

MAY 10 1999

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

FOR

WINDMILL RANCH SUBDIVISION, UNITS 2, 3 & 4,

AND ANNEXATION TO WINDMILL RANCH

HOMEOWNERS ASSOCIATION, INC.

Units 2, 3 & 4 Executed 04/29/1999.

ARTICLE IV: SECTION 5 - Different from Units 1 and 5.

"Exclusive Ingress Egress Easement over Lot 100, Unit 3"

INDEX TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
WINDMILL RANCH UNITS 2, 3 & 4, SUBDIVISION

<u>ARTICLE OR SECTION</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
<u>PREAMBLE</u>		6
ARTICLE I.	DEFINITIONS	7
ARTICLE II.	CONSTRUCTION REQUIREMENTS	9
Section 1.	Placement of Structures on Lots and Side yards	9
Section 2.	Size and Height	9
Section 3.	Masonry	10
Section 4.	Siding	10
Section 5.	Roofing	10
Section 6.	Exterior Color and Materials	10
Section 7.	Windows and Glass	10
Section 8.	Guttering	10
Section 9.	Garages	11
Section 10.	Fences	12
Section 11.	Driveways	12
Section 12.	Sewage Disposal Systems and Water Wells	13
Section 13.	Landscaping and Designated Areas	13
Section 14.	Exterior Lighting	13
Section 15.	Burglar and Fire Alarms	13
ARTICLE III.	RESTRICTIONS ON USE	
Section 1.	Residential Only	14
Section 2.	Permitted Use	14
Section 3.	Athletic Facilities	14
Section 4.	Outbuilding and Exterior Modifications	14
Section 5.	Swimming Pools	14
Section 6.	Radio and TV Antennae and Television Dishes	15
Section 7.	Solar Panels and Systems	15
Section 8.	Signage	15
Section 9.	Temporary Structures and Facilities	15-16
Section 10.	Maintenance of Yards, Irrigation Systems, Etc.	16-17
Section 11.	Front Yards	17

Section 12. Mail Boxes	18
Section 13. Animals	18
Section 14. Utility Easements	18
Section 15. Drainage Easements	18-19
Section 16. Maintenance of Easements	19
Section 17. Caves and Sinkholes	19
Section 18. Aircraft	19
Section 19. Outside Parking and Storage of Vehicles etc.	19
Section 20. Lot Subdivision and Consolidation	20
Section 21. Accumulation of Trash and Rubbish	20
Section 22. Required Restoration	20-21
Section 23. Hazardous Storage and Activities	21
Section 24. Firearms, Fireworks, Projectiles, and Weapons	21
Section 25. No Oil Development	21
Section 26. No Nuisances	21

ARTICLE IV. SUBDIVISION PLAT AND CERTAIN EASEMENTS AND USE

Section 1. Subdivision Plat	21-22
Section 2. Certain Other Easements	22
Section 3. Washes and Drainage Easements	22
Section 4. Use of Easements and Damages	22
Section 5. Exclusive Ingress-Egress Easement over Lot 100, Unit 3	22

ARTICLE V. GOVERNMENTAL REQUIREMENTS

0 th Section 1. Owner's Acknowledgment	23
Section 2. Additional Obligations of Builders and Contractors	23
Section 3. Remedies of Declarant and the Association	23

ARTICLE VI. PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS OR MODIFICATIONS THERETO

Section 1. Existing Property	24
Section 2. Additions to Existing Property	24
(a) Additions Without Association Approval	24
(b) Other Additions	24

ARTICLE VII. ARCHITECTURAL CONTROL COMMITTEE

Section 1. Creation and Initial Composition	25
Section 2. Required Submission of Plans	25
Section 3. Submittal Requirements	26
Building Submittal:	26
A. Completed Submittal Form	26
B. Two Site Plans Showing:	26

(1) House	
(2) Flatwork	
(3) Setbacks	
(4) Easements	
(5) Fencing	
(6) Swimming pool and related improvements (if any)	
(7) Adjacent greenbelts and drainage	
(8) Proposed Lot grading and drainage	
C. Two sets of plans depicting room size, layout and exterior elevations	26
D. Building specifications, materials list and exterior colors	26
<u>Fencing Plan:</u>	26
Two site plans showing fence location, with fencing materials labeled	
<u>Landscaping Plans:</u>	26
A. Two sets of plans	26
B. List of plants to be used and location	26
<u>All Other Exterior Modifications:</u>	26
Two site plans showing item locations in reference to property lines and other structures	
Section 4. Procedure	26
Section 5. Powers	27
Section 6. Variances	27
Section 7. Decisions Final	27
Section 8. Continued Existence and Turnover to Association	28
ARTICLE VIII. MEMBERSHIP IN THE ASSOCIATION AND CLASSES OF MEMBERS	28
ARTICLE IX. PROPERTY RIGHTS IN THE COMMON FACILITIES	29
Section 1. Members' Easements of Enjoyment	29
Section 2. Title to Common Facilities	29
Section 3. Extent of Members' Easements	29
Section 4. Entry Gate, Streets and Security	30
ARTICLE X. ASSESSMENTS AND ASSOCIATION LIENS	32
Section 1. Creation of Lien and Personal Obligation of Assessments	30
Section 2. Purpose of Assessments	30
Section 3. Basis and Maximum of Annual Assessments	30
Section 4. Special Assessments	31
Section 5. Change in Basis and Maximum of Annual	31

