and maintained in such a manner so as to permit all water from all sources to drain naturally into the street storm sewer system that sides on or fronts each respective Lot. No Lot may be graded in such a manner as to permit water runoff to drain or flow onto or across any adjacent Lot, nor shall any Lot be graded or maintained in such a manner as to allow the accumulation of standing water. There is hereby reserved unto the Owner(s) of adjacent Lots an easement three (3’) feet wide along all side Lot property boundary lines for drainage between the adjacent Lots. Such drainage easement area shall not be leveled or filled in or otherwise obstructed and shall be maintained by the Owner of the Lot upon which such three (3’) foot wide area is located so as to allow water runoff as originally designed and intended. No structures or improvements may be placed within the three foot (3’) easement other than pool equipment (excluding the pool itself), generators, HVAC units, fencing and other items approved in writing by the Committee, all of which must be submitted for review and approval in advance by the Committee. Any of the foregoing placed within the easement must not materially alter the established grade/drainage. Any outside drainage system shall be built to end behind the curb. Swimming pool backwashes shall not drain water to the street.

K. **Visual Obstructions at the Intersections of Public Streets.** Nothing which obstructs sight lines at elevations between two (2) feet and six (6) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty-five (25’) feet from the intersection of the street property lines or extensions thereof shall be placed, planted, or permitted on a corner Lot.

L. **Utility Easements.** For installation and maintenance of utilities, easements are reserved as shown and provided for on the recorded Subdivision Plat and as they may appear in the records of the Montgomery County Clerk’s Office, and no structure shall be erected upon any of said easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers, grass or other improvements located on the land covered by said easements.

M. **Underground Electric Distribution System.** An Underground Electric Distribution System will be installed in that part of the Subdivision designated herein as

"Underground Residential Subdivision", which underground service area embraces all of the Lots which are platted in the Subdivision. The owner of each Lot containing a single Dwelling, at his or its own costs, shall furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering at the structure to the 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, at the request of the electric company, has either by designation on the Subdivision Plat or by separate instrument granted necessary easements to the electric company, in the location and of a size designated by the electric company, providing for the installation, maintenance and operation of its electrical distribution system and also has granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners 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, shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the 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 involved for so long as underground service is maintained in the Dwelling involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Dwelling therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The provisions of the preceding paragraph also apply to any future residential development in Reserve(s) shown on the Subdivision Plat, if any, as such Subdivision Plat exists at the execution of the agreement for underground electric service between the electric company and Declarant or thereafter.

**N. Lot Maintenance and Maintenance of Improvements.** The Owners or occupants of all Lots (inclusive of adjacent easement areas) shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall not use any Lot or portion thereof 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. The drying of clothes in full public view is prohibited, and the Owners or occupants of any Lots at the intersection of streets or other facilities where the yard of portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen from public view, the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. The Owners or occupants of all Lots shall maintain all structures and improvements thereon in a condition of good repair. All such structures and improvements shall be maintained so as to avoid any unsightly conditions, including painting same as necessary to maintain in an attractive manner.

**O. Grass, Shrubbery and Landscaping.** Prior to the sale thereof, the builder or Owner of each Lot with a residence thereon shall provide full sod to the front and sides of each Lot. All grass, plants, and shrubs shall be maintained by the Owner of the Lot. The grass, plants,

shrubs and trees shall be of a type and within standards approved by the Committee. The landscaping requirements of the Committee may be revised from time-to-time.

P. **Enforcement of Owner's Responsibilities.** In addition to any other enforcement rights available to the Association, in the event of violation of any covenant or restriction herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days' written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not obligation), through its agents or employees, to repair, maintain and restore the Lot and/or the exterior of the residence, not limited to include gutters, siding, broken windows, fencing, mowing, etc., and any other existing Improvements located thereon, to the extent necessary to prevent rat infestation, diminish fire hazards, protect property values and accomplish necessary repairs, maintenance and/or restoration. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot to pay such statement immediately upon receipt. Any and all related costs, including but not limited to legal fees, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of the Charge and payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration. The Association, its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein and the Association is hereby granted an easement over the Lots to perform such exterior maintenance and other work.

