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*Shirley L. Kaufman*  
County Clerk, Harris County, Texas

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

YORKTOWN VILLAS

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After Recording Return To:

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Houston, TX 77042

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
YORKTOWN VILLAS

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

THIS DECLARATION is made on the date hereinafter set forth by Park Lake Communities, L.P., a Texas limited partnership, hereinafter referred to as Declarant.

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in Harris County, Texas known as Yorktown Villas, Sec. 1, a subdivision of 10.62 acres and a partial replat of Yorktown Crossing, Sec. 2 and containing 111 lots and 2 blocks out of the Wiley Smith Survey, A-708, according to the map or plat thereof, filed under Film Code No. 568018 of the Map records of Harris County, Texas (the "Property"); and

WHEREAS, Declarant desires to develop the Property as townhouses, and to provide and adopt a uniform plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, common benefit of the community, sale, use and enjoyment of the Property as a residential townhouse subdivision; and

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable for the enforcement of the Declaration and the efficient preservation of the amenities on said Property, to create an Association (hereinafter defined) to which shall be delegated and assigned the power of administering and enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the assessments; and

WHEREAS, there has been or will be incorporated, one or more non-profit corporations created under the laws of the State of Texas, including the first being Yorktown Villas Community Association, Inc. Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. The Directors of which Association either have or will establish By-Laws by which the Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the By-laws and/or other Dedicatory Instruments as that term is defined in the Texas Property Code. No more than one such non-profit corporation shall be in existence at any one time.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each Owner of any part of the Property.

In addition to this Declaration, the Property is further subject to an Infrastructure Development Agreement With Restrictive Covenants and Easements as recorded under Clerk's File Number U108139 in the Official Public Records of Real Property of Harris County, Texas, including, Landscape Easements, Blanket Reservation for Utility Easements and Reciprocal Easement Agreements, as amended by instrument recorded under Clerk's File Number V127460 of the Official Public Records of Real Property of Harris County, Texas (collectively, the "Additional Restrictions"). In case of conflict between all or any portion of this Declaration and the Additional Restrictions, the more restrictive provision shall control.

**ARTICLE I. DEFINITIONS OF TERMS**

The following words when used herein shall have the following meanings when capitalized (unless the context requires otherwise and the term is then not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in Article IX, Section A.
- B. "Assessment" means the assessment levied against each Townhouse for the purposes set out in Article XV, Section B, or for any other charge authorized by this Declaration, the By-laws, or Rules and Regulations.
- C. "Architectural Guidelines" means a publication of the ARC, if any, that may set forth various standards relating to exterior harmony of any and all improvements placed upon or constructed on any lot, which publication may be amended without notice to owners.
- D. "Association" means THE YORKTOWN VILLAS COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, its successors, assigns, or replacements which has jurisdiction over all properties located within the land encumbered under this Declaration, as same may be amended from time to time as additional property is annexed into Yorktown Villas as allowed under this Declaration.
- E. "Board" means the duly elected Board of Directors of the Association as provided within the By-Laws.
- F. "Builder" means an individual or entity that purchases multiple Lots from the Declarant for the purpose of constructing Dwellings, thereon, which Dwellings will be offered for sale to purchasers. "Builder" shall not include an individual or entity constructing additions onto a Dwelling already in existence, performing repairs or maintenance or reconstructing or replacing a Dwelling after demolition or destruction, either partial or complete.
- G. "Builder Guidelines" means general guidelines, as to construction types and aesthetics, which Builder Guidelines shall be promulgated by Declarant and approved by the ARC, which Builder Guidelines may be changed by the ARC without notice to the Owners.
- H. "By-Laws" means the By-Laws of the Yorktown Villas Community Association, Inc., as they may be amended from time to time.
- I. "Common Area" means all real property owned in fee or held in easement by the Association for the common use and/or enjoyment of the Owners and shall include areas designated by Declarant to be conveyed by deed or easement to the Association.

- J. "Declarant" means Park Lake Communities, L.P., its successors and assigns, as may be evidenced by a written instrument recorded in the Real Property Records of Harris County, Texas.
- K. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Yorktown Villas or any other property brought under the control of this document, or any supplemental declaration and/or amendment thereto.
- L. "Dwelling" means a Townhouse structure or structures intended for single-family residential use.
- M. "Hardscape" shall include but not be limited to such items as rocks, landscape timbers, railroad ties, fountains, statuary, sculpture, terracing materials, lawn swings, yard art.
- N. "Homesite" means one or more Lots upon which a Townhouse may be erected or subject to this Declaration.
- O. "Lot" means a parcel of the Property as defined by the recorded plat and/or any replat thereof as one Lot in the Map Records of Harris County, Texas, and encumbered by this Declaration. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association.
- P. "Member" means every person or entity who is an Owner, as defined in this article, who is in good standing as defined herein or in the Bylaws.
- Q. "Lienholder" shall mean the holder of a first lien mortgage on any Townhouse in the development.
- R. "Owner" means an owner of any Townhouse within the Property, including a builder or builders. Persons or entities holding title to a Townhouse only as a lienholder shall not be an Owner for purposes of this Declaration.
- S. "Property" means all of the Property subject to this Declaration as same may be amended and/or supplemented from time to time as additional property is annexed into Yorktown Villas as allowed under this Declaration.



T. "Recreational Sites" means Common Area Property that is set aside for use as recreational facilities, reserves, or green space and is encumbered by this Declaration, a recorded plat, or both.

U. "Special Assessment" means an assessment levied under Article XV, Section D for a specific purpose.

X. "Yorktown Villas" and/or the "Subdivision" means the Yorktown Villas Subdivision, located in Houston, Harris County, Texas. The Yorktown Villas Subdivision is more particularly described in the Plat recorded under Film Code No. 568018 in the Map Records of Harris County, Texas, which may be replatted, amended and/or supplemented as additional land is annexed into the subdivision by the recording of a Supplemental Amendment.

Y. "Supplemental Amendment" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant (and the Owner of the property), which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Association pursuant to Article III, Section B, of this Declaration to subject additional property to this Declaration.

Z. "Townhouse", "Townhouses", "Townhome", or "Townhomes" shall mean a single-family residential unit constructed on a Lot, joined together with one or more single-family residential unit by a common wall, or walls, and/or roof and/or foundation. There shall only be one (1) Townhouse on each Lot. However, a Homesite may be comprised of more than one Lot.

**ARTICLE II. PURPOSE AND INTENT**

The Yorktown Villas Subdivision, as initially planned, is intended to be a residential development that features residential Townhouses.

This Declaration shall serve as the means by which design, maintenance and use of Yorktown Villas will be established.

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**ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS**

A. Property Initially Encumbered

The Property that is initially encumbered by this Declaration and is therefore a part of the Yorktown Villas Subdivision is more particularly described in the map or plat thereof, filed under Film Code No. 568018 of the Map Records of Harris County, Texas. Owners of Property are Members of the Association and have executed this Declaration.

B. Annexation of Additional Property

The Declarant reserves the right for twenty-five (25) years following the execution of this Declaration to annex any additional property. Such annexation shall be accomplished by the execution and filing for record of a Supplemental Amendment setting forth the land being annexed and/or the specific restrictions relating to such property, if different, provided the maintenance fee provision shall be uniform as to all Lots. Subject to the provision of Article V, Section C.2., the right of the Declarant to annex land under this Section shall pass to the Association upon the expiration of the twenty-five (25) year term granted above or upon the termination of Class "B" Membership pursuant to Article V, Section C, whichever occurs first.

C. De-annexation of Property

For so long as Class "B" Membership exists, the Declarant, without the joinder of any other Owners or Members, may de-annex from the Subdivision any property owned by the Declarant.