	Assessments	
	Section 6. Quorum for Any Action Authorized Under Sect. 4 and 5	31
	Section 7. Date of Commencement of Annual Assessments:	31
	Due Date	
	Section 8. Duties of the Board of Directors	
	Section 9. Effect of Non-Payment of Assessments: The Lien;	32
	Remedies of the Association	
	Section 10. Subordination of the Lien to Mortgages	32
	Section 11. Exempt Property	32
ARTICLE XI.	AMENDMENT	32
ARTICLE XII.	ENFORCEMENT	33
ARTICLE XIII.	TITLES	33
ARTICLE XIV.	INTERPRETATIONS	33
ARTICLE XV.	OMISSION	33-34
ARTICLE XVI.	GENDER AND GRAMMAR	34
ARTICLE XVII.	DESIGN GUIDELINES AND OTHER REGULATIONS	34
ARTICLE XVIII.	ACKNOWLEDGMENTS BY OWNERS	34
ARTICLE XIX.	ADDITIONAL INFORMATION	35
ARTICLE XX.	PURCHASE "AS IS"	35
	<u>LIST OF EXHIBITS</u>	36
<u>Exhibit A -</u>	Depiction of Area Subject to Annexation by Declarant (Master Plan Area)	36

FOR WINDMILL RANCH SUBDIVISION, UNIT 2, 3 & 4

www.ck12.org

THE STATE OF TEXAS
COUNTY OF COMAL

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDMILL RANCH SUBDIVISION, UNITS 2, 3, and 4, is made on the date hereinafter set forth by D.M.M. L.L.C. a Texas Limited Liability Company ("Declarant"), for the purposes herein set forth as follows:

WITNESSETH:

WHEREAS, Declarant has created a residential community known as WINDMILL RANCH SUBDIVISION, Comal County, Texas ("the Subdivision") with designated "Lots" and "Common Facilities" (as those terms are defined herein) for the benefit of the present and future Owners of said Lots, and desires to create and carry out a uniform plan for the improvement, development and sale of the Lots described as follows, to wit:

Lot 202 and Lots 66-75, all in Windmill Ranch Subdivision, Unit 3, Comal County, Texas, according to plat thereof recorded in Book 13, Pages 31 and 32, Records of Deed and Plat Records of Comal County, Texas; and

Lot 202 and Lots 76-121, all in Windmill Ranch Subdivision, Unit 3, Comal County, Texas, according to plat thereof recorded in Book 13, Pages 33-36, Records of Deed and Plat Records of Comal County, Texas; and

Lot 202, and Lots 122-160, all in Windmill Ranch Subdivision, Unit 4, Comal County, Texas, according to plat thereof recorded in Book 13, Pages 37-39, Records of Deed and Plat Records of Comal County, Texas

WHEREAS, Declarant desires to ensure the preservation of the values and amenities in said community and for the maintenance of the Common Facilities thereof, and to this end desires to subject the above-described real property, together with such additions as may hereafter be made thereto as herein provided, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the Owners thereof; and

WHEREAS, WINDMILL RANCH HOMEOWNERS ASSOCIATION, INC., has been incorporated as a Texas non-profit corporation with the power and duty to maintain and administer the Common Facilities of the Subdivision and the power to administer and enforce the covenants and restrictions, and to collect and disburse the assessments and charges, hereinafter described; and

WHEREAS, the real property above described as constituting Windmill Ranch Subdivision, Units 2, 3, and 4, lies within and is a part of that area described in the Declaration of Covenants, Conditions and Restrictions of Windmill Ranch Subdivision, Unit 1, under the terms of which Declarant has the right to annex the Subdivision to the real property and subject the Subdivision to the assessments and liens of Windmill Ranch Homeowners Association, Inc;

WHEREAS, Declarant desires to exercise its right to cause the Subdivision to be annexed to the area subject to the assessments and liens of Windmill Ranch Homeowners Association, Inc.;

NOW, THEREFORE, Declarant declares that the above-described property constituting Windmill Ranch Subdivision, Units 2, 3, and 4, is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth, all of which shall be deemed as running with the land, and shall hereafter be subject to the assessments and liens of Windmill Ranch Homeowners Association, Inc., on the following terms, to wit:

ARTICLE I.

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings.

(a) "Association" shall mean and refer to Windmill Ranch Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns as provided for herein. The Association operates under the assumed name "Windmill Ranch Homeowners Association, Inc."

(b) "Properties" or "Subdivision" shall mean and refer to the above described properties known as WINDMILL RANCH SUBDIVISION, Units 2, 3 and 4 and additions thereto, as are subject to this Declaration or any Amended or Supplemental Declaration.

(c) "Lot" shall mean and refer to any of the plots of land numbered Lots 64-75, and Lot 202, Windmill Ranch Subdivision, Unit 2, according to plat thereof recorded in Book 13, Pages 31 and 32, Records of Deed and Plats of Comal County; Lots 76-121 and Lot 202, Windmill Ranch Subdivision, Unit 3, Comal County, Texas, according to plat thereof recorded in Book 13, Pages 33-36, Records of Deed and Plat of Comal County, Texas, and any of the plots of land numbered Lots 122-160; and Lot 202; Windmill Ranch Subdivision, Unit 4, Comal County, Texas, according to plat thereof recorded in Book 12, Pages 37-39, Records of Deed and Plat of Comal County, Texas;

(d) "Subdivision Plat" shall mean and refer to the map or plat of Windmill Ranch Subdivision, Unit 2, filed for record in Book 13, Pages 31-32 records of Deed and Plats of Comal County, Texas; the map or plat of Windmill Ranch Unit 3, filed for record in Book 13, Pages 33-36 of Deed and Plats of Comal County, Texas and any amendment thereof upon filing of same for record in the Records of Deeds and Plats of Comal

County, Texas, and the map or plat of Windmill Ranch Subdivision, Unit 4, filed for record in Book 13, Pages 37-39 of Deed and Plats of Comal County, Texas and any amendment thereof upon filing of same for record in the Records of Deeds and Plats of Comal County, Texas.