## ARTICLE VI COMMUNITY MAINTENANCE

A. **Assessments.** An annual maintenance assessment payable in advance on January 1 or each year for the purpose of creating a fund for the operation of the Association shall be imposed on each Lot. The maintenance assessment shall commence with the date of conveyance of such Lot by the Declarant, its successors and assigns. The owner, for each Lot owned within the Subdivision, hereby covenants, and each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association (1) annual assessments ("Assessment" or "Assessments") and (2) other charges, fees, late charges in an amount determined by the Board from time to time, interest, fines, attorney fees and other sums provided for herein ("Charge" or "Charges"). Annual Assessments shall be established and collected, and other Charges shall be collected as hereinafter provided. All past due maintenance assessments shall bear interest from the due date until paid at a rate set by the Board up to the highest annual rate not to exceed the applicable statutory usury limits. The Assessments and other Charges shall be a charge on the land and shall be a continuing lien upon the Lot against which such Assessment or Charge is made as herein set out. In addition to the charge on the land, each such Assessment and Charge shall be the personal obligation of the person who was the owner of such land at the time when the Assessment or Charge fell due.

The Assessment shall be payable in advance on or before January 1 of each year. The Board may fix the Assessment at an amount not in excess of the maximum and shall fix the amount of the Assessment against each Lot by December 1 preceding the Assessment period. The

Assessment period shall begin on January 1 of each year. Written notice of the Assessment shall be sent to every Owner subject thereto at the address of each Lot or at such other address provided to the Association in writing from the Owner. The Assessment shall be considered delinquent if not received by January 31 of the year for which the Assessment pertains.

Those Lots which are not and have not been occupied, and which are owned by a builder or by the Owner who built (or causes to be built) the Dwelling on the Lot shall pay Assessments and Special Assessments provided as herein, equal to one-half (1/2) of the full Assessments or Special Assessments charged to other Owners. The rate of assessment for each Lot shall change as the character of ownership and/or the status of occupancy changes. The applicable Assessment and Special Assessment for each Lot shall be prorated for each calendar year according to the purchase date and rate applicable for each type of ownership of the Lot during that calendar year.

So long as the Declarant owns one (1) or more Lots, even though Assessments shall not commenced as to such Lot(s), the Declarant shall have three (3) options with respect to funding the Association, which may be exercised singly or in combination: (1) the Declarant may annually elect either to pay Assessments on the Lot(s) it owns at one half (1/2) of the rate of the then Assessment, or (2) the Declarant may elect to pay to the Association the difference between the amount of Assessments collected on all other Lots subject to Assessment and the amount of expenditures required to operate the Association during the fiscal year, or (3) the Declarant may require the Board (whether the Board is the same as Declarant, their agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) to execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant or loaned to the Association by Declarant for and on behalf of the Association for obligations of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Properties conveyed by Declarant to the Association. Further, any promissory notes shall be limited to the amount of any annual deficit that is in excess of the amount that would have been paid in such year if the Declarant had chosen to pay Assessments at one half (1/2) rate, regardless of whether the Declarant chose to pay the one half (1/2) rate or subsidize the deficit for the year in question. The Declarant shall be given preliminary budget numbers for the next fiscal year no later than October 1<sup>st</sup> of each year, so that it may evaluate its decisions under this paragraph. Upon Declarant's sale of all Lots owned by it, Declarant shall have no further obligation to pay Assessments to, or fund any deficits of, or make any contributions to, the Association.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services for materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the common expenses of the Association.

So long as Declarant owns any Lot(s), Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Assessment rate for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant above); provided, any such payment of a subsidy shall be conspicuously disclosed as a line item in the income portion of the common expense budget of the Association and shall be made known to the membership. The payment of

such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in any future year(s).