**ARTICLE IV. PROPERTY RIGHTS**

A. Owner's Easements of Enjoyment

Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Townhouse, subject to the following provisions:

(a) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against a Townhouse remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations.

(b) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving and/or maintaining the Property.

(c) The right of the Association to promulgate rules and regulations relating to use and maintenance of the Common Area.

B. Delegation of Use

The Owners hereby covenant that any lease executed on a Townhouse shall be in writing and shall contain provisions binding any lessee thereunder to the terms of this Declaration, the By-Laws, and the rules and regulations applicable to the Property and further providing that non-compliance with the terms of the lease shall be a default thereunder.

**ARTICLE V. MEMBERSHIP AND VOTING RIGHTS**

A. Eligibility

Eligibility to vote or serve as a representative, director, or officer, after the expiration of the term of the initial Board of Directors, shall be predicated upon a Member being in good standing with the Association. To be in good standing, the Member must have all assessments of every type and category paid up to date and have no outstanding financial obligations to the Association that are delinquent. Additionally, no Member shall be allowed to vote or hold office if that Member is noted of record (or within the records of) the Association to have a deed restriction violation on one or more Townhouses in Yorktown Villas.

B. Membership

The sole criteria to become a Member of the Association is to hold ownership of a Lot within Yorktown Villas. This is not to imply that any holder of a mere security interest (such as a mortgagee, or holder of any other lien against property) would be a Member, unless that holder of the security interest foreclosed and thereby became the Owner of the Lot. Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Multiple Owners of any single Lot must vote in agreement (under any method they devise among themselves), but in no case shall such multiple Owners cast portions of votes. The vote attributable to any single Lot must be voted in the same manner (i.e. all votes for, or all votes against a particular issue).

All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership shall begin with the execution of this Declaration and shall pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members.

In consideration for payment of Assessments, all Owners of a Lot in the Subdivision and subsequently annexed sections, if any, shall have the right to the use and enjoyment of recreational facilities in the Subdivision.

C. Voting Rights

The Association shall have two classes of membership, Class A and Class B, as follows:

1. Class A Membership

Class A Members shall be all Members with the exception of Class B Members, if any. Each Class A Member's voting rights shall be based on the number of Lots owned and shall be determined as follows:

One (1) vote shall be granted per Lot.

2. Class B Membership

Class B Members shall include the Declarant and such Owners as the Declarant may, in its sole discretion, confer Class B Membership status upon. Each Class B Member's voting rights shall be based on the number of Lots owned, and shall be determined as follows:

Ten (10) votes shall be granted to Class B Members per Lot.

Declarant shall retain control and authority to appoint all members of the Board until the earlier to occur of the following:

1. Declarant has sold one hundred percent (100%) of the Lots, or
2. The Declarant desires to release such control and authority to the Association as evidenced by an instrument recorded in the Real Property Records of Harris County, or
3. January 1, 2030.

At such time, any remaining Class B Members shall be converted to Class A Members and elections shall be held to elect the members of the Board of Directors pursuant to the provisions of the Articles of Incorporation and the By-Laws of the Association. In the event Class B membership terminates pursuant to the above provisions, and thereafter additional property is annexed into the jurisdiction of the Association, which results in the Declarant owning more Lots in the Subdivision, Declarant's Class B Membership shall be restored until it again terminates as specified above.

D. Voting Procedures

Class A and Class B Members shall exercise their votes as set out in the By-Laws.

**ARTICLE VI. EFFECTIVE DATE OF DECLARATION**

This Declaration shall be effective as of the date this document is recorded in the Official Public Records of Real Property of Harris County, Texas.

**ARTICLE VII. USE RESTRICTIONS**

A. Residential Uses Permitted

Homesites within Yorktown Villas are hereby restricted to residential Townhouses to be used exclusively for single family residential purposes. The term "Single Family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single Family shall mean the use of and improvement to, a Lot with no more than one building(s) designed for and containing facilities for living, sleeping, cooking, and eating therein. In no case may a Lot contain more than one (1) Townhome. No multi-family Dwellings may be constructed on any Lot. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire Townhouse. It is permitted for tenants to lease a Townhouse in Yorktown Villas, so long as tenants are leasing the entire land and improvements comprising of the Townhouse. All buildings and structures erected upon a Lot shall be of new construction and no buildings or structures shall be moved from other locations onto said Property and no subsequent buildings or structures other than replacing existing Townhouses due to casualty loss and/or obsolescence shall be constructed. No structures of a temporary

character, including trailers motor vehicles, tents, shacks, garages, barns, or other outbuildings, shall be placed on any portion of said Property at any time.

Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said Townhouses to maintain, during the period of construction and sale of said Townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses, including but without limitation, a business office, storage area, construction yard, model units and sales office.

No residence shall be occupied by more than one single family. By way of illustration the following charts each depict an example of an approved single family.

For the purposes of these examples, the Owner(s) are considered the control level which establishes the other approved residents.

Example No. 1

No more than a total of 2 parents of the control level		
<u><i>Control Level:</i></u> Husband & Wife	One Person Not So Related	One Household Employee
Children of Husband and/or Wife		

Example No. 2

No more than a total of 2 parents of the control level	
<u><i>Control Level:</i></u> Roommate One Roommate Two	One Household Employee
Children of either or both Roommates	

It is not the intent of this provision to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this definition is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

B. Non-Permitted Uses

1. No trade or business may be conducted in or from any Townhouse, except such use within a Townhouse where (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Townhouse; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation of the Townhouse by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of Yorktown Villas; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Yorktown Villas, as may be determined in the sole discretion of the Board. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, or barber shop or other similar facility is expressly prohibited.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods for or to persons other than the provider's family, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does not generate a profit; or (c) a license is required therefor. Notwithstanding the above, the leasing of the entire Townhouse shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant or by a builder with approval of the Declarant with respect to its development and sale of the Property. Garage sales or yard sales (or any similar vending of merchandise) conducted on any Townhouse more than once per year shall be considered business activity and therefore prohibited.

No business vehicles displaying commercial signs or advertising shall be permitted to be parked within public view in Yorktown Villas, other than service vehicles contracted by owners of Townhouses to perform specific services. No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twelve (12) hours per week in a residential section of Yorktown Villas, without prior written permission of the Association, whose approval will be issued at its sole and absolute discretion.

2. No livestock, domestic or wild animals, nor plants or crops shall be raised on any Townhouse or any portion of the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

C. Parking or Prohibited Vehicles

No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement or right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the ARC. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) as qualified by current vehicle registration and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) do not exceed six feet ten inches (6'10") in height, or eight feet (8') in width and (e) have no commercial advertising located thereon, may be parked in the Common Area, however, no vehicle shall be parked so as to obstruct or block a sidewalk or be parked on a grassy area. The restriction concerning commercial advertising shall not apply to any vehicles, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity. Storage of any vehicles in the street is prohibited. Storage shall mean the parking of a vehicle for more than seven (7) days in any calendar month.

No more than two (2) vehicles (passenger cars or non-commercial trucks or vans consistent with the residential use of a Townhouse) may be parked on the driveway of a



Townhouse at any time. Such vehicles to be parked on a Lot or within the Common Area must meet the restrictions of this Declaration and at all times be operable, unless otherwise completely concealed in an enclosed garage, have current license tags, state inspection stickers, and comply with current mandatory insurance under the laws of the State of Texas. Any vehicle not in daily use as a motor vehicle on the streets and highways of the State of Texas and not in compliance with the foregoing shall be considered stored on the property and such storage is strictly prohibited unless same is completely concealed in an enclosed garage. A vehicle that cannot physically fit within the designed garage of the Dwelling with the door closed will be construed as a vehicle not incident to residential use of a Townhouse. Additional rules and regulations for the use, maintenance, and parking on private and/or public streets may be promulgated by the Association.

