

**BLUE RIDGE ESTATES
RESIDENTIAL SUBDIVISION**

**DECLARATION OF COVENANTS, RESTRICTIONS,
CONDITIONS, ASSESSMENTS, CHARGES,
SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS**

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This **DECLARATION OF COVENANTS, RESTRICTIONS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS**, hereinafter referred to as the "**Declaration**," is made on the 7th day of May, 2003 by **GARY H. WOODRING**, hereinafter referred to as "**Declarant**."

WITNESSETH:

WHEREAS, Declarant owns all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 1, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 2, and Lots 1, 2, 3 and 4 of Block 5 of **Blue Ridge Estates Subdivision**, a residential subdivision in Smith County, Texas, according to the amended plat thereof recorded in Cabinet D, Slides 179-A and 179-B of the Plat Records of Smith County, Texas, all of said Lots being sometimes hereinafter referred to as the "**Property**;"

WHEREAS, in order to enable Declarant to implement a general plan of development and accomplish the development of the Property, as well as other real property as may be hereafter added thereto by Declarant at the sole and exclusive discretion of the Declarant, or his assigns, as a residential development of high quality and standards in a consistent manner with continuity and to insure the creation of an architecturally harmonious subdivision, Declarant desires to subject the Property to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth herein collectively called the "**Covenants**;"

NOW THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the Covenants, which shall be deemed as covenants running with the land and imposed upon and intended to benefit and burden each Lot, hereinafter defined.

ARTICLE I - DEFINITIONS

1.01. **Definitions**. The definitions of certain words, phrases or terms used in this Declaration are set forth on Exhibit "A," which is attached hereto and incorporated herein for all purposes. Other words, phrases or terms may be defined in the body of this Declaration.

ARTICLE II - COVENANTS BINDING ON PROPERTY AND OWNERS

2.01 **Property Bound**. From and after the date of recordation of this Declaration, the Property and each Lot shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, bind and burden the Property and each Lot.

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and inure to the benefit of Declarant, each Owner, and the heirs, executors, administrators, personal representatives, legal representatives, successors and assigns of the Declarant and each Owner, whether or not so provided or otherwise mentioned in the Deed. Each Owner, his heirs, executors, administrators, personal representatives, legal representatives, successors and assigns, expressly agrees to pay, to discharge and to be personally liable for, all of the assessments provided for hereunder, and to be bound by all of the Covenants herein set forth.

2.03. Additional Property. In the sole, exclusive and unilateral discretion of the Declarant, at any time, additional real property may become subject to this Declaration by the Declarant, or his assigns, adding or annexing additional real property to the development scheme of the Declaration by filing for record in the Official Public Records of Smith County, Texas a Supplementary Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens Reservations and Easements with respect to such additional real property, hereinafter referred to as the "**Supplementary Declaration;**" provided, however, that such Supplementary Declaration may contain such complementary additions and modifications of the Covenants as may, in the sole, exclusive and unilateral determination of Declarant, or his assigns, be necessary or desirable to reflect the different character, if any, of the additional real property and as are not materially inconsistent with this Declaration in a manner which adversely affects the concept of this Declaration.

ARTICLE III - ARCHITECTURAL CONTROL

3.01 Reservation and Assignment of Architectural Control. The Declarant, desiring (i) to provide for the preservation of the values and amenities in and upon all of the Property, each Lot and any additional real property which may become subject to this Declaration as provided in Section 2.03, above, and (ii) to subject the Property and each Lot to the reservation of architectural control hereinafter expressed for the purpose of implementing a general plan of development for the Property, each Lot and any additional real property which may become subject to this Declaration as provided in Section 2.03, above, (iii) to insure the creation of a high quality, architecturally harmonious subdivision, which general plan of development and reservation of architectural control is for the benefit of the Property, or any part thereof, each Lot, each Owner, and any additional real property which may become subject to this Declaration as provided in Section 2.03, above, as well as for the benefit of the Declarant, does hereby expressly reserve unto the Declarant, and his assigns, the sole, exclusive and unilateral right and all rights to approve, disapprove or determine as to:

- A. compliance with or violation of any specific covenant, covenants, restriction or restrictions imposed upon the Property, or any part thereof, or any Lot, or any Owner, or any additional real property which may become subject to this Declaration as provided in Section 2.03, above, by the Declarant, the Architectural Control Committee, or anyone acting on behalf of either the Declarant or the Architectural Control Committee, with respect to a Lot, the Lots, the Property and/or any part

thereof, and any additional real property which may become subject to this Declaration as provided in Section 2.03, above;

- B. without limitation, harmony of external design, adequacy of structural design, adequacy of drainage, location of any and all improvements, allowing and location of exterior lighting, building and landscaping setbacks from property lines, outbuildings, playground equipment, recreational equipment, athletic equipment, basketball goals, swimming pools, square footage of improvements, driveways, and landscaping in relation to surrounding structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks, landscaping, color schemes, types and quality of construction materials, quality of workmanship, any and all subdivisions, resubdivisions (where permitted), exterior additions to, changes in, construction, paving, alteration or excavation of the Property, or any part thereof, or of any Lot, or any part thereof (including, but not limited to all of the trees now located or to be located thereon, regardless of the size of such trees), and any and all Dwellings, structures and other improvements located thereon, either permanent or temporary, including without limitation, additions to, changes in, or alterations of grade, landscaping, roadways, walkways, signs, exterior lights, walls, fences, buildings, or other structures or improvements of any type or nature located thereon which any person or entity, including without limitation, governmental and quasi-governmental subdivisions or agencies, seeks to commence, erect, construct, place or maintain upon any Lot or the Property, or any part thereof.

3.02 **Appointment.** (i) The Declarant, or (ii) the Declarant's executor or administrator in the event of the Declarant's death, or (iii) the Declarant's legal representative in the event of the Declarant's legal disability, incapacity or incompetence, shall at all times, until waived, released or assigned by the Declarant, or the Declarant's executor, administrator or legal representative, as applicable, in an instrument filed for record in the Official Public Records of Smith County, Texas, have the sole, exclusive and unilateral power and right to appoint the members of the Architectural Control Committee. The initial member of the Architectural Control Committee is and shall be Gary H. Woodring. Should the Declarant after the date of this Declaration desire to change modify or alter the membership of the Architectural Control Committee in any manner, the Declarant, or his assign(s), or the Declarant's executor, administrator or legal representative, as applicable, shall have the sole, exclusive and unilateral right to remove any member and to appoint replacement, new or additional members of the Architectural Control Committee by filing a designation of removal, replacement or appointment in the Official Public Records of Smith County, Texas. (i) The number of members constituting the Architectural Control Committee, and (ii) the members of the Architectural Control Committee, and (iii) the manner in which the members of the Architectural Control Committee are selected or appointed, may be changed or modified by the Declarant, or his assign(s), or the Declarant's executor, administrator or legal representative, as applicable, at any time by the filing of a supplemental designation of appointment in the Official Public Records of Smith County, Texas.

3.03 Requests For Approval. All requests for approval of any of the items set forth in this Article III shall be in writing and submitted to the Architectural Control Committee at P. O. Box 293, Flint, Texas 75762, or at such other address as may from time to time be designated of record by the Architectural Control Committee in the Official Public Records of Smith County, Texas, and shall be accompanied by complete and specific plans and specifications showing the nature, kind, shape, elevations, height, materials, color, location, landscaping, and all other material attributes of any structure, improvement, addition, change, alteration, repair, renovation or excavation of any Lot, or any part thereof. All such requests for approval shall also be accompanied by the payment, in tender acceptable to the Architectural Control Committee, of an Application Fee as shall be set from time to time by the Architectural Control Committee in its sole discretion. The Architectural Control Committee shall have no duty to exercise the power of approval or disapproval herein reserved.

3.04 Designation of Power of Approval. With respect to any Lot, or any part thereof, the Declarant does herein and hereby delegate the power of approval and disapproval reserved in Section 3.01, above, to the Architectural Control Committee. This delegation of the power of approval and disapproval may be rescinded at any time by the Declarant by the filing of an instrument so stating such act of rescission in the Official Public Records of Smith County, Texas. As long as this delegation of the power of approval and disapproval is in effect, any person or entity owning any interest in the Property, or any part thereof, or any Lot, or any part thereof (where permitted), shall be required to deal with the Architectural Control Committee, and not the Declarant, and the Declarant shall have no responsibility or liability of any nature whatsoever for the actions of the Architectural Control Committee.