The maximum Assessment for calendar year 2022 shall be in the amount of \$550.00 per Lot. Beginning with the Assessment for calendar year 2023, the maximum Annual Assessment may be increased once a year by the Board, by an amount not to exceed ten percent (10%) over the prior year's Assessment. In the event the Association becomes indebted to the Declarant in any manner, the Board will be required to assess the Owners the maximum assessment provided for in this Section each year to provide for the repayment to the Declarant until the Declarant has been paid in full.

The Assessment may be increased above that allowed by this Section if, and only if, the increase is approved by the affirmative vote of two-thirds (2/3) of the total eligible votes of the Association present, in person or by proxy, at a meeting duly called for that purpose. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, and certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U.S. mail or may be collected by door-to-door canvas.

Upon the increase of the maximum Assessment pursuant to the provisions of this Section, the Association shall cause to be recorded in the Office of the County Clerk of Montgomery County, Texas, a sworn affidavit of the President (or any Vice President) and of the Secretary of the Association which shall certify, among other items that may be appropriate, the total number of eligible votes as of the date of the voting, the quorum required, the number of votes represented, the number of votes voting "for" and "against" the levy, the amount of the increased Assessment so authorized, and the date by which the increased Assessment must be paid to avoid being delinquent. The increase in the maximum Assessment so approved shall become effective on the date specified in the document evidencing such approval and shall be filed for record in the Office of the County Clerk of Montgomery County, Texas.

**B. Special Assessments.** In addition to the Assessment, the Board may, upon the affirmative vote of two-thirds (2/3) of the total eligible votes of the Association present, in person or by proxy, at a meeting duly called for this purpose, levy a Special Assessment (herein so called) for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including fixtures and personal property related thereto. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U. S. First Class Mail or may be collected by door-to-door canvas. Upon the levying of any special assessment pursuant to the provisions of this Section, the Association shall cause to be recorded in the Office of the County Clerk of Montgomery County, Texas, a sworn affidavit of the President or any Vice President and of the Secretary of the Association which shall certify, among other items that may be appropriate, the total number of eligible votes of the Association as of the date of the voting, the quorum required, the number of votes voting "For" and "Against" the special assessment, the amount of the special assessment authorized, and the date by which the special assessment must be paid in order to avoid being delinquent.

The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and proper form of notice of any meeting for the purposes set forth in this Section, and to ascertain the presence of a quorum at such meeting.

C. **Capitalization Fees.** Each Owner of a Lot, other than Declarant or any entity affiliated with the Declarant, at the time it purchases a Lot from the previous Owner (i.e. the purchasing Owner at every sale beginning with the first Owner [including unaffiliated builders] to purchase the Lot from the Declarant), shall be obligated to make a contribution to the Association, which funds shall be used to defray operating costs and other expenses of the Association, including but not limited to and possible funding of reserves, as the Board shall determine in its sole discretion, in the amount of up to fifty (50%) percent of the then current amount of the Assessment assessed to an Owner of a Lot other than Declarant, a builder or the Owner who built (or causes to be built) the Dwelling on a Lot ("Capitalization Fee").

D. **Enforcement.** The Association, its successors or assigns, without liability to the owner or occupant in trespass or otherwise, may, after ten (10) days' written notice to the owner or occupant and failure of the owner or occupant to comply with the terms of such notice, enter upon such Lot or Lots and do or cause to be done such actions that will bring the Lot and improvements thereon into compliance with these restrictions. The cost of carrying out such actions shall be billed to the Lot owner by the Association by placing such bill in the United States mail, postage paid. Any Assessments and Charges which are not paid when due shall be delinquent. If the Assessment or Charges are not paid within thirty (30) days after the due date, the Assessment or charge shall bear interest from the date of delinquency at a rate which shall be the lesser of fifteen percent (15%) per annum or the maximum non-usurious rate per annum, and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against such Lot, regardless of whether or not there is personal liability of the current owner, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such Assessment or Charges. Each such owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such owner personally for the collection of such Assessment or Charges as a debt and to foreclose the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by judicial action brought in the name of the Association and by a non-judicial action in a like manner as a deed of trust lien on real property and subject to Chapter 209 of the Texas Property Code (as same may be amended or revised from time to time), and such owner hereby expressly grants to the Association an extra-judicial power of sale in connection with the non-judicial foreclosure of such lien.