Recreational vehicles, such as mobile homes, campers, and boats are not considered vehicles incident to the residential use of a Townhouse and therefore are not permitted to be stored on a Lot for any period of time greater than seventy-two (72) hours. A recreational vehicle with not more than two (2) axles may be parked in front of or on a Lot for up to seventy-two (72) hours for loading, and unloading only.

Parking of any vehicle other than in a driveway or within an enclosed garage of a Homesite or other paved area provided for parking is expressly prohibited.

D. Screening

No Member or occupant of any portion of the Property shall permit the keeping of articles, goods, materials, utility boxes, refuse, trash, storage tanks, or like equipment on the Property which may be considered a nuisance or hazard in the sole opinion of the Board. Air conditioners, utility boxes, garbage containers, and antennas to the extent reasonably possible and pursuant to Article VII, Section N, Antennas, or like equipment shall not be kept in the open, exposed to public view, or exposed to view from adjacent Townhouses, and must be screened from view and placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from grade view from adjacent Townhouses. Utility boxes must be screened so that they are not visible from the street and as may be set out in the

Builder Guidelines. A combination of trees, hedges, shrubs or fences, if any, should be used as screening material, as same may be set out in the Builder Guidelines. All screening designs, locations, and materials are subject to prior ARC approval. Any such screening installed must be maintained in a clean and neat manner at all times, and may not detract from the appearance of the Property.

E. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward the front wall of the house situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of a Townhouse. All equipment, machinery, and materials shall be properly stored out of sight of every other Townhouse immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite, or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection.

F. Notices and Easements

1. Utilities and General

Each Townhouse and the Property shall be subject to an easement for minor encroachments created by construction, settling, overhangs, brick ledges, balconies, fences or other protrusions designed or constructed by Declarant and for the maintenance (if any) of same, so long as the Townhouse stands, and shall and does exist. In the event a structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments onto parts of the adjacent Townhouses due to construction or repair shall be permitted and that a valid easement for such encroachment and the maintenance thereof shall exist.

There are hereby reserved unto Declarant, so long as Declarant owns any Property, the Association, and the designees of each (which may include, without limitation, Harris County and any utility) access and maintenance easements upon,

across, over and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any or all of the following which may exist now or in the future; cable television systems, master television antenna systems, monitoring and similar systems, roads, walkways, bicycle pathways, wetland, drainage systems, street lights, signage, and all utilities, including, but not limited to, water sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on the Property that Declarant owns or within easements designated for such purposes on recorded plats of the Property.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, cable company and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters boxes, installation equipment, service equipment, and any other device, machinery or equipment necessary for the proper functioning of the utility; however, the exercise of this easement shall not extend to unauthorized entry into the Townhouse on any Homesite, except in an emergency. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Board or Declarant.

By virtue of this easement, it shall be expressly permissible for the providing of electrical and/or telephone company to erect and maintain the necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is specifically granted to the United States Post Office Services, its agents and employees to enter upon the Common Area in the performance of mail delivery or any other United State Post Office Services. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company duly selected by the Association to enter in or to cross over the Property and/or any Townhouse to perform the duties of maintenance and repair of the Common Area and/or Townhouse as provided

for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant owning the portion of said Property effected by said utility installation or location or thereafter approved by said Declarant or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the portion of said Property owned by it without conflicting with the terms hereof. The easements provided for in this Article VII shall in no way affect any other recorded easement on said premises.

2. Easements for Green Belt, Flood Water and Other Landscape Reserves

Declarant and Association reserve for themselves and their successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the green belts and other reserves located within the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to construct, maintain and repair any fountain, wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Association at such time as Declarant shall cease to own Property subject to the Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the green belts and other reserves to the extent reasonably necessary to exercise their rights and responsibilities under this Section.

3. Easements to Serve Additional Property

The Declarant and Association and its duly authorized agents, representatives, and employees, as well as its designees, successors, assignees, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the

purposes of enjoyment, use, access and development of any annexed property, whether or not such Property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on any annexed property.

Declarant agrees that if an easement is exercised for permanent access to any annexed property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance to any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio that the number of Dwellings or buildings on that portion of the property that is served by the easement and is not made subject to this Declaration bears to the total number of Dwellings and buildings within the Properties and on such portion of the property.

4. Monuments and Fences

The Association is hereby granted an easement to place, maintain and repair a monument or marker at any entrance to Yorktown Villas.

All fencing installed on the portion of any Lot which abuts a green belt or other reserve shall be in a location and of a material and design as required and approved by the ARC. An Owner's Lot shall be considered abutting or adjacent to the green belts or other reserve even if a Common Area is between the Lot and the green belts and other reserves. However, access to such green belts and other reserves, if any, shall be through approved access points located on the Common Areas only. Gate access from individual Lots or Homesites is strictly prohibited.

On all other Lots, side and rear fencing shall be required and shall be in a location and of a material and design as required in the Builder Guidelines and/or Architectural Guidelines and as approved by the ARC. The Association shall be responsible for the maintenance, repair and/or replacement of all perimeter fences. Replacement fences shall be of a similar material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots shall be the joint responsibility of each Lot Owner between whose property the fence lies. In the event an Owner fails to repair,

replace or maintain his/her fence in a manner consistent with the Subdivision, in the sole discretion of the Board, the Association shall have the right, but not the obligation, to enter such property for the repair and/or replacement of the fence after notice to the Owner. Any expense incurred by the Association in effectuating such repair/replacement shall be the responsibility of the Owner and shall be secured by the continuing lien on the Lot.

5. Landscaping, Utility and Compensating Open Space Reserves

Owners of Lots within the Property are advised that there exist Restricted Reserve "A", Restricted Reserve "E", Restricted Reserve "G", Restricted Reserve "J", Restricted Reserve "N", Restricted Reserve "O", and Restricted Reserve "P" (hereinafter, collectively referred to as the "Reserves") which Reserves are restricted in their use to landscaping, utility, and compensating open space purposes, as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, maintenance and replacement of the Reserves, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Reserves. The Declarant, its successors and assigns, and/or the Association has the right to promulgate rules and regulations governing the use of the Reserves and a recreational facility, if, as, and when such facility is built. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to any future change in use of the Reserves.

Owners whose Lots are adjacent to or abut a Reserve shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Reserves. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up

and remediation necessary to restore the Reserve to its condition immediately prior to said infiltration.

6. Landscaping, Open Space and Utility Reserves

Owners of Lots within the Property are advised that there exist Restricted Reserve "B", Restricted Reserve "C", Restricted Reserve "D", Restricted Reserve "F", Restricted Reserve "H", Restricted Reserve "K", Restricted Reserve "L", and Restricted Reserve "M", (hereinafter, collectively referred to as the "Additional Reserves") which Additional reserves are restricted in their use to landscaping, open space, and utility purposes, as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, maintenance and replacement of the Additional Reserves, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Additional Reserves. The Declarant, its successors and assigns, and/or the Association has the right to promulgate rules and regulations governing the use of the Additional Reserves. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to any future change in use of the Additional Reserves.

Owners whose Lots are adjacent to or abut an Additional Reserve shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Additional Reserves. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Additional Reserve to its condition immediately prior to said infiltration.

