

Denton County  
Juli Luke  
County Clerk

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Instrument Number: 3520

ERecordings-RP

DECLARATION

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" Examined and Charged as Follows: "

Total Recording: \$278.00

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

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.

**File Information:**

Document Number: 3520  
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Corporation Service Company



STATE OF TEXAS  
COUNTY OF DENTON

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time  
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke  
County Clerk  
Denton County, TX

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

### OAK HILL RANCH

This Declaration of Covenants, Conditions and Restrictions for Oak Hill Ranch is made on the date hereinafter set forth by Declarant (as hereinafter defined).

Declarant is the owner of the Property (as herein defined). Declarant desires to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property. The Declaration is intended to provide a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. In furtherance of such plan, Declarant has caused or intends to cause the OHR Homeowners' Association, Inc. to be formed as a Texas nonprofit corporation to own, operate and maintain the Common Maintenance Areas (as defined herein) and to administer and enforce the provisions of this Declaration.

Declarant hereby declares that all of the Property shall be held, sold, used and conveyed subject to the easements, restrictions, covenants and conditions contained in this Declaration, which shall run with the title to the Property. This Declaration shall be binding upon all parties having any right, title or interest in any portion of the Property, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner of any portion of the Property.

## ARTICLE I DEFINITIONS

1.1 "ACA" or "Architectural Control Authority" shall have the meaning given to such terms in Section 6.2 hereof.

1.2 "ACA Standards" means standards and Initial Building Guidelines adopted by the ACA regarding architectural and related matters, including, without limitation, architectural design, placement of improvements, landscaping, color schemes, exterior finishes and materials and similar features which may be either recommended or required by the ACA for use within the Property.

1.3 "Architectural Committee" means the committee established under Section 6.3 hereof.

1.4 "Association" or "HOA" means OHR Homeowners' Association, Inc., a Texas nonprofit corporation, established for the purposes set forth herein.

1.5 "Association Easement" means (a) any easement reserved herein or created elsewhere intended for the construction, installation, operation, location or repair of any subdivision improvement, including, without limitation, the easement for subdivision fencing reserved in Section 9.6 hereof and any easement for any landscaping, subdivision sign, monument or entry feature, retaining, screening or perimeter wall or drainage facility, or (b) any other

easement for the benefit of the Association shown on a Recorded plat of the Property or otherwise created or shown in any instrument of Record.

1.6 **"Association Maintenance Fencing"** means any fencing installed by Declarant pursuant to an Association Easement.

1.7 **"Board"** means the Board of Directors of the Association.

1.8 **"Builder"** means any person or entity that purchases one (1) or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such person's or entity's business.

1.9 **"Bylaws"** means the bylaws of the Association.

1.10 **"Certificate"** means the Certificate of Formation of the Association.

1.11 **"City"** means the City of Cross Roads.

1.12 **"Common Area"** and **"Common Areas"** means all areas (including the improvements thereon) within the Property owned or to be owned by the Association for the common use and enjoyment of the Members, including, without limitation, the real property described and/or depicted on **Exhibit "B"** attached hereto.

1.13 **"Common Expenses"** means the actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Member(s) and/or the Common Maintenance Areas.

1.14 **"Common Maintenance Areas"** means the Common Areas, if any, and any areas within public rights-of-way or easements (public and private), portions of Lots, public parks, Private Streets, alleys, drainage facilities, landscaping, entry features and/or fence or similar areas that either the Board deems necessary or appropriate to maintain for the common benefit of the Members or that are shown on a Recorded plat of the Property or portion thereof as being maintained by the Association

1.15 **"County"** means Denton County, Texas.

1.16 **"Declarant"** means Bloomfield Homes L.P., and its successors and assigns as provided in Section 12.12 hereof.

1.17 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Oak Hill Ranch, and any amendments and supplements thereto made in accordance with its terms.

1.18 **"Designated Interest Rate"** means the interest rate designated by the Board from time to time, subject to any interest limitations under Texas law. If the Board fails to designate an interest rate, then the interest rate shall be the lesser of twelve percent (12%) per annum or the highest rate permitted by Texas law. The Designated Interest Rate is also subject to the limitations in Section 12.6 hereof.

1.19 "**Development Period**" means the period commencing upon the date of this Declaration and expiring upon the earlier of (a) when Declarant does not own any real property within the Property, or (b) when Declarant executes a document stating the Development Period has terminated, which termination document may be executed during the period when Declarant still owns real property within the Property.

1.20 "**Dwelling**" means any residential dwelling situated upon any Lot.

1.21 "**Entry Signs**" means the entry feature signs for the subdivision that are or may be placed by Declarant or its agents on the Common Area, Common Maintenance Areas and/or any area covered by an Association Easement.

1.22 "**Initial Building Guidelines**" means the initial building guidelines as set forth in Exhibit "E" attached hereto.

1.23 "**Land**" means any real property (other than areas dedicated to the City or County) within the Property that has not been platted as a Lot.

1.24 "**Lot**" means any separate residential building parcel shown on a Recorded subdivision plat of the Property, but only if such parcel has in place the infrastructure (including utilities and streets) necessary to allow construction of a Dwelling thereon. Common Areas and areas deeded to a governmental authority or utility, together with all improvements thereon, shall not be included as part of a Lot.

1.25 "**Member**" means any person, corporation, partnership, joint venture or other legal entity that is a member of the Association pursuant to the terms in Article III hereof.

1.26 "**Owner**" means the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a Recorded contract for deed, then the purchaser (rather than the fee Owner) will be considered the Owner.

1.27 "**Private Streets**" means any streets, roadways, alleys, trails, or other pathways on or within the Property used for vehicular and pedestrian ingress and egress to and from the Lots, such Private Streets being hereby designated as Common Maintenance Areas. The Private Streets shall provide perpetual access to all Lots for police and other emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and government employees in pursuit of their official duties. Access to the Private Streets for the persons and entities referenced in the preceding sentence shall be reasonably provided by the Association.

1.28 "**Property**" means the real property described on Exhibit "A" attached hereto (other than areas dedicated to the City or County) and such additional property as is brought within the jurisdiction of the Association and made subject to this Declaration.

1.29 "**Record,**" "**Recording**" or "**Recorded**" means the filing of a legal instrument in the Public Records of Denton County, Texas, or such other place as may be designated as the official location for filing deeds, plats and similar documents affecting title to real property.

## ARTICLE II PROPERTY RIGHTS

2.1 **Owners' Easements of Use and Enjoyment.** Every Owner will have a right and non-exclusive easement of use, access and enjoyment in and to the Common Areas and Private Streets, subject to any limitations set forth herein, including, without limitation, the following:

(a) **Rules.** The right of the Association to establish and publish rules and regulations governing the use of the Common Areas and/or the Lots.

(b) **Suspension of Common Area Use Rights.** The right of the Association to suspend the right of use of the Common Areas for any period of time during which any assessment against such Owner's Lot is due and remains unpaid.

(c) **Conveyance of Common Area.** The right of the Association, subject to the provisions hereof, to dedicate, sell or transfer all or any part of the Common Areas. However, no such dedication, sale or transfer will be effective unless there is an affirmative vote of sixty-seven percent (67%) or greater of all outstanding votes of the Members entitled to be cast.

(d) **Mortgage Common Area.** The right of the Association, subject to the provisions hereof, to mortgage or lien all or any part of the Common Areas. However, the Common Areas cannot be mortgaged or liened without an affirmative vote of sixty-seven percent (67%) or greater of all outstanding votes of the Members entitled to be cast.

2.2 **Prohibitions on Easement of Use and Enjoyment.** Each Owner's right and easement of use and enjoyment in and to the Common Area is further limited as follows:

(a) **No Transfer without Lot.** An Owner's right and easement of use and enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from such Owner's Lot.

(b) **No Partition.** Except as provided in Section 2.1(c) hereof, the Common Area shall remain undivided and no action for partition or division of any part thereof shall be permitted.

2.3 **Right to Delegate Use and Enjoyment of Common Area.** Any Owner may extend his or her right of use and enjoyment to the members of such Owner's family, lessees and guests, as applicable, subject to the terms of this Declaration, the Bylaws and any reasonable rules of the Board. An Owner who leases his or her or its Dwelling is deemed to have assigned all such rights to the lessee of such Dwelling.

### ARTICLE III MEMBERSHIP AND VOTING

3.1 **Membership - Owners.** Every Owner by virtue of ownership of a Lot or Land will be a Member of the Association. Membership will be appurtenant to and will not be separated from ownership of any Lot or Land (as applicable).

3.2 **Voting Rights.** The voting rights in the Association shall be as follows:

(a) **Members other than Declarant.** Except as provided in Section 3.2(b) below, Members shall be entitled to one (1) vote for each Lot owned. However, when more than one person or Owner holds an interest in any Lot, only one vote in total may be cast per Lot as the Owners of such Lot determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. The Association shall have no affirmative obligation to take any action to determine which Owner is the person designated to cast the Lot's vote. If the Owners fail to agree on, and advise the Association of the person designated to cast the Lot's vote, then the Lot's vote shall be suspended if more than one person or entity seeks to exercise it.

(b) **Declarant.** Declarant shall be entitled to ten (10) votes for each Lot owned by Declarant and four (4) votes for each acre of Land owned by Declarant, regardless if the time of the vote is within or after the Development Period.

### ARTICLE IV ASSESSMENTS

4.1 **Obligation to Pay Assessments.** Subject to and except as provided in this Article IV, each Owner of any Lot by acceptance of a deed therefor, whether or not it will be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) annual assessments as provided in Section 4.3 hereof, (b) special assessments as provided in Section 4.6 hereof, and (c) specific assessments as provided in Section 4.7 hereof.

4.2 **Rate of Assessments.** Both annual assessments and special assessments shall be fixed at a uniform rate for all Lots, regardless of a Lot's location or size or the value of the Dwelling thereon; provided, however, that vacant Lots shall be subject to a lower rate as provided herein.

(a) **Improved Lot.** A Lot that has thereon a Dwelling that has been occupied at any time (past or current) for residential purposes (an "**Improved Lot**") shall be assessed at the full rate.

(b) **Vacant Lot.** A Lot that does not have thereon a Dwelling that has been occupied at any time (past or current) for residential purposes shall be assessed at the rate of fifty percent (50%) of the full rate.

(c) **Lots and Land Owned by Declarant – Exempt.** Except as provided in Section 4.5 below, during the Development Period all Lots owned by Declarant shall be exempt from all assessments (annual assessments, special assessments and specific

assessments) and Declarant shall not be obligated to pay any assessments for the Lots. Notwithstanding anything contained herein to the contrary, Declarant shall never be obligated to pay assessments for any Land owned by Declarant.

**4.3 Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots on a date to be determined by the Declarant.. The amount of subsequent annual assessments against each Lot shall be fixed by the Board at least thirty (30) days in advance of each assessment period, provided that if the Board fails to timely fix such annual assessment for any assessment period, the annual assessment in effect for the previous assessment period shall remain in effect until thirty (30) days after the Board fixes the subsequent annual assessment for the current or next assessment period. Written notice of the annual assessment shall be sent to an Owner of every Lot subject thereto. The due dates shall be established by the Board. The Board shall also establish whether the annual assessment shall be paid annually, quarterly or monthly.

**4.4 Annual Assessment – Increases.** The annual assessment may be increased by the Board, provided that the Board gives written notice of the increase to the Members at least thirty (30) days in advance of the effective date of such increase. No vote or other approval shall be required for the increase to be effective, unless the increase is more than ten percent (10%) of the prior annual assessment. If the increase is more than ten percent (10%), then the increase may be disapproved and rejected by a sixty-seven percent (67%) or greater vote of the votes of Members entitled to be cast, provided that the vote occurs and the Board receives evidence thereof within sixty (60) days of the date of the increase notice.

**4.5 Declarant's Obligation to Pay Budget Deficits.** If at any time during the Development Period the Association's operating expenses exceed the assessments received by the Association from the Owners (the "**Budget Deficit**"), Declarant shall fund the amount of such Budget Deficit to the Association; provided, however, that in no event shall Declarant be obligated to pay more than an amount equal to the full annual assessment rate applicable to Improved Lots for the Lots (but not Land) owned by Declarant to make up such Budget Deficit. Notwithstanding the foregoing, if the Budget Deficit is the result of the failure or refusal of an Owner or Owners to pay their annual, special or specific assessments, the Association will diligently pursue (and Declarant may also pursue at its option) all available remedies against such defaulting Owners and will promptly reimburse Declarant for any Budget Deficit funded by Declarant from any amounts collected from such Owner or Owners. In no event shall Declarant be obligated to pay any Budget Deficit attributable to the period of time after the Development Period. Furthermore, Declarant's agreement to pay Budget Deficits under this Section 4.5 shall in no way eliminate or diminish Declarant's exemption from all assessments when no Budget Deficit exists.

**4.6 Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment to cover expenses which the Board determines, in its sole discretion, to more appropriately be handled outside of the regular operating budget, provided that any such special assessment must have an affirmative vote of sixty-seven percent (67%) or greater of all outstanding votes of the Members entitled to be cast.

**4.7 Specific Assessments.** The Association shall have the power to levy specific assessments against a particular Lot to (a) cover costs incurred in bringing a Lot into compliance

with this Declaration, (b) cover costs incurred as a consequence of the conduct (or the failure to act) of the Owner or occupant of a Lot, their agents, contractors, employees, licensees, invitees or guests, and/or (c) collect any sums due by the Owner to the Association (other than annual assessments or special assessments or interest or late charges related thereto), including, without limitation, fines.

**4.8 Purpose of Annual and Special Assessments - Reserve.** Annual assessments and special assessments levied by the Association shall be used for Common Expenses. The Association may establish and maintain a reserve fund for the periodic maintenance, inspection, repair and replacement of improvements to the Common Maintenance Areas.

**4.9 Personal Obligation to Pay Assessments.** Each assessment provided for herein, together with interest at the Designated Interest Rate, late charges and collection costs (including, without limitation, reasonable attorneys' fees) shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no mortgagee under a Recorded first purchase money mortgage or beneficiary of a Recorded first deed of trust (meaning any Recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust), shall be liable for unpaid assessments which accrued prior to the mortgagee's acquisition of title. In addition, no mortgagee shall be required to collect assessments.