In addition to and in connection therewith, by acceptance of the deed to a Lot, each Owner expressly GRANTS, BARGAINS, SELLS and CONVEYS to the President and/or Vice President or agent 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 Assessments and Charges levied hereunder, and other sums due hereunder remaining unpaid hereunder from time to time. The Trustee herein designated may be changed for any reason and at any time and from time to time by execution of an instrument in writing signed by the President or a Vice-President of the Association and filed in the Real Property

Records of Montgomery County, Texas. In the event of the election by the Board to foreclose the lien herein provided for non-payment of sums secured by such lien, then it shall be the duty of the Trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such request Lot, and all rights appurtenant thereto in accordance with Sections 209 and 51.002 of the Texas Property Code (as said statute shall read at the time of enforcement) and to make due conveyance to purchaser or purchasers by deed binding upon the Owner or Owners of such Lot and his heirs, executors, administrators and successors. The Trustee shall give notice of such proposed sale as required by Sections 209 and 51.002 of the Texas Property Code (as said statute shall read at the time notice is given).

At any foreclosure, judicial or nonjudicial, 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 without further notice.

All portions of the Properties dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Common Properties shall be exempt from the Assessments and other charges created herein. Notwithstanding the foregoing, no Lot which is used, or is intended for use, as a residence shall be exempt from Assessments and charges and the lien herein securing payment thereof.

The Assessments and Charges shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, (a) any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration, (b) any claim by the Owner of non-use of the Common Properties or abandonment of his Lot, (c) any claim by the Owner of inconvenience or discomfort arising from the making of repairs or Improvements to the Common Properties, or (d) any claim by the Owner of inconvenience or discomfort arising from any action taken to comply with any law or any determination of the Board or for any other reason.

The lien provided for herein shall be subordinate to any first lien purchase money mortgages (and refinancing of same) relating to the Lots or liens relating to construction upon the Lots; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or a foreclosure by trustee's sale under a deed of trust or a foreclosure of the assessment lien retained and reserved herein. Sale or transfer of any Lot shall not affect the lien; however, the sale or transfer of any Lot pursuant to the foreclosure of a first lien purchase money mortgage (and any refinancing of same) or any proceeding in lieu thereof, shall extinguish the lien herein as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for the Assessments and Charges thereafter becoming due or from the lien thereof. A selling Owner of a Lot shall not be relieved of personal liability for any Assessments and Charges accruing on such Lot prior to the date of sale or transfer.

E. **Expenditures.** The maintenance fund may be applied, insofar as it may be sufficient (with priority given to maintenance of the reserves, esplanades, restricted reserves, recreational facilities, common open areas, and aesthetic features located within county right-of-way), toward the payment for maintenance of the Association Perimeter Retaining Wall, private streets or permanent access easements, if any, parkways, cul-de-sacs, esplanades, detention ponds and areas, vacant Lots, maintenance of landscaping and improvements that are located on properties that are adjacent or in the vicinity of the Subdivision (including, but not limited to payment of a portion of such costs to an adjacent property owners association with whom the Association has agreed to share costs) to the extent the Board determines that such maintenance and landscaping are beneficial to the Subdivision, lighting, fogging, employing of courtesy patrols, policemen and workmen, enforcement of these restrictions, and any other things necessary or desirable in the opinion of the Association to maintain or improve the property or which it considers to be of general benefit to the Owners or occupants of the property covered by this Declaration, it being understood that the judgment of the Association in the expenditure of said fund shall be final as long as said judgment is exercised in good faith.