3.05 Prior Approval. No dwelling, building, garage, outbuilding, storage building, fence, wall, sign, exterior lighting, pole, antenna, television or satellite disc or dish, driveway, sidewalk, other walkway, mailbox, athletic equipment, recreational equipment, playground equipment, basketball goals, other structure or apparatus, either permanent or temporary, or landscaping shall be commenced, erected, altered, constructed, placed, repaired, renovated or maintained upon the Property or upon any Lot, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted in writing to and approved in writing by the Architectural Control Committee as to (i) compliance with the Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not limited to, as to architectural designs, setbacks, landscaping, color schemes and construction materials. The Architectural Control Committee shall have the right to promulgate a Form for submission of such items to the Architectural Control Committee, and upon such promulgation, all Owners shall be required to use the promulgated Form for all such submissions. The Architectural Control Committee shall have the right to approve or disapprove any contractor or subcontractor prior to any or during construction on any Lot. In the event the Architectural Control Committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been properly submitted to it, approval

will not be required, and the requirements for approval set forth in this Declaration shall be deemed to have been fully met and performed. Non-exercise of the powers hereby reserved by Declarant in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of anyone set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of willful and affirmative misconduct attributable to the Architectural Control Committee, the Architectural Control Committee shall not be liable for the improper enforcement or failure to exercise any of the powers reserved and delegated unto the Architectural Control Committee pursuant to this Declaration. The fact that some type of structure or improvement may be mentioned in this Declaration is not in any manner to be construed as a statement that such type of structure or improvement will be allowed on any Lot in the Subdivision, as the final approval or disapproval for any type of structure or improvement on any Lot shall is expressly vested solely in the Architectural Control Committee to be exercised at its sole discretion.

3.06 No Liability. In no event shall any approval obtained from such Architectural Control Committee pursuant to the terms of this Article be deemed to be a representation of any nature regarding the structural integrity or safety or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations, nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval. No member of the Architectural Control Committee shall at any time have any liability to any Owner or other person or entity for any decision(s) that are made by the member or the Architectural Control Committee so long as such decision(s) are made in good faith and are not arbitrary or capricious. Any and all errors or omissions from the plans submitted to the Architectural Control Committee shall be the sole responsibility of the Owner of the Lot to which the plans and improvements relate, and the Architectural Control Committee, and each member thereof, shall have no obligation to check the plans for errors or omissions or to check such plans for compliance with this Declaration, zoning ordinances, laws, building lines, easements or rights-of-way, or any other issue.

3.07. Pre-Approval of Plans. The Architectural Control Committee may, but shall not be required to, pre-approve plans and specifications as required by this Article III before a prospective Owner of a Lot actually closes on the purchase of said Lot. If a prospective Owner desires to seek pre-approval for plans and specifications for any Lot, the prospective Owner shall submit plans and specifications, as required by this Section III. Pre-approval of plans and specifications must be actually and in fact acted upon and approved in writing by the Architectural Control Committee, and no approval shall be deemed by the passage of any period of time or any act or omission of any nature whatsoever except the written approval of the Architectural Control Committee. In the event that the Architectural Control Committee does pre-approve plans and specifications for a prospective owner of any Lot, such approval shall terminate (i) sixty (60) days after the date of such approval if the prospective Owner does not close on the purchase of the subject Lot and thereby become the Owner thereof, or (ii) ninety (90) days after the Owner closes on the purchase of the subject Lot and becomes the owner thereof unless the Owner shall have (a) actually and in fact commenced construction of the improvements, the approval for which has been granted by the Architectural

Control Committee, and diligently pursues the uninterrupted completion of such improvements, or (b) received a written extension of time to commence the construction of the improvements from the Architectural Control Committee.

3.08. Withholding Consent. When the consent or approval of the Architectural Control Committee is required or permitted under any of the terms of this Declaration, the Architectural Control Committee shall have the right to withhold its consent or approval for any reason or for no reason.

ARTICLE IV - GENERAL RESTRICTIONS

4.01 Single-Family Residential Purposes. All Lots and all Permanent Improvements thereon shall be used only for single-family residential purposes. No Lot in the Subdivision shall be used for any commercial, business or professional purposes, as determined solely by the Architectural Control Committee exercising reasonable discretion and whose determination shall not be subject to challenge, review or appeal, judicially or otherwise. Each Owner by accepting a Deed to a Lot hereby waives any and all rights to challenge, review or appeal such determination by the Architectural Control Committee.

4.02 Types of Structures. Unless otherwise approved by the Architectural Control Committee, no Permanent Improvements shall be erected, constructed, altered, repaired, renovated or permitted to remain on any Lot other than one (1) detached single-family, residential dwelling. Each Dwelling Unit shall have a private garage as provided below. No used or previously constructed building or other structure shall be placed or moved onto any Lot at any time. No structure of any kind of a temporary character and no trailer, mobile home, manufactured home, trailer home, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. Each Dwelling Unit on any of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 1, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 2, shall be required to have a minimum of two thousand eight hundred (2,800) square feet of heated and cooled living space, exclusive of garages. Each Dwelling Unit on Lots 1, 2, 3 and 4 of Block 5 shall be required to have a minimum of four thousand (4,000) square feet of heated and cooled living space, exclusive of garages.

4.03 Garage Construction. All garages constructed on any Lot shall be approved in writing by the Architectural Control Committee prior to the beginning of construction on the Dwelling Unit. Garages may not be closed in and occupied or used as part of a Dwelling Unit. Garages may not be used for other than storage and parking vehicles without the express written consent of the Architectural Control Committee, which consent may be withheld for any reason. Each Dwelling Unit shall be required to have a three (3) car garage. Unless waived in writing by the Architectural Control Committee, each garage shall have eight (8) foot high garage doors.

4.04 Setbacks. No Dwelling Unit, retaining wall or other improvement shall be located on any Lot nearer to the front Lot line than seventy-five (75.0) feet. No Dwelling Unit, driveway,

or other improvement shall be located on any Lot nearer to either side Lot line than twenty (20) feet without the prior written consent of the Architectural Control Committee. For purposes of this covenant, roof overhang, eaves and open porches shall be considered as a part of the Dwelling Unit. The Architectural Control Committee may, unilaterally and without amendment to this Declaration, permit or require a change in any direction of the setback line on any Lot when in the sole opinion of the Architectural Control Committee it is determined to be advisable to permit or require such change. Should there ever be any question or confusion about whether or not a Lot line is a front Lot line, back Lot line or side Lot line, the decision of the Architectural Control Committee with respect to such determination shall be final and binding upon all Owners.

4.05 Retaining Walls, Fences, Planters, Hedges and Other Screening Material. No retaining wall, fence, planter, hedge or other screening material may be erected or maintained on the Property or on any Lot without the prior written consent of the Architectural Control Committee. No crossties, landscape timbers or keystone blocks or stone (or similar types of materials) may be used on any Lot for any purpose without the prior written consent of the Architectural Control Committee. The Architectural Control Committee shall have the sole, exclusive and unilateral right to determine the location, size and height of any retaining wall, fence, planter, hedge, shrub or other landscaping or screening material on any Lot, or the Architectural Control Committee shall have the sole, exclusive and unilateral right to Prohibit construction or placement of any retaining wall, fence, planter, hedge, shrub or other landscaping or screening material on any Lot

4.06 Construction Materials. All materials used in the construction of any Dwelling Unit, driveway, wall, fence or other structure or improvement must be approved in writing by the Architectural Control Committee before commencement of construction. Only new construction materials shall be used (except for brick if and as approved by the Architectural Control Committee on a case by case basis).

4.07 Drilling Activity. At no time shall the drilling, usage or operation of any water well or any well or excavation for any oil, gas or other minerals be permitted on the Property or on any Lot.

4.08 Air Conditioners and Heaters. No window or wall type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any Dwelling Unit or elsewhere on any Lot.