(e) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated on a lot.

(f) "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a Living Unit.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, within the Properties, including contract sellers but excluding those having interest merely as security for the performance of an obligation.

(h) "Declarant" shall mean and refer to D.M.M., L.L.C., its successors or assigns who are designated as such in writing by Declarant with respect to the Lots acquired by such successor or assign.

(i) "Committee" or "Architectural Control Committee" or "ACC" shall mean and refer to the committee hereinafter established in Article VII hereof, by Declarant.

(j) "Common Areas" and "Common Facilities" shall mean and refer to all property leased, owned, or maintained by the Association for the use and benefit of the Members of the Association. The Common Areas may include, but shall not necessarily include or be limited to, any or all of the following: greenbelts, water wells, private roads and entry gate for the Subdivision, and all entrance monuments, perimeter walls, drainage facilities and detention ponds, esplanade and right-of-way landscaping and such other areas lying with indicated public easements or rights-of-way as deemed appropriate by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners.

(k) "Members" shall mean and refer to all those Owners who are members of the Association as provided herein.

(l) "Builder Member" shall mean such builders approved by Declarant for construction within the Subdivision and who own one or more Lots for construction of a residence and resale to others.

(m) "Board of Directors" and "Board" shall mean and refer to the Board of Directors of Windmill Ranch Homeowners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

(n) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Windmill Ranch Subdivision, Units 2, 3, or 4, and any amendments, annexations and supplements hereto made in accordance with the terms hereof.

(o) "Architectural Design Guidelines" or "ADG" shall mean that document entitled Architectural Design Guidelines which may be promulgated by the Architectural Control Committee. The ADG is subject to amendment from time to time and may include landscaping and other requirements and details not strictly related to architectural matters or features. Each prospective Owner should obtain a copy of the ADG prior

to contracting for the purchase of a Lot and each Owner and prospective contractor should obtain a copy of the ADG prior to contracting for the construction of any improvements on a Lot and prior to the start of such construction. The Architectural Control Committee is authorized to make rules regulating contractors and subcontractors and is authorized to require a security deposit from contractors and subcontractors prior to commencement of construction, and is authorized to require that each construction site must have a dumpster for all construction refuse.

ARTICLE II.

CONSTRUCTION REQUIREMENTS

Section 1. Placement of Structures on Lots and Side Yards. All buildings or other structures, permanent or temporary, habitable or not, must be constructed, placed and maintained in conformity with the setback lines hereby established. No building or other structure may be constructed, placed or maintained nearer to any Lot line than such setback lines. Setbacks for all Lots shall be as follows: fifty feet (50') from any front Lot line, fifteen feet (15') from any side lot line, and twenty-five feet (25') from any rear Lot line. Eaves of buildings shall not be deemed to be a part of a building or structure, but steps and porches shall be deemed to be a part of a building or structure for the purpose of this covenant. In no event may any structure be constructed or maintained upon any utility or other easement.

The ACC shall have the right to grant variances to the setbacks established in this Section I to accommodate the topography and trees on a Lot or the architectural design of the proposed improvements.

Section 2. Size and Height. No building or structure erected, altered or placed on, within or in the Properties shall exceed forty feet (40') in average height (measured from the top of the foundation to the topmost part of the roof), nor be more than two and one-half (2-1/2) stories in height without the written consent of the Architectural Control Committee; provided, however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of building and structures shall be complied with at all times.

Each single story or one and one-half (1 1/2) story building or structure shall contain not less than 2,000 contiguous square feet of living area, and each two story or two and one-half (2 1/2) story building or structure shall contain not less than 2,400 contiguous square feet of living area, such areas to be exclusive of open or screened porches, terraces, patios, driveways, garages, carports, and living quarters for domestic servants separated or detached from the primary living area.

Section 3. Masonry. The exterior walls of the first floor of each main residence building constructed on any Lot shall be at least seventy-five percent (75%) by area composed of masonry or masonry veneer. Said percentage shall apply to the aggregate area of all said lower story walls. In determining compliance with this section window and door openings surrounded by masonry material shall be considered masonry and window and door openings surrounded by non-masonry materials shall be considered non-masonry. The exterior of all chimneys shall be one hundred percent (100%) masonry if located on the front or side of a house or otherwise visible from the street and such masonry shall be of a type and color matching the primary masonry on the exterior walls of the residence. The Architectural Control Committee is empowered to waive this restriction if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, and the resulting structure will not detract from the general appearance of the neighborhood. Masonry or masonry veneer includes stucco,

ceramic tile, clay, brick, rock and all other material commonly referred to in Comal County, Texas as masonry but shall exclude any product, regardless of composition, which is manufactured to have a wood or non-masonry appearance. Absent the express written consent of the ACC, vinyl siding and aluminum siding shall not be allowed. "Hardy Board" is permitted but cannot be counted towards the masonry requirement.

Notwithstanding the requirements of this Section, and in addition to variance power granted to the Architectural Control Committee hereinafter, the Committee is empowered to waive one or more requirements of this Section if in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, and, in the opinion of the Committee, the resulting structure or appearance will not detract from the general appearance of the neighborhood.

