

THIRD

AMENDED AND RESTATED

**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
WENDOVER ADDITION**

Bedford, Tarrant County, Texas

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THIS **DECLARATION** (herein so called) is made this ____ day of _____, 2002, by WENDOVER HOME OWNERS ASSOCIATION, INC. (“Association”).

Wendover Home Owners Association, Inc. (“Association”), desires to amend and restate all prior Declarations filed in Tarrant County, Texas by the Declarant, Wendover Development Corporation and the Association pertaining to the Wendover Addition, Bedford, Tarrant County, Texas.

Association desires to amend and restate the Amended and Restated Declaration of Covenants, Conditions and Restrictions For Wendover Addition which was recorded in Volume 8183, Page 461, Deed Records of Tarrant County, Texas, and which amended and restated the Declaration of Covenants, Conditions and Restrictions filed of record in Volume 7906, Page 1819 of the Deed Records, Tarrant County, Texas. Further, this instrument is to further amend and restate the Second Amendment To Declaration of Covenants, Conditions and Restrictions of Wendover Addition, City of Bedford, filed of record in the Deed Records, Tarrant County, Texas.

Further, the purpose is to amend and restate the Declarations recognizing that the initial Declarant is no longer involved in the Wendover Addition, that certain previous provisions of the prior Declarations are no longer applicable to Wendover Addition, and to better provide for the future generations of home owners with a more contemporary, comprehensive, effective, and flexible framework for financing and operating the property owners association.

The Association believes it is in the best interests of the property owners association, and of current and future owners and buyers of homes in Wendover Addition to amend and restate the prior Declaration(s).

Association hereby amends and restates the Initial and all subsequent Declaration(s) and declares that the real property described in Appendix A is subject to this Third Amended and Restated Declaration of Covenants, Conditions & Restrictions for Wendover Addition.

ARTICLE 1
DEFINITIONS

DEFINITIONS. The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

- 1.1. **“ACC”** sometimes called ARC, means respectively, the Architectural Control Committee of the Association or Architectural Review Committee (being the same entity).
- 1.2. **“Assessment”** means any charge levied against a lot or owner by the Association, pursuant to the Documents or State law.
- 1.3. **“Association”** means the association of owners of all lots in the Property, initially organized as Wendover Homeowners Association, Inc., a Texas nonprofit corporation, and serving as the “property owners association” defined in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from the Amended and Restated Declaration and the Bylaws.
- 1.4. **“Board”** means the board of directors of the Association.
- 1.5. **“City”** means the City of Bedford, Tarrant County, Texas, in which the Property is located.
- 1.6. **“Common Area”** means portions of real property and improvements thereon that are owned and/or maintained by the Association, as described in Section 2.3 below.
- 1.7. **“Declaration”** means this document, as it may be amended from time to time.
- 1.8. **“Documents”** means, singly or collectively as the case may be, this Amended and Restated Declaration, the Plat, the Bylaws, the Association’s Articles of Incorporation, and the rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is a part of that Document.
- 1.9. **“Lot”** means a portion of the Property intended for independent ownership, on which there is or will be constructed a dwelling, as shown on the Plat. Where the context indicates or requires, “lot” includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the lot.
- 1.10. **“Majority”** means more than half.
- 1.11. **“Member”** means a member of the Association, each member being an owner of a lot, subject to these Declarations and not otherwise exempt from any party hereof unless a lot owner in Wendover is a Non-Member as defined herein, and unless the context indicates that member means a member of the board or a member of a committee of the Association.
- 1.12. **“Owner”** means a holder of recorded fee simple title to a lot. Contract sellers and mortgagees who acquire title to a lot through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not owners.
- 1.13. **“Non-Member”** is the owner of a lot in WENDOVER ADDITION, who, by prior Declarations was recognized as being subject to the Declarations; however, the same was and is exempt from the assessment of dues or other special assessments imposed by the Association. See Article 6.5 for further clarification.
- 1.14. **“Plat”** means all plats, singularly and collectively, recorded in the Real Property Records of Tarrant County, Texas, and pertaining to WENDOVER ADDITION, an addition to the City of Bedford, including

all dedications, limitations, restrictions, easements, and reservations shown on the plat, as it may be amended from time to time.

- 1.15. **“Property”** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Wendover Addition. The Property is located on land described in Appendix A to this Declaration, and includes every lot thereon unless noted on Appendix A.
- 1.16. **“Resident”** means an occupant of a dwelling, regardless of whether the person owns the lot.
- 1.17. **“Rules”** means rules and regulations adopted by the board in accordance with the Documents.

ARTICLE 2

PROPERTY SUBJECT TO DOCUMENTS

- 2.1. **PROPERTY.** The real property described in Appendix A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of the Property.
- 2.2. **PLAT DEDICATIONS, EASEMENTS & RESTRICTIONS.** In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, easements, restrictions, maintenance agreements, and reservations shown or cited on the plat, which is incorporated herein by reference. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the plat, and further agrees to maintain any easement that crosses his lot and for which the Association does not have express responsibility.
- 2.3. **COMMON AREA.** The common area of the Property consists of the following components on or adjacent to the Property, even if located on a lot or a public right-of-way:
 - a. All of the Property located outside the building lines as shown on the Plat of the Addition and which abut any street within or adjacent to Wendover Addition.
 - b. The medians which are in the middle of the cul-de-sacs in the front of lots 1, 2, and 3 of Block A of Wendover Addition, and Lots 11, 12, 13, and 14 of Block B, respectively, including any signage, landscaping, electrical, water, light fixtures and fencing.
 - c. The entrances to the Property, including (if any) the signage, access gates, landscaping, electrical and water installations, planter boxes and fencing.