4.09 Utilities. Each Dwelling Unit shall be required to be connected to the utility distribution systems in the Subdivision unless allowed otherwise by the written consent of the Architectural Control Committee. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in applicable utility company rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice. No gas, electric, power, telephone, water, septic,

cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required.

4.10 On Street Parking. On street parking on the Private Street shall be and is hereby restricted to only reasonable and normal deliveries, pick-ups, or short-time guests and invitees, and all parking on the Private Street shall be subject to such reasonable rules and regulations as shall be adopted from time to time by the Architectural Control Committee or the Board. At no time shall (i) any Owner, or (ii) any relative of any Owner, or (iii) anyone residing in a Dwelling Unit, either permanently or temporarily, or (iv) any guest or invitee of any Owner, resident or occupant of any Lot, park or allow to be parked for any reason on the Private Street (i) any motor home, recreational vehicle, bus, tractor, trailer, or bob-tail truck, (ii) any van in excess of three-quarters ($\frac{3}{4}$) of a ton, or truck of any type in excess of three-quarters ($\frac{3}{4}$) of a ton, nor (iii) any vehicle with painted advertising or magnetic sign(s).

4.11 Off Street Parking. At no time shall (i) any Owner, or (ii) any relative of any Owner, or (iii) anyone residing in a Dwelling Unit, either permanently or temporarily, or (iv) any guest or invitee of any Owner, resident or occupant of any Lot, park or allow to be parked for any reason on any Lot in the Subdivision any (i) car, automobile, pickup truck, boat, motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, all terrain vehicle, motorcycle, or other three or four-wheel vehicle, nor (ii) van in excess of three-quarters ($\frac{3}{4}$) of a ton, or truck of any type in excess of three-quarters ($\frac{3}{4}$) of a ton, unless (i) parked completely inside the garage of a Dwelling Unit such that the door on the garage can be completely closed, or (ii) otherwise parked on a hard-surface area that has been approved in writing by the Architectural Control Committee for parking of such car, automobile, pickup truck, boat, motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, all terrain vehicle, motorcycle, other three or four-wheel vehicle, van or other type of truck. The Architectural Control Committee in its sole, exclusive and unilateral discretion shall have the right and power to grant a variance for any Lot or Lots from the restrictions contained in this Section 4.11 for off street parking by granting such variance to the Owner of a Lot; provided, however, that the granting of one variance shall not in any manner be deemed an approval of or right to obtain the same or a similar variance for any other person, or Lot or use whatsoever. The Architectural Control Committee shall have the sole, exclusive and unilateral power and right to determine the duration of any variance granted pursuant to this Section 4.11. Any car, automobile, pickup truck, boat, motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, all terrain vehicle, motorcycle, or other three or four-wheel vehicle, van, other type of truck, or other type of motorized vehicle of any nature whatsoever that is parked on any Lot shall be operable and in good working order. No car, automobile, pickup truck, boat, motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, all terrain vehicle, motorcycle, or other three or four-wheel vehicle, van, other type of truck, or other type of motorized vehicle of any nature whatsoever, regardless of ownership, age, condition, type or appearance, that is not operable and in good working order may be parked or otherwise left on any Lot at any time. Should there ever be a situation where there is a disagreement over whether

or not a car, automobile, pickup truck, boat, motor home, recreational vehicle, bus, tractor, trailer, bob-tail truck, all terrain vehicle, motorcycle, or other three or four-wheel vehicle, van, other type of truck, or other type of motorized vehicle is operable and in good working condition, the Architectural Control Committee shall be authorized to solely, exclusively and unilaterally make such determination, and such determination shall for all purposes be binding upon all parties subject to this Declaration.

4.12 Storage. Except as provided in Section 4.11, above, no exterior storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Architectural Control Committee, which consent may be withheld for any reason or for no reason.

4.13 Garbage. No rubbish, garbage, or trash shall be placed or be allowed to remain at the exterior of any Dwelling Unit or other structure on any Lot, except in containers meeting the specifications of the Declarant or Architectural Control Committee. The placement, maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Architectural Control Committee, which rules and regulations may be modified by the Architectural Control Committee from time to time. The placement of all such containers shall be in areas attractively screened or concealed (subject to the prior written consent of the Architectural Control Committee) from view from neighboring property, Lots, Dwelling Units, pathways, and streets. Each Owner is responsible to provide that all rubbish, garbage, and trash shall be regularly removed from said Owner's Lot and rubbish, garbage, and trash shall not be allowed to accumulate.

4.14 Animals. No animals, including, but not limited to, horses, cattle, sheep, goats, donkeys and swine, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except pursuant to prior written approval of and in accordance with rules and regulations promulgated by the Architectural Control Committee; provided, however, that dogs, cats, birds, or fish may be kept thereon as household pets so long as, in the sole discretion of the Architectural Control Committee, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners. If, in the discretion of the Architectural Control Committee, an Owner's pet or pets do become a nuisance or threat to any Owner or otherwise becomes objectionable to any Owner, the Architectural Control Committee shall give notice to the Owner of the pet or pets of such nuisance, threat or objection, and the Owner shall thereafter not be allowed to keep such pet or pets on the Owner's Lot or anywhere else upon the Property.

4.15 Re-subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed by any Owner without the prior written authorization and approval of the Declarant, or his executors, administrators, legal representatives or assigns.

4.16 Burning and Incinerators. No open fires shall be permitted on any Lot at any time, and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.

4.17 Signs. No exterior signs or advertisements of any kind may be placed, allowed or maintained on any Lot without prior approval and authorization of the Architectural Control Committee, except that mailboxes, residential nameplates, "For Sale" signs not to exceed five (5) square feet in size, and signs designating the contractor of the Dwelling Unit upon such Lot may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to size, as may be adopted from time to time by the Architectural Control Committee in its sole, exclusive and unilateral discretion. All mailboxes and residential nameplates are subject to the prior approval of the Architectural Control Committee.

4.18 Septic Tanks and Sewage Disposal. No septic lines, septic tank(s), septic field lines or other means of sewage disposal may be installed or maintained upon or under any Lot unless previously approved in writing by all governmental authorities having jurisdiction with respect thereto and also by the Architectural Control Committee. No outside toilets of any kind are permitted, except during the period of construction of a Dwelling Unit during which time chemically treated outside toilets shall be maintained in a manner subject to approval of the Architectural Control Committee. No installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source or onto any Lot.

4.19 Firearms and Weapons. No Lot or any other portion of the Property shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring humans or animals.

4.20 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall in the sole opinion of the Architectural Control Committee induce, breed or harbor plant disease or noxious insects.

4.21 Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation, air conditioning or refrigeration equipment and clothes lines, shall be placed, allowed or maintained upon the ground on any Lot, except with prior written approval of the Architectural Control Committee (subject to the prior written consent of the Architectural Control Committee), and no such machinery, fixtures or equipment shall be placed, allowed, or maintained anywhere other than the ground (such as on the roof) except with prior written approval of the Architectural Control Committee.

4.22 Motor Vehicles. The operation of any and all motorized vehicles within or upon the Property or any part thereof shall be subject to such rules and regulations as shall from time to time be established by the Architectural Control Committee.

4.23 Misuse and Mismanagement. No Lot and no part of the Property shall be maintained or utilized in such manner as to (i) present an unsightly appearance, (ii) unreasonably offend the sensitivity of a reasonable person, or (iii) constitute a nuisance or unreasonable annoyance to, or as to endanger the health of, any Owners or residents of the Subdivision, as determined in the sole,

exclusive opinion of the Architectural Control Committee. No noxious or otherwise offensive condition or activity shall be allowed to exist or be conducted anywhere on the Property as determined in the sole and exclusive opinion of the Architectural Control Committee.

4.24 Violation of Statutes, Ordinances, and Regulations. No Lot nor any of the Property shall be kept, maintained or utilized in such manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Texas, the County of Smith, or any other governmental or quasi-governmental agency or subdivision having jurisdiction over the Property.