Section 4. Siding. Subject to the limitations imposed by Section 3, above, wood siding may be used. All other siding materials, and all siding colors, must be approved by the Committee.

Section 5. Roofing. The surface of roofs of principal and secondary structures, including garages and domestic living quarters, shall be of architectural dimensional shingles (with minimum twenty five year warranty) of a color and type approved by the ACC; slate, stone, concrete tile, clay tile, or other tile of a ceramic nature; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams. Wood shingles or wood shake are not permitted. The Architectural Control Committee shall have the authority to approve other roof treatments and materials if the form utilized will, in its sole discretion, be harmonious with the surrounding homes and Subdivision as a whole. No flat roofs are permitted.

The Architectural Control Committee shall establish roofing criteria which are directed to (a) generally improve the quality of materials used; (b) encourage the use of colors which are harmonious with other structures in the Subdivision; and (c) establish minimum pitch requirements.

Section 6. Exterior Colors and Materials. The exterior colors of all improvements on a Lot, including any repainting of improvements, shall be subject to approval by the Architectural Control Committee. A sample of the masonry, roofing, material, paint colors and any additional exterior materials shall be submitted to the ACC for review prior to its application. Any changes to exterior material or color shall be submitted to the ACC for review and approval.

Section 7. Windows and Glass. Windows shall be wood or factory or job finished painted metal windows in a color approved by the Architectural Control Committee. The design of windows may be double or single hung, casements or projecting, except that, as necessary, sliding windows may be single pane. No reflective glass is permitted.

Section 8. Guttering. Guttering shall not be required but all dwellings with guttering must be guttered with downspouts being situated so as to minimize adverse drainage consequences for adjoining Lots.

Section 9. Garages. A garage able to accommodate at least two (2) automobiles must be constructed and maintained as such for each residence. Garages will be allowed as builder's sales offices but must be reverted to use as a garage upon the conveyance or occupancy of home by a resident. No garage shall be permanently enclosed for conversion to any other use, unless an additional two (2) car garage is built on the

Lot in conformity with the Declaration. No garage shall open to the street, except on corner Lots. In the case of a corner Lot, the garage can face the side street so long as the garage opening is at least fifty feet (50') from the side property line.

Section 10. Fences. No chain-link fences may be built or maintained on any Lot, except in connection with tennis courts, provided such fence is vinyl clad, is properly landscaped, and is reasonably screened from public view, or a rear yard dog run so located or screened as to not be visible from any street. All fences must be approved in writing by the Architectural Control Committee.

New perimeter fencing along Lot lines and fencing along the front setback lines, if constructed, shall consist only of the following kinds of ranch fencing:

- (a) **Posts.** Cedar posts shall be placed 10'-12' on center (min. 3"-4" diameter for in-line posts and 6"-7" diameter for corners and H-braces) with cedar stakes or metal tee stakes (color to be approved by the Architectural Control Committee) between each post. Cedar posts may be stripped of bark. Painted iron pipe may be used in lieu of wood posts. In-line pipe shall be a minimum of 2 3/8" in diameter, and corners and H-braces shall be a minimum diameter of 2 7/8". Wolmanized pine or other wood posts are permissible.

Iron pipe shall be placed at a maximum of 200' (100' is recommended) provided there are no corners, or any changes in direction, and must have metal tee stakes or cedar posts placed 10'-12' on center. In general, H-braces should be placed at all changes in direction and at all ends.

- (b) **Wire.** Wire shall be standard 47" Sheep and Goat galvanized wire fencing (12.5 gage or better). The overall height of the fence shall not exceed 56". The wire fencing shall be tied at a height of 48", and may be topped with one strand (2" to 6" above fencing, for a total fencing height not exceeding 56") of smooth wire. Non-climb wire (12.5 ga. wire or better) 48" in height, 2 X 4, 12.5 ga. welded wire 48" in height, or 48" 8 ga. welded wire panels, may be used in lieu of the Sheep and Goat wire fencing. No barbed wire fencing may be used.

Also, five strands of smooth wire may take the place of the fencing. This kind of fencing will also allow for the easier passage of fawns and other small wildlife within the Properties.

No "deer proof" perimeter fencing or any fencing above the height of 56" shall be permitted which would restrict the movement and habitat of wildlife presently existing on the Properties.

Free standing site walls, bollards, planters or gate posts may be allowed at the driveway entrance, as long as the improvements are a minimum of twenty-five (25') feet from the roadway right-of-way. No driveway entrance shall be designed as a "drive under" using beams or arches spanning the driveway, and no driveway entrance feature shall exceed eight (8') feet in height and fifty (50') feet in width along the street [twenty-five (25') from either side of the centerline of the driveway].

All fences or walls located on Lots are to be maintained at the expense the Owner of the Lot.

Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive the

aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept design or material and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood.

No fence, wall, hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot within the triangular area as formed by the extension street right-of-way lines and a line connecting them at points twenty-five feet (25') from the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of three and one-half feet (3-1/2') tall shall be allowed in this inscribed triangle. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Each Owner shall maintain all fencing placed on his Lot in a neat appearance and in a usable condition including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position.

Owners are allowed to install fences across drainage easements provided such fences are installed and maintained in such a manner as to not interfere with the proper drainage within and across such easements. Openings of sufficient size to permit the free flow of water across such drainage easements must be provided for any such fences.