**4.10 Capitalization of Association - Payment. .**

(a) Each Owner (other than Declarant or a Builder) of a Lot with a completed Dwelling thereon will pay a contribution to the Association (the "**Initial Contribution**"), which amount shall be due immediately upon the transfer of title to the Lot. Upon the purchase and/or resale of a Lot with a completed Dwelling from Declarant or another Builder or an occupying Owner, the Initial Contribution initially shall be \$500. The Initial Contribution will be charged each and every time the Lot is sold (if the Association is in existence). The Initial Contribution can be adjusted up to ten percent (10%) per year by the Board, at the Board's sole discretion; provided, however, any yearly increase which would exceed ten percent (10%) of the amount of the previous year will require approval of sixty-seven percent (67%) or greater of all outstanding votes of the Members entitled to be cast.

(b) Notwithstanding the foregoing provision, the following transfers will not be subject to the requirement to pay the Initial Contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; or (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child or parent. In the event of any dispute regarding the application of the Initial Contribution to a particular Owner, the Board's determination regarding application of the exemption will be binding and conclusive without regard to any contrary interpretation of this Section 4.10. The Initial Contribution will be in addition to, not in lieu of, any other assessments or other charges levied in accordance with this Article IV and will not be considered an advance payment of such assessments. The Association will have the power to waive the payment of any Initial Contribution attributable to a Lot by



the execution and recordation in the Public Records of a waiver notice executed by a majority of the Board.

**4.11 Failure to Pay Assessments; Remedies of the Association.** With respect to any assessment or other sum due herein not paid within ten (10) days after the due date, the Association shall have the right to: (a) charge a late fee in an amount determined by the Board; (b) charge interest on the amount due at the Designated Interest Rate from the due date until the date the sum is paid; (c) charge costs and fees related to the collection of the sum due; and/or (d) exercise any other remedies available to the Association as provided elsewhere in this Declaration. In addition, the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Areas or abandonment of his or her Lot. The failure to pay assessments shall not by the terms of this Declaration constitute a default under an insured mortgage, unless otherwise provided by the terms of such mortgage.

**4.12 Lien.**

(a) **Creation of Lien.** The Association shall hereby have a continuing lien against each Lot to secure payment of delinquent assessments (annual assessments, special assessments and specific assessments), as well as interest at the Designated Interest Rate, late charges and costs of collection, including, without limitation, court costs and attorneys' fees, and any other fees or charges that are authorized under or pursuant to this Declaration. Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and Record a document setting forth as to any Lot, the amount of delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the payment thereof. However, the failure of the Association to execute and Record any such document shall not, to any extent, affect the validity, enforceability, perfection or priority of the lien.

(b) **Enforcement of Lien - Judicial or Nonjudicial.** The lien may be enforced by judicial foreclosure or by nonjudicial foreclosure; provided, however, that prior to any nonjudicial foreclosure, the Association shall first obtain a court order as required under Section 209.0092(a) of the Texas Property Code, as amended, and otherwise comply with any applicable prerequisites or requirements for nonjudicial foreclosure under applicable law, including, without limitation, Chapter 209 of the Texas Property Code, as amended. Each Owner by accepting title to a Lot hereby grants to the Association, whether or not it is so expressed in the deed or other instrument conveying such Lot to the Owner, a private power of nonjudicial sale. The Board may appoint, from time to time, any person including an officer, agent, trustee, substitute trustee or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board's meeting. A foreclosure must comply with the requirements of applicable law, including, without limitation, Chapter 209 of the Texas Property Code, as amended. A nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, as amended, or in any manner permitted by law. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees,

subject to applicable provisions of the Bylaws and applicable law, such as Chapter 209 of the Texas Property Code, as amended. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage and convey same.

(c) **Subordination of Lien.** The lien of the assessments provided for herein is subordinate to the lien of any Recorded first purchase money mortgage or deed of trust against a Lot.

(d) **Effect of Conveyance.** An Owner that conveys title to a Lot shall not be liable for assessments that are attributable to the period after the conveyance of the Lot, except as provided in Section 4.12(e) below. However, a conveyance of title to a Lot shall not affect the assessment lien or relieve the Owner that conveys the Lot from personal liability for any assessments attributable to the period prior to the date of the conveyance, except as provided in Section 4.12(e) below.

(e) **Effect of Foreclosure.** The foreclosure of a first purchase money mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof will extinguish the lien of such assessment as to payments attributable to the period prior to the foreclosure, trustee's sale or deed in lieu thereof. However, a foreclosure of a first purchase money mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof will not relieve such Lot or Owner thereof from liability for any assessment attributable to the period after the foreclosure, trustee's sale or deed in lieu thereof. The foreclosure of a first purchase money mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof shall not release the Owner whose Lot is being foreclosed, sold at a trustee's sale or conveyed pursuant to a deed in lieu from the Owner's obligation to pay assessments attributable to the period prior to the date of such foreclosure, trustee's sale or deed in lieu thereof. For purposes of this Declaration, the use of the term "**first**" in connection with a mortgage or deed of trust shall refer to the lien priority as compared to other mortgages or deeds of trust.

## ARTICLE V THE ASSOCIATION

5.1 **The Association - Duties and Powers.** The Association is a Texas nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Certificate, the Bylaws and this Declaration. The Association shall continue to exist until the Association is dissolved, regardless if the corporate status expires, lapses or is forfeited. The Association shall have such rights, duties and powers as set forth herein and in the Certificate and the Bylaws.

5.2 **Board of Directors.** The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the Certificate and the Bylaws. The Board shall have the powers granted in this Declaration, the Certificate, the Bylaws, and all powers provided by Texas law and all powers reasonably implied to perform its obligations and/or duties provided herein.

5.3 **Limitation on Liability.** The liability of an officer, director or committee member of the Association shall be limited as provided in the Certificate.

5.4 **Indemnification.** Subject to the limitations and requirements of the Texas Business Organizations Code, as amended (the "**TBOC**"), and in the Bylaws, the Association shall indemnify, defend and hold harmless every officer, director and committee member against all damages and expenses, including, without limitation, attorneys' fees, reasonably incurred in connection with any threatened, initiated or filed action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify, defend and hold harmless shall be limited to those actions for which a director's, officer's or committee member's liability is limited under the Certificate. Additionally, subject to the limitations and requirements of the TBOC and in the Bylaws, the Association may voluntarily indemnify, defend and hold harmless a person who is or was an employee, trustee, agent or attorney of the Association, against any liability asserted against such person or party in that capacity and arising out of that capacity.

5.5 **Insurance.**

(a) **Required Coverages.** The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect, the following insurance coverage, if reasonably available:

(i) **Property Insurance – Common Area.** Blanket property insurance covering loss or damage on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Common Maintenance Areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership.

(ii) **General Liability Insurance.** Commercial general liability insurance on the Common Maintenance Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf.

(b) **Additional Insurance.** The Board may obtain additional insurance as the Board determines advisable, including, without limitation, directors and officers liability insurance, fidelity insurance and any insurance to comply with any applicable insurance requirements of any federal agency or secondary mortgage market entity, including, without limitation, the Federal Home Loan Mortgage Corporation ("**FHLMC**"), the Federal National Mortgage Association ("**FNMA**"), the U. S. Department of Veterans Affairs ("**VA**"), and the U.S. Department of Housing and Urban Development ("**HUD**"), to the extent applicable. In determining whether to obtain additional insurance and/or endorsements thereto that are discretionary the Board shall use its own business judgment to determine if such insurance and/or endorsement is advisable based on the cost and availability of the insurance and/or the endorsement compared to the risks associated therewith.

(c) **Review of Policies.** The Board shall periodically review the types and amounts of insurance coverage for sufficiency.

5.6 **Contracts; Management and Maintenance.** The Association shall have the right to contract with any person or entity for the performance of various duties and functions. This right shall include, without limitation, the right to enter into management, operational or other agreements with other persons or entities; provided, however, that any such agreement shall require approval of the Board. The Board may employ for the Association a management agent or agents at such compensation as the Board may establish to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority.

5.7 **Books and Records.** The books and records of the Association shall be made open and reasonably available to the Members for inspection and copying as provided in the Bylaws and in accordance with the requirements of applicable law, including, without limitation, Chapter 209 of the Texas Property Code, as amended.

5.8 **Dissolution of Association; Conveyance of Assets.** If the Association is dissolved other than incident to a merger or consolidation, the assets (both real and personal) of the Association, shall be conveyed as provided in the Certificate.

5.9 **Enforcement – Notice.** The Association may impose sanctions for violation of this Declaration (including any rules, guidelines or standards adopted pursuant to this Declaration) in accordance with and subject to the applicable procedures set forth in this Declaration, the Bylaws and applicable law, including Chapter 209 of the Texas Property Code, as amended. Specifically, written notice and opportunity for a hearing must be given prior to the Association exercising its remedies if such notice and hearing is required by this Declaration, the Bylaws and applicable law, including Chapter 209 of the Texas Property Code, as amended. Such sanctions may include all remedies available at law and/or in equity and all remedies herein, including, without limitation, the following:

(a) **Fines.** The Association may impose reasonable monetary fines which shall constitute a lien upon the Owner of the Lot related to or connected with the alleged violation. The Owner shall be liable for the actions of any occupant, guest or invitee of the Owner of such Lot.

(b) **Suspension of Rights to Use Common Area.** The Association may suspend any person's or entity's right to use any Common Area; provided, however, that nothing herein shall authorize the Association to limit ingress or egress to or from a Lot.

(c) **Right of Self-Help.** The Association may exercise self-help or take action to enter upon the Lot to abate any violation of this Declaration.

(d) **Right to Require Removal.** The Association may require an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Association or its designee shall have the right to enter the Lot, remove the violation and restore the property to substantially the same condition as previously existed, without such action being deemed a trespass.

(e) **Levy Specific Assessment.** The Association may levy a specific assessment to cover costs incurred by the Association in bringing a Lot into compliance with this Declaration.

(f) **Lawsuit; Injunction or Damages.** The Association has the right, but not the obligation, to bring a suit at law or in equity to enjoin any violation or to recover monetary damages, or both.

(g) **Perform Maintenance.** In addition to any other enforcement rights, if an Owner fails to perform properly such Owner's maintenance responsibility with respect to a Lot and/or Dwelling, the Association may record a notice of violation in the Records and/or enter onto the Lot and perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific assessment.

The decision to pursue enforcement action, including the commencement of legal proceedings, in any particular case shall be left to the Association's sole and absolute discretion, except that the Association shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Association may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

## ARTICLE VI ARCHITECTURAL CONTROLS

**6.1 No Improvements Unless Approved by Architectural Control Authority - Except Improvements by Declarant.** No building, fence, wall, outbuilding, landscaping, pool, detached building, athletic or play equipment or facility, structure or improvement will be erected, altered, added onto or repaired upon any portion of any Lot without the prior written consent of the ACA. However, ACA approval is not required for (a) any improvements constructed, erected, altered, added onto or repaired by Declarant or a Builder designated in writing by Declarant during the Development Period to be exempt from the ACA approval requirements; (b) any improvements to the interior of a Dwelling, except as provided herein; (c) the painting or re-bricking of the exterior of any Dwelling in accordance with the same color or design as originally constructed by Declarant or in accordance with the approved color and design scheme approved by the ACA; (d) improvements for which this Declaration expressly states that the ACA's prior approval is not required; or (e) repair or replacement of worn out or damaged improvements if such repair or replacement is with substantially similar materials. Any improvements pursuant to clauses (c) and (e) immediately preceding must be in compliance with any applicable ACA Standards.

6.2 **Architectural Control Authority.** The ACA shall have the sole and exclusive authority to perform the functions contemplated by the ACA in this Declaration. The purpose of the ACA is to enforce the architectural standards of the Property and to approve or disapprove plans for improvements proposed for the Lots. The ACA will have the authority to delegate its duties or to retain the services of a professional engineer, management company, architect, designer, inspector or other person to assist in the performance of its duties. The cost of such services shall be included in the Common Expenses. The "ACA" or "Architectural Control Authority" shall be the following entity:

(a) **Declarant - During Development Period.** Declarant shall be the ACA during the Development Period, unless Declarant has earlier terminated its rights as the ACA in writing.

(b) **Architectural Committee - After the Development Period.** The Architectural Committee shall be the ACA after Declarant's right to act as the ACA has either expired or voluntarily been terminated.

6.3 **Architectural Committee.** A committee to be known as the "Architectural Committee" consisting of a minimum of three (3) members will be established after Declarant's right as the ACA has terminated. The members of the Architectural Committee will be appointed, terminated and/or replaced by the Board. The Architectural Committee will act by simple majority vote.

6.4 **Submission of Plans.** Prior to the initiation of construction of any work required to be approved by the ACA as provided in Section 6.1 above, the Owner (excluding Declarant and any Builder designated in writing by Declarant during the Development Period to be exempt from the ACA approval requirements as provided herein) will first submit to the ACA a complete set of plans and specifications for the proposed improvements, including site plans, landscape plans, exterior elevations, specifications of materials and exterior colors, and any other information deemed necessary by the ACA for the performance of its function. In addition, the Owner will submit the identity of the individual(s) or company(ies) intended to perform the work and projected commencement and completion dates.

6.5 **Plan Review.**

(a) **Timing of Review and Response.** Upon receipt by the ACA of all of the information required by this Article VI, the ACA will have thirty (30) days in which to review said plans and other documents and materials submitted pursuant to Section 6.4 hereof. No correspondence or request for approval will be deemed to have been received until all requested documents have actually been received by the ACA in form satisfactory to the ACA. If the ACA requests additional information and the applicant fails to provide such information prior to the date stated in the ACA's notice, then the application shall be deemed denied. If the applicable submittal is denied or deemed denied, then the applicant shall be required to re-apply if the applicant still desires to proceed with the improvements and/or work in which event the applicant must have the ACA consider the request again after the applicant re-applies. If the ACA fails to issue its written approval within thirty

(30) days after the ACA's receipt of all materials requested by the ACA to complete the submission, then such failure by the ACA to issue its written approval shall be deemed its disapproval of such materials. The ACA may charge a reasonable fee for reviewing requests for approval. It is the responsibility of the Owner seeking approval from the ACA to verify that the ACA has received its request for review and whether approval has been given by the ACA.

(b) **Approval Considerations - Aesthetics.** The proposed improvements will be approved if, in the sole opinion of the ACA: (i) the improvements will be of an architectural style, quality, color and material that are aesthetically compatible with the improvements within the Property; (ii) the improvements will not violate any term herein or in the ACA Standards; and (iii) the improvements will not have an adverse impact on the Property. Decisions of the ACA may be based on purely aesthetic considerations. The ACA shall have the authority to make final, conclusive and binding determinations on matters of aesthetic judgment and such determination shall not be subject to review so long as the determination is made in good faith and in accordance with the procedures set forth herein. Each Owner acknowledges that opinions on aesthetic matters are subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements and as the ACA and its members change over time.