4.25 Violation of Rules or of Covenants. No Lot shall be maintained or utilized in violation of (i) this Declaration, or any part hereof, or (ii) the rules and regulations of the Declarant or the Architectural Control Committee, or (iii) any of the Covenants. No Owner, other resident in any Dwelling Unit on any Lot, or guest or invitee of any Owner may violate (i) this Declaration, or any part hereof, or (ii) the rules and regulations of the Declarant or the Architectural Control Committee, or (iii) any of the Covenants. In the event of any violation by any Owner, by any other resident in any Dwelling Unit on any Lot, or any guest or invitee or any Owner of (i) this Declaration, or any part hereof, or (ii) any rule or regulation of the Declarant or the Architectural Control Committee, or (iii) any of the Covenants, then (i) the Declarant, in the Declarant's sole, exclusive and unilateral discretion, or (ii) the Architectural Control Committee, in its sole, exclusive and unilateral discretion, acting jointly or independently, may impose a monetary fine not to exceed \$250.00 per day, hereinafter referred to as a "Fine," for each such violation, and the amount of such fine shall be secured by the Assessment Lien established in Article VI of this Declaration and subject to foreclosure as provided in such Article VI of this Declaration.

4.26 Renting Restricted. No part of any Dwelling Unit, guest quarters, garage or other structure of any type whatsoever on any Lot may be rented by any Owner or by any other person or entity at any time without the prior written consent of the Architectural Control Committee. In the event that there is a guest quarters on a Lot that is separate from the Dwelling Unit and that has been approved by the Architectural Control Committee, no person or persons may occupy such guest quarters for a period of more than thirty (30) continuous days without the prior written consent of the Architectural Control Committee. In consenting to rental or to occupancy of a guest quarters for a period in excess of thirty (30) continuous days, the Architectural Control Committee shall have the right to place such rules, regulations and restrictions on such rental or occupancy as the Architectural Control Committee shall in its sole discretion determine, which rules, regulations and restrictions may vary from situation to situation. No "For Rent" sign or "For Lease" sign or any other similar sign or signs of any nature whatsoever may be placed, allowed or permitted at any time on any Lot.

4.27 Single Family Use. Each Dwelling Unit may be occupied by a single family. For the purposes of this Declaration, a single family shall consist of only (i) persons (a) legally married under the laws of the State of Texas, or (b) related by adoption or (b) related by the first or second degree of consanguinity or affinity, or (ii) by no more than four (4) persons who are not related by blood, adoption or marriage. No other persons may occupy any Dwelling Unit without the prior written consent of the Declarant or the Architectural Control Committee, which consent may be withheld

for any reason or for no reason. Each Owner by accepting a Deed to any Lot agrees to be bound by the definition of single family as set forth above in this paragraph.

4.28 No Commercial Activity or Use. No Lot or improvements on any Lot shall be used for any business, professional, commercial or industrial purposes of any kind whatsoever. No activity or use, whether or not for profit, shall be conducted on any Lot or in any improvements on any Lot which is not related to single family residential purposes. Nothing in this Declaration shall prohibit the Declarant from using a Dwelling Unit as a temporary sales office until the Declarant's last Lot in the Subdivision shall be sold and closed.

4.29 Vehicle Parking. Except as otherwise expressly allowed in this Declaration, any and all vehicles to be parked overnight on any Lot shall be parked in the garage on the Lot to the extent that the garage is fully utilized (e. g. if a garage is a three car garage, there must be three motor vehicles parked inside the garage before the Owner shall be allowed to park any vehicle outside the garage; if a garage is a four car garage, there must be four motor vehicles parked inside the garage before the Owner shall be allowed to park any vehicle outside the garage, etc.). If, and only if, the garage is fully utilized by parking vehicles inside the garage, then an Owner may allow a vehicle to be parked overnight on an Owner's Lot outside of the garage, but only as otherwise expressly permitted in this Declaration. The Architectural Control Committee shall have the power and right to establish and adopt parking rules or regulations that are more restrictive than the restrictions set forth in this Section 4.29 at the sole, exclusive and unilateral discretion of the Architectural Control Committee, and in such event the more restrictive measure shall control in the event of any conflict between this Section 4.29 and any rule or regulation adopted by the Board. Notwithstanding anything to the contrary contained in this Declaration, in no event shall any Owner be allowed to park any vehicle on any street in the Subdivision overnight.

4.30 Driveways and Walks. As to any Lot, all driveways shall be entirely of concrete (except, however, some other material may be used with the prior written consent of the Architectural Control Committee) and shall be paved before any Dwelling Unit may be occupied. No driveway or other roadway may be constructed on any Lot in such a manner as to furnish access to any adjoining Lots or any real property other than the Property without the prior written consent of the Architectural Control Committee. Walks both as to location and the type of construction material shall be subject to the prior written approval of the Architectural Control Committee).

4.31. Exterior Lighting. All exterior lighting shall require the prior written approval of the Architectural Control Committee prior to the erection or construction thereof.

4.32. Landscaping. The Owner of each Lot upon which a Dwelling Unit is constructed shall landscape the lawn area between the front of the Dwelling Unit and the street located in front of the Dwelling Unit with solid sod or hydromulch. The sod or hydromulch shall be of a type as shall have been previously approved in writing by the Architectural Control Committee. If the sodded or hydromulched area is not regularly mowed and edged by the Owner of the Lot after written request to do so is made upon the Owner by the Architectural Control Committee, the

Architectural Control Committee shall have the power and right to cause the mowing and edging to be performed for the Owner at the Owner's expense. If the Owner does not pay the charge for mowing and/or edging or reimburse the Architectural Control Committee, whichever shall be applicable, within ten (10) days after written demand is made upon the Owner by the Architectural Control Committee to do so, the Owner shall be conclusively deemed to be in violation of this Section 4.32 and subject to all Fines and consequences as provided in this Declaration. Vacant lots shall be mowed and maintained in appearance by the Owner and shall not be used as a dumping area for any trash or rubbish of any kind. All landscaping required under this Section 4.31 shall be completed by the Owner within sixty (60) days after the date that the Owner first occupies the Owner's Dwelling Unit as a residential dwelling unit.

4.33. Water Sprinkler System. Each Lot shall be developed with an automated water sprinkler system that is capable at all times of watering the sodded or hydromulched area required to be maintained by the Owner of a Lot as provided in Section 4.31, above.

4.34. Indemnity. In the course of construction, repair or alteration of any buildings, structures or other improvements on any Lot, the Owner of such Lot shall repair any and all damage caused to any street in the Subdivision, to any easement in the Subdivision, to any utility service or structure, and to any other Owner's Lot or any improvements or landscaping thereon. Each Owner shall be solely responsible for the compliance of such Owner's plans and specifications with all applicable laws, rules and regulations of any kind. Each Owner shall indemnify and hold the Declarant harmless from and against any and all losses, costs, demands, damages, liabilities, suits, causes of action, judgments and executions, including reasonable attorneys' fees, incurred by the Declarant in connection with, arising from or related to the construction, repair or alteration of any buildings or structures or other improvements on such Owner's Lot.

4.35. Construction Period and Trash Removal. Once commenced, construction on any improvements on any Lot shall be completed within the time period as shall be allowed for such improvements by the written determination of the Architectural Control Committee, as determined in its sole, exclusive and unilateral discretion, hereinafter referred to as the "**Construction Period**," except where completion is legitimately delayed due to strikes, fires, natural emergencies or disasters, or acts of God, or unless waived by the Architectural Control Committee in writing. Such written determination of the duration of the Construction Period shall be made by the Architectural Control Committee at the time of its final approval of the Owner's plans and specifications for such improvements. If the Owner fails to complete the improvements prior to the expiration of the Construction Period, the Owner shall be subject to a monetary Fine as determined by the Architectural Control Committee in its sole, exclusive and unilateral discretion not to exceed (i) \$250.00 per day for each day during the first thirty (30) day period after the expiration of the Construction Period, (ii) \$300.00 per day for each day during the second thirty (30) day period after the expiration of the Construction Period, and (ii) \$500.00 per day for each day after sixty (60) days after the expiration of the Construction Period, until all of the improvements are substantially complete. At all times during the construction period of any improvements on a Lot, the Owner shall be required to keep and maintain the Lot in a clean and tidy condition, providing for regular trash, debris, refuse and rubbish removal or off-site disposal.