- d. Any modification, replacement, and or addition to any of the above-described areas and improvements.
- e. Personal property owned by the Association, such as any books and records, office equipment, and furniture.

ARTICLE 3
PROPERTY EASEMENTS AND RIGHTS

3.1. **GENERAL.** In addition to the other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.

3.2. **EASEMENT FOR ENTRY FEATURE & SCREENING WALL.** The Association is hereby granted a perpetual easement (the “**Maintenance Easement**”) over each lot that abuts or contains a portion of the Property’s entrances or the Property’s screening wall or fence along Cummings, Forest Ridge, Hardisty, and McClain, for the purposes stated in this Section, regardless of whether or how the plat shows the easement, entry features, screening wall or fence.

3.2.1

Perimeter Lots. On recording this Declaration, the Association burdens every lot that adjoins Hardisty, Cummings, McClain, and Forest Ridge and on which a screening wall or fence may be located, with the Maintenance Easement **(however, said easement shall not pertain to those lots of Non-Members unless written easements are first obtained in writing from each of said lot’s respective owners).**

3.2.2 **Purpose of Easement.** The purpose of the Maintenance Easement is to provide for the existence, repair, improvement, and replacement of the Property’s screening wall or fence, as maybe maintained by the Association as a common area. In exercising this Maintenance Easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the screening of the subdivision, including: screening walls, fences; planter beds, landscaping, and plant material; electrical and water meters and equipment, including light fixtures and sprinkler systems; and signage relating to the Property.

3.2.3. **Rights Reserved.** The owners of the lots burdened with the Maintenance Easement will have the continual use and enjoyment of their lots for any purpose that does not interfere with and prevent the Association’s use of the Maintenance Easement. The existence of the easement does not relieve the respective lot owner from the obligations of maintenance, repair and/or replacement as maybe otherwise set forth in this Declaration.

- 3.2.4. Duration, Termination & Assignment of Easement. This easement is perpetual. The Maintenance Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform. The Association may assign this easement, or any portion thereof, to the city if the city agrees to accept the assignment.
- 3.3. OWNER'S EASEMENT OF ENJOYMENT. Every owner is granted a right and easement of enjoyment over the common areas and to use of improvements therein, subject to other rights and easements contained in the Documents. An owner who does not occupy a lot delegates this right of enjoyment to the residents of his lot.
- 3.4. OWNER'S MAINTENANCE EASEMENT. Every owner is granted an access easement over adjoining common areas for the maintenance or reconstruction of his dwelling and other improvements on his lot, provided exercise of the easement does not damage or materially interfere with the use of the adjoining or common area. Requests for entry to an adjoining common area must be made to the Association in advance for a time reasonably convenient for the adjoining owner, who may not unreasonably withhold consent. If an owner damages an adjoining lot or common area in exercising this easement, the owner is obligated to restore the damaged property to its original condition, at his/her expense, within a reasonable period of time.
- 3.5. ASSOCIATION'S ACCESS EASEMENT. The Association is granted an easement of access and entry to every lot and common area to perform maintenance, to enforce architectural and use restrictions, to respond to emergencies, and to perform any other duties required by the Documents.

ARTICLE 4

ARCHITECTURAL COVENANTS AND CONTROL

- 4.1. PURPOSE. Because the lots are part of a single, unified community, the Association has the right to regulate the design, use, and appearance of the lots and common areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements.
- 4.2. ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee (the "ACC") consists of 3 persons appointed by the board, pursuant to the Bylaws, or, at the board's option, the board may act as the ACC. If the board acts as the ACC, all references in the Documents to the ACC are construed to mean the board.
- 4.3. LIMITS ON LIABILITY. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ACC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with city codes and ordinances, state and federal laws.

4.4.

PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the ACC's prior written approval, a person may not construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property, if it will be visible from a street, another lot, or the common area. The ACC has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.

4.5. **ACC APPROVAL.** To request ACC approval, an owner must make written application and, if requested, submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. The ACC will notify the applicant in writing if the request is approved, denied or if more information is required. Verbal approval by a director, officer, member of the ACC, or the Association's manager does not constitute ACC approval, which must be in writing.

4.5.1. **Deemed Approval.** If the ACC fails to respond in writing – negatively, affirmatively, or requesting information – within 30 days after the ACC's actual receipt of the owner's application, the owner may submit a second request for processing of its original application. If the board fails to respond within 15 days after the board's actual receipt of the owner's second request, the owner's application is deemed approved. The owner may then proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the owner to document the board's actual receipt of the owner's initial application and second request.

4.5.2. **No Approval Required.** No approval is required for an owner to remodel or repaint the interior of a dwelling.

4.5.3. **Building Permit.** If the application is for work that requires a building permit from the city, the ACC's approval is conditioned on the city's issuance of the appropriate permit. The ACC's approval of plans and specifications does not mean that they comply with the city's requirements. Alternatively, approval by the city does not ensure ACC approval.

4.5.4. **Appeal.** If the application is denied by the ACC, the owner shall have the right to appeal the decision to the board of directors. The applicant will give written notice to the ACC of his/her wish to appeal in writing. The written notice must be received by the ACC (or any member of the ACC) within 10 days after the ACC notifies the applicant of the denial of request. The ACC will notify the president or secretary of the Association who will then call a special meeting of the board to consider the appeal. The meeting shall be held within 15 days after the date of notice of appeal at which time the applicant will present its application for consideration. The board will have 5 days following the meeting in which to give the applicant a written notice of approval or denial.