## **ARTICLE VII THE ASSOCIATION**

A. **Membership.** Every person or entity who is a record owner of any Lot of Lots (an "Owner") shall be a member of the Association (a "Member"). No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

Other lands may hereafter be annexed into the jurisdiction of the Association in the manner herein described. If annexed, the Owners of Lots in each future section so annexed, as well as all owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Properties that may become subject to the jurisdiction of the Association as a result of such annexation, and the facilities thereon, and shall be entitled to the use and benefit of the maintenance fund, hereinabove set forth, provided that each Lot in any future section shall be impressed with and subject to Assessments and Charges imposed hereby. Such additional stage of development may be annexed in accordance with the provisions of Article XI, upon a merger or consolidation of the Association with another association. The Common Properties may be transferred to a surviving association, or alternatively, the properties, rights, and obligations of another association may be consolidated with those of the association pursuant to a merger. The surviving or consolidated association shall administer the restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration, except as agreed to by an eighty percent (80%) vote of the Owners of the Association.

B. **Voting Class.** The Association shall have two (2) classes of voting membership:

(1) **Class A Membership.** Class A Members shall be all Owners, except Declarant, and each shall be entitled to one (1) vote for each Lot. When more than one person holds an interest



in any Lot, all such persons shall be Members and the vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

(2) **Class B Membership.** Class B Members shall be the Declarant who shall be entitled to three thousand (3,000) votes so long as Declarant owns at least one (1) Lot.

(3) Class B membership shall cease and be converted to Class A membership upon the termination of the Development Period or such earlier date as determined by the Declarant, in its sole discretion, in a written instrument signed by the Declarant and recorded in the Official Public Records of Montgomery County, Texas.

(4) Notwithstanding the prior provisions of this Section B above, if additional property is made subject to the jurisdiction of the Association pursuant to a Supplemental Declaration, such that Declarant owns more than five percent (5%) of the total of all Lots, then paragraphs B(2) and B(3) above shall be automatically reinstated ipso facto.

C. **Authority.** The Association may make whatever rules or by-laws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Subject to the provisions below, every Member shall have a common right and easement of use and enjoyment in the Common Properties for the purposes for which the Common Properties are created, and such right and easements shall be appurtenant to and shall pass with the title to every Lot.

The rights and easements of enjoyment created hereby in favor of the Members shall be subject to the rights and easements now existing or hereafter created in favor of Declarant or others as referred to or provided for in this Declaration, and shall also be subject to the following provisions:

(1) The Board shall have the right to borrow money to mortgage the Common Properties.

(2) The Board shall have the right to take such steps as are reasonably necessary to protect the Common Properties against foreclosure of any such mortgage.

(3) The Board shall have the right to suspend the enjoyment rights of any member for any period during which any Assessment or other amount owed by such Member to the Association remains unpaid.

(4) The Board shall have the right to limit the number of guests who may use the Common Properties and to establish reasonable Rules and Regulations governing the Members' use and enjoyment of the Common Properties, and to suspend the enjoyment rights of any member for any period not to exceed sixty (60) days for any infraction of such Rules and Regulations. Accordingly, the Association shall assume responsibility for making and enforcing rules for the

use of limited access gates, and the swimming and tennis facilities, if any.

(5) The Board shall have the right to assess and collect the assessments provided for herein and to charge reasonable admission and other fees established by the Association for the use of any facilities which are a part of the Common Properties.

(6) The Board shall have the right to dedicate or convey all or any part of the Common Properties to any public authority for such purposes and subject to such conditions as may be agreed to by the Board.