4.36. General Lot Maintenance. No weeds, underbrush or other unsightly vegetation, as determined by the Architectural Control Committee in its reasonable sole, exclusive and unilateral discretion, shall be permitted or allowed to grow or remain on any Lot, and no trash, debris, refuse or rubbish piles or accumulations or other unsightly objects shall be allowed to be placed upon or allowed to remain anywhere on any Lot. The Owner shall maintain the exterior of the Dwelling Units and all areas of the Lot outside of the Dwelling Unit in a good, neat, clean and workmanlike condition and manner. This shall include, but shall not be limited to, painting, roof repair and care, gutter repair and care, downspout repair and care, exterior building surfaces, trees, shrubs, grass, walks, driveways, and other exterior improvements. In the event that any Owner fails to keep the Owner's Lot free of weeds, underbrush, other unsightly vegetation, trash, debris, refuse, rubbish, or other unsightly growth or objects, or the keep the Dwelling Unit or other improvements on the Owner's Lot in a good, neat, clean and workmanlike condition and manner, the Architectural Control Committee may give the Owner written notice of such violation(s), and if the Owner does not cure the violation within ten (10) days after receipt of such written notice, the Architectural Control Committee, or its agents, shall have the right to enter upon the Owner's Lot and perform the obligation that the Owner has failed or refused to perform at the expense of the Owner, which expenses shall be deemed to be a Fine, as herein defined, and subject to the Assessment Lien and foreclosure thereof. Such entry shall in no event be deemed or construed to be an act of trespass.

4.37. Prohibition of Occupancy. No Owner, no member of any Owner's family, or other person of any nature whatsoever shall be allowed to occupy any Dwelling Unit on any Lot unless and until the Architectural Control Committee shall have determined that the Dwelling Unit is complete and suitable for occupancy, such determination to be evidenced by a written Certificate Of Occupancy issued by the Architectural Control Committee in its sole, exclusive and unilateral discretion. In the event that any Owner, member of any Owner's family, or other person of any nature whatsoever shall attempt to occupy any Dwelling Unit prior to the issuance of the Certificate Of Occupancy by the Architectural Control Committee, the Declarant, the Architectural Control Committee and any other Owner shall have the right to seek injunctive relief against such violating Owner, member of an Owner's family, or other person to prevent occupancy of the Dwelling Unit until it shall be completed as evidenced by the written Certificate Of Occupancy by the Architectural Control Committee. The Declarant and each Owner by virtue of the Owner's purchase of a Lot in the Subdivision, expressly stipulate, covenant, acknowledge, and agree that (i) in the event of a breach of the provisions of this Section 4.37 by any Owner, member of an Owner's family, or other person, it would be difficult if not impossible to adequately compensate the Declarant and the other Owners in the Subdivision by monetary damages, and (ii) it would be difficult if not impossible to determine the amount of the Declarant's and the other Owners' actual damages occasioned by an Owner's, a member of an Owner's family, or other person's breach of the obligation not to occupy a Dwelling Unit prior to completion as set forth in this Section 4.37. Therefore, in the event of any breach by any Owner, any member of any Owner's family, or any other person of the covenant not to occupy a Dwelling Unit prior to completion contained in this Section 4.37, and without limitation on any other remedies that may be available to the Declarant and the other Owners in the Subdivision, each Owner stipulates and agrees that (i) the Declarant and other non-violating Owners shall be entitled to specific performance of the terms of this Section 4.37; and (ii) an Owner's, or any member of an Owner's family, or any other person's breach of the provisions of this Section 4.37

of this Declaration may appropriately be restrained by an injunctive order granted by a court of proper jurisdiction.

4.38. Limitation on Tree Removal and Site Work. No trees with a diameter of three (3) inches or more may be cut down or otherwise removed from any Lot without the prior written consent of the Architectural Control Committee. No lot clearing or other site work of any nature whatsoever may be commenced on any Lot without the prior written consent of the Architectural Control Committee.

ARTICLE V - IMPROPER MAINTENANCE OR VIOLATION BY OWNER

5.01 Improper Maintenance. In the event any portion of any Lot, any Dwelling Unit, or any Permanent Improvement is in the reasonable judgment of the Declarant or the Architectural Control Committee, acting jointly or independently, so used, maintained or neglected by the Owner thereof (i) so as to present a public or private nuisance, or (ii) so as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property or any real property now or hereafter owned by Declarant, or his assigns, adjacent to the Subdivision, not presently included as a part of the Property, but which may be affected thereby or related thereto, or (iii) so as to be in violation of or otherwise not in compliance with any of these Covenants, the Declarant or the Architectural Control Committee, acting jointly or independently, shall have the power and right to make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver written notice thereof to the offending Owner that unless corrective action is taken within ten (10) days from the date of such written notice to remedy the situation, the Declarant and/or the Architectural Control Committee, as applicable, will cause such action to be taken at such Owner's expense to remedy the situation, including entry upon the Owner's Lot, if necessary. Any entry upon a Lot by the Declarant or the Architectural Control Committee or anyone at either of their direction shall not be deemed or construed to be an act of trespass or other violation of any law, ordinance or statute, and neither the Declarant, the Architectural Control Committee, nor anyone else entering upon any Lot at its direction shall be subject to any liability therefor. If after the expiration of said ten (10) day period the requisite corrective action has not been taken, the Declarant and/or the Architectural Control Committee, as applicable, shall be and is hereby authorized and empowered by the violating Owner to cause such remedial action to be taken, and all costs and expenses thereof and associated therewith, including but not limited to the costs of collection, court costs and reasonable attorneys' fees, such costs being herein collectively called the "**Maintenance Charges,**" together with interest accruing thereon from the date or dates of occurrence of such costs at the maximum rate of interest which may be charged under applicable law from such date until paid, shall be assessed against the offending Owner and the offending Owner's Lot. The Maintenance Charges, together with all interest accruing thereon, shall be secured by the Assessment Lien established in Article VI of this Declaration and subject to foreclosure as provided in such Article VI of this Declaration. Written notice of such assessment shall be delivered to the offending Owner by the Declarant and/or the Architectural Control Committee, as applicable, which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice.

ARTICLE VI - IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Imposition of Assessment Lien and Priority of the Lien. Each Lot shall be and is subject to a continuing servitude in the form of the right and authority of the Declarant and/or the Architectural Control Committee, acting either jointly or independently, to impose a lien, hereinafter referred to as the "Assessment Lien," against an Owner's Lot at any time after the date of recordation of this Declaration for all delinquent Maintenance Charges and/or Fines, and all interest accrued thereon, court costs and reasonable attorneys' fees as provided for in Article IV and Article V hereof. Except as provided in Section 7.03, below, the Assessment Lien against an Owner's Lot shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise and be imposed upon each such Lot, except that such Assessment Lien shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior.

6.02 Owner's Agreement. Each Owner, owning a portion of the Property or of any Lot, for said Owner, and the Owner's heirs, executors, administrators, personal representatives, successors, and assigns, by accepting a deed to a Lot, whether or not it shall be so expressed in such deed, expressly covenants and agrees:

- A. that the Owner acquires the Owner's Lot subject to the Maintenance Charges, the Fines, and the Assessment Lien; and
- B. that the Owner is, shall be, and shall remain personally liable for any and all Maintenance Charges and Fines assessed against the said Owner and the said Owner's Lot while the said Owner is (or was) the Owner thereof; and
- C. That to secure the Owner's performance hereunder, the Owner conveys the Lot, and all portions thereof, (i) to the Declarant, individually, and (ii) to the Architectural Control Committee, individually, and (iii) to the Declarant and the Architectural Control Committee, jointly, and their respective successors and assigns, in Trust, with a power of sale, and warrants and agrees to defend the title to the Lot, and all portions thereof. If the Owner pays all of the Maintenance Charge and Fines imposed against the Owner's Lot as provided herein, this conveyance in trust shall have no further effect. If the Owner fails to pay any of the Maintenance Charges or Fines imposed against the Owner's Lot, the Declarant and/or the Architectural Control Committee in their/its capacity as trustee shall have the right to nonjudicially foreclose upon the Assessment Lien granted herein in accordance with and upon compliance with the provisions of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE VII - ENFORCEMENT OF DECLARATION AND OF ASSESSMENT LIEN

7.01 Enforcement By Declarant or Architectural Control Committee. The Declarant or the Architectural Control Committee, acting either jointly or independently, shall each have the right,

jointly or severally, but not the obligation, to enforce the provisions of this Declaration, including, but not limited to, enforcement of the Assessment Lien. Any Owner shall also have the right to enforce this Declaration at the said Owner's sole cost and expense by any appropriate action, whether at law or in equity, and neither the Declarant nor the Architectural Control Committee shall have any liability to any Owner or any other person or entity for choosing not to enforce this Declaration or otherwise failing to enforce this Declaration.