7. Restricted Reserve "I"

Owners of Lots 45 and 46, Block 1 within the Property are advised that there between Lots 45 and 46 in Block 1, there exists Restricted Reserve "I" (hereinafter, referred to as "Reserve I") which Reserve I is restricted in its use to landscaping, open space, drainage, and utility purposes, as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, maintenance and replacement of Reserve I and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of Reserve I. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to water level variances and/or any future change in use of Reserve I.

Owners whose Lots are adjacent to or abut Reserve I shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate Reserve I. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore Reserve I to its condition immediately prior to said infiltration.

8. Storm Sewer Easement and Drainage Easement

Owners of Lots 45 and 46, Block 1 within the Property are advised that in between Lots 45 and 46, Block 1, there exists a twenty foot (20') storm sewer easement and drainage easement (hereinafter, referred to as the "Storm Sewer & Drainage Easement"), as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement,



construction, design, operation, and maintenance of the Storm Sewer & Drainage Easement and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Storm Sewer & Drainage Easement. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to water level variances and/or any future change in use of the Storm Sewer & Drainage Easement.

Owners whose Lots are adjacent to or abut the Storm Sewer & Drainage Easement shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Storm Sewer & Drainage Easement. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Storm Sewer & Drainage Easement to its condition immediately prior to said infiltration.

9. Sanitary Sewer and Storm Sewer Easements

Owners of Lots 51 and 63, Block 1 within the Property are advised that abutting and along the northeastern Lot line of Lot 51, Block 1 and near the eastern Lot line of Lot 63, Block 1 there exists a twenty foot (20') sanitary-sewer easement (the "Sanitary Sewer Easement"), as shown on the recorded plat of the Property and Owners of Lots 63-75, Block 1 within the Property are advised that along the northern Lot lines of Lots 63-75, Block 1 there exists a twenty foot (20') combined storm sewer and sanitary sewer easement (the "Combined Easement"), as shown on the recorded plat of the Property. The Sanitary Sewer Easement and the Combined Easement are more particularly described in Harris County Map Records Film Code Number 546260 and are hereinafter, collectively referred to as the "Easements". Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design,

operation, and maintenance of the Easements and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Easements. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to any future change in use of the Easements.

Owners whose Lots are adjacent to or abut any of the Easements shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Easement. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Easement to its condition immediately prior to said infiltration.

10. Water Line Easement

Owners of Lots 63-75 Block 1 within the Property are advised that along the northern Lot lines of Lot 63-75, Block 1, there exists a ten foot (10') water line easement more particularly described under Harris County Map Records Film Code Number 546260 (hereinafter, referred to as the "Water Line Easement"), as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, and maintenance of the Water Line Easement and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Water Line Easement. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or

warranties, expressed or implied, relative to water level variances and/or any future change in use of the Water Line Easement.

Owners whose Lots are adjacent to or abut the Water Line Easement shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Water Line Easement. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Water Line Easement to its condition immediately prior to said infiltration.

11. Drainage Easement and Drainage Channel

Owners of Lots within the Property are advised that along the southeasterly perimeter of the Property, outside the platted area, there exists a one hundred thirty foot (130') drainage easement, more particularly described under Harris County Official Public Record of Real Property File Number V475024 (hereinafter, referred to as the "Drainage Easement"), as shown on the recorded plat of the Property and a Drainage Channel, more particularly described under Harris County Flood Control District File Number U130-00-000 (hereinafter, referred to as the "Drainage Channel"), as shown on the recorded plat of the Property. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, and maintenance of the Drainage Easement and/or the Drainage Channel and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation and maintenance of the Drainage Easement and/or the Drainage Channel. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to water level variances and/or any future change in use of the Drainage Easement and/or the Drainage Channel.

Owners whose Lots are adjacent to or abut the Drainage Easement and/or the Drainage Channel shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Drainage Easement and/or the Drainage Channel. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Drainage Easement and/or the Drainage Channel to its condition immediately prior to said infiltration.

G. Animals and Pets

No animals, livestock (including swine of any kind) or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in a Dwelling. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. If, in the sole discretion of the Association, any pet endangers the health, makes objectionable noise, or constitutes a nuisance or inconvenience to the Owners of other Townhouse Properties or the Owners of any portion of the Property it shall be removed upon request of the Board. If the Owner fails to honor such request, the pet may be removed upon request of the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times whenever they are outside a Dwelling be confined on a leash held by a responsible person.

H. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Townhouse, fence or other improvement upon such Lot so as to be visible from public view except the following:

(1) For Sale Signs. An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more than three (3') feet above the surface of such Lot advertising the Townhouse for sale.

(2) Political Signs. Not more than one political sign, not exceeding 2' x 3' in area, may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such sign shall not be erected more than thirty (30) days in advance of the election to which it pertains and shall be removed within three (3) days after such election.

(3) School Spirit Signs. Signs containing information about one or more children residing in the Dwelling and the school they attend shall be permitted so long as the sign is not more than 36" x 36" and is fastened only to a stake in the ground. There shall be no more than one sign for each child under the age of eighteen (18) residing in the Dwelling, and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.

(4) Security Signs/Stickers. Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than three (3) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for the "Child Find" program or a similar program sponsored by a local police and/or local fire department.

All signs within Yorktown Villas are subject to any rules and regulations promulgated by the Association.

A Builder and/or the Declarant may place certain information and advertising signs on a Lot without the prior permission of the ARC, so long as such signs are similar to those listed as acceptable for Builder use in the Builder Guidelines promulgated by the ARC and so long as such signs do not otherwise violate this Declaration.

If any sign is placed within Yorktown Villas in violation of this declaration, the Association or its agents shall be authorized to enter upon any Lot and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

I. Common Areas

The Association, subject to the rights of the Members set forth in this Declaration and any amendments or Supplemental Amendments, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive and sanitary condition. No Member may appropriate any portion of the Common Areas or any improvement thereon for his or her own exclusive use. Any Member or his or her guests, family or invitees that causes damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Member (within thirty [30] days) shall be assessed against the Member's Lot and secured by the continuous lien set forth in Article XV, Section A of this Declaration.

J. Window Treatments

Within three (3) months of occupying a Townhouse, an Owner shall install appropriate window treatments in keeping with the aesthetics of Yorktown Villas. Appropriate window treatments would include, by way of illustration, curtains and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. No other window treatment color may be visible from the exterior of the Townhouse.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the aesthetics of Yorktown Villas, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for window coverings in a residential subdivision of the same caliber as Yorktown Villas.

K. Basketball Goals and Backboards

No basketball goal, net and/or backboard may be kept, placed or mounted upon or kept, placed, attached or mounted to any fence or Townhouse. If any basketball goal, net and/or backboard is placed within the Property, the Association or its agents shall be authorized to enter upon any Lot and remove and/or dispose of any such basketball goal, net and/or backboard violation, and in doing so shall not be subject to any liability for trespass, other tort or damages

in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

L. Flagpoles

No flagpole of any kind may be kept, placed, or mounted, to any fence, or upon any Townhouse without prior ARC approval.

A Builder and/or the Declarant may place certain information and advertising flags on model home Lots without the prior permission of the ARC, so long as such flags are similar to those listed as acceptable for Builder use in the Builder Guidelines, if any, promulgated by the ARC. Such flags placed by a Builder or the Declarant on a Lot where a model home exists must be removed within ten (10) days after the Builder or Declarant are no longer in the Subdivision selling homes or upon sale of the model home Lot to an end user, whichever occurs first.