**6.6 Timing of Completion of Approved Items.** All work approved by the ACA shall be completed within one (1) year after the approval by the ACA or such shorter period that the ACA may specify in the notice of approval, unless the completion is delayed due to causes beyond the reasonable control of the Owner, as determined by the ACA. All work and related improvements shall be in compliance with the items approved by the ACA.

**6.7 Improvements Impact on Drainage.** With respect to any improvements performed on a Lot and/or any alterations to the grade of a yard, the Owner shall take proper precautions to insure that such improvements do not cause the surface water drainage on the Lot to (a) drain onto an adjoining Lot in an amount more than the drainage amount prior to the improvement or alteration, or (b) collect near the foundation of the Dwelling. Although the ACA may comment on and/or deny the approval of plans because of the impact of the proposed improvements or alterations on surface water drainage, the ACA's comments or approval shall not constitute or be construed as a representation, warranty or guaranty that adverse surface water drainage problems will not occur and shall not be relied upon as such. The Owner is responsible for taking the necessary actions in order to avoid any surface water drainage problems, including, without limitation, engaging the services of a qualified consultant.

**6.8 No Waiver.** The approval by the ACA of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the ACA under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

**6.9 Variances.** The ACA may authorize variances from strict compliance with the requirements herein, in any ACA Standards or any required procedures: (a) in narrow circumstances where the design meets the intent of the provision from which variance is sought and where granting the variance would enhance design innovation and excellence; or (b) when

circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require. For purposes of this Section 6.9, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of any financing as the sole or primary reason for requesting a variance shall not be considered a hardship warranting a variance. No variance shall be contrary to the terms of this Declaration and no variance shall be effective unless in writing, nor shall a variance in one instance estop the ACA from denying a variance in other circumstances.

**6.10 Architectural Control Authority Standards.** The ACA may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, ACA Standards. The ACA Standards may not conflict with the terms of this Declaration. In this regard, any conflict between any ACA Standards and the terms of this Declaration shall be controlled by the terms of this Declaration. The Initial Building Guidelines adopted by the ACA are attached hereto as Exhibit "E".

**6.11 Enforcement; Non-Conforming and Unapproved Improvements.** If there are any significant or material deviations from the approved plans in the completed improvements, as determined by the ACA, in its sole and absolute discretion, such improvements will be in violation of this Article VI to the same extent as if made without prior approval of the ACA. In addition to the Association's rights in Section 5.9 hereof, the Association or any Owner may maintain an action at law or in equity for the removal or correction of (a) the non-conforming improvement or alteration, and/or (b) any improvement or alternation to any improvement on any Lot that is not approved by the ACA.

**6.12 Liability of Declarant and the ACA; Indemnity.**

(a) **Decisions of Declarant and ACA.** Declarant and the members of the ACA shall have no liability for decisions made by them so long as such decisions are made in good faith and are not discriminatory, arbitrary or capricious. Any errors in or omissions from the documents submitted to Declarant or the ACA shall be the responsibility of the entity or person submitting the documents, and neither Declarant nor the ACA shall have any obligation to check for errors in or omissions from any such documents, or to check for such documents' compliance with the general provisions of this Declaration, City codes and other regulations, state statutes or the common law, whether the same relate to Lot lines, building lines, easements or any other issue.

(b) **No Liability of Declarant or ACA.** Declarant shall have no responsibility or liability for (i) the creation, selection, management or operation of the ACA, (ii) any actions taken or omitted to be taken by or on behalf of the ACA in connection with this Declaration or the Property, or (iii) any liabilities, obligations, debts, actions, causes of action, claims, debts, suits or damages incurred by or on behalf of or arising in connection with the ACA, the Property or the duties and obligations of the ACA pursuant to this Declaration. Furthermore, neither Declarant, the Association, the ACA, the Board nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner by reason of mistake in judgment, negligence or nonfeasance arising out of or



in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACA, the Board or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Plans and specifications are not reviewed, approved and/or rejected for engineering or structural design, adequacy of materials or adequacy of soils or drainage, and by approving such plans and specifications, neither Declarant, the Association, the ACA, the Board nor the officers, directors, members, employees and agents of any of them assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications.

(c) **Indemnification of Declarant and ACA.** Without limiting the foregoing provisions of this Section 6.12, subject to any limitations imposed under the TBOC or in the Bylaws, the Association shall indemnify, defend and hold harmless the ACA, Declarant, the Board and their officers, directors, members, employees and agents from and against all damages, claims and expenses, including, without limitation, attorneys' fees, reasonably incurred in connection with any threatened, initiated or filed action, suit or other proceeding (including the settlement of any suit or proceeding, if approved by the then Board) to which the ACA, Declarant or other indemnified persons may be a party by reason of its activities under or in connection with this Declaration.

## **ARTICLE VII USE RESTRICTIONS AND COVENANTS**

**7.1 Single Family Residential Use.** All Lots (excluding any Common Maintenance Areas) and Dwellings will be used and occupied for single-family residential purposes only and no trade or business may be conducted in or from any Lot and/or Dwelling, except that an Owner of the Dwelling may conduct business activities within the Dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve unreasonable visitation to or from the Dwelling by clients, customers, suppliers or other business invitees; and (d) the business activity is ancillary to the residential use of the Dwelling and does not diminish the residential character of the Property or constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of the other residents in the Property. The determination of whether a business activity satisfies the foregoing requirements set forth in clauses (a) through (d) above in this Section 7.1 shall be made by the Board in its sole and absolute discretion. The business activity prohibition will not apply to the use by Declarant or any Builder of any (i) Dwelling as a model home, construction office and/or sales office, or (ii) Lot as a site for a selection center trailer, construction office trailer and/or sales office trailer and/or parking lot.

**7.2 Parking of Motor Vehicles.** No vehicles or similar equipment will be parked or stored in an area visible from any street within the Property, except passenger automobiles,

motorcycles, passenger vans and pick-up trucks may be parked in any garage or driveway if such vehicle (a) has less than one (1) ton carrying capacity; (b) has less than 3 axles; (c) is in operating condition; and (d) is generally in daily use as a motor vehicle on the streets and highways of the State of Texas. No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, the Common Maintenance Areas or on any easement unless such vehicle, trailer, implement or apparatus is in use for maintaining such area or easement; provided, however, that this restriction will not apply to any driveways, roads, parking lots or other areas designated by the Board as intended for such vehicular use. No abandoned, derelict or inoperable vehicles may be stored or located on any Lot or a street within the Property, except within an enclosed garage. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles or other machinery or equipment will be permitted in any driveway or portions of any Lot that are visible from any street within the Property.

**7.3 Trailers, Boats, Commercial and Recreational Vehicles.** No campers, boats, trailers, motor homes, travel trailers, camper bodies, golf carts, recreational vehicles, non-passenger vehicles, vehicles with 3 or more axles or greater than 1 ton carrying capacity, and/or equipment or accessories related thereto may be kept on any Lot, unless such item is operable and such item is (a) kept fully enclosed within a garage located on such Lot; (b) kept fully screened from view by a screening structure or fencing approved by the ACA; (c) temporarily parked on any street within the Property or on a Lot for the purpose of loading or unloading; or (d) a commercial vehicle that is in use for the construction, maintenance or repair of a Dwelling or Lot in the immediate vicinity. The Board will have the absolute authority to determine from time to time whether an item is in operable condition and complies with the requirements in clauses (a) through (d) above in this Section 7.3. Upon an adverse determination by the Board, the Owner will cause the item to be removed and/or otherwise brought into compliance with this Section 7.3. Notwithstanding any provision herein, no trucks or vehicles of any size which transport inflammatory or explosive cargo may be kept on the Property at any time.

#### **7.4 Fences.**

(a) **Required Fencing.** The backyard of each Lot must be fully enclosed with a perimeter fence. The Owner must at all times maintain the fence on its Lot in accordance with the terms of this Declaration, unless such Owner obtains the ACA's written approval to modify, replace, relocate or remove such fence in accordance with the provisions of this Declaration.

(b) **Type of Fencing.** All perimeter fences will be wood, stone, metal, brick and/or masonry. No other type of fencing shall be permitted. All fencing shall comply in all respects (including size and location) with applicable City requirements, including, without limitation the City. All perimeter fences shall be six feet in height unless another height is approved by the ACA and shall be a color approved by the ACA. Unless approved by the ACA, fences may not be stained or painted, except that fences may be stained with a clear stain or with the same color stain as originally applied by Declarant. The portion of all fences which face a street adjoining such Owner's Lot (front, side or rear streets, but not alleys) or which face a Common Area, open space, park or other recreational area adjoining such Owner's Lot (which area may be separated by an alley) shall have the smooth surface

of the fence materials facing the applicable street or Common Area. The fence posts and bracing boards on such front, side and rear fences shall face the interior of the fenced yard.

(c) **Location of Fence.** Unless approved by the applicable governmental authority and the ACA, no fence or wall will be placed (i) on any Lot in a location nearer the street than the front building setback line for such Lot, or (ii) on those certain corner Lots whose rear boundary line adjoins any portion of another Lot's front yard of a Lot behind the corner Lot, in a location nearer to the front building setback line for the street that is in front of the adjoining Lot. The foregoing shall not limit or restrict fences erected in conjunction with model homes or sales offices. In addition to the foregoing, easements may also restrict the placement of fences.

(d) **Maintenance of Fencing.** Except with respect to Association Maintenance Fencing, each Owner shall maintain the portion of fencing on such Owner's Lot in a presentable condition and shall make all repairs and replacements thereto (as deemed necessary by the Board, in its sole and absolute discretion), except that Owners adjoining a Common Fence (as provided in Section 7.4(f) hereof) shall share in the cost of such maintenance as provided in Section 7.4(f) hereof. The Association shall be responsible to maintain the Association Maintenance Fencing.

(e) **No Changes / Repairs.** All repairs and replacements to the perimeter fencing must be done using the same type and color of materials so that such fencing does not appear to have been repaired or replaced, except to the extent of the new appearance of the repaired or replaced materials. Except as provided in this Section 7.4(e), no fencing (including, without limitation, Association Maintenance Fencing) may be changed or modified without the prior written consent of the ACA. This includes the prohibition against changing the height of the fencing and the fencing materials.

(f) **Common Fencing.** Except for Association Maintenance Fencing, side and rear yard fences that are installed by Declarant or the Builder of the Dwelling to separate adjacent Lots as a common boundary fence (the "**Common Fence**") shall be maintained jointly by the Owner(s) whose Lot(s) adjoin(s) such Common Fence and the costs associated therewith shall be shared equally by said Owners. An Owner is not released from the joint maintenance obligation even if an Owner constructs a second fence along or near the Common Fence, unless the other Owner agrees in writing otherwise and the ACA's approval is obtained. If the Owners disagree regarding the timing, cost or other applicable issue related to the repair or replacement of a Common Fence or any portion thereof, then either Owner may (i) make the repair or replacement (provided any applicable ACA approval is obtained) and seek collection of one-half (1/2) of the cost of repair or replacement at Arbitration (as defined herein); and/or (ii) seek payment of one-half (1/2) of the cost of repair or replacement at Arbitration, subject to the repair or replacement being made. The term "**Arbitration**" shall mean binding arbitration pursuant to the rules of the American Arbitration Association or such other person or entity approved by the applicable Owners.

## 7.5 Common Retaining Wall.

(a) **Maintenance of Common Retaining Wall.** Any retaining walls that are installed by Declarant on a common boundary of two Lots or that are located on a Lot, but adjacent to (within 3 feet) and generally parallel with another Lot (a "**Common Retaining Wall**") shall be maintained jointly by the Owner whose Lot the Common Retaining Wall is located on and the Owner whose Lot is adjacent to the Common Retaining Wall (depending upon which is applicable) and the costs associated therewith shall be shared equally by said Owners. An Owner is not released from the joint maintenance obligation unless the other Owner agrees in writing to such release. The Common Retaining Wall shall be maintained in the same location, size, style and design and with the same materials, unless both Owners agree in writing otherwise and the ACA's approval is obtained. If the Owners disagree regarding the timing, cost or other applicable issue related to the repair or replacement of a Common Retaining Wall and/or portion thereof, then either Owner may (i) make the repair or replacement (provided any applicable ACA approval is obtained) and seek collection of one-half (1/2) of the cost of repair or replacement at Arbitration, and/or (ii) seek payment of one-half (1/2) of the cost of repair or replacement at Arbitration, subject to the repair or replacement being made.

(b) **Easement for Common Retaining Wall.** Common Retaining Walls may or may not be located exactly on the common boundary line between two Lots. Therefore, there is hereby created an easement in and on the Lot where the Common Retaining Wall is actually located. The easement area shall be limited to the area that is within 3 feet of the common boundary line. The easement shall be for the benefit of the Owner of the Lot that adjoins the Common Retaining Wall so that such Owner can maintain the Common Retaining Wall as provided in Section 7.5(a).

7.6 **Outbuildings, Sheds and Detached Buildings.** No detached accessory buildings (including, but not limited to, detached garages and storage buildings and sheds) shall be erected, placed or constructed upon any Lot, unless (a) the building is approved by the ACA prior to the installation or construction of the building; (b) such building is compatible with the Dwelling to which it is appurtenant in terms of its design and material composition; (c) the exterior paint and roofing materials of such building shall be consistent with the existing paint and roofing materials of the Dwelling; (d) the building is located within a backyard that has a fence that completely encloses the backyard; (e) the height of the walls (excluding the roof) is not greater than 6 feet; (f) the total height of the building (including walls and roof) is not greater than 9 feet; (g) such building shall not be directly visible from any adjacent street, and (h) the building has less than 200 square feet of floor space. In addition, the Owner is required to comply with any applicable governmental requirements, including, without limitation, any necessary permits.

7.7 **Animals.** No animals, livestock or poultry of any kind will be raised, bred or kept on any Lot, except that a reasonable number of cats, dogs or other generally recognized household pets may be permitted on any Lot; however, those pets which are permitted to roam free, or in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or unreasonable source of annoyance to the occupants of other Lots shall be removed from the Lot upon the request of the Board. If the animal owner fails to remove the animal from the Lot after the Board's request, the Board may remove the animal, in addition to

imposing such other sanctions as are authorized by the Declaration and the Bylaws. All animals will be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Association. All persons bringing an animal onto the Common Maintenance Areas shall be responsible for immediately removing any solid waste of said animal.