7.02 Enforcement Remedies. If the Owner of any Lot fails to pay any Maintenance Charges or Fines assessed, or to pay any interest accrued on any Maintenance Charges or Fines, and any and all costs (including court costs and attorneys' fees) incurred by either the Declarant or the Architectural Control Committee, or either one of them, in collecting same, the Declarant or the Architectural Control Committee, as applicable, shall have the right to enforce the payment of the Maintenance Charges or Fines, and all interest accrued thereon and costs incurred by either the Declarant or the Architectural Control Committee, or either one of them, in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, neither the Declarant nor the Architectural Control Committee prejudices the exercise of any other remedy):

- A. bring an action at law and recover judgment against the Owner personally obligated to pay the Maintenance Charges or Fines; or
- B. enforce the Assessment Lien against the Lot by any means available at law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in the Texas Property Code, as the same now exists or may hereafter be amended or supplemented from time to time. The Declarant or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any valid deed of trust or mechanic's lien against a Lot for a (i) purchase money loan, (ii) home improvement loan, (iii) home equity loan or (iv) reverse mortgage loan. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such deed of trust or mechanic's lien, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the foreclosure sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Maintenance Charges and Fines that have accrued up to the date of issuance of a trustee's deed or deed in lieu of foreclosure.

ARTICLE VIII -RIGHTS AND POWERS

8.01 Enforcement. The Declarant and the Architectural Control Committee, and each Owner, jointly or severally, shall have the right to enforce the Covenants set forth in this Declaration, as well as any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, or liens provided for in any contract, deed, declaration, or other instrument affecting all

or any part or parts of the Property or any Lot. Any such instrument that is recorded subsequent to recordation of this Declaration shall at all times be subordinate and inferior to this Declaration whether or not so provided in such instrument.

8.02 **Right to Inspect.** The Declarant and the Architectural Control Committee, jointly or severally, shall have the right at reasonable times to enter upon all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Declaration and Covenants. If during the course of construction of a Dwelling Unit upon a Lot, the Declarant or the Architectural Control Committee, jointly or severally, determines in its/their sole discretion that there is a violation of the Covenants, the Declarant or the Architectural Control Committee, as appropriate, may order a discontinuance of the construction of the Dwelling Unit until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Declarant or the Architectural Control Committee shall constitute a further violation of this Declaration by that Owner.

8.03 **Fines.** The Architectural Control Committee shall have the power and right to levy reasonable fines against any Owner who (i) violates any of the Covenants, (ii) violates any other covenant, restriction, reservation, charge, servitude, assessment or conditions set forth in this Declaration, or (iii) violates any rule or regulation enacted, passed or otherwise approved by the Declarant or the Architectural Control Committee. Such fines against any Owner shall be an Assessment, as herein defined, and subject to the Assessment Lien established in Article VI of this Declaration and subject to foreclosure as provided in such Article VI of this Declaration.

- A. When the Architectural Control Committee shall levy a Fine against any Owner or Owners, it shall give written notice of such Fine to the affected Owner or Owners by United States mail, certified mail, return receipt requested, with proper postage affixed thereon. Upon receipt of such written notice, the Owner or Owners shall have ten (10) days to request a private meeting with the Architectural Control Committee to discuss the nature of the violation giving rise to the fine.
- B. At the conclusion of the private meeting provided for in Section 8.03(A), above, the Architectural Control Committee shall advise the Owner or Owners in writing of its final decision with respect to the violation. If the final decision results in a fine being levied against the Owner, the Owner shall pay such fine within ten (10) days of such final decision. If such fine is not fully paid within such ten-day period, the Architectural Control Committee may to enforce such Assessment as provided in this Declaration.

ARTICLE IX - RESERVATIONS OF DECLARANT

9.01. Reservations. The Declarant reserves the right from time to time to grant reasonable easements across the Property and each and all of the Lots to providers of utility services to the Subdivision. The Declarant further reserves the right from time to time to make reasonable changes in the location, shape, and size of, and additions to such easements for the purpose of more efficiently or desirably installing utilities therein and thereon.

9.02. Title To Lots. The title conveyed to Lot or any part of the Property shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewers, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by or for the benefit of the Declarant or public utility companies upon, under, along, across or through such utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Declarant, its successors and assigns.

9.03. No Declarant Liability. Neither the Declarant, nor his assigns, shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of any Owner situated on the Lots covered by the above described utility easements.

9.04. Right Of Entry For Repair or Maintenance. The right to enter upon any Lot or Lots during repair or maintenance of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Declarant, and his assigns. Neither the Declarant, nor his assigns, shall be liable for any damage done by said parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE X - TERMS; AMENDMENTS; TERMINATIONS

10.01 Term; Method of Termination. This Declaration and the Covenants shall be effective upon the date of recordation hereof and, as may be amended from time to time, shall continue in full force and effect to and including June 30, 2037. From and after June 30, 2037, this Declaration, as it may have been amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of at least seventy-five percent (75.0%) of the Lots (there being only one vote per Lot which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes for termination at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

10.02 Amendments.

- A. Until the Declarant has initially sold all of the Lots, such sales being evidenced by the recording of a deed from the Declarant to the initial buyer of a Lot, the Declarant shall have the sole and exclusive right to unilaterally change or amend this Declaration at any time for any reason or purpose as determined at the sole discretion

of the Declarant. After all of the Lots have been initially sold by Declarant, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of at least seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes to amend or change this Declaration at a special meeting called pursuant to Section 10.03, below.

- B. If additional real property is added or annexed as part of the development scheme as contemplated by this Declaration, from the time of the Declarant's, or his assigns, filing of record the Supplementary Declaration and until the Declarant has initially sold all of the lots or tracts that shall be a part of such addition or annexation, such sales being evidenced by the recording of a deed from the Declarant to the initial buyer of such additional or annexed lots or tracts, the Declarant shall have the right to unilaterally change or amend this Declaration at any time for any reason or purpose as determined at the sole discretion of the Declarant. After all of the additional or annexed lots or tracts have been initially sold by Declarant, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of at least seventy-five percent (75.0%) of the Lots, including the additional or annexed Lots, (each Owner having one vote per Lot owned which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes to amend or change this Declaration at a special meeting called pursuant to 10.03.

10.03 Election Procedures. The affirmative votes required under Sections 10.01 and 10.02 hereof shall be obtained and evidenced by the requisite vote of the Owners (including Declarant if applicable) present at a meeting of Owners duly called by at least fifty percent (50.0%) of the Owners or by the Declarant pursuant to notice to all of the Owners on or prior to thirty (30) days before the date of the meeting at which meeting the requisite percentage of Owners, in person or by proxy, vote to so amend or terminate this Declaration. The notice of the meeting must set forth the proposal as to amendment of this Declaration (and/or the Covenants contained herein) and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Declarant. In any event, a copy of the minutes shall be delivered to the Declarant prior to any amendment or change becoming effective.

10.04 Recording Amendments. Upon the amendment or change of this Declaration (and/or the Covenants contained herein) as herein provided, and upon the other conditions set forth in Section 10.01 or 10.02 (as the case may be) and 10.03 of this Article being satisfied, then each amendment shall be executed by the (i) the Declarant, its successors or assigns, or (ii) the Owners who voted in favor of the amendment or change, placed in recordable form, and filed of record in the Official Public Records of Smith County, Texas, accompanied by a statement that the requisite percentage of Owners have voted to make such amendment to this Declaration.