- 4.6. ACC GUIDELINES. The Association may publish architectural restrictions, guidelines, and standards developed by the ACC, subject to revision from time to time, including revisions to reflect changes in technology, style, and taste. The Association, acting through the ACC, has the right to establish and enforce architectural restrictions, guidelines, and standards relating to every aspect of proposed or existing improvements on a lot, including but not limited to dwellings, fences, and landscaping, and further including replacements or modifications of original construction or installation.

ARTICLE 5
CONSTRUCTION AND USE RESTRICTIONS

- 5.1. VARIANCE. The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to the Article. The board or the ACC, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis, and may limit or condition its grant.
- 5.2. CONSTRUCTION RESTRICTIONS. Without the ACC's prior written approval for a variance, improvements constructed on every lot must have the characteristics described in Appendix B, which may be treated as the minimum requirements for improving and using a lot. The ACC and the board may promulgate additional rules and restrictions, as well as interpretations, additions, and specifications of the restrictions contained in this Article. An owner should review the Association's architectural restrictions, if any, before planning improvements, repairs, or replacements to his lot and dwelling.
- 5.3. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its board, is granted the right to adopt, amend, repeal, and enforce reasonable rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. In addition to the restrictions contained in this Article, each lot is owned and occupied subject to the right of the board to establish rules, and penalties for infractions thereof, governing:
- a. Use of common areas.
 - b. Hazardous, illegal, or annoying materials or activities on the Property.
 - c. The use of Property-wide services provided through the Association.
 - d. The consumption of utilities billed to the Association.
 - e. The use, maintenance, and appearance of exteriors of dwellings and lots.
 - f. Landscaping and maintenance of yards.
 - g. The occupancy and leasing of dwellings.
 - h. Animals.
 - i. Vehicles.
 - j. Disposition of trash and control of vermin, termites, and pests.
 - k. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for residents.
- 5.4. ACCESSORY SHEDS. Without the prior written approval of the ACC, accessory structures such as doghouses, gazebos, metal storage sheds, playhouses, and greenhouses – are prohibited (not allowed) if they exceed the height of a fence, are visible from a street or common area. Accessory structures may not be located in front yards or in unfenced portions of side yards facing streets. If an accessory structure is installed in violation of this Section, the ACC reserves the right to determine that the accessory structure is unattractive or inappropriate or otherwise unsuitable for the Property, and may require the owner to screen it or to remove it.

- 5.5. ANIMALS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for a commercial purpose or for food. Customary domesticated household pets may be kept subject to the Rules. The board may adopt, amend, and repeal rules regulating the types, sizes, numbers, locations and behavior of animals at the Property. Unless the Rules provide otherwise:
- 5.5.1. Number. No more than 4 domesticated household pets may be maintained in each dwelling. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the board.
 - 5.5.2. Disturbance. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other lots. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time.
 - 5.5.3. Indoors/Outdoors. Subject to the limited yard privilege below, a permitted pet must be maintained inside the dwelling, and may not be kept on a patio or in a fenced yard. No pet is allowed on the common area unless carried or leashed.
 - 5.5.4. Limited Yard Privilege. Dogs and cats may be kept in fenced yards only if they do not disturb or annoy neighbors.
 - 5.5.5. Pooper Scooper. Resident is responsible for the removal of his/her pet's wastes from the Property. Unless the Rules provide otherwise, a resident must prevent his pet from relieving itself on the common area or the lot of another owner.
 - 5.5.6. Liability. An owner is responsible for any property damage, injury, or disturbance caused or inflicted by an animal kept on the lot. The owner must compensate any person injured by the animal. The owner of a lot on which an animal is kept is deemed to indemnify and to hold harmless the board, the Association, and other owners and residents, from any loss, claim, or liability resulting from any action of the animal or arising by reason of keeping the animal on the Property.
- 5.6. ANNOYANCE. No lot or common area may be used in any way that: may reasonably be considered annoying to neighbors; may be calculated to reduce the desirability of the Property as a residential neighborhood; may endanger the health or safety of residents of other lots; may result in the cancellation of insurance on the Property; or violates any law. The board has the sole authority to determine what constitutes an annoyance.
- 5.7. APPEARANCE. Both the lot and the dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring lots. The ACC is the arbitrator of acceptable appearance standards.
- 5.8. DRAINAGE. Each owner covenants to honor any drainage easement affecting his lot, as shown on the plat or as required by any master drainage plan enacted by the city. Specifically, each owner agrees to maintain the integrity of the drainage design of his lot by not filling or altering drainage swales that are constructed on the lot as required by the city or by the ACC; to not construct fences that impede or deflect the flow of water across his lot; to not impede or deflect the flow of water in drainage areas by placing objects or by planting excessive landscaping in those areas; and to conform the design and construction of sidewalks, driveways, and foundations in drainage areas to the city's drainage requirements.

- 5.9. DRIVEWAYS. The driveway portion of a lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage. No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked in the driveway or front yard of any dwelling or parked on any street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. A car should not be parked overnight on a driveway or street unless two cars are parked in the garage.
- 5.10. GARAGES. Because of the lack of street-side parking and shortage of off-street parking, it is important that each resident maintain his home's vehicle parking areas as such. Without the board's prior written approval, the original garage area of a lot may not be enclosed or altered for any purpose that prohibits the parking of the maximum number of vehicles for which it was constructed. Garage doors that can be seen from the street or streets shall be closed at all times except for entry and exiting of the same.
- 5.11. VEHICLES. All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to this Section and Rules adopted by the board. Without prior written board approval, the following types of vehicles and vehicular equipment – mobile or otherwise – may not be kept, parked, or stored anywhere on the Property if the vehicle is visible from a street or from another lot: mobile homes, motor homes, buses, trailers, boats, aircraft, inoperable vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles with advertising signage, vehicles which are not customary personal passenger vehicles, and any vehicle which the board deems to be a nuisance, unsightly, or inappropriate. This restriction includes overnight parking on streets and driveways. This restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a dwelling. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. The Association may effect the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.
- Owner's vehicles and vehicles belonging to an Owner's family member(s) should not be parked overnight on the streets of the Addition and may not be parked within the improved yard of the Owner.
- 5.12. LANDSCAPING. No person may perform landscaping, planting, or gardening on the common area without the board's prior written authorization.