M. Exterior Holiday Decorations

The display of exterior holiday decorations, by way of illustration but not limited to lights, banners, flags, wreaths, shall be subject to reasonable rules and regulations promulgated by the Association. Such rules shall address the appearance and length of time of such display. Such display shall be maintained and kept in good condition at all times. If any exterior holiday decorations are placed, or remain, within the Property in violation of this Declaration, the Association or its agents shall be authorized to enter upon any Lot or Townhouse and remove and/or dispose of any such exterior holiday decoration, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the association or its agent be liable for any accounting or other claim for such action.

N. Antennas

No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Townhouse, which is visible from any street, Common Area or other Lot unless it is impossible to receive signals from a permitted location. In that event, the receiving device may be placed in a visible location as approved by the ARC.

The ARC may require as much screening as possible while not substantially interfering with reception. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Property. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No Multichannel Multipoint Distribution Service ("MMDS") antenna mast may exceed the height of twelve feet (12') above the center ridge of the roofline. Owners who install such MMDS antennas on the roof, or any exterior surface, of a Townhouse hereby agree to indemnify, defend, and hold harmless the Association and all other Owners, and each and every other Owner for resulting damage to the roof or other exterior surface. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this section is not attempting to violate the Telecommunications Act of 1996 ("the 1996 Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the 1996 Act.

In the event that it is impossible to receive a signal from a non-visible location, the installation of antennas shall be subject to rules and regulations which may be promulgated by the Association setting out preferred alternate locations for antennas.

O. General Nuisances

No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, animal, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding Townhouses, or the Common Areas.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be



maintained any plants, animals, device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Property. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Property.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot and/or Townhouse. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any visible part of the Property. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage, or if conducted outside, are begun and completed within twelve (12) hours.

P. Tree Removal

No trees greater than three (3) caliper inches to be measured at a point six (6) inches above grade shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved by the ARC. In the event of an intentional or unintentional violation of this Section, the violator may be required to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as the Association may determine necessary, in its sole discretion, to mitigate the damage.

Q. Swimming Pools/Spas

No above ground swimming pools are permitted. All swimming pools and spas require architectural approval as set out in Article IX herein.

R. Out Buildings/Accessory Buildings

No out building and/or accessory building (including, but not limited to sheds, greenhouses, gazebos, play houses, shade trellis) shall be constructed or placed on a Lot within Yorktown Villas without the prior written approval of the ARC. The ARC shall have the right without the obligation to promulgate rules, regulations and guidelines regarding the size, quality, location and type of these structures.

S. Window Air Conditioning Units

No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building on a Lot.

**ARTICLE VIII. DEED RESTRICTION ENFORCEMENT**

A. Authority to Promulgate Rules and Regulations

The Board has the authority to promulgate reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration, any Supplemental Amendment and/or amendments concerning the use and enjoyment of Common Areas.

B. Attorney's Fees and Fines

In addition to all other remedies that may be available, after notice and an opportunity to be heard as required by §209 of the Texas Property Code as same may be amended, the Association has the right to collect attorney fees and/or fines as set by the Board from any Owner that is in violation of this Declaration, any applicable Supplemental Amendment or amendments, any Architectural Guidelines, the Builder Guidelines, or any other rule or regulation promulgated by the Association and/or the ARC.

C. Remedies

Every Owner shall comply with all provisions of this Declaration, the By-Laws, and the rules and regulations of the Association, all other dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association. In addition, the Association may avail itself

of any and all remedies provided in this Declaration, any amendment, Supplemental Amendment, the By-Laws or any other dedicatory instruments.

D. Enforcement by Owners

Each Owner is empowered to enforce the covenants.

**ARTICLE IX. ARCHITECTURAL RESTRICTIONS**

A. Architectural Review Committee - "ARC"

The initial ARC shall be composed of three (3) individuals designated by Declarant, one of whom may be designated as representative to act on behalf of the ARC. The Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment until the first to occur of the following::

1. the Declarant no longer owns any Lots in Yorktown Villas, or
2. the Declarant so desires to relinquish its authority over ARC appointment, or
3. January 1, 2030.

At such time, the Board of Directors of the Association shall have the right to replace such ARC members by duly appointing three Owners in good standing with the Association. The Board of Directors reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. Such removal and/or appointment shall be at the sole discretion of the Board of Directors.

The Board of Directors shall have the right to review any action or non-action taken by the ARC and shall be the final authority.

At any time prior to the happening of (1), (2), or (3) above, the Declarant may, without obligation, assign to the Board of Directors the responsibility for review and approval of modifications to existing Dwellings.

The ARC shall have the right, but not the obligation, to promulgate Building Guidelines and/or Architectural Guidelines as to construction types and aesthetics as set by the ARC, which may be changed at any time by the ARC without notice to the Owners.

B. ARC Approval Required

No buildings, hardscape, additions, modifications or improvements shall be erected, placed or performed on any Lot until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color that may be used when building each design. The ARC or the Board of Directors may, at their sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board, experienced or qualified to review same, who may then render an opinion to the ARC or the Board. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion and to the extent wherein not expressly prohibited by this Declaration and any amended or Supplemental Amendment, is hereby permitted to approve in writing deviations in the general use restrictions set forth in Article VI in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The approval of a deviation in the general use restrictions by the ARC does not obligate the ARC to approve a similar deviation at a later time. Notwithstanding any other provision contained herein, any Dwellings, additions, or improvements erected or placed on any Lot shall be deemed to comply with the building requirements of the ARC and related covenants contained in the Declaration unless the ARC so notifies the Owner otherwise in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the

ARC, the Association, the Board or Declarant to enforce the continuing restriction of use contained herein.

The ARC shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Lot, where such actions have not first been reviewed and approved by the ARC or that constitute a violation of the Declaration, the Builder Guidelines or any other documents promulgated by the ARC. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Lot into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for construction on that Lot. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided in Article XVIII, Section 4 and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved.

Written notice may be delivered to Owner or any agent or contractor with apparent authority to accept same and notice shall be binding on Owner as if actually delivered to Owner.

The ARC or its agents or assigns shall have the right, but not the obligation, to enter any Lot to determine if violations of this Declaration, the Builder Guidelines, or any other documents promulgated by the ARC exist. In so doing, the ARC shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days after plan approval to commence construction and nine (9) months after construction commencement to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved.

The ARC has the right to charge a review fee, to be established by the Board, for review of any plans or specifications submitted for approval to the ARC. The ARC's review of the plans or specifications is solely to evaluate compliance with the Declaration, the Builder Guidelines or any other documents promulgated by the ARC and not to ensure compliance with any law, governmental rules, regulations and/or ordinance. Approval of plans or specifications by the ARC may not be construed as compliance of such plans and specifications with any law, governmental rules, regulations and/or ordinances.

C. Building Setbacks

No Dwelling or other structure shall be erected nearer to any street or property line than that allowed by the applicable plat or other recorded document, provided that a minimum rear setback equal to the real utility easement as shown on the applicable plat of the Property shall be observed on all Lots; and provided further a minimum side setback equal to the side utility easement, if any, as shown on the applicable plat of the Property shall be observed on all Lots.

D. Landscaping

All open, unpaved space in the front and at the sides (if any) of a Townhouse, shall be planted and landscaped. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Townhouse constructed on the Property.

Any significant changes in the existing landscaping on any Homesite must have written approval from the ARC.

E. Grading and Drainage

Topography of each and every Lot must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation) does not cause undue erosion of the subject Lot itself or any other Lot, whether adjacent to the subject Lot or not, or the Common Areas. Owners causing (either directly or indirectly) erosion or other incident damage to personal or real property due to inadequate or defective grading or drainage measures on their own Lot, or because of excess runoff shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owners shall be responsible for ensuring that all local, state and federal rules and regulations regarding drainage and run-off are met.