10.05 Effect. Upon the filing of an amendment or change in accordance with Section 10.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

10.06 Other Right of Amendment. Notwithstanding anything to the contrary contained in this Declaration, Declarant, and his assigns, reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be required by any federal, state, or local agency which requires such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereon. Any such amendment shall be effected by the recordation, by Declarant, its successors or assigns, of a Certificate of Amendment signed by Declarant, its successors or assigns, with proper signature acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requiring the amendment and setting forth the amendatory language required by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's requirement for such an amendment, and such Certificate, when recorded, shall be binding upon the Property, or the affected portion thereof, and all persons or Owners having an interest in the same. Except as provided in this Section 10.06, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 10.02 hereof. This right to amend the Declaration is herein and hereby expressly transferred and assigned by Declarant to Declarant.

ARTICLE XI -RESERVATION OF RIGHT TO RESUBDIVIDE

11.01. Subject to the approval of any and all appropriate governmental agencies having jurisdiction over the Subdivision or any Lot, Declarant hereby reserves the right at any time while it is the Owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replat, as the case may be, all or any portion of the Subdivision or of any Lot or Lots then owned by Declarant without the consent of any Owner. This right to subdivide or resubdivide is herein and hereby expressly transferred and assigned by Declarant to Declarant.

ARTICLE XII-MISCELLANEOUS

12.01 Interpretation of the Covenants. Except for judicial construction, the Declarant or Architectural Control Committee, acting jointly or independently, shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Declarant's and/or the Architectural Control Committee's, as applicable, construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefitted or bound by this Declaration and the provisions hereof.

12.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other, remaining provisions hereof, which remaining provisions shall be and remain in full force and effect.

12.03 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of the Gary H Woodring who are living at the time the period of perpetuities starts to run on the challenged interest.

12.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

12.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Declarant or the Architectural Control Committee, as applicable, shall have the right to adopt rules and regulations with respect to all other aspects of the rights, activities and duties of the Declarant or the Architectural Control Committee, as applicable, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

12.06 Disclaimer of Representation. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Official Public Records of Smith County, Texas, neither the Declarant, nor the Architectural Control Committee makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out.

12.07 Limitation of Liability. In the absence of gross negligence or willful misconduct attributable to (i) Declarant, or his assigns, or (ii) the Architectural Control Committee (and any and all members thereof), neither Declarant, nor his assigns, nor the Architectural Control Committee (nor any member thereof) shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or nonperformance of any of the rights and powers reserved unto Declarant or the Architectural Control Committee, or their respective heirs, personal representatives, successors or assigns, pursuant to this Declaration.

12.08 Successors and Assigns. Any reference in this Declaration to Declarant or the Declarant shall include Declarant's and the Declarant's heirs, executors, administrators, legal representatives and assigns.

12.09 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

12.10 Captions and Titles. All captions, titles, or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

12.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to each such person or entity at the address given by such person or entity to the party sending the notice or to the address of the Dwelling Unit or the office of such person or entity if no address has been given. Such address may be changed from time to time by notice in writing.

12.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property.

12.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions hereof, including any of the Covenants, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.

12.14 Suspension of the Covenants. The Declarant and the Architectural Control Committee shall and do have the right during the period of construction, development, and sale of the Lots in the Subdivision, to grant reasonable and specifically limited exemptions from the Covenants to Declarant and any contractor. Any such exemptions shall be granted only upon specific written request, itemizing the exemption requested, the location thereof, the need therefor, and the anticipated duration thereof; and any authorization and approval thereof shall be similarly itemized. No such exemption shall be broader in terms of activity, location, or time than is reasonably required.

12.15 Non-Waiver. Any failure or delay on the part of either the Declarant, the Architectural Control Committee and/or any Owner (i) to exercise any right, remedy or duty under this Declaration, or (ii) to take any action to enforce the Covenants or the Declaration, with regard to anyone matter or situation or group of matters or situations in any manner covered by or arising out of the Covenants or Declaration shall not in any manner be deemed or construed to be a waiver of any subsequent matter or situation or group of matters or situation arising hereunder. No forbearance of any type for any period of time by either the Declarant, the Architectural Control Committee and/or any Owner shall be in any manner deemed or construed to be a waiver of any right, remedy or duty hereunder, but all such rights, remedies and duties shall continue in full force and effect as if no forbearance had occurred.

12.16. Withholding Of Consent. When any provision of this Declaration calls for, provides for or requires the consent of the Architectural Control Committee, such consent may be withheld by the Architectural Control Committee for any reason or for no reason.

12.17 Liberal Interpretation. This Declaration, and all of the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements, shall, to the maximum extent allowed by applicable law, be liberally construed in favor of the applicability of the Covenants and to effectuate the purposes of this Declaration.

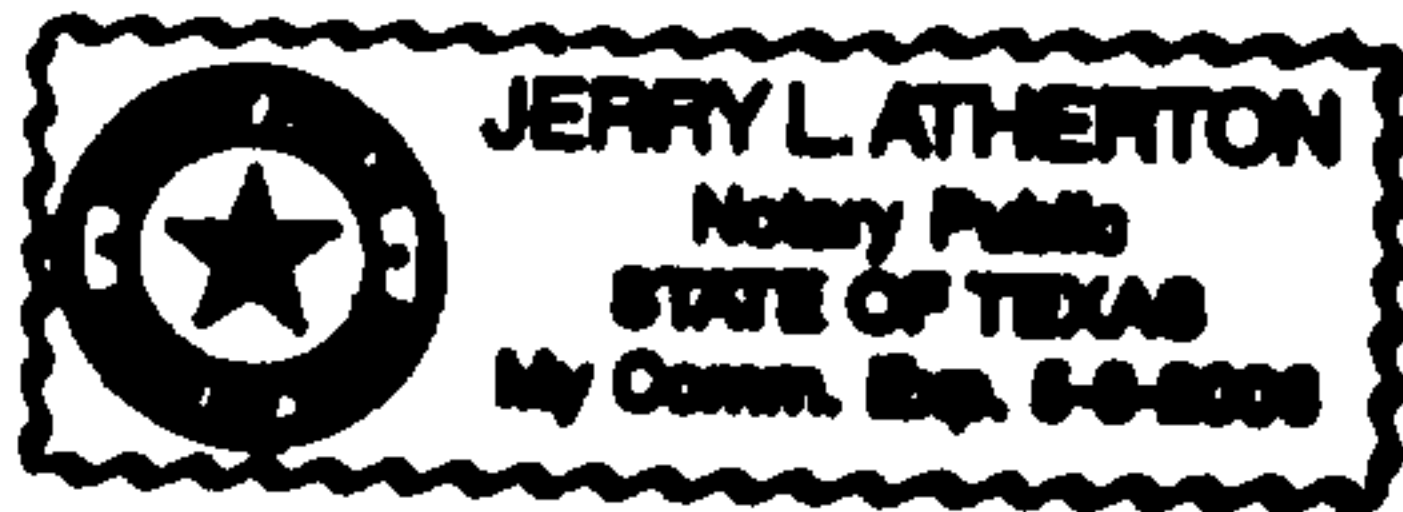
IN WITNESS WHEREOF, I have signed this Declaration on this 7th day of May, 2003.

Gary H. Woodring
GARY H. WOODRING

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF SMITH §

This instrument was acknowledged before me on May 7, 2003 by Gary H. Woodring.