- 5.13. LEASING OF HOMES. An owner may lease the dwelling on his lot. Whether or not it is so stated in a lease, every lease is subject to the Documents. An owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Documents, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The owner of a leased lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the Documents against the owner's tenant.
- 5.14. NOISE & ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring lots. The Rules may prohibit the use of noise-producing security devices and wind chimes.
- 5.15. OCCUPANCY. Other than the complete principal dwelling, no thing or structure on a lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, mobile homes, campers, and storage sheds.
- 5.16. RESIDENTIAL USE. The use of a lot is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a resident from using a dwelling for personal business or professional pursuits provided that: the uses are incidental to the use of the dwelling as a residence; the uses conform to applicable governmental ordinances; there is no external evidence of the uses; the uses do not entail visits to the lot by employees or the public in quantities that materially increase the number of vehicles parked on the street; and the uses do not interfere with resident's use and enjoyment of neighboring lots.
- 5.17. SCREENING. The ACC may require that the following items must be screened from the view of the public and neighboring lots and dwelling, if any of these items exists on the lot: air conditioning equipment; satellite reception equipment; clotheslines, drying racks, and hanging clothes, linens, rugs, or textiles of any kind; yard maintenance equipment; wood piles and compost piles; accessory structures that do not have prior approval of ACC; garbage cans and refuse containers; anything determined by the board to be unsightly or inappropriate for a residential subdivision. Plant material, such as trees and bushes, may be used for screening.
- 5.18. SIGNS. An owner may erect, per lot, one professionally made sign of not more than 5 square feet advertising the lot for sale or for rent. No other signs advertising the lot for sale or lease, other advertising signs, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the dwelling without the board's prior written approval. The board's approval may specify the location, nature, appearance, dimensions, number, and time period of any advertising sign. The Association may effect the removal of any sign that violates this Section or which the board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.
- 5.19. TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another lot are prohibited within the Property, except reception-only antennas or satellite dishes designed to receive television broadcast signals, antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be

visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the owner may install the Antenna in the least conspicuous location on the lot where an acceptable quality signal can be obtained. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

- 5.20. TEMPORARY STRUCTURES. Improvements or structures of a temporary or mobile nature, such as tents, portable sheds, and mobile homes, may not be placed on a lot if visible from a street or another lot.

ARTICLE 6

ASSOCIATION AND MEMBERSHIP RIGHTS

- 6.1. BOARD. Unless the Documents expressly reserve a right, action, or decision to the owners, or another party, the board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through its board of directors."

- 6.2. THE ASSOCIATION. The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

- 6.3. GOVERNANCE. The Association will be governed by a board of directors elected by the members. Unless the Association's Bylaws or Articles of Incorporation provide otherwise, the board will consist of at least 3 persons but not more than 9 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the Bylaws. Unless the Bylaws provide otherwise, any action requiring approval of the members may be approved in writing by owners of a least a majority of all lots, or at an annual or special meeting by members of at least a majority of the lots that are represented at the meeting.

- 6.4. MEMBERSHIP. Each owner (unless identified as a Non-Member) is a member of the Association, ownership of a lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the lot. The board may require satisfactory evidence of transfer of ownership before a purported member is entitled to vote at meetings of the Association. If a lot is owned by more than one person or entity, each co-owner is a member of the Association and may exercise the membership rights appurtenant to the lot. A member who sells his lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the board. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred.

- 6.5. NON-MEMBERS. It is recognized that certain lots within WENDOVER ADDITION are not voting members of the Association. Those lots not current members are listed on Appendix A. Any non-member lot shall automatically become a member of the Association at such time as said lot changes ownership whether by deed, contract for deed, assumption of loan or other transfer. Further, a non-member lot is not eligible for any expenditure of funds by the Association including fencing located on a non-member lot. It is recognized that said non-member lots are subject to the restriction on use of property and are obligated to maintain the standards of repair, maintenance and replacement of amenities as are members and the Association may enforce the same as provided by the laws of the state of Texas.

- 6.6. VOTING. One vote is appurtenant to each member lot. The total number of votes equals the total number of member lots in the Property. Each vote is uniform and equal to the vote appurtenant to every

other lot. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

- 6.7. VOTING BY CO-OWNERS. The one vote appurtenant to a lot is not divisible. If only one of the multiple co-owners of a lot is present at a meeting of the Association, that person may cast the vote allocated to the member lot. If more than one of the co-owners is present, the lot's one vote may be cast with the co-owner's unanimous agreement. Co-owners are in unanimous agreement if one of the co-owners casts the vote and no other co-owner makes prompt protest to the person presiding over the meeting. Any co-owner of a member lot may vote by ballot or proxy, and may register protest to the casting of a vote by ballot or proxy by the other co-owners. If the person presiding over the meeting or balloting receives evidence that the co-owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.
- 6.8. BOOKS & RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to Article 1396-2.23.B. of the Texas Nonprofit Corporation Act.
- 6.9. INDEMNIFICATION. The Association indemnifies every officer, director, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation.
- 6.10. OBLIGATIONS OF OWNERS. Without limiting the obligations of owners under the Documents, each owner has the following obligations:
 - 6.10.1. Information. Within 30 days, on request by the Association from time to time, an owner will provide the Association with the following information: a copy of the recorded deed by which owner has title to the lot; the owner's residence address, phone number, any mortgagee's name, address, and loan number; the name and phone number of any resident other than the owner; the name, address, and phone number of owner's managing agent, if any.
 - 6.10.2. Pay Assessments. Each member will pay assessments properly levied by the Association against the owner or his lot, and will pay regular assessments without demand by the Association.
 - 6.10.3. Comply. Each owner will comply with the Documents as amended from time to time.
 - 6.10.4. Reimburse. Each owner will pay for damage to the Property caused by the negligence or willful misconduct of the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.
 - 6.10.5. Liability. Each owner is liable to the Association for violations of the Documents by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.
- 6.11. TRANSFER-RELATED FEES. A number of independent fees may be charged in relation to the transfer of title to a lot, including but not limited to fees for resale certificates, estoppel certificates, copies of the Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind, and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: foreclosure of a deed of trust lien, tax lien, or the Association's assessment