Section 11. Driveways. All driveways shall be of a hard surfaced material, finish, and composition for the first 100 feet of driveway extending from the main road running in front of the Lots as expressly approved by the Committee. These may include, but are not necessarily limited to, stone, flagstone, concrete, exposed aggregate concrete, concrete pavers, brick, and asphalt. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20') in width. All driveway entrances shall be at least twelve feet (12') in width. Driveway locations shall be only as approved by the Committee. All other concrete or exterior hard composition surfaces shall be of a finish and color approved by the Committee. Loose gravel driveways are prohibited. No more than one curb cut per lot shall be permitted without approval of the Committee. Builders and contractors are required to clean streets immediately after aggregate finished driveways have been washed.

It is the responsibility of each Lot Owner to take into consideration the sizing of drain pipes in all bar ditches adjacent to the street to facilitate drainage after the transversion of the ditches with a driveway. It is recommended that a civil engineer be consulted as each Owner will be responsible for the repair and/or replacement of all damaged property which results from any improper drainage on such Owner's Lot. Culvert headwalls must be concreted on both sides of the driveway.

Section 12. Sewage Disposal Systems : Water Wells Prohibited. Sanitary control easements are established on the Subdivision Plat and Owners shall comply therewith. Additionally, installation of all septic tanks and systems and other sewage disposal systems on the Lots shall be in accordance with the requirements of Comal County and its Regulations For On-Site Sewage Facilities and pursuant to all required inspections. The Architectural Control Committee is authorized to make setback waivers and adjustments it deems necessary in connection with the authorized location of any sewage disposal system or equipment. Owners are advised that some Lots will require an authorized sewage disposal system other than a septic tank

system, such as aerobic treatment system, an evapotranspiration unit, or a pressure dosing system. All Owners are required to determine which sewage disposal systems may be used on their Lots.

No outside toilets shall be used, constructed or permitted, except for portapotties used during construction. No installation of any kind for disposal of sewerage shall be constructed or maintained which would result in untreated sewerage or septic tank drainage being drained onto or into the surface of any part of the Subdivision, or onto or into any body of water located in the Subdivision. No means of sewerage disposal may be installed, used or maintained except a septic tank, an improved gray water system or a similar or improved means of sanitary sewerage disposal which meets the requirements of and is approved by all governmental authorities having jurisdiction thereof. No structure placed upon a Lot shall be used until sanitary sewerage disposal facilities complying with this paragraph have been completely finished. The Committee shall have the right, but not the obligation, to specify the location, orientation and drainage field of any such means of sanitary sewerage disposal, subject to the approval of all governmental authorities having jurisdiction thereof. This Section 12 is not meant to prohibit any "gray water" systems which are approved by the Architectural Control Committee and all applicable governmental authorities.

The ACC is not responsible for, and will not review or approve, the design or placement of any septic system. Each Owner must have his septic tank and system properly engineered and obtain review and approval from Comal County or other applicable authorities.

Water is supplied to the subdivision through a water service company licensed by the State of Texas. A hook-up fee will be payable by a property owner for the initial hook up to this system.

No water wells are permitted within the Subdivision. Existing water wells may be utilized by a property owner for irrigation only.

Section 13. Landscaping

All areas disturbed by construction activities shall be cleaned and vegetated with native materials at a minimum. Decorative ground cover rock in the front and side yards may not exceed twenty (20%) percent of the total area of the front and side yards. Cuts into natural grade visible from the street are to be faced with masonry, sodding or landscaping. Allowances may be made for areas left in a natural state depending upon their appearance. All air conditioning units or other outdoor equipment shall be located where not in view of any street or fully screened by landscaping or fencing so as not to be in view of any street.

The Committee encourages the use of landscaping that requires minimal water use.

Section 14. Exterior Lighting. No light fixture or lantern of any type shall be placed on any Lot if the same is visible from any other portion of the Properties or any streets, of any Lot until the same has been approved by the Committee.

Section 15. Burglar and Fire Alarms. Each residence constructed on a Lot within the Subdivision shall be pre-wired for a perimeter burglar alarm system covering all exterior doors, entries and windows and such type, number, and location of smoke detectors as stipulated by the ordinances and/or building codes of the City of San Antonio then in effect.

Section 16. Construction Period Sanitation. During the period of construction, it is the responsibility of each Owner to provide a dumpster for use by his or her contractor and a portapotty for use by construction workers.

ARTICLE III. RESTRICTIONS ON USE

Section 1. Residential Only. The Properties shall be used only for the development of private single-family residences, and Common Facilities serving the Owners and residents thereof.

Section 2. Permitted Use. All land included within the Properties shall be used for "residential purposes" only, either for the construction of private single-family residences, including an enclosed private garage for not less than two (2) automobiles or as part of the Common Facilities; provided, however, that only one such private single-family residence may be constructed, or otherwise placed upon, any one Lot. The term "residential purposes" as used herein shall be held and construed to exclude any business, commercial, industrial, apartment house, hospital, clinic and/or professional uses, and such excluded uses are hereby expressly prohibited subject solely to the use by each Builder Member of residences within the Properties as temporary sales offices and model homes for the display and sale of Lots within the Properties and no others. This restriction shall not, however, prevent the inclusion of permanent living quarters for domestic servants or allow domestic servants to be domiciled with an Owner or resident.

Section 3. Athletic Facilities. Tennis court lighting and fencing shall require the prior written approval of the Architectural Control Committee and any Owner desiring to install the same shall submit design and site plans, landscaping plans, and lighting specifications. Landscaping and fencing requirements may be set by the Committee for the purpose of screening courts in an aesthetically pleasing manner. No basketball goals or backboards or any other similar sporting equipment of either a permanent or temporary nature shall be located on any Lot closer than eighty feet (80') from the front property line or closer than forty feet (40') to the side property line. The ACC will have the right to regulate the appearance and placement of all sporting apparatus including basketball goals. All basketball backboards shall be maintained in a playable condition at all times and any damaged structure shall be repaired or removed immediately.