Jerry L. Atherton
NOTARY PUBLIC, STATE OF TEXAS

WHEN RECORDED RETURN TO:

Mr. Gary H. Woodring
P. O. Box 293
Flint TX 75762

EXHIBIT "A"**Definitions**

The following words, phrases or terms used in this Declaration shall have the following meanings:

- A. **"Architectural Control Committee"** shall mean the Declarant, Gary H. Woodring, or such other person, persons or entity who shall be named to serve by Declarant in conjunction with or as the successor to Declarant, provided, however, that such change shall not be effective for purposes of these Covenants until a statement of such change has been duly recorded by the Declarant, or Declarant's successors or assigns, in the Official Public Records of Smith County, Texas.
- B. **"Assessment Lien"** shall mean the lien created and imposed against each Lot by Article VI of this Declaration.
- C. **"Covenants"** shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements set forth herein.
- D. **"Declarant"** shall mean Gary H. Woodring, and his executors, administrators, legal representatives, and assigns, but with respect to any such assignee (i) such assignee shall not be deemed to be a "Declarant" unless such assignee is specifically and expressly designated as the Declarant pursuant to a written instrument signed by Declarant, which written instrument shall be filed of record in the Official Public Records of Smith County, Texas, designating that part of the Property to which it relates, and (ii) such assignee shall only have those rights and powers of Declarant that are specifically and expressly assigned to such successor or assignee pursuant to such written instrument. Without limitation of the right of the Declarant to assign any or all of the Declarant's rights, powers, privileges, duties, obligations, and/or responsibilities under the Declaration, the Declarant is expressly authorized and empowered to assign at any time any or all of the Declarant's rights, powers, privileges, duties, obligations and/or responsibilities to a homeowners' association or property owners' association established for the purposes of accepting assignment of some or all of the rights, powers, privileges, duties, obligations and/or responsibilities of the Declarant under the terms of the Declaration.
- E. **"Declaration"** shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements as amended or supplemented from time to time as herein provided.
- F. **"Deed"** shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property, including but not limited to a Lot.

- G. **“Dwelling Unit”** shall mean a residential unit or structure, and any portion thereof, situated on a Lot designed and intended for use and occupancy as a residence by a single family.
- H. **“Lot”** shall mean each of lots as shown upon the Plat of the Property filed for record in Cabinet D, Slide 124-A of the Plat Records of Smith County, Texas, as such plat may be amended from time to time, together with (i) any lots which may, from time to time, result from the resubdivision, combination or division of any of the Lots as may be shown upon a plat or plats of the Property, or any part thereof, hereafter filed for record in the Plat Records of Smith County, Texas, and (ii) such additional property or lots as may be added to the Subdivision as provided in This Declaration.
- O. **“Lots”** shall mean all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 1, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Block 2, and Lots 1, 2, 3, and 4 of Block 5 of Blue Ridge Estates Subdivision, a residential subdivision in Smith County, Texas, as shown on the Plat thereof filed for record in Cabinet D, Slide 124-A of the Plat Records of Smith County, Texas, as such plat may be amended from time to time, together with (i) any lots which may, from time to time, result from the resubdivision, combination or division of any of the Lots as may be shown upon a plat or plats of the Property, or any part thereof, hereafter filed for record in the Plat Records of Smith County, Texas, and (ii) such additional property or lots as may be added to the Subdivision as provided in this Declaration.
- P. **“Maintenance Charges”** shall mean any and all costs assessed as provided in Section 5.01 of this Declaration.
- Q. **“Owner”** shall mean the person or persons, entity or entities, who, individually or jointly, own record title to a Lot. The term “Owner” shall exclude any person or persons, entity or entities, having an interest in a Lot or any such parcel merely as security for the performance of an obligation. The term “Owner” shall include Declarant if Declarant is a record title owner of a Lot.
- R. **“Permanent Improvements”** shall mean with respect to any Lot or any other portion or parcel of the Property, any and all improvements, structures and other materials and things located thereon, including without limitation, trees, berms, shrubs, hedges and fences.
- S. **“Plat”** shall mean the plat of the Property presently on file in Cabinet D, Slide 179-A and 179-B of the Plat Records of Smith County, Texas, as such plat may be amended from time to time.
- T. **“Property”** shall mean all of the real property described on the Plat, together with such additional real property as may be subsequently added thereto in accordance with this Declaration.

- U. **"Subdivision"** shall mean the residential subdivision located in Smith County, Texas, and known as Blue Ridge Estates Subdivision, according to the Plat, as the same may be amended or supplemented from time to time, and such additional real property as may be added thereto as provided in this Declaration.

WHEN RECORDED RETURN TO:

Mr. Gary H. Woodring
P. O. Box 293
Flint TX 75762

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was
filed on the date and time stamped hereon
by me and was duly recorded in the Official
Public records of Smith County Texas.



MAY 9 2003

Judy Carnes
JUDY CARNES
COUNTY CLERK, Smith County, Texas

AFFIDAVIT OF FACT

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF SMITH §

Before me, the undersigned authority, on this day personally appeared GARY H. WOODRING, who being by me first duly sworn did, upon oath, depose and state the following:

Affiant states that I am the Declarant in that certain Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements ("Declaration") for Blue Ridge Estates Residential Subdivision as filed for record in Volume 7108, Page 21, Official Public Records, Smith County, Texas on May 9, 2003.

Affiant further states that the Architectural Control Committee and/or Homeowner's Association have not been established as of the date of this Affidavit. Affiant further states that Contractors will be exempt from any such dues for twenty-four (24) months following the purchase of a lot in Blue Ridge Estates. In the event any fines are to be charged to a Contractor, Affiant will file those of record in the Official Public Records of Smith County, Texas.

Further Affiant saith not.

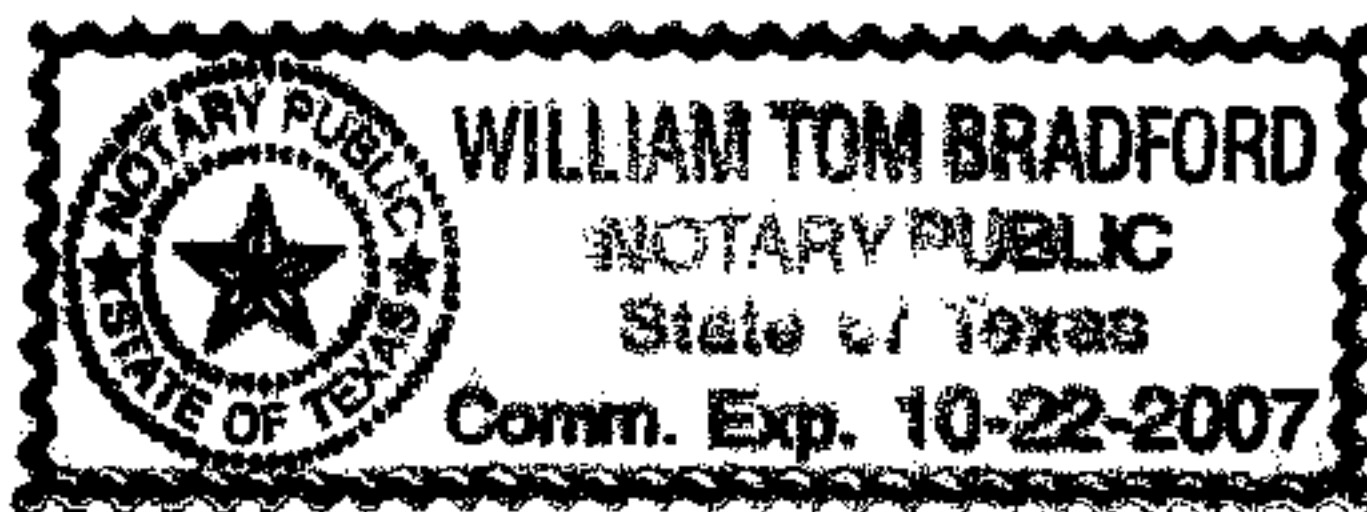
EXECUTED this the 5th day of May, 2004.

Gary H. Woodring
GARY H. WOODRING

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me on the 5th day of May, 2004, by GARY H. WOODRING.



William Tom Bradford
NOTARY PUBLIC, STATE OF TEXAS
PRINTED NAME OF NOTARY PUBLIC:
William Tom Bradford

My Commission Expires: 10-22-07

STATE OF TEXAS COUNTY OF SMITH
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public records of Smith County, Texas.



JUN 01 2004

Judy Carnes
JUDY CARNES
COUNTY CLERK, Smith County, Texas

Filed for Record in:
SMITH COUNTY, TEXAS
JUDY CARNES, COUNTY CLERK
On Jun 01 2004
At 10:50am
Receipt #: 311190
Recording: 14.00
Doc/Num : 2004-R0027282
Doc/Type : REC
Deputy -Janis Farrell

Return to:
Landmark
Attn: Andrew