lien; transfer to, from, or by the Association; voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child, or parent. Transfer-related fees may be charged by the Association or by the Association's Board of Directors or its managing agent, provided there is no duplication of fees. This Section does not obligate the board or the managing agent to levy transfer-related fees.

ARTICLE 7

COVENANT FOR ASSESSMENTS

- 7.1. **PURPOSE OF ASSESSMENTS.** The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of owners and residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the board's decision with respect to the use of assessments is final.
- 7.2. **PERSONAL OBLIGATION.** A member is obligated to pay assessments levied by the board against the owner or his lot. A member makes payment to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the Association, another member, or any other person or entity regarding any matter to which this Declaration pertains. No member may exempt himself from his assessment liability by waiver of the use or enjoyment of the common area or by abandonment of his lot. A member's obligation is not subject to offset by the member, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the lot.
- 7.3. **TYPES OF ASSESSMENTS.** There are 3 types of assessments: Regular, Special, and Individual.
- 7.3.1. **Regular Assessments.** Regular assessments are based on the annual budget. Each member lot is liable for its equal share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, members will continue to pay the regular assessment as last determined. If during the course of a year the board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. At least 30 days prior to the effective date of an increase in regular assessments, the board will notify a member of each lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase, if not greater than 30% of the prior years assessment will automatically become effective unless members of at least two-thirds of the lots disapprove the increase by petition. An increase proposed of greater than 30% in the regular assessment must be approved by a two-third vote of members.

Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the common area and improvements in the common area. (See Appendix B, B.15.5. for restriction on use of funds.)
- b. Utilities billed to the Association.
- c. Services billed to the Association and serving all lots.
- d. Taxes on property owned by the Association and the Association's income taxes.
- e. Management, legal, accounting, auditing, and professional fees for services to the Association.

- f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
 - g. Premiums and deductibles on insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
 - h. Contributions to the reserve funds as determined necessary by the board for the benefit of the future maintenance, repair and/or replacement of common area improvements. (See Appendix B, B.15.5. for restriction on funds used.)
 - i. Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.
- 7.3.2. Special Assessments. In addition to regular assessments, and subject to the Member's control for assessment increases, the board may levy one or more special assessments against all member lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. However, a special assessment may be levied to supplement reserve funds if a project, for the benefit of the subdivision, is identified and there is not adequate funds in reserve to cover the cost of the same. Special assessments require the approval of two-thirds of all members.
- 7.3.3. Individual Assessments. In addition to regular and special assessments, the board may levy an individual assessment against a member lot and its owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an owner or his lot into compliance with the Documents; fines for violations of the Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-lot basis; and "pass through" expenses for services to lots provided through the Association and which are equitably paid by each lot according to benefit received.
- 7.4. ANNUAL BUDGET. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The board will make the budget or its summary available to an owner of each lot, although failure to receive a budget or summary does not affect a member's liability for assessments. The board will provide copies of the detailed budget to members who make written request and pay a reasonable copy charge.
- 7.5. DUE DATE. The board may levy regular assessments on any periodic basis – annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.
- 7.6. RESERVE FUNDS. The Association must establish, maintain, and accumulate reserves for operations and for replacement and repair. The Association may budget for reserves and may fund reserves out of regular assessments. The Association must maintain operation reserves at a level sufficient to cover the cost of operational or maintenance emergencies or contingencies, including the full amount of deductibles on insurance policies maintained by the Association. The Association must also maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the common area.

- 7.7. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of owners of at least two-thirds of lots and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.
- 7.8. ASSESSMENT LIEN. Each member, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the lot and is secured by a continuing lien on the lot. Each member, and each prospective member, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his lot.
- 7.8.1. Superiority of Assessment Lien. The assessment lien is superior to all other liens and encumbrances on a lot, except only for real property taxes and assessments levied by governmental and taxing authorities, a deed of trust or vendor's lien recorded before this Declaration, a recorded deed of trust lien securing a loan for construction of the original dwelling, and a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due.
- 7.8.2. Effect of Foreclosure. Foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former member. The purchaser at the foreclosure sale is liable for assessments coming due from and after the date of the sale, and for the member's pro rata share of the pre-foreclosure deficiency as an Association expense.
- 7.8.3. Perfection of Lien. The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's real property records. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing member.
- 7.8.4. Power of Sale. By accepting an interest in or title to a lot, each member grants to the Association a private power of judicial or non-judicial sale in connection with the Association's assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.
- 7.8.5. Foreclosure of Lien. The assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.
- 7.8.6. Limitations on Foreclosure. The Association's rights under subsections 7.9.4 and 7.9.5 above are limited to and governed by the laws of the State of Texas and in particular, Chapter 209.001 – 209.011 of the Texas Property Code and as the same is amended or modified from time to time.
- 7.9. LIMITATIONS OF INTEREST. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or

collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the owner if those assessments are paid in full.