**7.8 Signs.** Except for Entry Signs, no sign or emblem of any kind, including "for rent" signs, may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view except the following: (a) an Owner may erect one (1) sign on a Lot advertising the Dwelling for sale or lease, provided that the sign does not exceed two (2) feet by three (3) feet in size; (b) an Owner may temporarily place one (1) sign on a Lot advertising the "open house" of a Dwelling for sale, provided that the sign does not exceed two (2) feet by three (3) feet in size and the sign may only be displayed during actual open house hours; (c) an Owner may place one (1) sign on the inside of a window advertising a Dwelling "for rent", provided that the sign does not exceed one and one-half (1 1/2) feet by one and one-half (1 1/2) feet in size; (d) signs or billboards may be erected by Declarant or any Builder designated in writing by Declarant as having the right to erect such signs or billboards; (e) an Owner may temporarily place one (1) sign on a Lot advertising a "garage sale", provided that the sign does not exceed two (2) feet by three (3) feet in size and the sign may only be displayed during the garage sale hours; or (f) political signs 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 signs will not be erected more than sixty (60) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election. The ACA may in the ACA Standards permit additional signs and/or place additional restrictions or limitations on the signs permitted in this Declaration, provided that such additional restrictions or limitations do not conflict with the terms hereof. The Association will have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing. Removal shall not subject Declarant, the Board, the Association or the Association's officers or agents to any liability in connection with such removal.

**7.9 Trash; Containers and Collection.** No garbage or trash shall be placed or kept on any Lot, except in covered sanitary containers. In no event shall such containers be stored, kept, placed or maintained on any Lot where visible from the location on the street that is immediately in the front of the Dwelling except solely on a day designated for removal of garbage, then such containers may be placed in the designated location for pick-up of such garbage and the container will be removed from view before the following day. Materials incident to construction of improvements may be stored on Lots during construction by Declarant or any Builder designated in writing by Declarant during the Development Period.

**7.10 Nuisances.** No noxious or offensive activity, including, without limitation, unreasonable smells, noise or aesthetics, will be carried on upon any Lot, nor will anything be done thereon which the Board determines, in its sole and absolute discretion, is or may become an unreasonable source of annoyance or nuisance to the Property.

**7.11 Antennae and Satellite Dishes.** Except with the written permission of the ACA or as provided herein, exterior antennae, aerials, satellite dishes or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind may not be

placed on the exterior of any Dwelling or on any portion of the Lot outside the Dwelling, except that (a) antennas, satellite dishes or other apparatuses that are one meter or less in diameter and that are designed to receive transmissions other than television broadcast signals shall be permitted; and (b) antennas or satellite dishes designed to receive television broadcast signals shall be permitted. Any of the foregoing permitted devices and any other device permitted by the ACA (a "**Permitted Device**"), must be located in an area where such Permitted Device is not visible (for aesthetic reasons) from any portion of the street in front of the applicable Lot with the apparatus. However, if the Owner determines that the Permitted Device cannot be located in compliance with the foregoing non-visibility requirement without precluding reception of an acceptable quality signal, then the Owner may install the Permitted Device in the least conspicuous alternative location on the Lot where an acceptable quality signal can be obtained. The ACA in the ACA Standards may include rules or provisions regarding the type of additional Permitted Devices and/or the placement of Permitted Devices, provided that such ACA Standards do not conflict with the terms of this Section 7.11 and do not unreasonably increase the cost of installation, maintenance or use of the Permitted Device. A Permitted Device that complies with the provisions of this Section 7.11 and the ACA Standards shall not require the ACA's approval prior to installation. However, the ACA shall be the sole and exclusive authority for purposes of determining if the item or device complies with the provisions of this Section 7.11 and the ACA Standards.

**7.12 Air-Conditioning Units.** Air-conditioning apparatuses must be installed on the ground behind the rear of the Dwelling, on the ground on the side of the Dwelling or in such other location as may be approved by the ACA. No air-conditioning apparatus or evaporative cooler may be located in or on the front of any Dwelling or attached to any roof, wall or window of any Dwelling.

**7.13 No Solar Collectors.** Except with the written permission of the ACA, no solar collection panels or similar devices may be placed on or around any Dwelling. During the Development Period, the ACA shall be entitled, in its sole and absolute discretion, to restrict or prohibit entirely the installation of solar collection panels or similar devices. Upon expiration of the Development Period, the ACA shall be entitled to restrict or prohibit the installation of solar collection panels or similar devices if installation would result in any one or more of the following conditions: (1) as adjudicated by a court, the device threatens the public health or safety or violates applicable law; (2) the device is to be located on Common Areas or other property owned or maintained by the Association; (3) the device is to be located in an area on the Owner's Lot other than on the roof of the Dwelling or of another structure approved by the ACA for construction on the Owner's Lot or in a fenced yard or patio owned and maintained by the Owner; (4) if to be mounted on the roof of the Dwelling, the device (a) extends higher than or beyond the roofline, (b) is located in an area other than that which has been designated by the ACA, (c) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline or (d) has a frame, a support bracket, or visible wiring that is not in a silver, bronze, or black tone commonly available in the marketplace; (5) if to be mounted in a fenced yard or patio, the device is taller than the fence line; or (6) if the device, as installed, voids material warranties.

**7.14 No Temporary Structures as a Residence.** No structure of a temporary character, including, without limiting the generality thereof, any tent, shack, garage or barn will be used on any Lot at any time as a residence, either temporarily or permanently; except that camping out in

a tent, that is erected in the back yard behind a fully screened fence, is permitted provided that such activity is on a temporary basis and does not become or constitute a nuisance or unreasonable source of annoyance to the occupants of other Lots as determined by the Board in its sole and absolute discretion. This restriction will not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, selection center offices, construction offices or material storage facilities.

**7.15 Landscaping Maintenance.** All yards must be sodded or grassed within a reasonable time period not to exceed one (1) month after the initial conveyance of a Lot with a Dwelling thereon to an Owner. Decorative ground cover rock (excluding flower beds and planters with mulch rather than rock) in the front and side yard may not exceed 10% of the total area of the front and side yard. All trees, grass and other landscaping located on any Lot must be properly maintained at all times by the Owner of such Lot in a trimmed, well-kept and clean condition, as determined by the Board, in its sole and absolute discretion. Each Owner will keep all shrubs, trees, grass and plantings of every kind on his or her Lot cultivated, pruned, and free of trash and other unsightly material. In addition, each Owner shall on a regular basis remove weeds from the yard, including, without limitation, flower beds and planter areas. No hardscape, including without limitation, any edging, may include symbols, characters, numbers or letters, unless approved in advance by the ACA.

**7.16 Owner's Maintenance of Adjacent Areas.** (a) Unless such obligations are expressly assumed in writing by the Association as provided in paragraph (c) below, each Owner shall, at its sole cost and expense, be obligated to undertake all activities and work (collectively, the "**Adjacent Area Maintenance Work**") necessary to properly mow, irrigate and otherwise maintain in good condition all areas ("**Adjacent Areas**") situated between the boundary of such Owner's Lot and the back of the curb of any adjacent public or private rights-of-way, street or alley. The Adjacent Area Maintenance Work shall include, without limitation, irrigating, pruning, maintaining and replacing all landscaping and trees located within the Adjacent Areas and maintaining and/or replacing (as necessary) all irrigation equipment or lines located within the Adjacent Areas. Furthermore, no landscaping (including, without limitation, trees) or improvements may be removed from, or modified or installed within, the Adjacent Areas without the advance written consent of the Board.

(b) In the event an Owner fails or refuses to properly and on a timely basis (both standards to be determined by the Board in the Board's sole and absolute discretion) perform any Adjacent Area Maintenance Work for which it is responsible, such failure will constitute a violation of this Declaration. In such event, without limitation on any other rights or remedies arising out of such violation, the Board may additionally cause such Adjacent Area Maintenance Work to be performed in a manner determined by the Board, in its sole and absolute discretion. If the Board causes any Adjacent Area Maintenance Work to be performed due to an Owner's failure to do so, the Owner otherwise responsible therefor will be liable to the Association for all costs and expenses incurred by the Association for effecting such Adjacent Area Maintenance Work. If such Owner fails to pay such costs and expenses timely upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the Designated Interest Rate) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot hereunder will be secured by the liens reserved in this Declaration

for assessments and may be collected by any means provided in this Declaration for the collection of assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s).

(c) The Association at any time, but without any obligation to do so, may assume responsibility for all or a portion of the Adjacent Area Maintenance Work associated with one or more Owner's Lots. The Association may also from time to time enter into agreements with one or more Owners pertaining to the Adjacent Area Maintenance Work or the costs thereof, in the sole discretion of the Board.

(d) To the extent any such Adjacent Areas are Common Areas, an Owner shall not be responsible or liable to the Association for injury or loss caused to third parties as a result of such Owner's performance of his/her Adjacent Maintenance Work within such Adjacent Areas (unless and to the extent caused by the gross negligence or willful misconduct of such Owner), and the Association shall maintain general commercial liability insurance with respect to such Adjacent Areas that are Common Areas. **THE ASSOCIATION WILL INDEMNIFY AND HOLD HARMLESS EACH OWNER AND HIS/HER HEIRS, SUCCESSORS AND ASSIGNS FROM ANY THIRD PARTY CLAIMS OR CAUSES OF ACTION FOR DAMAGE TO PERSON OR PROPERTY THAT DIRECTLY ARISE OUT OF SUCH OWNER'S PERFORMANCE OF HIS/HER ADJACENT AREA MAINTENANCE WORK WITHIN ANY ADJACENT AREA THAT IS COMMON AREA, EXCEPT FOR SUCH CLAIMS OR CAUSES OF ACTION ARISING BY REASON OF SUCH OWNER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

**7.17 Sidewalks.** The Homeowners Association shall be responsible for maintaining any sidewalk located on such Owner's Lot to the extent required by the City or any other applicable governmental authority. If an owner causes damage to sidewalks, entry to the lot as provided herein will not be deemed a trespass and the association will not be responsible for any damage created unless such damage is caused by the Association's will full misconduct or gross negligence. Any repairs made due to owner negligence will be billed back to the owner by the Homeowner's Association.

**7.18 Exterior Improvement Maintenance.** All improvements upon any Lot will at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot in a presentable well-kept and clean condition, as determined by the Board, in its sole and absolute discretion.

**7.19 Garages.** Each Dwelling must have a garage that will accommodate a minimum of two (2) automobiles. All garages must comply with all applicable governmental requirements. Garages may be used as Declarant's or a Builder's sales offices prior to permanent occupancy of the main structure; however, sales offices must be converted to garages prior to permanent occupancy. With the exception of periods when garages are used by Declarant or Builder as sales offices, all garages will be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation. No carports are permitted on a Lot.



7.20 **Clothes Hanging Devices.** No clothes hanging devices are to be constructed or placed on the Lot, except within the Dwelling.

7.21 **Window Treatment.** No aluminum foil, newspaper, reflective film, bed sheets or similar linens, nor any similar treatment, will be placed on windows or glass doors of a Dwelling.

7.22 **Oil and Gas Drilling or Mining.** No drilling, refining, quarrying or mining operation of oil, gas or other minerals of any kind will be permitted upon or from the surface of any Lot, nor will any oil derrick, well, tank, storage facility or other related equipment be permitted on any Lot. This **Section 7.22** shall not prohibit subsurface drilling activities that begin upon and are conducted from the surface of real property not subject to this Declaration.

7.23 **Mail Boxes.** Mailboxes shall be of similar type and design and in the same location as originally installed, unless the ACA approves additional types and designs or locations of mail boxes.

7.24 **Athletic and Recreational Facilities.** No outdoor athletic and recreational facilities such as playscapes, swing sets and sport courts may be placed on a Lot unless (a) such item is placed within a backyard that has a fence that completely encloses the backyard and the location and the item does not exceed twelve (12) feet in height, or (b) such item is a temporary and movable facility that is stored each night in the garage, the Dwelling or other fully screened area. Notwithstanding the foregoing, basketball goals and any other recreation equipment designated by the ACA may be located on any portion of the Lot (including side yards) that is behind any portion of the rear of the Dwelling.

7.25 **Lighting; Exterior Holiday Decorations.** Lighting and/or decorations on a Lot may not be used or placed in a manner which, in the Board's sole and absolute discretion, constitutes a nuisance or an unreasonable source of annoyance to the occupants of other Lots. Except for lights and decorations within the interior of a Dwelling that are not displayed in a window, lights and decorations that are erected or displayed on a Lot in commemoration or celebration of publicly observed holidays may not be displayed more than six (6) weeks in advance of that specific holiday and must be removed within thirty (30) days after the holiday has ended.

7.26 **Flags, Flagpoles, Lawn Decorations and Sculptures.** The Owner must have the approval of the ACA to place any decorations, sculptures, fountains, flags, flagpoles and similar items on any portion of such Owner's Lot except the interior of the Dwelling, unless (a) such item is placed within a backyard completely enclosed by a fence which blocks the view of the item at ground level; and (b) such item is no taller than the fence. Displays of American patriotism, school pride, and individuality are encouraged within reason and decorum; however, to maintain the overall aesthetic character of the community, the following restrictions shall govern the display of flags within the community. No more than one (1) in-ground flagpole, of not more than twenty feet (20') in height, may be installed in a location within the Owner's Lot as designated or approved in advance of installation by the ACA. Each Owner is authorized to mount two temporary or permanent flagstaffs on the front, rear or side of their Dwelling by wall bracket. The flagstaffs should not to exceed six (6) feet in length. The suggested location for such bracket mounting is on the garage doorframe or near the garage door. No roof-mounted flagstaff is allowed. Multiple flag configurations and any flagstaff in excess of six (6) feet must be approved by the ACA prior to

installation or display. The Owner may use the flagpole or flagstaff to display the American flag, the Texas flag, a flag of any branch of the United States armed forces, and pennants or banners such as school flags or sports team flags. All flags may contain no more than twenty-four (24) square feet of material and must be of good taste and presentation.

**7.27 Pools/Equipment.** All swimming pools and associated decks shall be located in side and rear yards. They may not be located in easements. Pool equipment must be located where it will not cause a nuisance to neighbors and must be fully screened with privacy fence or evergreen shrubs or other approved landscaping. A privacy fence shall not be higher than necessary to screen the equipment. Lattice-type fencing will be considered for this purpose. Above ground pools, masonry block, vinyl lined and low hung vinyl lined pools are not allowed. Pneumatic pool enclosures are not permitted.