F. Temporary Structures

Temporary Structures may only be erected on undeveloped Property by builders or the Declarant with the prior approval of the ARC. Even temporary structures shall be maintained in good condition and all construction debris shall be contained to the site. Time limitations for such structures are limited to the period of active and exclusive construction and sales within the Subdivision.

G. Garages

Dwellings must at all times have either attached or detached garages capable of housing a minimum of two (2) full size vehicles. Garages are required to maintain fully operational overhead doors which are in good condition at all times. No garages may be used for a living area.

H. Minimum Square Footage

All Townhouses must contain a minimum of one thousand three hundred (1,300) square feet of living area which shall not include porches, garages or non-air conditioned areas.

**ARTICLE X. MAINTENANCE**

A. General Maintenance

The Association shall maintain and keep in good repair that portion of each Lot which is not enclosed by a fence, Townhomes and other structures, if any, irrigation systems not located within a fenced yard, parking areas and other improvements, including mail box, driveway and its apron portion forward of the building line comprising the Lot. Grass, vegetation and weeds on each Lot shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked or damaged in any manner. Owners shall maintain and keep in good repair that portion of his or her Lot that is enclosed by a fence.

B. Landscaping

In the event any Owner of any Lot fails to maintain the landscaping, grass or vegetation within the fenced area of a Homesite in a manner consistent with the overall standard established within the Property and satisfactory to the Board, the Board, after ten (10) days' notice to the Owners setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board, shall have the right, but not the obligation, through its agent, contractors and/or employees, to enter upon said fenced area of a Homesite to maintain, cut, trim and/or restore such landscaping, grass or vegetation at the Owner's expense.

C. Exterior Maintenance

In addition to maintenance of the Common Areas, the Association shall provide exterior maintenance upon each Townhouse which is subject to Assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, walks, irrigation system, other exterior improvements, the slab, and common plumbing and sewer serving more than one Townhouse.

The Owners shall have the obligation to maintain all improvements not enumerated herein as a maintenance obligation of the Association, including but not limited to the following: glass surfaces including glass panes and hardware, window and door frames, fixtures and hardware, weather stripping, air conditioning equipment and Owner landscaping, Hardscaping, garage door(s) and garage door framework including hardware, air conditioning equipment and related fixtures and wiring.

In the event that the need for maintenance is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, tenants or invitees of an Owner of a Townhouse needing such maintenance or repair, the cost of such maintenance or repair shall be added to and become part of the assessment to which such Lot is subject. After ten (10) days notice to the Owners of the Townhouse setting forth the action intended to be taken by the Association and after approval by a majority of the Board, the Association shall have the right, but not the obligation, through its agent, contractors and/or employees, to enter upon said Lot to maintain, cut, trim and/or restore such landscaping, grass or vegetation at the cost of the



Owner of the Townhouse. The cost for such entry and maintenance shall be secured by the continuing assessment lien as set forth herein at Article XV.

D. Other Hazards

To the extent necessary to prevent rat infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Townhouse, or other improvement located upon such Lot, without notice to take the action necessary to prevent such rat infestation, diminish such fire hazards or diminish hazards caused by structural damage at the Owner's expense.

E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance, landscaping or other work authorized in this Article. The cost of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Townhouse on which it was performed and shall become part of the Assessment payable by the Owner and secured by the continuing lien retained in this Declaration. Alternately, the Association or any Owner of a Lot may bring an action at law or in equity to cause the Owner to bring said Townhouse or Lot into compliance with these restrictions.

The Association and all Members' replacement, repair and restoration practices as to the improvements on Property within the Subdivision are subject to the prior approval of the ARC and must comply with all Builder and/or Architectural Guidelines which may change from time to time, as found necessary and appropriate in the ARC's sole discretion.

**ARTICLE XI. PARTY WALLS**

A. General Rules of Law to Apply

Each wall which is built as a part of the original construction of the Townhouses upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding

party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Repair and Maintenance

The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

C. Destruction by Fire or Other Casualty

If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

D. Weatherproofing

Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribution Runs with Land

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

F. Arbitration

In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decisions shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board is hereby appointed attorney in fact and shall select an arbitrator for the refusing party.

## **ARTICLE XII. STANDARDS AND PROCEDURES**

The ARC may establish and promulgate Architectural Guidelines, which the ARC may modify or amend as it deems necessary and appropriate for the orderly development of the Property, including, but not limited to, those portions of the Builder Guidelines regarding workmanship, materials, building methods, living area square footage, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. The Builder Guidelines may be amended by the ARC without notice, but they shall not be applied retroactively to reverse a prior approval granted by the ARC or the Board to any Owner or prospective purchaser of any Lot. The rules, standards, and procedures set forth in the Builder Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner as any other restriction set forth in this Declaration.

## **ARTICLE XIII. VARIANCE**

The Board, upon the recommendation of the ARC, or its duly authorized representative, may authorize variances from compliance with any of the architectural provisions of this Declaration, any amendment, Supplemental Amendment, Builder Guideline, or Architectural Guidelines, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be approved by at least a majority of the Board, and shall become effective upon execution of the variances which variance shall be signed by a member of the Board. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any

provision of this Declaration. Action of the ARC or the Board in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

#### **ARTICLE XIV.      LIMITATION OF LIABILITY**

Neither Declarant, the Association, the ARC, the Board, nor any of the respective officers, managers, partners, directors, members, successors or assigns of the above, shall be liable in damages or otherwise to anyone who submits matters for approval to any of the above-mentioned parties, or to any Owner affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any matters requiring approval hereunder. Owners for themselves, their heirs, legal representatives, successors and assigns hereby release, acquit and forever discharge the Declarant, the Association, the ARC, the Board, and any of their respective officers, managers, partners, directors, members, successors or assigns from any and all claims, causes of actions, demands of any character or kind, known or unknown, whether in contract or tort or any other theory of law by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any matters requiring approval hereunder. Approval by the ARC, the Board, or any of their respective officers, partners, directors, agents, managers, members, successors or assigns, is not intended as any kind of warranty or guarantee as to the integrity or workability of the plans nor the contractors used.

#### **ARTICLE XV.      ASSESSMENTS**

##### **A.      Creation of the Lien and Personal Obligation of Assessment**

The Owners of any Lot, by virtue of ownership of a Lot hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

1.      Monthly Assessments or charges; and
2.      Special Assessments

The Monthly and Special assessments, together with such interest thereon, and/or late charges, costs of collection, and attorneys fees, as hereinafter provided, shall be a charge and continuing lien upon the land and shall be secured by a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, late charges, costs, and attorneys' fees shall be the personal obligation of the person who was the Owner of Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

B. Purpose of Assessments

Monthly and Special Assessments levied by the Association shall be used for any legal purpose for the benefit of all Owners of Lots as determined by the Association and, in particular, may by way of example and not limitation or obligation, include maintenance, repair or improvement of any Common Area within Yorktown Villas, and any other subdivisions which were or are subsequently annexed thereto and made subject to the authority of the Association, and property in the vicinity of Yorktown Villas, exterior maintenance to Townhomes, roof maintenance repair or replacement, recreation facility, sidewalks, entryways, parkways, private streets and roads, patrol service, fire protection, emergency medical service, street cleaning, street lighting, mosquito control, landscaping, Hardscaping, utilities that are not individually metered, other services as may be in the Property's and Owner's interest and for promotion of the recreational sites, reserves and/or Common Area. Parkways, recreation facilities, fountains, private streets, roads, esplanades, setbacks and entryways that are not contained in any Common Area may be included in the Association's maintenance, if in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. Assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for maintenance cost for including, but not limited to the following: funds to cover actual Association costs for all taxes, insurance, repair, replacement and maintenance of Common Areas and the maintenance, repair and replacement of the exteriors and foundation of the Townhouses as herein authorized or as may from time to time be authorized by the Board; esplanades, setbacks and entryways that are not contained in the Property may be included in the Association's maintenance if, in the sole discretion of the Board, and the cost of other facilities and service activities including, but not limited to, mowing grass, caring for the grounds,

sprinkler systems, landscaping, roofs and exterior walls and fences of the Townhouses, garages including roofs, garbage pickup areas, water and sewage service furnished to Townhouses by the Association, and other charges required by this Declaration or that the Board shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes, the maintenance of such areas that benefits the Association's Members, and other charges as specified herein. Additionally, assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for maintenance costs for the participation in any agreement among other property owners associations (whether residential, multi-family, commercial or mixed use) in the area and for consolidated programs that provide consistency and economics of scale. Approval to enter such agreements shall require an Approving Majority vote of the Board.