ARTICLE 8
EFFECT OF NONPAYMENT OF ASSESSMENTS
AND VIOLATION OF THE DOCUMENTS

- 8.1 **COLLECTING DELINQUENT ASSESSMENTS.** Members and non-members who honor their obligations to the Association should not be burdened by owners who default. The Association, acting through its board, is responsible for taking action to collect delinquent assessments. Neither the board nor the Association, however, is liable to a member or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies the Association has.
- 8.1.1. **Delinquency.** An assessment is delinquent if the Association does not receive payment in full by the assessment's due date.
 - 8.1.2. **Notice to Mortgagee.** The Association may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessments.
 - 8.1.3. **Interest.** Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the board fails to establish a rate, the rate is 10 percent per annum.
 - 8.1.4. **Late Fees.** Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time.
 - 8.1.5. **Costs of Collection.** The owner of a member lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorney's fees and processing fees charged by the manager.
 - 8.1.6. **Acceleration.** If a member defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.
 - 8.1.7. **Suspension of Use and Vote.** If a member's account has been delinquent for at least 30 days, the Association may suspend the right of owners and residents to use common areas and common services during the period of delinquency. The Association may also suspend the right to vote appurtenant to the lot. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.
 - 8.1.8. **Money Judgment.** The Association may file suit seeking a money judgment against a member delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.
 - 8.1.9. **Foreclosure of Assessment Lien.** As provided by this Declaration, the Association may foreclose its lien against the lot by judicial or non-judicial means.
 - 8.1.10. **Application of Payments.** The board may adopt and amend policies regarding the application of payments. After the Association notifies the owner of a delinquency, any payment received by the Association may be applied in the following order: individual assessments, special assessments, and (lastly) regular monthly assessments. The Association may refuse to accept partial payment,

i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the board's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the lot's account.

- 8.2. ENFORCING THE DOCUMENTS. The remedies provided in this Section for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents:
- 8.2.1. Nuisance. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.
- 8.2.2. Fine. The Association may levy reasonable charges, as an individual assessment, against an owner and his lot if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligations under the Documents.
- 8.2.3. Suspension. The Association may suspend the right of owners and residents to use common areas for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Documents.
- 8.2.4. Self-Help. The Association has the right to enter any part of the Property, including lots, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the board is not trespassing and is not liable for damages related to the abatement. The board may levy its costs of abatement against the lot and owner as an individual assessment. Unless an emergency situation exists in the good faith opinion of the board, the board will give the violating owner 15 days' notice of its intent to exercise self-help.
- 8.2.5. Suit. Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.
- 8.2.6. No Waiver. The Association and every member has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Documents at any future time.
- 8.2.7. No Liability. No officer, director, or member of the Association is liable to any owner for the failure to enforce any of the Documents at any time.
- 8.2.8. Recovery of Costs. The costs of curing or abating a violation are at the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

- 8.3. NOTICE AND HEARING. Subject to the laws of the State of Texas as amended from time to time, before levying a fine for violation of the Documents (other than nonpayment of assessments), or before levying an individual assessment for property damage, the Association will give the owner written notice of the levy and an opportunity to be heard before the board. The Association may also give a copy of the notice to the resident. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The owner's request for a hearing suspends only the levy of a fine or damage charge. The owner may attend the hearing in person, or may be represented by another person or written communication. The board may adopt additional procedures and requirements for notices and hearing.

ARTICLE 9
MAINTENANCE AND REPAIR OBLIGATIONS

- 9.1 ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on lots or common areas.
- a. The common areas.
 - b. Any real land personal property owned by the Association but which is not a common area, such as a lot owned by the Association.
 - c. Any area, item, easement, or service – the maintenance of which is assigned to the Association by this Declaration, by-laws or by the plat.
- 9.2. OWNER RESPONSIBILITY. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:
- 9.2.1. House Maintenance. Each owner, at the owner's expense, must maintain all improvements on the lot, including but not limited to the dwelling, fences, sidewalks, and driveways. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.
- 9.2.2. Yard Maintenance. Each owner, at the owner's expense, must maintain the yard on his lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must:
- a. Maintain an attractive ground cover or lawn on all yards visible from a street.
 - b. Edge the street curbs at regular intervals.
 - c. Mow the lawns and grounds at regular intervals.
 - d. Prevent lawn weeds or grass from exceeding 6 inches in height.
 - e. Not plant vegetable gardens that are visible from a street.
 - f. In the front of the house and any side facing a street, prevent plant material in front of the windows from exceeding 36 inches in height.
- 9.2.3. Avoid Damage. An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the

Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

9.2.4. Responsible for Damage. An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the common areas or the property of another owner.

9.3. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is an individual assessment against the owner and his lot. In case of an emergency, however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

ARTICLE 10
INSURANCE

- 10.1. **GENERAL PROVISIONS.** All insurance affecting the Property is governed by the provisions of the Article, with which the board will make every reasonable effort to comply. The cost of insurance coverage and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each owner irrevocably appoints the Association, acting through its board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:
- 10.1.1. **Notice of Cancellation or Modification.** Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured.
- 10.1.2. **Deductibles.** An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an owner or resident or their invitees, the owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.
- 10.2. **PROPERTY.** To the extent it is reasonably available, the Association will obtain blanket all-risk insurance for insurable common area improvements. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage. Also, the Association will insure the improvements on any lot owned by the Association.
- 10.3. **GENERAL LIABILITY.** The Association will maintain a commercial general liability insurance policy over the common areas – expressly excluding the liability of each owner and resident within his lot – for bodily injury and property damage resulting from the operation, maintenance, or use of the common areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the Association or other owners.
- 10.4. **DIRECTORS & OFFICERS LIABILITY.** To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.
- 10.5. **OTHER COVERAGES.** The Association may maintain any insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a Mortgagee or an owner.