**7.28 No Lot Consolidation or Division.** No Owner, other than Declarant, may divide any Lot and/or consolidate any adjoining Lots and/or any portion thereof.

**7.29 Drainage Alteration Prohibited.** Unless approved by the ACA, no Owner will: (a) alter the surface water drainage flows of a Lot as originally established at the time of the initial construction of the Dwelling; or (b) install landscaping or other improvements that may interfere with, obstruct or divert drainage flows established by Declarant or any Builder. The foregoing shall not prevent or limit Declarant from performing any grading work and/or changing any surface water drainage flow on any Lot.

**7.30 Construction Activities.** This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the area. If construction upon any Lot does not conform to usual practices in the area as determined by the Board, in its sole good faith judgment, the Board will have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is an excessive accumulation of debris of any kind that is offensive or detrimental to the Property or any portion thereof, then the Board may contract for or cause such debris to be removed, and the Owner of such Lot will be liable for all expenses incurred in connection therewith.

**7.31 Declarant and Builder Development and Construction.** Notwithstanding any other provision herein, Declarant, and its successors and assigns, and any Builders, will be entitled to conduct on the Property all activities normally associated with, and convenient to, the development of the Property and the construction and sale of Dwellings on the Property.

**7.32 Rainwater Harvesting Systems.** Rain System Application and each Rain System Device to be installed in accordance with and must comply with the following:

The Rain System Device must be consistent with the color scheme of the residence,

the Device does not include any language or other content that is not typically displayed on such a device, the location is not in the front of the home or adjoining or adjacent street. The Rain System Device must always be properly maintained or removed by the owner and the Rain System Device must be enclosed or covered. If the Rain System Device is not properly maintained, becomes unsightly or could serve as a breeding pool for mosquitoes, then it must be removed by the owner from the Lot. If the Rain System Device will be installed on or within the side yard of a lot, or would otherwise be visible from a street, common area, or another Owner's property, the ACC may regulate the size, type, shielding of, and materials used in the construction of the Rain System Device.

## **ARTICLE VIII COMMON AREAS**

**8.1 Association to Hold and Maintain.** The Association will accept and own all Common Areas in fee simple title. The Association shall maintain, at the Association's cost, the Common Area and any improvements and landscaping thereon in good repair. The Association shall also maintain the Common Maintenance Areas, at the Association's cost, to the extent the Board determines that such maintenance is desirable. The costs of such maintenance for the Common Areas and Common Maintenance Areas shall be the Association's responsibility, regardless if such cost was incurred during or after the Development Period. In the event the Association fails to properly and timely maintain any of the Common Maintenance Areas, including but not limited to Private Streets, alleys, and/or drainage facilities, the City may, at its option and after notice and an opportunity to cure, assume responsibility for such maintenance of the Common Maintenance Areas to be performed at the Association expense. If the City causes maintenance of the Common Maintenance Areas to be performed pursuant to this section, the Association shall be liable to and reimburse the City for the costs and expenses incurred by the City in maintaining the Common Maintenance Areas within thirty (30) days of such costs and expenses being incurred by the City. If the Association fails to timely reimburse the City for such costs and expenses incurred, the City may, at its sole discretion, assume the Association's duties to collect and enforce mandatory assessments as provided for in this Declaration. Any such amounts assessed and chargeable by the City will be secured by the liens reserved in this Declaration for assessments and may be collected by any means provided in this Declaration for the collection of assessments, including, but not limited to, foreclosure of such liens against the Owner's lots, up to and including filing and foreclosing liens for unpaid assessments.

**8.2 Use of Common Areas at Own Risk.** Each Owner, by acceptance of a deed to a Lot, acknowledges that the use and enjoyment of any Common Area and/or any recreational facility or improvement thereon involves risk of personal injury or damage to property. Each Owner acknowledges, understands and covenants to inform all of its tenants, invitees, agents and occupants of its Lot that Declarant, any Builder, the Association, the Board, any committees and all of their officers, directors, members, employees and agents are not insurers of personal safety and that each person using the Common Area and any recreational facility or improvement thereon assumes all risks of personal injury and loss or damage to property including any loss or damage

resulting from the use and enjoyment of any recreational facility improvement or other portion of the Common Area.

**8.3 Condemnation of Common Area.** In the event of condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the funds payable with respect thereto will be payable to the Association and will be used by the Association as the Board determines, in its sole discretion, including, without limitation, (a) to purchase additional Common Areas to replace that which has been condemned, (b) to reconstruct or replace on the remaining Common Area any improvements that were on condemned Common Area, (c) to pay for Common Expenses, or (d) to be distributed to each Owner on a pro rata basis.

**8.4 Damage to Common Area.** If the Common Area or improvements on the Common Maintenance Areas are damaged and if there are insurance proceeds sufficient to repair such damage and return such areas or improvements to their prior condition, then the Association shall cause such damage to be repaired or reconstructed unless sixty-seven percent (67%) or more of all outstanding votes of the Members entitled to be cast vote not to make such repair or reconstruct within ninety (90) days after the loss. If said sixty-seven percent (67%) vote is cast not to repair or reconstruct such damage and no alternative improvements are authorized, the damaged property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association.

**8.5 Conveyance of Common Areas by Declarant to Association.** Declarant shall have the right to convey title to any portion of the Property owned by Declarant, or any easement interest therein, to the Association as Common Area, and the Association shall be required to accept such conveyance. Property conveyed by Declarant to the Association as Common Area shall be conveyed free and clear of monetary liens and encumbrances other than taxes and assessments imposed by governmental entities or districts authorized by Texas law. Any such conveyance shall be effective upon recording the deed or instrument of conveyance in the Records.

**8.6 Annual Inspection of Common Area - Budget.** From the period commencing on the expiration of the Development Period until ten (10) years thereafter, the Association shall at least annually examine the condition of the Common Area to evaluate the quality, frequency and adequacy of maintenance performed during the preceding year, and to recommend maintenance for the upcoming year. The examination and report may be performed by one or more experts hired by the Association for this purpose, such as a professional property manager, an engineer or professional contractors such as landscapers and brick masons. Within fifteen (15) days after performing the inspection, the expert should submit to the Board a written report with findings and recommendations. The Board should evaluate the Association's operating budget and reserve accounts for maintenance, repair and replacement in light of the expert's findings and recommendations. Any decision by the Board to reduce or defer recommended maintenance should be made with an evaluation of the potential consequences for future costs and deterioration. Any expert's report shall be a record of the Association that is available to Owners for inspection and copying.

**8.7 No Representations or Warranties Regarding Lakes, Creeks or Drainage Areas.** Declarant has informed and hereby informs the Association and all Owners that any lakes, creeks or drainage areas located on or to be constructed upon the Common Area (the "**Water/Drainage Improvements**") are intended primarily for drainage purposes and are not intended as a recreational feature or an amenity with certain specific aesthetic qualities. Declarant makes no representations or warranties regarding the Water/Drainage Improvements and Declarant hereby disclaims any and all representations and warranties regarding the Water/Drainage Improvements, including, without limitation, any implied warranties, including any warranty of fitness for a particular purpose and any warranty of good and workmanlike construction. THE ASSOCIATION HEREBY AGREES TO ACCEPT THE WATER/DRAINAGE IMPROVEMENTS IN THEIR "AS-IS" CONDITION.

**8.8 No Representations or Warranties Regarding Open Space.** Declarant has informed and hereby informs the Association that the Common Area or portions thereof depicted and/or described on **Exhibit "C"** attached hereto (the "**Open Space Area**"), is intended primarily as an unimproved open space to be maintained in a natural or semi-natural condition and not as a recreational feature or an amenity with certain specific aesthetic qualities. Declarant makes no representations or warranties regarding the Open Space Area and Declarant hereby disclaims any and all representations and warranties regarding the Open Space Area, including, without limitation, any implied warranties, including any warranty of fitness for a particular purpose and any warranty of good and workmanlike construction. THE ASSOCIATION HEREBY AGREES TO ACCEPT THE OPEN SPACE AREA IN ITS "AS-IS" CONDITION.

## **ARTICLE IX EASEMENTS**

**9.1 Easement for Utilities on Private Streets and Common Area.** During the Development Period, Declarant, on behalf of itself, reserves the right to grant perpetual, nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Private Streets and Common Area for the construction, installation, use and maintenance for utilities, including, without limitation, water, sewer, electric, cable television, telephone, natural gas and storm water and drainage related structures and improvements. The Association will also have at all times the right to grant the easements described in this Section 9.1.

**9.2 Easement to Correct Drainage on Property.** For a period of five (5) years after the expiration of the Development Period, Declarant hereby reserves for the benefit of Declarant and any Builder, a blanket easement on, over and under the ground within the Property (excluding the area where a Dwelling is located) to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance, and will be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein will be interpreted to impose any duty upon Declarant or any Builder to correct or maintain any drainage facilities within the Property. Any damage to a Lot caused by or due to the exercise of the foregoing drainage easement rights, shall be promptly repaired by the party exercising such easement rights after completing its construction activities in the damaged area.

9.3 **Easement for Right to Enter Lot.** If an Owner fails to maintain its Lot as required herein, or in the event of emergency, the Association will have the right to enter upon the Lot to make repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the Association will not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

9.4 **Easement for Right to Enter and Inspect Common Area.** For a period of ten (10) years after the expiration of the Development Period, Declarant shall have the right, but not the obligation, to enter upon the Common Area for purposes of inspecting and repairing the Common Area and/or any improvements thereon at Declarant's expense; provided; however, nothing contained herein shall obligate Declarant to make any such inspections or repairs or to incur any expense.

9.5 **Temporary Easement to Complete Construction.** All Lots will be subject to an easement of ingress and egress for the benefit of Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the Lots as may be expedient or necessary for the construction, servicing and completion of Dwellings and landscaping upon adjacent Lots, provided that such easement will terminate as to any Lot twenty-four (24) months after the date such Lot is conveyed to an Owner other than a Builder. Any damage to a Lot caused by Declarant due to exercise of the foregoing completion easement rights, shall be promptly repaired by the party exercising such easement rights after completing its construction activities in the damaged area.

9.6 **Association Easement.** Declarant hereby reserves an Association Easement for the benefit of Declarant and the Association for the purpose of placing, constructing and maintaining any Entry Signs, Association Maintenance Fencing and landscaping located within or on a Lot. Without limiting the foregoing, Declarant hereby specifically reserves for the benefit of Declarant and the Association an Association Easement over the area described on Exhibit "D" attached hereto for the purpose of placing, constructing and maintaining subdivision Association Maintenance Fencing thereon. The real property subject to the Association Easement shall be conveyed subject to the Association Easement.

9.7 **Private Streets Easement.** The Association, on behalf of itself, reserves the right to grant perpetual, nonexclusive easements for the benefit of its Owners and the general public, upon, across, over, through and under any portion of the Private Streets and related Right of Way for the construction, installation, use, access and enjoyment in and to the Private Streets for the purpose of providing perpetual access to all Lots and maintenance of the Private Streets, including, without limitation, drainage related structures and improvements. The Association will also have at all times the right to grant the easements described in this Section 9.7.

## ARTICLE X ANNEXATION AND WITHDRAWAL

10.1 **Annexation by Declarant.** While Declarant owns any real property subject to this Declaration, Declarant may, at its sole option, amend and expand the definition of Property by annexing real property into the Association and subjecting such real property to the terms hereof;

provided; however, that Declarant shall not have the right to annex real property that is located more than one-half (1/2) of a mile from the Property (as such term may be amended), without the required approval of the Members as provided in Section 10.2 below.

**10.2 Annexation by Association.** The Association may annex any real property into the Association and subject such real property to the terms hereof with the affirmative vote of sixty-seven percent (67%) or more of all outstanding votes of the Members that are entitled to be cast.

**10.3 Recording of Annexation.** The annexation of such real property shall be evidenced by a written Recorded document.

**10.4 No Duty to Annex.** Nothing herein contained shall establish any duty or obligation on the part of Declarant or any Member to annex any real property, and no owner of any property excluded from the Association shall have any right to have such property annexed thereto.

**10.5 Withdrawal of Property.** While Declarant owns any real property subject to this Declaration, Declarant may amend this Declaration to withdraw any real property from the definition of the Property and from the coverage of this Declaration, provided that the owner of real property to be withdrawn consents to such withdrawal.

## **ARTICLE XI DISPUTE RESOLUTION**

**11.1 Introduction & Definitions.** The Association, the Owners, Declarant and all persons subject to this Declaration (individually a "**Party**" and collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article XI applies to all Claims (as hereafter defined). As used in this Article XI only, the following words, when capitalized, have the following specified meanings:

(a) "**Claim**" means any claim, grievance or dispute between or among the Parties arising from or in connection with this Declaration, the Bylaws or the Certificate or related to the Property, except Exempt Claims (as defined below), and including, without limitation: (i) Claims arising out of or relating to the interpretation, application or enforcement of this Declaration; (ii) Claims relating to the rights and/or duties of Declarant as Declarant under this Declaration; and (iii) Claims relating to the design, construction or maintenance of the Property.

(b) "**Claimant**" means any Party having a Claim against any other Party.

(c) "**Exempt Claims**" means the following claims or actions, which are exempt from this Article XI: (i) the Association's claim for assessments, and any action by the Association to collect assessments; (ii) an action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to

enforce the provisions of this Declaration; (iii) enforcement of the easements, architectural control, maintenance and use restrictions of this Declaration; (iv) a suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article; and (v) a dispute that is subject to alternate dispute resolution (such as mediation or arbitration) by the terms of a public law or another instrument, such as a contract or warranty agreement, in which case the dispute is exempt from this Article unless the Parties agree to have the dispute governed by this Article.

(d) **"Respondent"** means the Party against whom the Claimant has a Claim.

**11.2 Mandatory Procedures.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article XI.

**11.3 Notice.** Claimant must notify Respondent in writing of the Claim (the **"Notice"**), stating plainly and concisely: (a) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (b) the basis of the Claim (i.e., the provision of the Declaration, Bylaws or Certificate of other authority out of which the Claim arises); (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) that the Notice is given pursuant to this Section 11.3.

**11.4 Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

**11.5 Mediation.** If the Parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the Parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the Parties mutually agree. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

**11.6 Termination of Mediation.** If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.



**11.7 Allocation of Costs.** Except as otherwise provided in this Section 11.7, each Party bears all of its own costs incurred prior to and during the proceedings described in Sections 11.3, 11.4 and 11.5 above, including its attorneys' fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

**11.8 Enforcement of Resolution.** Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article XI. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorney's fees and court costs.