C. Monthly Assessment

The Property shall be subject to the Monthly Assessment, as follows:

1. Creation

Payment of the Monthly Assessment shall be the obligation of each Owner and shall constitute a lien on the Lot, binding and enforceable as provided in this Declaration.

2. Rate

The initial Monthly Assessment established by the Association shall not exceed One Hundred and 00/100 Dollars (\$100.00) per Lot per month. Declarant shall elect annually in writing to either subsidize the approved budget for the subsequent year by paying the difference between the total approved budget for the year less the total amount due by Class A Members, or elect to pay assessments at the rate of fifty percent 50% of the amount assessed other Class A Members for each Lot owned. Declarant is required to provide written notice to the Board each year by September 1 of the elected option. Failure to provide such written notice will result in Declarant being billed in the manner of the last option taken by Declarant. A Builder shall only be responsible to pay fifty percent (50%) of the assessment of the other Lot Owners, for the period of time that the Builder owns a Lot.

3. Commencement

For purposes of calculation, the initial Monthly Assessment shall commence on the first day of the month following the date of the first sale of a Lot to a party other than Declarant. Monthly Assessments shall be due on the 1<sup>st</sup> day of the month following the month in which they are billed and shall be delinquent if not paid in full within ten (10) days of the due date.

4. Proration

An Owner's initial Monthly Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above.

5. Levying of the Assessment

The Monthly Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then current Monthly Assessment to reasonably meet the expenses for providing services and capital improvements in Yorktown Villas and may, at its sole discretion and without a vote by the Members, increase or decrease the Monthly Assessment in an amount up to ten percent (10%) over the previous year's Monthly Assessment. The Monthly Assessment may only be increased or decreased by more than ten percent (10%) over the preceding year's assessment if such increase or decrease is approved by Members in good standing who represent a majority of the votes in Yorktown Villas present at a meeting called for said purpose at which a quorum is present in person or by proxy. The Monthly Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Members representing a majority of the votes subject to such assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

D. Special Assessments

In addition to the Monthly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying in whole or in part

the cost of any construction, reconstruction, repair or replacement of all or a portion of any capital improvement or any unusual, infrequent expense benefiting the Association, provided that any such assessment shall have the approval of both an Approving Majority of the Class A Members and Class B Members present at a meeting duly called for this purpose at which a quorum is present. Such Special Assessments will be due and payable as set forth in the resolution authorizing such assessment and shall be levied only against those Owners subject to the Monthly Assessment as set forth in Section C hereof and shall be pro rated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Members benefited by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner.

E. Collection and Remedies for Assessments

1. The assessments provided for in this Declaration, together with late charges, attorney's fees, interest and costs as necessary for collection, shall be a charge on and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with late charges, attorney's fees, interest and costs, shall also be the personal obligation of the Owner of the Lot at the time the assessment became due. This personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

2. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) eighteen percent (18%) or (ii) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by reason of non-use or abandonment.

3. In order to secure the payment of the assessments hereby levied, an assessment lien is hereby reserved in each deed from the Declarant to the Owner of each Lot in Yorktown Villas, which lien may be foreclosed upon by non-judicial foreclosure pursuant to the provisions of Section 51.002 of the Texas Property Code (or any successor statute); each Owner grants a power of sale to the Association to sell such property upon default in



payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.

The President of the Association or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

Although no further action is required to create or perfect the lien, the Association may, as further evidence, give notice of the lien, by executing and recording a document setting forth the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The Association shall also have the right but not the obligation to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 (or any successor statute) and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale no less than twenty one (21) days prior to the date of the proposed foreclosure sale, postage prepaid, registered or certified mail, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association or by hand delivery. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner, shall have the right to bid for such Property at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period a Lot is owned by the Association following foreclosure, (1) no right to vote shall be exercised on its behalf; (2) no assessment shall be levied on it. Out of the proceeds of such sale, there shall be paid first all expenses incurred by the Association in connection with such default, including attorney's fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of assessments in default inclusive of interest, late charges costs of collection, and attorney's fees; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such

tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

F. Subordination of the Lien to Mortgages

The lien for assessments, including interest, late charges, costs and attorney's fees, provided for herein shall be subordinate to the lien of any purchase money mortgage on any Lot. The sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot shall not relieve such Lot from lien rights for any assessments thereafter becoming due. Purchase money mortgagees of record or other purchasers of a Lot which obtain title pursuant to judicial or non-judicial foreclosure of the mortgage, shall not be liable for the share of the assessments or other charges by the Association chargeable to such Lot that became due prior to such acquisition of title. However, from the date of foreclosure forward such assessments shall again accrue and be payable to the Association by said mortgagee.

G. Exempt Properties

All properties dedicated to any accepted use by a municipal county, federal, or other governmental authority and all properties owned by charitable or non-profit organizations that are exempt from taxation by federal laws shall be exempt from the assessments created herein and the Owners thereof shall have no voting rights with respect thereto.

H. Notice of Delinquency

The Association or its agent or designee shall be required to give a written notice of the assessment to any Owner who has not paid an assessment that is due under this Declaration. Such notice must be mailed to the Owner's last known address. The address of the Townhouse shall be presumed to be the address for proper notice unless written notice of another address shall be provided by the Owner to the Association. The Owner shall have thirty (30) days, from the date of the written notice from the Association, to cure a past due assessment before the Association may exercise the remedies set forth in this Article.

I. Management Agreements

Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements, if any, entered into by the Association. A copy of all such agreements

shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled with thirty (30) days written notice by a vote of the Board. The Members of the Association may terminate the professional management of the Property and assume self-management by the Association upon written agreement executed by Members entitled to cast a majority of the votes of the Association.

J. Insurance Requirements

(a) Each Owner shall, if desired, obtain insurance for any interior improvements to their Townhouse which are enhancements over original construction, said enhancements may not be covered by the Association's insurance policy. Additionally, the Association will not be providing any insurance for the content of any Townhouse, or any general liability insurance for the benefit of the individual Owners. An Owner failing to obtain insurance or an Owner who obtains inadequate insurance, shall not look to another Owner or the Association (or its officers, directors, etc.) for his/her losses and shall indemnify, defend, and hold harmless, the Association and each and every other Owner for liability arising from the Owner's Townhouse for damage to another's Townhouse and/or the Common Areas from any casualty loss which originates in the uninsured/underinsured's Townhouse.