Section 4. Outbuilding and Exterior Modifications. Every outbuilding, inclusive of such structures as a storage building, pool house, servants' quarters, greenhouse or children's playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. The design, materials and location of all such buildings shall be subject to the written approval of the Committee.

Every proposed addition or exterior modification to any structure or improvement shall be subject to the terms of this Declaration and the plans and specifications for same shall be submitted to the Committee for approval.

Section 5. Swimming Pools. Any swimming pool constructed on a Lot must be enclosed with a fence or other device completely surrounding the swimming pool which, at a minimum, satisfies the City of San Antonio's Code and all other applicable governmental requirements. Nothing in this Section is intended or shall be construed to limit or affect an Owner's obligation to comply with any applicable governmental regulations concerning swimming pool enclosure requirements.

All plans for swimming pools, and all related fencing and construction, must be submitted to the ACC for review and approval prior to the start of construction. When swimming pool construction accompanies the initial construction of a residence, such plans (include clear site plans) shall accompany the

of the Properties as Declarant in its sole discretion may determine to be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Each Builder Member may not, however, utilize more than one mobile trailer or similar vehicle as such a temporary facility, may use such as a sales or construction office only in support of sales and construction activities within the Subdivision, and each such mobile trailer or similar vehicle shall be parked within a Lot owned by such Builder Member, the location of which shall have been approved in advance by Declarant. In addition, each Owner shall have the right to erect, place, and maintain on his Lot such temporary facilities other than mobile trailers or similar vehicles as may be necessary or convenient for construction of a residence thereon and each Owner engaged in the construction of residences within the Properties for sale shall have the right to erect, place, and maintain temporary facilities for offices, storage, and accumulation of reasonable amounts of construction debris while so engaged in the construction of residences within the Properties.

Section 10. Maintenance of Yards, Irrigation Systems, Etc. The Owners of all Lots shall keep grass and vegetation well mown and trimmed, shall promptly remove all weeds as they grow and all trees, shrubs, vines and plants which die, and shall keep all yard areas in a sanitary, healthful, and attractive manner. Lots or portions of lots may be left in natural or native condition, but once a lot has been landscaped the Owner is responsible to maintain the lot condition and appearance as set forth herein.

Lawns, front and back, must be mowed at regular intervals, and fences must be repaired and maintained in an attractive manner. No objectionable or unsightly usage of Lots, or condition on any Lot will be permitted which is visible to the public view. Building materials shall not be stored on any Lot except when being employed in construction upon such Lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from such Lot. The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Areas shall construct and maintain an inner fence or other improvements to adequately screen from view of streets and Common Areas any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing ten (10) days from date of a written notice thereof deposited in the United States mails, Declarant, or the Association may, without liability to Owner or any occupants in trespass or otherwise, enter upon said Lot, cut or cause to be cut, such lawn, weeds and grass and remove or cause to be removed, such dead vegetation, garbage, trash and rubbish or do any other thing necessary to secure compliance with the terms of this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work, plus a reasonable administrative charge and reasonable attorney's fees. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions of hereof or otherwise as provided by law.

Until a Living Unit is built on a Lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or

building refuse situated on a Lot in violation of this covenant. The Owner of such Lot shall be obligated to reimburse Declarant for the cost of any such maintenance or removal upon demand. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions of hereof or otherwise as provided by law.

Each Owner shall provide and maintain safe and adequate drainage within and across his Lot and no Owner shall construct or maintain any building, fence, walk, landscaping, or any condition which diverts, impedes, backs up, or prevents the drainage and flow of, surface water on, over, or across such Lot.

Each Owner shall be responsible for the maintenance of the Lot upon closing and shall keep the Lot free of unusable building materials, debris, and rubbish during the construction period. Owner shall provide sanitary bathroom facilities to accommodate all contractors and subcontractors during the construction period. Each owner shall require his contractor to provide a dumpster for construction debris during construction. It is the goal of the Declarant and the Association to cause the Subdivision to be maintained in a clean and respectable manner. If Owner reasonably violates this objective, it is Declarant's and/or the Association's option to initiate the cleanup or place facilities on the Lot necessary to maintain the referenced goal at the sole cost and expense of Owner, payable on demand, and secured by a lien on the Lot.

All Owners are advised to secure from the Texas Forest Service, local county agent, Texas Extension Forester at Texas A&M University, or elsewhere, information on oak wilt and other diseases which may affect their trees and may spread to trees on other Lots. Each Owner is responsible for taking such action as may be necessary on his Lot to ensure that oak wilt and other diseases are not spread to the trees of other Owners. Because there is no known cure for oak wilt and oak wilt almost always will spread from a diseased tree to its neighboring oaks, at a minimum, each Owner should:

- A. Destroy all infected oaks.
- B. Avoid unneeded pruning of trees, especially during the period February 1 -June 1, and immediately apply dressing to all wounds on oaks.
- C. Where oak wilt is detected, trench three feet deep in advance of infection front (100 feet is recommended) to stop the spread through connecting roots.
- D. Avoid infected oak firewood. As a precaution, Owners should not keep any oak firewood for more than one heating season and should cut firewood only in the summer.
- E. Use fungicide propiconazole to treat uninfected oaks when such Owner becomes aware of oak wilt nearby.