**11.9 General Provisions.** A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not a party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article XI.

**11.10 Litigation Approval and Settlement.** In addition to and notwithstanding the above alternate dispute resolution procedures, the Association may not initiate any judicial or administrative proceeding without the affirmative vote of at least seventy-five percent (75%) of the votes of all Members, except that no such approval is required (a) to enforce provisions of this Declaration, including collection of assessments; (b) to challenge condemnation proceedings; (c) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (d) to defend claims filed against the Association or to assert counterclaims in a proceeding instituted against the Association; or (e) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo. Also, without limiting the provisions of Section 6.12 hereof, the Association may not initiate any judicial or administrative proceeding against Declarant without the affirmative vote of at least seventy-five percent (75%) of the votes of all Members. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

## **ARTICLE XII MISCELLANEOUS**

**12.1 Declaration Term - Perpetual.** Unless ninety (90%) of all outstanding votes of the Members that are entitled to be cast approve the termination of this Declaration, the provisions of this Declaration shall run with and bind the Property and shall be and remain in effect perpetually to the extent permitted by law. A written instrument terminating this Declaration shall not be effective unless Recorded.

### **12.2 Amendments to Declaration.**

(a) **Amendment by Declarant.** During the Development Period, Declarant, in its sole discretion and without a vote or the consent of any Owner or other party, shall have

the right to amend this Declaration for the following purposes: (i) to add real property to the Property, (ii) to create lots, easements, common areas, common maintenance areas, fencing and signage, (iii) to modify the use and covenant restrictions in Article VII hereof, (iv) to comply with the requirements of any governmental authority or institutional lender or underwriting lender, (v) to resolve conflicts, clarify ambiguities and to correct misstatements, errors or omissions in this Declaration, and (vi) for any other purpose; provided, however, that any amendment made pursuant to this clause (vi) must not have any material adverse effect on any right of an Owner without the consent of such Owner.

(b) **Amendment by Association.** Except as provided in Article XI above, the Association may amend the terms and provisions of this Declaration by the affirmative vote of sixty-seven percent (67%) or greater of all outstanding votes of the Members entitled to be cast. Any amendment must be Recorded. Notwithstanding the foregoing, the Association shall be required to obtain Declarant's written consent to any amendment during the Development Period.

**12.3 Enforcement by Association and/or Owner.** The Association or any Owner will have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed now or in the future by the provisions of this Declaration. Failure of the Association or any Owner to enforce any covenant or restriction of this Declaration will in no event be deemed a waiver of the right to do so in the future.

**12.4 Remedies; Cumulative.** In the event any Lot does not comply with the terms hereof or any Owner fails to comply with the terms hereof, the Association and/or any Owner will have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and any rules and regulations, and those which may be available at law or in equity, including, without limitation, enforcement of any lien, damages, injunction, specific performance, judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity will be deemed mutually exclusive of any other such remedy, but instead shall be cumulative.

**12.5 Notice to Association of Sale or Transfer.** Any Owner (other than Declarant) desiring to sell or otherwise transfer title to his or her Lot shall give the Board written notice of the name and address of the purchaser or transferee, within thirty (30) days after the date of such transfer of title, and such other information as the Board may reasonably require. With the Board's approval a number of independent fees may be charged in relation to the transfer of title to a Lot, including, but not limited to, fees for resale certificates, estoppel certificates, copies of this Declaration, the Bylaws and/or the Certificate, compliance inspections, ownership record changes and priority processing, provided the fees are customary in amount, kind and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: foreclosure of a deed of trust lien, tax lien or the Association's assessment lien; transfer to, from or by the Association; or voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child or parent. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association,

are not subject to the Association's assessment lien, and are not payable by the Association. This Section 12.5 does not obligate the Board or the manager to levy transfer-related fees.

**12.6 Limitation on Interest.** All agreements between any Owner and the Association and/or Declarant are expressly limited so that the amount of interest charged, collected or received on account of such agreement shall never exceed the maximum amount permitted by applicable law. If, under any circumstances, fulfillment of any provision of this Declaration or of any other document requires exceeding the lawful maximum interest rates, then, ipso facto, the obligation shall be reduced to comply with such lawful limits. If an amount received by the Association and/or Declarant should be deemed to be excessive interest, then the amount of such excess shall be applied to reduce the unpaid principal and not to the payment of interest. If such excessive interest exceeds the unpaid balance due to the Association and/or Declarant, then such excess shall be refunded to Owner.

**12.7 Construction and Interpretation.** This Declaration shall be liberally construed and interpreted to give effect to its purposes and intent, except as otherwise required by law.

**12.8 Notices.** Except as otherwise provided in the Bylaws or this Declaration, all notices, demands, bills, statements and other communications under this Declaration shall be in writing and shall be given personally or by mail. Notices that are mailed shall be deemed to have been duly given three (3) days after deposit, unless such mail service can prove receipt at an earlier date. Owners shall maintain one mailing address for a Lot, which address shall be used by the Association for mailing of notices, statements and demands. If an Owner fails to maintain a current mailing address for a Lot with the Association, then the address of that Owner's Lot is deemed to be such Owner's mailing address. If a Lot is owned by more than one person or entity, then notice to one co-owner is deemed notice to all co-owners. Attendance by a Member at any meeting shall constitute waiver of notice by the Member of the time, place and purpose of the meeting. Written waiver of notice of a meeting, either before or after a meeting, of the Members shall be deemed the equivalent of proper notice

**12.9 Not a Condominium.** This document does not and is not intended to create a condominium within the meaning of the Texas Uniform Condominium Act, Tex. Prop. Code Ann., Section 82.001, et seq.

**12.10 Severability.** Invalidity of any one of these covenants, conditions, easements or restrictions by judgment or court order will in no manner affect any other provisions which will remain, in full force and effect.

**12.11 Rights and Obligations Run With Land.** The provisions of this Declaration are covenants running with the land and will inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. No Lot is exempt from the terms set forth herein. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed will be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration, whether or not mention thereof is made in said deed. Notwithstanding any provision herein, the rights of Declarant as provided herein shall not

run with the land, but instead may only be transferred or assigned as provided in Section 12.12 hereof.

**12.12 Assignment of Declarant's Rights.** Declarant may assign, in whole or in part, its rights as Declarant by executing and Recording a document assigning such rights. There may be more than one Declarant, if Declarant makes a partial assignment of Declarant status. Without limiting the terms of Section 6.12 hereof, upon a Declarant's assignment of any or all of its rights as Declarant under this Declaration, the assigning Declarant shall automatically, without further acknowledgment or consent of any other party, be fully released and discharged from any obligations accruing under this Declaration after the date of such assignment, including, without limitation, the obligation of such assigning Declarant to fund Budget Deficits arising after such assignment.

**12.13 Disclaimer Regarding Security.** Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants, invitees and licensees that the Association, its Board and committees, Declarant and their officers, directors, members, employees and agents are not insurers and that each person using any portion of the Property assumes all risks for loss or damage to persons, to Lots and to the contents of Lots resulting from acts of third parties.

**12.14 Adjacent Land Use.** Although this Declaration may contain disclosures about the Property or its location on the date of this Declaration, Declarant makes no representation that these are the only noteworthy features of the Property or its location. A prospective owner or resident must make his own inspection of the Property, its location and nearby land uses, and make inquiries of anything that concerns him or her. Declarant makes no representation of any kind as to current or future uses, actual or permitted, of any land that is adjacent to or near the Property, regardless of what any plat shows as potential uses of adjoining land. Declarant and the Association cannot and do not guaranty scenic views, volumes of traffic on streets around and through the Property, availability of schools or shopping, or any other aspect of the Property that is affected by the uses or conditions of adjacent or nearby land, water or air.

**12.15 Attorneys' Fees and Court Costs.** If litigation is instituted to enforce any provision herein, then the prevailing party shall be entitled to all attorneys' fees and court costs related to such legal action.

**12.16 Gender.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, will include all other genders, and the singular will include the plural, and vice versa.

**12.17 Headings.** The headings contained in this Declaration are for reference purposes only and will not in any way affect the meaning or interpretation of this Declaration.

12.18 **Conflicts.** In the event of conflict between this Declaration and any Bylaws, rules, regulations or the Certificate, this Declaration will control.

12.19 **Exhibits.** All exhibits referenced in this Declaration as attached hereto are hereby incorporated by reference.

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**EXHIBIT "A"**

**Legal Description and/or Depiction of the Property**







## **EXHIBIT "B"**

### **Common Areas**

Common Area lots are defined as any area denoted as Common Area or Open Space on the Recorded final plat(s) for the Property ("Plat(s)") and/or any open space that is deeded to the Association, including Lots 29X and 30X, Block A and all parks and park improvements constructed by the Declarant or Association within the Property.

All Common Areas are to be maintained as deemed necessary by the Homeowners' Association.

## **EXHIBIT "C"**

### **Open Space Area**

(See Section 8.8)

Open spaces shall include all entrance features at Naylor Road and landscaping along Naylor Road (and future east/west collector road) and the entryway to the Property including the utility easement.

The maintenance of ditches and any and all drainage facilities on the Property are the responsibility of the Association. The maintenance of all bar ditches, culverts and above-ground drainage facilities on each Owner's property shall be the responsibility of the Owner. If an Owner fails to maintain its Lot as required herein, or in the event of emergency, the Association will have the right to enter upon the Lot to make repairs and to do other work reasonably necessary in order to maintain reasonable standards of health, safety and appearance, and will be entitled to remove trees, vegetation or silt, without liability for replacement or damages, as may be necessary to provide adequate drainage between Lots and throughout the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the Association will not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

This community has a common mailbox area. The mailboxes and the immediate area around the mailboxes are to be maintained by the HOA.

## **EXHIBIT "D"**

### **Subdivision Association Maintenance**

(See Section 9.6)

The Association shall have responsibility for the fencing along Naylor Road. This responsibility shall include repairs, maintenance and/or replacement as deemed necessary by the Association.

Individual Owners shall be responsible for any fencing and/or Retaining Wall(s) located on their Lots. Neither the City nor the Association shall have maintenance responsibility for any Retaining Walls constructed as part of this development.

The Association shall be responsible for the sidewalk repairs and maintenance and the utility easement along Naylor Road.

## EXHIBIT "E"

### Initial Building Guidelines

The following will serve as the Initial Building Guidelines as hereby set forth with respect to the subdivision known as Oak Hill Ranch and located within the Property. Any modifications or adjustments to any Lots and/or Dwellings shall follow these Initial Building Guidelines and shall be subject to any and all City rules, regulations and building codes, which City rules, regulations and building codes shall control and have authority over items stated in these Initial Building Guidelines to the extent of any conflict or inconsistency.

See Ordinance No. 2017-0417-01 (attached below) along with City of Cross Roads Code of Ordinances for additional information.

Minimum Square Footage of Dwellings	All homes shall be a minimum livable square footage of 2,300.
Roofing Requirements	Roof pitches shall be a minimum of 8:12 from side to side.
Roofing Material	All asphalt roof shingles shall be 30 year architectural-grade overlap shingles, tile or standing seam metal
Masonry Requirements	All dwellings shall have 80% masonry minimum requirements or higher as set forth by the City or building codes.

The above Initial Building Guidelines may be modified by Declarant to remain compliant with the any rules, regulations and/or building code of the City, FHA, FHLMC, FNMA, HUD, VA, Declarant and/or the ACA.

**EXHIBIT "E" - Continued**

**Initial Building Guidelines**

**TOWN OF CROSS ROADS  
ORDINANCE NO. 2017-0417-01**

**AN ORDINANCE OF THE TOWN OF CROSS ROADS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE TOWN OF CROSS ROADS, TEXAS, AS HERETOFORE, AMENDED, BY GRANTING A CHANGE IN ZONING TO PLANNED DEVELOPMENT "PD" DISTRICT FOR APPROXIMATELY 243.430 +/- ACRES OF LAND SITUATED SOUTH OF STATE HIGHWAY 380 AND EAST OF NAYLOR ROAD, BEING SITUATED IN THE MARCELLA JONES SURVEY, ABSTRACT NO. 662, TOWN OF CROSS ROADS, DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING DEVELOPMENT STANDARDS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Whereas, the Planning and Zoning Commission of the Town of Cross Roads and the governing body of the Town of Cross Roads, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, have given the requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, the governing body of the Town of Cross Roads is of the opinion that said zoning ordinance should be amended as provided herein, Now, Therefore,

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CROSSROADS,  
TEXAS:**

**SECTION 1.** That the Comprehensive Zoning Ordinance and Map of the Town of Cross Roads, Texas, heretofore duly passed by the governing body of the Town of Cross Roads, as heretofore amended, be and the same are hereby amended by granting a change in zoning to Planned Development "PD" District for approximately 243.430 +/- acres of land situated south of State Highway 380 and east of Naylor Road, being situated in the Marcella Jones Survey, Abstract No. 662, in the Town of Cross Roads, Denton County, Texas, and being more particularly described in Exhibit "A", attached hereto and incorporated herein (hereinafter the "Property").

**SECTION 2.** That the development standards and regulations set forth herein shall be applicable to all land uses, structures, the use and occupancy of all structures, and the development, construction, operation and maintenance of all improvements on the Property described herein. The granting of the Planned Development District and the development of the Property subject to the Zoning Exhibit, attached hereto as Exhibit "C" and the regulations and general conditions set for in the Oak Hill Ranch Development Standards, attached hereto and incorporated herein as Exhibit "D." In addition, the following development standards and regulations shall apply:

- a) The development, construction, and use of the Property and all structures thereon shall follow all applicable Town and State regulations for inspections, permitting, licensing, and building, construction, and fire codes.