(b) The Association, through the Board, or its duly authorized agent, shall obtain the following types of insurance policies covering the Townhouses and the Property, and covering damages to the Townhouse and the Property as well as General Liability insurance for the Association.:

(1) Property insurance in an amount equal to the full replacement value of the replacement costs of all improvements upon the Property (including all building service equipment and the like) with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and if necessary, and "Increased Cost of Construction Endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief,

windstorm, and water damage and any such other risks as shall customarily be covered with respect to projects similar in construction, location and use;

(2) A comprehensive policy of public liability insurance covering all of the common areas located in the project insuring the Association, with such limits as it may consider acceptable (and at not less than \$1,000,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence), such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and, any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location and use; and

(3) The Association, through its Board, may also obtain a policy of fidelity coverage to protect dishonest acts on the part of officers, directors, trustees and employees of the Association and all other who handle, or are responsible for handling funds of the Association. Such fidelity bonds shall be of a kind and in an amount the Association deems necessary for the protection of the Owners. The Association may also obtain a policy to protect the Directors and Officers of the Association, and any other insurance policies they deem necessary.

Premiums for all such insurance shall be a common expense payable from Assessments. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board, or by an agent duly authorized by the Board. The Board shall advertise for sealed bids with licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all costs of

repairing and/or rebuilding to the same condition as formerly, the Board shall levy a special assessment against all Owners, as herein provided, to make up any deficiency.

**ARTICLE XVI.      MODIFICATION AND TERMINATION OF COVENANTS**

This Declaration may be amended, modified, or terminated by the filing of a recorded instrument executed by the Association or its legal representatives, successors or assigns, provided such amendment is approved in writing by the Board. So long as Class B membership exists, approval of two-thirds (2/3) of the combined total votes of Class A and Class B Membership shall be required to amend, modify or terminate this Declaration. However, the Declarant may amend this Declaration at any time without the joinder or consent of any Owners, entity, Lender or other person if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on a Lot; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on Lots; or (e) for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

After the termination of Class B membership, approval by the Owners of a majority of the Townhouse Properties shall be required to amend, modify or terminate this Declaration. Upon approval of the Owners, as set out above of said amended declaration (as evidenced by the President's or Vice-President's signature) the amended declaration shall be recorded in the Real Property Records of Harris County, Texas, whereupon to the extent of any conflict with this Declaration, the amended declaration shall control.

## ARTICLE XVII. ALTERNATIVE DISPUTE RESOLUTION

### A. Dispute Resolution

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board; officers in the Association; the Association; or the ARC.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

### B. Outside Mediator

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in Yorktown Villas, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of no less than five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

### C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or

temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before mediation may be scheduled.

D. Assessment Collection and Lien Foreclosure

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments and/or the foreclosure of the Assessment Lien by the Association as set out in the Declaration.

E. Term

This Article XVII, Alternative Dispute Resolution, shall be in full force and effect for an initial period of three (3) years from the date of execution of this Declaration. However, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of the Board votes to terminate the provisions of this Article XVII, Alternative Dispute Resolution.

**ARTICLE XVIII. GENERAL PROVISIONS**

A. Short-Term Leases Prohibited

No Owner may lease a Townhouse for a period of less than six months. No Townhouse may be used as corporate housing for an individual resident for a period of occupancy of less than six months.

B. Enforcement

The Board, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event the Association fails to enforce a provision of this Declaration, any applicable Supplemental Amendment or amendments, any Architectural Guidelines, the Builder Guidelines, or any other rule or regulation promulgated by the Association and/or the ARC, and the Board enforces same, it shall be entitled to recover all costs and attorneys fees expended in that regard from the Owner of the subject Lot and/or the Association.

C. Severability

The invalidation of any one or more of this Declaration shall not affect other provisions which shall remain in full force and effect.

D. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Property and any improvements thereon. If any provision contained in this Declaration, supplemental amendment or other amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

E. Gender and Number

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

F. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

G. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas. Any and all obligations performable hereunder are to be performed in Harris County Texas.

H. Fines for Violations

The Association may assess fines for violations of the restrictive covenants contained in this Declaration, other than non-payment or delinquency in assessments, in amounts to be set by



the Board, which fines shall be secured by the continuing assessment lien set out in this Declaration.

I. Books and Records

The books, records and papers of the Association shall by appointment, during normal business hours, be subject to inspection by any Member and the Board, for any proper purpose. The Articles of Incorporation, By-Laws, and this Declaration shall likewise be available for inspection, by appointment during normal business hours by any Member at the office of the Association for any proper purpose as set forth in the By-Laws of the Yorktown Villas Community Association, Inc.

J. Notices

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

K. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

L. Current Address

Owners are required to notify the Association, in writing, of their current address if other than the physical address of the Townhouse. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Townhouse as the current address. If

Owner leases the property, he/she shall supply the name of the tenant present upon the execution of any lease.

M. Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, OR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, THE ARC, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY TOWNHOUSE, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, THE ARC, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY TOWNHOUSE AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, THE ARC, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF TOWNHOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, , THE ARC, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

N. Indemnity

Each Owner shall indemnify, defend, and hold harmless, each and every other Owner for liability arising from the Owner's Townhouse for damage to another Owner's Townhouse.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 17<sup>th</sup> day of March, 2005.

**DECLARANT:**

Park Lake Communities, L.P., a Texas limited partnership

By: Hammersmith Group, Inc., a Delaware corporation, its general partner

By: \_\_\_\_\_

Print Name: George Kopecky

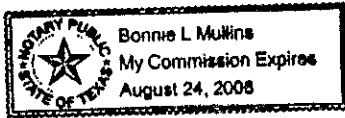
Print Title: President - Park Lake Communities L.P.

STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared George Kopecky, the President of Hammersmith Group, Inc., the general partner of Park Lake Communities, L.P., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 17<sup>th</sup> day of March, 2005.



Bonnie L. Mullins  
Notary Public – State of Texas



LIENHOLDER CONSENT AND SUBORDINATION

First Horizon Home Loan Corp. a(n) Kansas state corporation, being the beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of this Declaration of Covenants, Conditions and Restrictions for Yorktown Villas, to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to the rights and interests created under said Declaration, and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish the rights, obligations and interests created under this Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

SIGNED this the 18th day of March, 2005.

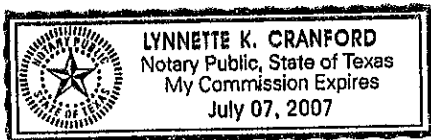
First Horizon Home Loan Corp

By: Marty Winbourn  
Name: MARTY WINBOURN  
Title: VICE PRESIDENT

STATE OF TEXAS §  
COUNTY OF Harris §

BEFORE ME, the undersigned authority, on this day personally appeared Marty Winbourn the Vice Pres. of First Horizon, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in his/her representative capacity.

Given under my hand and seal of office, this 18th day of March, 2005.



Lynnette K Cranford  
Notary Public - State of Texas

LIENHOLDER CONSENT AND SUBORDINATION

FIRST AMERICAN BANK, a(n) TEXAS state SAVINGS corporation, being the beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of this Declaration of Covenants, Conditions and Restrictions for Yorktown Villas, to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to the rights and interests created under said Declaration, and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish the rights, obligations and interests created under this Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

SIGNED this the 30th day of MARCH, 2005.

FIRST AMERICAN BANK, SSB

By: [Signature]
Name: VERNON G. FACUNDO
Title: ASSISTANT VICE PRESIDENT

STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared VERNON G. FACUNDO the ASST VICE PRESIDENT FIRST AMERICAN BANK known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in his/her representative capacity.

Given under my hand and seal of office, this 30th day of MARCH, 2005.



[Signature]
Notary Public - State of Texas

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

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS COUNTY OF HARRIS I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED. In the Official Public Records of Real Property of Harris County, Texas on

APR - 7 2005



[Signature]
COUNTY CLERK
HARRIS COUNTY, TEXAS