(7) The Board shall have the right to impose reasonable membership requirements and charge reasonable admission or other fees (which fees shall be separate from Assessments) for the use of any recreational facility situated upon the Common Properties;

(8) The Board shall have the right to permit nonmember use of any recreational facility situated on the Common Properties upon payment of user fees established by the Board;

D. **Indemnification.** The Association and Owners each covenant and agree, jointly and severally, to indemnify, defend and hold harmless Declarant, the Association, their respective officers, directors, parent and/or subsidiary entities, partner(s) and any related persons or corporations, and their employees, professionals and agents from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Properties or other property serving the Association and improvements thereon, or resulting from or arising out of activities or operations of Declarant or of the Association, or of the Owners, and from and against all costs, expenses, court costs, counsel fees (including, but not limited to, expenses, court costs, counsel fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be considered operating costs of the Association to the extent such matters are not covered by insurance maintained by the Association. IT IS EXPRESSLY ACKNOWLEDGED THAT THE INDEMNIFICATION IN THIS SECTION PROTECTS DECLARANT AND THE ASSOCIATION (AND ANY PARENT OR SUBSIDIARY OR RELATED ENTITY OF ANY OF THEM) FROM THE CONSEQUENCES OF THEIR RESPECTIVE ACTS OR OMISSIONS, INCLUDING WITHOUT LIMITATION, DECLARANT'S AND/OR THE ASSOCIATION'S NEGLIGENT ACTS OR OMISSIONS, TO THE FULLEST EXTENT ALLOWED BY LAW.

E. **Limitation on Liability.** The officers of the Association and Board members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or Board members may also be Members of the Association). Further, a member of the Board shall not be liable to the Association, any Member, or any other person for any action taken or not taken as a member of the Board if he acts in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner he reasonably believes to be in the best

interests of the Association. The officers of the Association and the members of the Board shall also be entitled to the benefit of any provision limiting their liability provided by the Bylaws and the Texas Business Organizations Code.

F. **Reimbursement of Declarant.** Recognizing that the Association may have to be subsidized by Declarant, the Board (whether the Board is the same as Declarant, his agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) may reimburse Declarant, execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant or loaned to the Association by Declarant for and on behalf of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Properties conveyed by Declarant to the Association.

G. **Power to Grant Easements.** Declarant, while Declarant owns the Common Properties and thereafter the Association, shall have the power to grant access, utility, drainage, water, facility, cable television, and other easements, in, on, over, or under the Common Properties.

H. **Inspection of Records.** The Members shall have the right to inspect the books and records of the Association at reasonable times during normal business hours pursuant to such rules or guidelines promulgated by the Declarant or the Board from time to time.

I. **Additional Powers of the Association.** The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Properties as the Board deems reasonably necessary or appropriate to maintain and operate the Properties in accordance with the Declaration, including without limitation, the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest. The Declarant and the Association, acting through its Board of Directors, shall each also have the power to make and to enforce Rules and Regulations governing the use of the Properties, in addition to those contained herein. The Rules and Regulations shall be binding upon all Owners, occupants, invitees and licensees, if any.

## ARTICLE VIII

### ENFORCEMENT

The covenants, reservations, easements and restrictions set out herein are for the benefit of the undersigned, its successors and assigns, and equally for the benefit of the Association and of any subsequent Owner of a Lot or Lots in the Subdivision, and their heirs, executors, administrators and assigns. Accordingly, all of the covenants, reservations, easements and restrictions contained herein shall be construed to be covenants running with the land, enforceable at law or in equity, by any one or more of said parties. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents by any one or more of the following means: (a) by entry upon any Lot within the Properties after notice (unless