- b) The standard, regulations and requirements imposed herein shall not apply to the 5 +/- acre tract dedicated to the Town, being more particularly described in Exhibit "B", attached hereto and incorporated herein
- c) The development of the Property shall be and is hereby subject to the Development Agreement entered into by and between the Town and the developer of the Property. The issuance of development and building permits may be denied, suspended or revoked in the event of noncompliance with said agreement.
- d) The Property may be developed in phases according to an approved Planned Development Site Plan. No building permits shall be issued unless and until all required plans, plats, studies, and permits have been approved and/or issued.
- e) The developer/applicant shall design, construct, and install sanitary sewer (or septic systems) and water service facilities, adequate to serve the proposed development and the Property.
- f) All designated streets, roadways, fire lanes and drive approaches shall be built in accordance with Town standards and the standards set forth in the most recent addition of the Standard Specifications for Public Works Construction published by the North Central Texas Council of Governments.
- g) This ordinance and the regulations adopted herein shall not be construed as to constitute the approval of a preliminary plat or final plat and, prior to the commencement of construction of improvements on and to the Property, the platting process set forth in the Town's subdivision regulations shall be complied with.
- h) Unless expressly provided herein, the use and development of the Property shall conform to the standards and regulations set forth in the single-family SF – Residential District zoning of the Town's comprehensive zoning ordinance and zoning regulations. In the event of any conflict or inconsistency between the provisions of the Town's Comprehensive Zoning Ordinance, subdivision regulations, or other ordinances, the provisions of this ordinance shall control. In the event that this ordinance does not include a standard or regulation that is otherwise required for similar or comparable uses by the Town's Comprehensive Zoning Ordinance, then the standard or regulation required by the Comprehensive Zoning Ordinance shall be applied to the development on the Property.

**SECTION 3.** That the above described Property shall be used only in the manner and for the purposes provided herein and by the ordinances of the Town of Cross Roads, Texas, as heretofore amended, and as amended herein.

**SECTION 4.** That all provisions of the ordinances of the Town of Cross Roads in conflict with the provisions of this ordinance as applicable to the Property be and the same are hereby repealed and all other provisions of the ordinances of the Town of Cross Roads not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.




**SECTION 6.** That should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

**SECTION 7.** That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the Town of Cross Roads, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

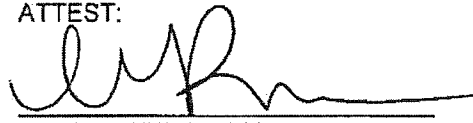
**SECTION 8.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND APPROVED this 17 day of April, 2017.

APPROVED:

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
TOWN SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
TOWN ATTORNEY

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**243.430 ACRES**

BEING ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE MARCELLA JONES SURVEY, ABSTRACT NO. 662, DENTON COUNTY, TEXAS AND BEING ALL OF A CALLED 62.090 ACRE TRACT DESCRIBED IN A DEED TO BLOOMFIELD HOMES LP, RECORDED IN DOCUMENT NUMBER 2016-123034, REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS AND BEING A PART OF A CALLED 184.179 ACRE TRACT DESCRIBED IN A DEED TO BLOOMFIELD HOMES LP, RECORDED IN DOCUMENT NUMBER 2015-37904M REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING, AT A FOUND ½" IRON PIN AT THE SOUTHWEST CORNER OF VOLUNTEER ENTERPRISES ADDITION, AN ADDITION TO THE TOWN OF CROSS ROADS, ACCORDING TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER 2014-394, PLAT RECORDS, DENTON COUNTY, TEXAS, AND SAID POINT ALSO BEING ALONG THE EAST RIGHT-OF-WAY LINE OF NAYLOR ROAD;

THENCE, NORTH 88 DEGREES 38 MINUTES 43 SECONDS EAST, A DISTANCE OF 1324.97 FEET TO A POINT FOR CORNER;

THENCE, NORTH 88 DEGREES 30 MINUTES 33 SECONDS EAST, A DISTANCE OF 348.26 FEET TO A POINT FOR CORNER;

THENCE, NORTH 88 DEGREES 29 MINUTES 40 SECONDS EAST, A DISTANCE OF 179.28 FEET TO A POINT FOR CORNER;

THENCE, NORTH 88 DEGREES 37 MINUTES 30 SECONDS EAST, A DISTANCE OF 998.93 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 36 MINUTES 57 SECONDS EAST, A DISTANCE OF 553.52 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 06 MINUTES 10 SECONDS WEST, A DISTANCE OF 11.42 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 31 MINUTES 09 SECONDS WEST, A DISTANCE OF 276.27 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 29 MINUTES 38 SECONDS EAST, A DISTANCE OF 312.60 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 09 MINUTES 55 SECONDS EAST, A DISTANCE OF 495.15 FEET TO A POINT FOR CORNER;

THENCE, NORTH 88 DEGREES 34 MINUTES 52 SECONDS EAST, A DISTANCE OF 485.88 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 00 DEGREES 24 MINUTES 58 SECONDS WEST, A DISTANCE OF 308.14 FEET TO A POINT FOR CORNER;

THENCE, NORTH 88 DEGREES 32 MINUTES 31 SECONDS EAST, A DISTANCE OF 58.68 FEET TO A POINT FOR CORNER;

THENCE, ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE 52 DEGREES 12 MINUTES 57 SECONDS, A RADIUS OF 80.00 FEET, AND AN ARC LENGTH OF 72.91 FEET, WITH A CHORD BEARING OF SOUTH 07 DEGREES 22 MINUTES 54 SECONDS EAST AND A CHORD DISTANCE OF 70.41 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 34 MINUTES 41 SECONDS WEST, A DISTANCE OF 68.23 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 00 DEGREES 24 MINUTES 56 SECONDS WEST, A DISTANCE OF 234.71 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 21 MINUTES 21 SECONDS WEST, A DISTANCE OF 318.40 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 02 MINUTES 46 SECONDS EAST, A DISTANCE OF 420.40 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 29 MINUTES 28 SECONDS WEST, A DISTANCE OF 160.99 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 33 DEGREES 53 MINUTES 43 SECONDS WEST, A DISTANCE OF 100.18 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 30 DEGREES 35 MINUTES 18 SECONDS WEST, A DISTANCE OF 313.61 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 28 DEGREES 39 MINUTES 58 SECONDS WEST, A DISTANCE OF 186.22 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 77 DEGREES 05 MINUTES 03 SECONDS WEST, A DISTANCE OF 94.76 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 41 DEGREES 07 MINUTES 43 SECONDS WEST, A DISTANCE OF 340.05 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 44 DEGREES 15 MINUTES 33 SECONDS WEST, A DISTANCE OF 344.20 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 39 DEGREES 08 MINUTES 23 SECONDS WEST, A DISTANCE OF 380.56 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 05 DEGREES 55 MINUTES 18 SECONDS WEST, A DISTANCE OF 94.50 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 11 DEGREES 24 MINUTES 13 SECONDS WEST, A DISTANCE OF 238.47 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 30 DEGREES 53 MINUTES 43 SECONDS WEST, A DISTANCE OF 106.65 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 02 DEGREES 27 MINUTES 48 SECONDS WEST, A DISTANCE OF 168.68 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 32 DEGREES 42 MINUTES 48 SECONDS WEST, A DISTANCE OF 144.30 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 53 DEGREES 15 MINUTES 28 SECONDS WEST, A DISTANCE OF 79.16 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 89 DEGREES 59 MINUTES 38 SECONDS WEST, A DISTANCE OF 1279.25 FEET TO A POINT IN SAID NAYLOR ROAD A POINT FOR CORNER;

THENCE, ALONG SAID NAYLOR ROAD THE FOLLOWING CALLS:

NORTH 00 DEGREES 39 MINUTES 18 SECONDS EAST, A DISTANCE OF 2462.19 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 06 MINUTES 02 SECONDS WEST, A DISTANCE OF 1419.72 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 16 MINUTES 12 SECONDS WEST, A DISTANCE OF 554.81 FEET TO THE POINT OF BEGINNING AND CONTAINING 10,603,817 SQUARE FEET OR 243.430 ACRES OF LAND.

**EXHIBIT  
LEGAL DESCRIPTION  
5.037 ACRES**

BEING PART OF THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE MARCELLA JONES SURVEY, ABSTRACT NO. 662, DENTON COUNTY, TEXAS AND BEING A PART OF A CALLED 184.179 ACRE TRACT DESCRIBED IN A DEED TO BLOOMFIELD HOMES LP, RECORDED IN DOCUMENT NUMBER 2015-37904M REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING, AT A FOUND ½" IRON PIN AT THE SOUTHWEST CORNER OF VOLUNTEER ENTERPRISES ADDITION, AN ADDITION TO THE TOWN OF CROSS ROADS, ACCORDING TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER 2014-394, PLAT RECORDS, DENTON COUNTY, TEXAS, AND SAID POINT ALSO BEING ALONG THE EAST RIGHT-OF-WAY LINE OF NAYLOR ROAD;

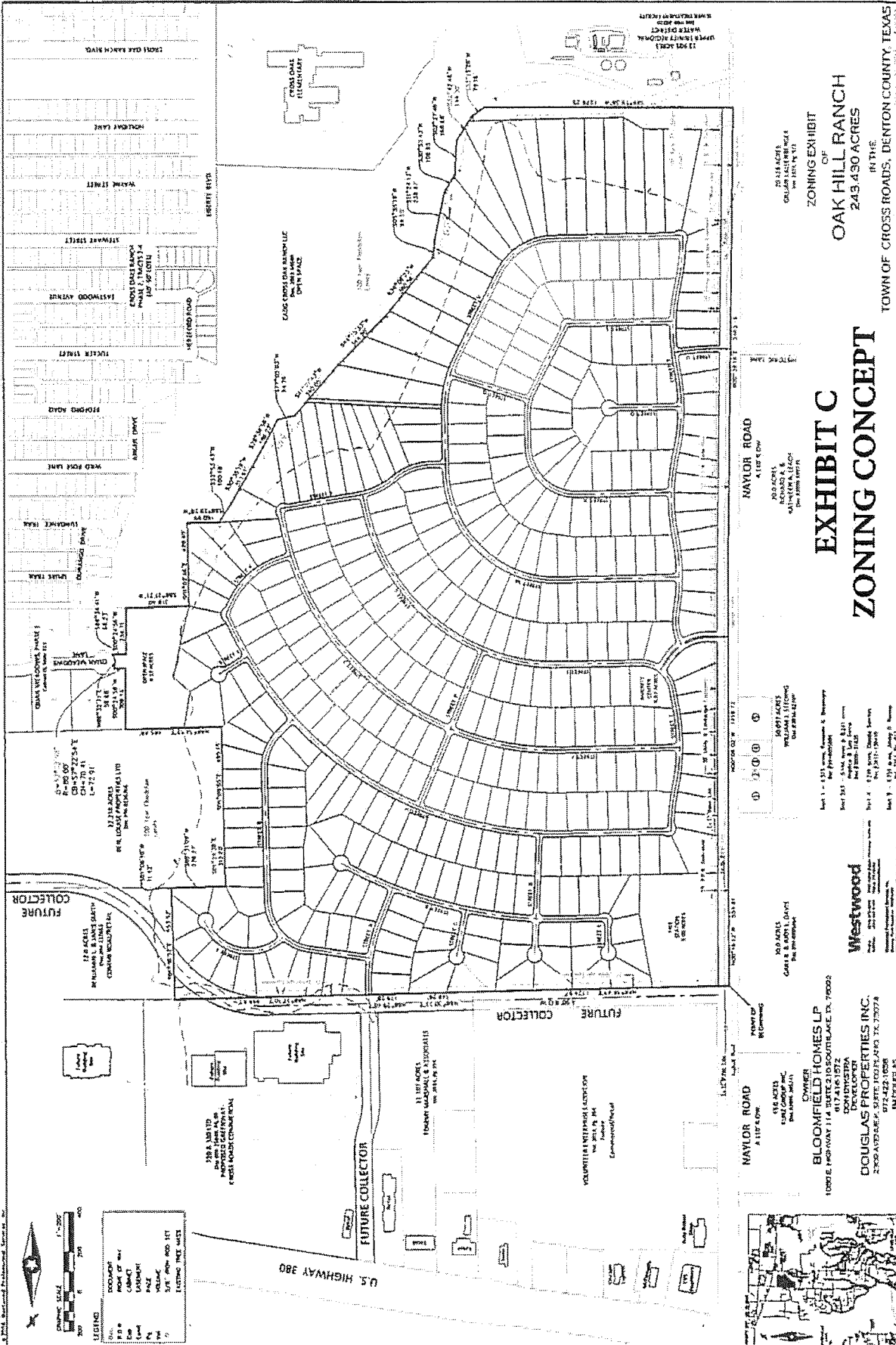
THENCE, NORTH 88 DEGREES 38 MINUTES 43 SECONDS EAST, A DISTANCE OF 341.29 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 10 DEGREES 00 MINUTES 44 SECONDS EAST, A DISTANCE OF 378.77 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 01 DEGREES 31 MINUTES 34 SECONDS WEST, A DISTANCE OF 198.16 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 88 DEGREES 38 MINUTES 43 SECONDS WEST, A DISTANCE OF 399.24 FEET TO THE EAST RIGHT-OF-WAY LINE OF NAYLOR ROAD A POINT FOR CORNER;

THENCE, NORTH 00 DEGREES 15 MINUTES 54 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE OF NAYLOR ROAD A DISTANCE OF 572.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 219,435 SQUARE FEET OR 5.037 ACRES OF LAND.



20.14 ACRES  
CALHOUN ACRES  
243.430 ACRES

# EXHIBIT C ZONING CONCEPT

TOWN OF CROSS ROADS, DENTON COUNTY, TEXAS

NAYLOR ROAD  
4.100 E.C.W.

20.14 ACRES  
CALHOUN ACRES  
243.430 ACRES

NAYLOR ROAD  
4.100 E.C.W.

20.14 ACRES  
CALHOUN ACRES  
243.430 ACRES

Westwood

BLOOMFIELD HOMES LP  
1000 E. FIDELITY 111  
DENTON, TEXAS 76202

DOUGLAS PROPERTIES INC.  
2000 AVENUE 10  
DENTON, TEXAS 76202

JIM DOUGLAS

NAYLOR ROAD  
4.100 E.C.W.

20.14 ACRES  
CALHOUN ACRES  
243.430 ACRES

NAYLOR ROAD  
4.100 E.C.W.