The foregoing information regarding oak wilt is provided to alert Owners, and neither Declarant or the Association shall be liable to any Owner in connection with the existence or spread of oak wilt on any Lot.

Section 11. Front Yards. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines.

submission of plans for the residence.

Above ground pools are not permitted.

Section 6. Radio and TV Antennae and Television Dishes. No radio or television aerial wires or antennas shall be maintained on any portion of any Lot, except those which are fully enclosed or retractable within the structure of the Living Unit and those attached to a residence shall not extend more than eight feet above the highest part of the roof of that dwelling and shall not be located on the front part of the dwelling, and shall not be located on the side of the dwelling nearer than ten (10') feet to the front wall line of the respective dwelling. No microwave dishes, antennas, receivers, or transmitters shall be placed on any Lot without being fully enclosed or fully screened from public view. Satellite or cable television dishes of eighteen inch (18") or smaller diameter are permitted if maintained where not visible from the street.

Section 7. Solar Panels and Systems. No solar panels or solar heating or electrical system or similar apparatus shall be placed in or upon any Lot without the prior approval of the Committee which shall have the authority to disapprove the installation of same or to limit the installation of same so that no portion thereof is visible from any street or other Lots.

Section 8. Signage. No signs of any kind shall be displayed to the public view on any Lot including, but not limited to, the displaying of any signs which advertise the Lot or improvements for sale or lease, except as expressly permitted herein or by the Architectural Control Committee. Each model home may be advertised by one front yard sign not larger than four feet by eight feet (4' x 8'), which shall have been approved in advance by the Committee as to color and design. The Committee shall establish standardized sign criteria which permits the displaying of one sign per lot uniform in size, color and permitted location on the Lot, which such sign can be used to identify that an improved Lot (as later defined herein) is for sale or lease. The Committee specifically reserves the right to establish a separate set of sign standards and criteria for Unimproved Lots (as later defined herein) and to modify both such standards and criteria from time to time, but in no event shall any sign reference bankruptcy, distressed nature of sale, or foreclosure. Signs used by Declarant to advertise the Properties during the development, construction and sales period shall be permitted, irrespective of the foregoing, but subject to size, design, and other requirements of the Committee. In addition to the foregoing, 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 shall not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election, and that the ACC shall have the right to regulate the number and size and type of political signs on Lots. All other signage is prohibited such as but not limited to, subcontractors, lenders, real estate companies, etc. All signs within the Properties shall be subject to the prior written approval of the ACC.

Section 9. Temporary Structures and Facilities. Except as expressly provided herein, no structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other outbuildings) shall be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular or mobile home, whether or not the wheels have been removed, may be placed or maintained on any Lot. All structures of a temporary character must be approved by the Architectural Control Committee.

Notwithstanding the foregoing provisions, Declarant reserves unto itself and its assigns in writing the exclusive right to erect, place, and maintain such temporary facilities and signage in or upon any portions

Section 12. Mail Boxes. No mail boxes or similar receptacles shall be erected and maintained on a Lot, without the prior written approval of the Committee. Individual mail boxes, if constructed, shall be in conformity and harmony with the architectural design of the main residence building.

Section 13. Animals. No animals, livestock, swine, poultry, exotic or dangerous pets of any type (i.e. pit bulls, boa constrictors, ferrets, etc.) that may pose a safety or health threat to the community shall be raised, bred or kept on any Lot except for: (a) cats, dogs, or other generally recognized household pets, including Vietnamese pot belly pigs, of a reasonable number provided that they are not kept, or maintained for any commercial purposes; (b) horses, which may be kept on a Lot if it is 2.0 acres or more in size; and (c) an animal raised as part of a project for school, FFA, 4-H or a similar organization provided that the written approval of the ACC shall first be obtained. No more than a total of five adult animal of any kind per acre of a Lot may be kept on a Lot, except in the case of livestock, or swine where the limit is one adult animal per acre. If odors from swine are noticeable from another property, it is a per se violation of Section 26 below. Adult animals for the purpose of these covenants shall mean and refer to animals one (1) year of age or older.

All animals shall be kept in strict accordance with all applicable local laws and ordinances (including leash laws), and in accordance with all rules established by the Association. In any event, every animal must be kept within the confines of the Lot or its Owner and no animal shall be allowed to run at large within the Subdivision. Notwithstanding any other provision hereof, no animal may be kept on a Lot which is offensive to the reasonable sensibilities of other Lot owners by virtue of appearance, odor or noise. Each Owner agrees that he shall be financially responsible for all harm or damage done to others, or to the property of others, including that of the Association, by any animal maintained on his Lot.

Section 14. Utility Easements. Easements for installation and maintenance of utilities, cable television, and drainage facilities have been reserved as shown on the Subdivision Plat and/or as provided by instruments of record or to be recorded. Within these easements, if any, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all improvements in such area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility or private company is responsible. Neither Declarant, the Committee, the Association, nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants to shrubbery, grass, streets, flowers, trees, landscape or other property of the Owners situated on the land covered by said easements, except as may be required by State, County or Municipal statutes, ordinances, rules or regulations, or by the Association, or by custom and practice of such utility company.