a bona fide emergency exists in which event this right of entry may be exercised without notice [written or oral] to the Owner, but in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use, or enjoyment of the improvements situated thereon by the Owner or any other person), without liability by the Association to the Owner, tenant, or guest thereof, for the purpose of enforcement of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents; (d) by exclusion, after notice, of any Owner or Owner's family, guests, or tenants from use of any recreational facilities in the Common Properties during and for up to sixty (60) days following any breach of this Declaration, Rules and Regulations, architectural guidelines and other Association governing documents by such Owner or Owner's family, guests, or tenants, unless the breach is a continuing breach in which case, such exclusion shall continue for so long as such breach continues; (e) by levying and collecting, after notice, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations, from any Owner or Owner's family, guests, or tenants, for breach of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents by such Member or Member's family, guests, or tenants. In the event any action to enforce the provisions of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents is initiated by the Association against an Owner or occupant of a Lot, or any action is initiated by the Association to enjoin or restrain any breach or threatened breach of this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents, the Association shall be entitled to recover reasonable attorneys' fees, costs, expenses and charges from the Owner or occupant of a Lot who violated this Declaration, the Rules and Regulations, architectural guidelines and other Association governing documents or for whom such restraint or injunctive relief is sought. Any such attorneys' fees, costs, expenses and charges shall become a part of the Charge and payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration.

#### **ARTICLE IX**

#### **SEVERABILITY**

The invalidity, abandonment or waiver of any one of these covenants, reservations, easements or restrictions shall in no way affect or impair the other covenants, reservations, easements and restrictions, which shall remain in full force and effect.

#### **ARTICLE X**

#### **AMENDMENT TO THIS DECLARATION**

The covenants and restrictions of this Declaration shall run with and bind the land for a term of forty (40) years from the date that this Declaration is recorded in the Real Property Records

of Montgomery County, Texas, after which time they shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended by the Owners during the first twenty (20) year period by a vote of sixty-seven (67%) percent of the total votes allocated to Owners in the Association. However, until the expiration of the Development Period, the prior written approval of the Declarant is required to amend this Declaration. The Declarant, its successors and assigns, may, from time to time and during the Development Period, amend these covenants and restrictions in its sole and absolute discretion and without the Association's or Owner's approval. Any amendment must be recorded in the Office of the County Clerk of Montgomery County, Texas.

#### **ARTICLE XI ADJACENT PROPERTY**

The Subdivision may become a part of a larger tract or block of land owned by Declarant. While Declarant may subdivide other portions of its property, or may subject the same to a declaration such as this Declaration, Declarant shall have no obligation to do so, and if Declarant elects to do so, any Subdivision Plat or declaration executed by Declarant with respect to any of its other property may be the same as or similar or dissimilar to any Subdivision Plat covering the Subdivision, or any part thereof, or to this Declaration as Declarant shall, in its sole discretion, desire. During the Development Period, any such additional subdivided property or properties may be annexed into the jurisdiction of the Association at the sole and absolute election of the Declarant. Any such annexed property or properties shall be subject to a declaration providing for a uniform rate of Assessments with the Lots covered by this Declaration and with such other reservations, restrictions, covenants, and easements as shall be compatible with such matters as set forth herein.

#### **ARTICLE XII NO PARTITION**

Except as is permitted in the Declaration or any supplemental declaration, there shall be no judicial partition of the Common Properties or any part thereof, unless approved in writing by the Declarant, nor shall any person acquiring any interest in the Properties or any part thereof seek any judicial partition unless approved in writing by the Declarant. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

#### **ARTICLE XIII MISCELLANEOUS**

A. **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND AGENTS, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES

UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, ITS AGENTS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLARS ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED, EACH OWNER AND OCCUPANT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING UNIT AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

B. **Additional Restrictions.** No Person shall record any covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

C. **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.

D. **Violations of Law.** Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any Lot hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.



**E-FILED FOR RECORD**

**01/14/2022 12:33PM**

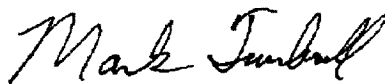


COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was e-filed in the file number sequence on the date and time stamped herein by me and was duly e-RECORDED in the Official Public Records of Montgomery County, Texas.

**01/14/2022**



County Clerk  
Montgomery County, Texas