20.14 ACRES  
CALHOUN ACRES  
243.430 ACRES

BLOOMFIELD HOMES LP  
1000 E. FIDELITY 111  
DENTON, TEXAS 76202

DOUGLAS PROPERTIES INC.  
2000 AVENUE 10  
DENTON, TEXAS 76202

JIM DOUGLAS

**EXHIBIT D  
OAK HILL RANCH DEVELOPMENT STANDARDS**

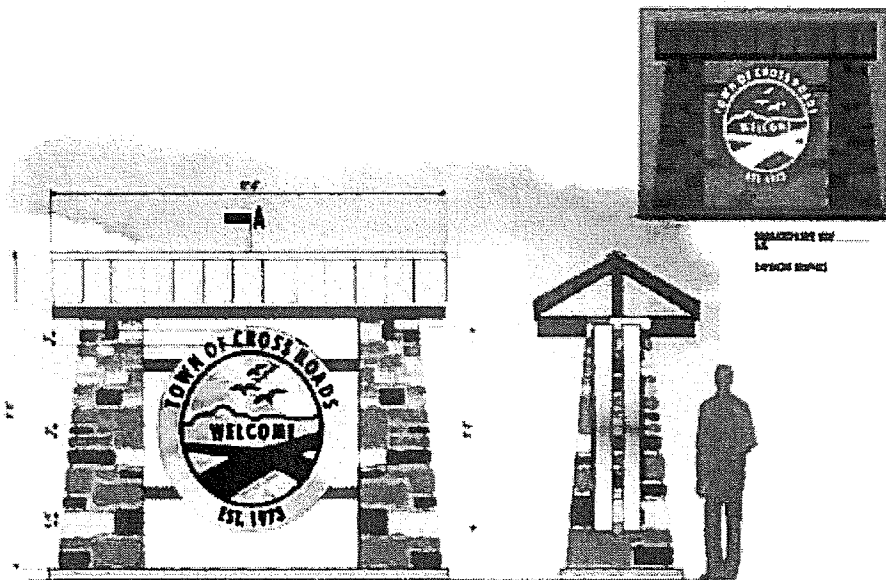
**I. GENERAL CONDITIONS:**

1. This planned Development District shall not affect any regulations within the Code of Ordinances, except as specifically provided herein.

Planned Development – Single Family (PD – SF)	
<b>Lot Size (Minimum)</b>	
Lot Area (sq. ft.)	20,000
Lot Width at Building Line (feet)	60
Lot width of corner Lots at Building Line (feet)	65
Lot Depth (feet)	130
Lot Depth of Double Front Lots (feet)	130
<b>Dwelling Regulations</b> (Minimum Square Footage)	
All Homes will have an air conditioned minimum of	2,300
<b>Yard Requirements – Main Structures</b>	
Front Yard (min. feet)	25
Side Yard (min. feet)	7
Side Yard of Corner Lots (min. feet)	10
Side Yard of Corner Lots (min. feet) on key lots	20
Rear Yard (min. feet)	25
Rear Yard Double Front Lots (min. feet)	25
Lot Coverage (max.)	50%
<b>Height of Structures</b>	
Main Structure (max. feet)	40
Accessory Structure (max. feet)	14

## II. SPECIAL CONDITIONS:

1. Maximum number of residential lots not to exceed 397 lots. Key lots are defined as a corner lot which is backing up to an abutting side yard.
2. 30-year dimensioned roof shingles required.
3. No alleys shall be required within the Planned Development.
4. Lots which back onto open space land shall, instead of a wooden fence, have a decorative iron fence of uniform design to be installed by the homebuilder.
5. The developer shall dedicate 5 acres (as shown in the Zoning Concept Plan) to the Town of Cross Roads upon the Town's approval of the phase one plat.
6. The developer will pay a \$3,000 development administration fee per residential lot to the Town in accordance with the Development Agreement. Payment is due for all lots in each phase upon final plat approval and subdivision acceptance (acceptance of dedicated infrastructure by the Town) for that phase.
7. In conjunction with the approval of the final plat and civil improvements for Phase 2, the Developer will construct the two lanes of pavement of the new east-west collector road with construction of Phase 2 as shown in the Zoning Concept Plan (referred to in these Conditions as the East-West Collector Road) from Naylor Road to Oak Hills north entrance. Construction in accordance with the Town street construction standards and criteria, which road shall upon inspection and approval, be dedicated to the Town as a public street and roadway
8. Developer will build and incorporate a "Welcome to Cross Roads" monument sign to match the existing sign at Oak Grove and 380 with the landscaping at the southwest corner of the Property along Naylor Road with Phase 1, in accordance with the specifications provided by Town. The approximate size and appearance of the sign is as follows:



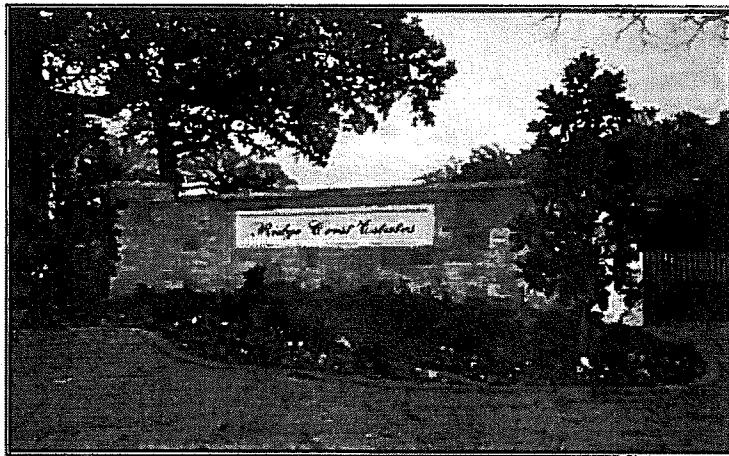




10. The Developer will donate \$175,000.00 to the Town for construction of the new pavilion in the Town Park upon phase one final plat approval.
11. The Developer will plant at least 1,000 trees from the approved tree list provided in Town ordinances (sec. 3.08.015) with a minimum of 3-inch caliper in this development, in addition to the original tree mitigation from initial development. Trees will be planted in open space/landscape easement areas and or on lots. The trees will be subject to all Town tree ordinances.
12. A 30-foot landscape easement along Naylor road and future east/west collector road will be installed with each phase and maintained by the HOA.
13. Mailboxes will be built of the same material as that of the houses. Should USPS require neighborhood delivery collection box units the Town shall approve placement and design
14. The HOA documents will be provided to the Town for review prior to filing. The Deed Restrictions shall provide for a mandatory HOA, with dues that may be enforced by foreclosure against homesteads. The Deed Restrictions shall require the HOA to maintain all common areas, parks, private streets, and private utility facilities.
15. Maintenance of ditches and any and all drainage facilities are the responsibility of the HOA. The Deed Restrictions shall require that bar ditches, culverts and above-ground drainage facilities on each homeowner's property be maintained by that homeowner and that the HOA may, upon the homeowner's failure to properly maintain, assume the responsibility of maintenance and assess the cost thereof against the homeowner and the property benefiting from the maintenance.
16. Maintenance of the park area(s), open spaces and amenities within the development will be the responsibility of the Homeowners' Association (HOA). HOA maintenance and responsibilities of amenities include:
  - A. Clean up and litter removal.
  - B. Landscaping installation, care, and maintenance.
  - C. Trimming, clearing, and removal of unwanted vegetation.
  - D. Maintain irrigation system, pay for the water used in the system.
  - E. Maintain benches, tables, concrete trail, amenity center and any other installed improvements.
  - F. Operate and maintain the amenity center.

### **III. DESIGN CONDITIONS**

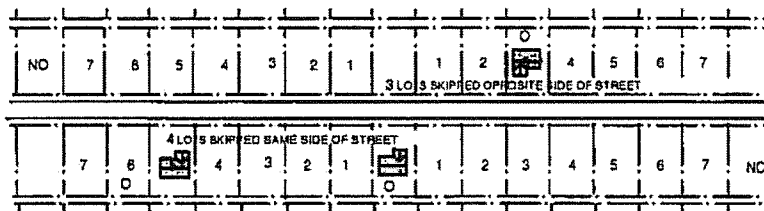
1. Land Design Standards – New Residential Requirements. Desired Land Design requirements are achieved in accordance with the Zoning Concept Exhibit and the criteria identified in this section.
  2. Street and Sidewalk Standards – New Residential Requirements. Desired street and sidewalk requirements will be achieved in accordance with the following criteria:
    - A. Street Treatments - Entry Features and Signage at Entries. A stone monument sign shall be constructed along Naylor Road at the entrance to the Development with stone exterior, landscaping and illumination by means other than streetlights, in approximate design as follows:
-



- B. A landscape berm will be constructed along Naylor Road and the Future East West Collector Road.
  - C. Pedestrian Sidewalks - Sidewalk Locations. Four-foot wide concrete pedestrian sidewalks shall be located on both sides of the street, in the right-of-way of every internal street.
3. Architectural Standards – New Residential Requirements.
- A. Building Bulk and Articulation. In order to avoid large blank façades, variations in the elevation of residential façades facing a public street shall be provided in both the vertical and horizontal dimensions. At least 20 percent of the façade shall be offset a minimum of 1 foot either protruding from or recessed back from the remainder of the façade.
  - B. Exterior Façade Material. All single family residential units shall have a minimum of eighty (80) percent of the exterior façade composed of stone, kiln-fired clay brick or masonry stucco with the balance being window boxes, gables, architectural shingle and etc., but not 20% siding, excluding windows, doors and other openings. Glazing shall not exceed twenty-five (25) percent of the front elevation of the residence. Dormers, second story walls or other elements supported by the roof structure may be composite masonry materials if approved by the Building Official as having the same durability as masonry or stone and when offset at least six (6) inches from the first floor exterior wall. Wood, vinyl siding and EIFS materials shall not be used for exterior walls.



- C. **Exterior Facades – Chimneys.** Chimney flues for fireplace chimneys are to be within a chimney enclosed with masonry matching exterior walls of the residential unit and capped.
- D. **Roofs and Roofing**
- 1) **Roof Pitch.** All single family residential units shall have a minimum roof pitch of 8:12, with articulation, dormers or a combination of hip and gable roofing.
  - 2) **Roofing Materials.** All single family residential units shall have architectural-grade overlap shingles, tile or standing seam metal. Wood shingles are not permitted. Plumbing vents, attic vents, and other rooftop accessories are to be painted to match the roof shingle color.
  - 3) **Roof Eaves.** No wood fascia or soffits are permitted.
- E. **Repetition of Residential Unit Designs – Repetition of Floor Plan and Elevation.** A minimum of four (4) platted residential lots must be skipped on the same side and three (3) lots must be skipped on the opposite side of a street before rebuilding the same single family residential unit with an identical (or nearly identical) street elevation design. The same floor plan shall not be repeated on neighboring, side by side lots or directly across the street.



Identical or nearly identical floor plan means that the layout, size and function of the rooms are essentially the same. Identical or nearly identical street elevation design means little or no variation in the articulation of the facade, height or width of facade, placement of the primary entrances, porches, number and placement of windows,

and other major architectural features. It does not mean similar colors, materials, or small details.

- F. **Garage Entry.** Garage doors can be located on the primary street elevation of a single family residential unit with an upgraded insulated door with carriage hardware or a cedar garage door. The primary street would be the addressed street front. Garages may face the street on a corner lot side yard. Each garage shall be a minimum of 2 car garage.



- G. **Dwelling Size.** The minimum square feet of floor space shall minimum of 2,300 square foot of Air Conditioned area.
- H. **Fencing.**
- 1) Side and rear yard fences (if provided) shall be permitted to a height of 8 feet maximum and constructed of wood with metal posts and pre-stained wood rails to the inside.
  - 2) Pressure treated wood is prohibited.
  - 3) Fences shall be constructed of decorative iron next to public open space, and shall be minimum 4 ft. in height.
- I. **Landscaping.**
- 1) Each residential dwelling shall have sodded front, side, and rear yard with a minimum of 2 trees and 10 shrubs in front yard.
  - 2) All landscaped areas must be kept in a healthy and growing condition. Any plant materials that die during a time of year where it is not feasible to replant shall be replaced as soon as possible. Each residential dwelling unit shall have an automated, subsurface irrigation system.
- J. **Conservation/Sustainability.** Each residential dwelling unit must comply with the energy component of the Town's most recently adopted edition of the International Energy Conservation Code.

**IV. AMENDMENTS; CONFLICTS:**

1. These Development Standards may be amended in the same manner, and in accordance with the same procedures, as a zoning district change. However, the Town Council may consider and approve minor amendments to these Development Standards, without planning commission recommendation, formal public hearings or notice, if the minor amendment:
    - A. does not decrease lot coverage or increase project density;
    - B. does not change maximum structure height, or setbacks;
    - C. does not change access and entry points to the Property or road layout within or adjacent to the Property; or
    - D. does not change permitted uses.
  2. All development and use regulations and requirements imposed by the Town's SF-Single Family Residential District zoning, and all other regulations, requirements and standards of the Town's Code of Ordinances, as it may be amended from time to time, shall apply to the construction, development and use of the Property unless in direct conflict with the provisions of these Development Standards, in which case the provisions of these Development Standards shall apply.
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3. The development and construction of the Project shall be in accordance with the zoning concept plan set forth in Exhibit "C" and the Development Standards set forth in Exhibit "D," attached hereto and incorporated herein. The Town shall consider planned development zoning for the Property consistent with the Development Standards. The development of the Project shall be in accordance with all Town standards and regulations, unless in conflict with the provisions of this Agreement, in which case the terms of this Agreement shall prevail. However, in the event of a conflict between planned development zoning regulations applicable to the Property and any term or provision of this Agreement, the planned development zoning regulation shall control.

4. The Developer shall create a permanent homeowners' association ("HOA") that shall have full maintenance responsibility over all internal streets, all internal open spaces, and all parks and subdivision amenities. The HOA shall be mandatory whereby all owners of lots within the Project shall be required by deed restriction to participate as a member and remit mandatory annual dues to fund the HOA's maintenance responsibilities. The deed restrictions must authorize the imposition of assessments as liens against lots for unpaid dues and allow foreclosure of unpaid assessments.

5. The Developer shall dedicate to the Town the 5+/- acre Public Safety Tract upon the Town's approval of the Phase I final plat. In addition, the Developer shall remit to the Town a development administration fee of \$3,000 per single family residential lot. Payment is due for all lots in each phase upon final plat approval and subdivision acceptance (acceptance of dedicated infrastructure by the Town) for that phase.

6. The parties agree that the Town has not waived its governmental, sovereign, official or qualified immunities by entering into or performing its obligations under this Agreement, all such immunities being hereby expressly retained. Nothing contained in this Agreement shall in any way be construed as an agreement by or obligation of the Town to approve any development permits or applications of any kind.

7. In the event that any one or more provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

8. This Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.

9. Each signatory represents that he/she has the requisite authority to execute this Agreement on that party's behalf.


[Signatures on following page]

EXECUTED this 17 day of April, 2017.

TOWN OF CROSS ROADS, TEXAS

  
\_\_\_\_\_  
Mayor, Town of Cross Roads

ATTEST

  
\_\_\_\_\_  
Town Secretary

DEVELOPER:

By \_\_\_\_\_  
\_\_\_\_\_