ARTICLE 11
AMENDMENTS

- 11.1. **CONSENTS REQUIRED.** Amendments to this Declaration must be approved by two-thirds of members.
- 11.2. **METHOD OF AMENDMENT.** For an amendment that requires the approval of owners, this Declaration may be amended by any method selected by the board from time to time, pursuant to the bylaws, provided the method gives an owner of each lot the substance if not exact wording of the proposed amendment, a

description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment. See 11.1 above for approval requirements

- 11.3. EFFECTIVE. To be effective, an amendment must be in the form of a written instrument referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; signed and acknowledged by an officer of the Association, certifying the requisite approval of lot owners and recorded in the real property records of Tarrant County, Texas.
- 11.4. TERMINATION. Termination of the terms of this Declaration are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by owners of at least two-thirds of the lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the board without a vote of owners. In all other circumstances, an amendment to terminate must be approved by owners of at least 80 percent of the lots.
- 11.5. CONDEMNATION. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the common area, the Association will be the exclusive representative of the owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the common area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE 12 **DISPUTE RESOLUTION**

- 12.1. INTRODUCTION & DEFINITIONS. The Association, the owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:
 - 12.1.1. "**Claim**" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:
 - a. Claims arising out of or relating to the interpretation, application, or enforcement of the Documents.
 - b. Claims relating to the design, construction, or maintenance of the Property.
 - 12.1.2. "**Claimant**" means the following claims or actions, which are exempt from this Article:
 - a. The Association's claim for assessments, and any action by the Association to collect assessments.
 - b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
 - c. Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
 - d. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

- 12.1.3. **“Respondent”** means the Party against whom the Claimant has a Claim.
- 12.2. **MANDATORY PROCEDURES**. Claimant may not file suit in any court or initiate any proceeding before any administration tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.
- 12.3. **NOTICE**. Claimant must notify Respondent in writing of the Claim (the **“Notice”**), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (2) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.
- 12.4. **NEGOTIATION**. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent’s receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent’s representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent’s representatives and agents with full access to the property to take and complete corrective action.
- 12.5. **MEDIATION**. If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.
- 12.6. **TERMINATION OF MEDIATION**. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.
- 12.7. **ALLOCATION OF COSTS**. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.
- 12.8. **ENFORCEMENT OF RESOLUTION**. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.
- 12.9. **GENERAL PROVISIONS**. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant’s Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

ARTICLE 13
GENERAL PROVISIONS

- 13.1. COMPLIANCE. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.
- 13.2. NOTICE. All demands or other notices required to be sent to an owner or resident by the terms of this Declaration may be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an owner fails to give the Association an address for mailing notices, all notices may be sent to the owner's lot, and the owner is deemed to have been given notice whether or not he actually receives it.
- 13.3. LIBERAL CONSTRUCTION. The terms and provision of each Document are to be liberally construed to give effect to the purposes and intent of the Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved in favor of the operation of the Association and its enforcement of the Documents, regardless which party seeks enforcement.
- 13.4. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.
- 13.5. CAPTIONS. In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.
- 13.6. APPENDIXES. The appendixes listed below are attached to this Declaration and incorporated herein by reference. The Appendixes to this Declaration include:
- A – Description of Subject Land
 - A-1 – Non-member lots
 - B – Other Specs and Requirements
- 13.7. INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.
- 13.8. DURATION. Unless terminated or amended by owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

[End of Provisions]

SIGNED AND ACKNOWLEDGED

Wendover Home Owners Association, Inc.

By _____
President

IN WITNESS WHEREOF, This instrument was acknowledged before me on the _____ day of
_____ 20____ by _____, President.

Notary Public, The State of Texas

APPENDIX A

DESCRIPTION OF SUBJECT LAND, WENDOVER ADDITION

SEE PLAT COPY ATTACHED HERETO AND INCORPORATED HEREIN.

APPENDIX B

OTHER SPECS AND REQUIREMENTS

All improvements on a lot must (1) comply with any applicable city ordinances and codes, (2) have a building permit issued by the city, if the type of improvement requires a permit, and (3) have the ACC's prior written approval. These 3 requirements are independent – one does not ensure or eliminate the need for another. The lot owner and/or owner's contractor must comply with all 3 requirements. Without the ACC's prior written approval for a variance, improvements constructed on every lot must have the following characteristics:

- B.1. HOUSES. The principle improvement on a lot must be one detached single-family dwelling. The dwelling size, setbacks, and exterior materials must comply with the applicable ordinances and with any higher standards established by the ACC.
- B.2. DWELLING SIZE. The total air-conditioned living area of the dwelling, as measured to the outside of exterior walls, but exclusive of open porches, garages, patios, and detached accessory buildings, may not be less than 2,000 square feet.
- B.3. NEW CONSTRUCTION. Dwellings must be constructed on the lot. A dwelling or addition constructed elsewhere may not be moved onto a lot. The construction of a dwelling must be started promptly after the ACC approves the dwelling's plans and specification. At the start of construction – but not before – building material to be used in the construction may be stored on the lot. Once started, the dwelling and all improvements on the lot must be completed with due diligence.
- B.4. EXTERIOR WALL MATERIALS. Exterior wall materials must be approved by the ACC. Generally, the exterior surface of the first story of a dwelling – minus windows and doors – must be entirely constructed of brick or brick veneer, stone or stone veneer, stucco, other masonry product, or any combination thereof. On a two-story dwelling, at least 80 percent of the exterior walls must be constructed with the above-named masonry products.
- B.5. COLORS. The colors of all exterior materials and treatments, including but not limited to roofing tiles, paint, brick, stucco, and trim, must be approved by the ACC.
- B.6. ROOFS. Roofs must be covered with material having a manufacturer's warranty of at least 40 years and high definition ridge caps. The use of composition or fiberglass shingles is permitted. The color of roofing material must comply with ACC rules. Turbines shall not be visible from the front of the lot. The ACC may permit or require other weights, materials, and colors.
- B.7. FENCES & WALLS. This Section is subject to the ACC's right to adopt additional or different specifications for construction or reconstruction of fences. The height of fences must be between 4 feet and 8 feet. Fences must be made of masonry, wood, or other ACC-approved material. Retaining walls must be constructed entirely with ACC-approved materials, however railroad ties may not be used for a retaining

wall visible from a street. Fences may not be constructed between a dwelling's front building line and the street. The use of chain link fencing is prohibited.

- B.8. UTILITIES. The ACC may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring lots. Each lot will use city water and sewage systems. Individual water supply and sewage disposal systems are not permitted.
- B.9. AIR CONDITIONERS. Air conditioning equipment may not be installed in the front yard of a dwelling. Window units are prohibited. The ACC may require that air-conditioning equipment and apparatus be visually screened from the street and neighboring lots.
- B.10. DEBRIS. Trash and debris must be stored, prior to city scheduled trash pick up, to the side or back of the house. Each Owner is to comply with the city's regulations relating to when trash may be brought to the curbside for removal.
- B.11. FRENCH DRAINS. An easement is reserved for the installation and maintenance of a French drain system under and across parts (the "Draining area") of Lots 15, 16, 17, 18, 19, 20, 21, 22, and 23 of Block C. The Owners of said lots shall repair, maintain, and replace the Drain system at their costs and each shall have an easement for access to the Drain system for such work. Each of the designated lot Owners shall pay 10% for the cost of the repair, maintenance and or replacement of the system as such costs are incurred by anyone of the designated lot owners. Upon completion of work by an Owner, the Owner shall bill each of the listed lot owner's for their share of the costs and shall submit valid invoices in support of the work completed. Each lot owner so billed shall make payment in full within 10 days after receipt of the bill.
- B.12. OTHER OWNER RESPONSIBILITIES. Each lot Owner shall maintain the exterior of all building, fences, walls and other improvements on his/her lot in good condition and repair, and shall replace worn, rotten, damaged or destroyed parts, and shall regularly repaint or stain all surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, fences, doors, windows, sidewalks or driveways to deteriorate or become unattractive in any way. Any language in this Declaration referring to the Association's purpose or intent to maintain, repair or replace is secondary to the responsibility to each Owner and the same will not relieve the Owner of his/her responsibility unless and until the Association board takes action directing the Association to make repairs, do maintenance or make replacements.
- B.13. CUL-DE-SAC (MEDIAN COMMON AREAS). The common areas fronting Lots 1, 2, and 3, Block A, and Lots 11, 12, 13, and 14, Block B, shall be the maintenance and repair responsibility of the Association. The Association shall maintain and replace all landscaping within the common median areas, maintain the water and irrigations systems in place, and shall determine a methodology for paying the cost of electric service to the lights within the common area. The Association shall have the right to disconnect the lighting system within said common area, determine a means to obtain billing information for the monthly payment to the utility company, or reimburse the lot Owner whose electric service is also feeding the common area lighting for the true cost of electricity on a basis acceptable to the Association and the lot Owner.
- B.14. VISIBILITY. No sign, fence, wall, or shrub which obscures sight lines at elevations between 3 feet and 6 feet above the roadway, shall be allowed on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points 10 feet from the intersection of the street right-of-way lines.
- B.15. OTHER RULES. The following rules are applicable to the Addition:
 - B.15.1. CARPORTS. No carports are allowed.
 - B.15.2. VEHICLES. No vehicle, truck, boat, trailer, motor home, automobile or other such vehicle including boats, shall be allowed to remain on a street, in a driveway, or otherwise visible from a street or neighbors property if the same is disabled, inoperative, or abandoned. Additionally, no boat, trailer, camper, truck, motor home, marine craft, shall be parked in the driveway, street, or

front yard on any residence. This does not prevent the temporary parking of service, delivery or repair trucks, equipment and vehicles used in the maintenance, repair, construction on a residence.

- B.15.3. MAILBOX. Repair or replacement of a mailbox must be in conformity with the construction of the mailbox being replaced and or the same materials.
- B.15.4. TENNIS COURTS. Tennis courts are allowed on lots 3, 7, and 8 of Block C and Lot 3 of Block A, or any other lot as may be approved by the board. However, no court may be constructed without complying with standards set or to be set by the board, and no court shall have lights installed for night play without prior approval of the board and only if the same does not interfere with a neighbor's use and enjoyment of his/her property.
- B.15.5. RESTRICTION ON USE OF ASSOCIATION FUNDS. The Association's right to maintain, repair and/or replace perimeter fencing in or adjacent to the Addition, and to spend Association funds for the same is restricted as follows:
- a. No funds shall be used on a non-member property (as stated above), and;
 - b. Only perimeter fences replaced and stained, in conformity to the standards set by the board, within the calendar year of 2001 are eligible for maintenance, repair and/or replacement by the Association. The board may agree to extend said benefits to an owner who replaces his/her fence to the standards as adopted by the board of directors.

[End of Appendix B]