Section 15. Drainage Easements. Easements for drainage throughout the Subdivision are identified and reserved as shown on the Subdivision Plat. No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may:

(1) Alter, change or modify the existing natural vegetation or design of the drainage easements in a manner that changes the character of the design or original environment of such easements; or

(2) Alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the Architectural Control Committee; or

(3) Construct, erect or install a fence or other structure of any type or nature within or upon such drainage easement; provided however, fences may be permitted in the event proper openings are incorporated therein to accommodate the natural flow of water over said easement; or

(4) Permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) Place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

The failure of any Owner to comply with the provisions of this Section shall in no event be deemed or construed to impose liability of any nature on the Architectural Control Committee and/or Declarant, and such Committee and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Declaration shall in no way affect any other recorded easement in the Subdivision.

Section 16. Maintenance of Easements. By acceptance of a deed to any one or more Lots, the Owner thereof covenants and agrees to keep and maintain, in a neat and clean condition, any easement which may traverse any portion of said Lot or Lots, including, without limitation, by removing weeds, mowing grass and trimming shrubbery and trees, if any, within such area.

Section 17. Caves and Sinkholes. Natural caves and sinkholes may occur on some of the Lots in the Subdivision. Each prospective Lot Owner should personally inspect the Lot in which he is interested and/or seek the advice of a professional inspector to assure himself of the location of any such caves and/or sinkholes which may be located thereon.

Section 18. Aircraft. No portion of the Subdivision may be used for the storage, takeoff, or landing of aircraft, including, without, limitation, helicopters and gliders, except for medical emergencies.

Section 19. Outside Parking and Storage of Vehicles etc. No boat, trailer, tent, recreational vehicle, camping unit, wrecked, junked, inoperable, self propelled or towable vehicle, equipment or machinery of any sort shall be kept, parked, stored, or maintained in any portion of the front yard in the front of the building line of the permanent structure and shall be parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from any Subdivision street, the Common Facilities, or an adjacent Lot. No dismantling or assembling of motor vehicles, boats, trailers or other machinery or equipment shall be permitted in any front yard, driveway, or within view of an adjacent street. No commercial vehicle bearing commercial insignia or names shall be parked on any Lot except within an enclosed structure or a screened area which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked for the purpose of serving such Lot. No camper, boat, trailer, equipment, or machinery shall be parked in front of any residence for a period in excess of twenty-four (24) consecutive hours. The Board of Directors is empowered to establish additional rules and regulations relating to the parking and storage of vehicles, equipment, and other property both on Lots and

the Common Facilities (including Subdivision streets) as it may from time-to-time deem necessary to ensure the preservation and appearance of the Subdivision as a first class residential neighborhood and such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional rules or regulations shall in any manner revoke or relax any of the restrictions of use set forth in this Section. During the construction of improvements on a Lot, necessary construction vehicles may be parked thereon for and during the time of such necessity only. No vehicles, trailers, implements or apparatus may be driven or parked on any easement or within Common Areas except for lawn mowing equipment while in use.

Section 20. Lot Subdivision and Consolidation. No Lot may be subdivided except with the written consent of Declarant. Any Owner owning two or more adjoining Lots, or portions of two or more such Lots, may with the prior approval of the Architectural Control Committee consolidate such Lots or portions thereof into a single building site for the purpose of constructing one residence and such other improvements as are permitted herein.

Section 21. Accumulation of Trash and Rubbish. Except as otherwise expressly provided in this Section, no trash, rubbish, garbage, manure, putrescible matter or debris of any kind shall be dumped or allowed to accumulate on any portion of the Properties. All rubbish, trash, or garbage shall be kept in sanitary refuse containers with tightly fitting lids, and, shall not be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal but shall be removed from view before the following day. All said containers stored outside shall be kept in an area of the Lot adequately screened by planting or fencing.

Reasonable amounts of construction materials and equipment may be stored upon a Lot by the Owner thereof for reasonable periods of time during the construction of improvements thereon provided that the same shall not be stored or kept within any drainage easement area.

Burning of trash, refuse, garbage, rubbish or similar material is strictly prohibited. The burning of brush shall require the approval of the governing fire department.

Section 22. Required Restoration. In the event of fire or other casualty causing damage to improvements on a Lot, the Owner of the Lot shall promptly remove all debris and promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such removal of debris and repair, restoration or replacement shall be commenced within thirty (30) days of the casualty and shall be completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures, except with the written consent of the Architectural Control Committee. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within thirty (30) days after the occurrence of such damage or destruction, and thereafter prosecute same diligently to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or cleanup, and such Owner shall be personally liable to the Association for the cost of such work and the Lot shall be subject to the lien of the Association for such costs; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or cleanup, the rights of the Association under this provision shall not arise until the expiration of thirty (30) days after such prohibition or delay is removed.

Section 23. Hazardous Storage and Activities. Except with the express written approval of the Architectural Control Committee no butane, propane or other combustible fuel tank or container shall be installed or kept on any Lot except for (a) portable, small sized tanks used solely to fuel barbecue units or portable tools, (b) fuel tanks installed in vehicles, boats or equipment, or (c) a reasonable number of portable cans/tanks used to refuel equipment or vehicles. No open fires shall be permitted on any Lot except those within a safe, well designed interior fireplace or those within a contained barbecue unit which is attended while in use for cooking purposes only.

Section 24. Firearms, Fireworks, Projectiles, and Weapons. The discharge of any firearm, guns, or fireworks within the Subdivision or on adjacent lands owned in whole or in part by Declarant is strictly prohibited and each Owner shall ensure that his guests and family members do not violate such prohibition. Additionally, there is prohibited the use of any BB gun, bow and arrow, slingshot, or other launching or catapulting device except strictly within the confines of a Lot and not involving the hunting or killing of any animal.

Section 25. No Oil Development. No oil or natural gas drilling, oil or natural gas development or oil refining or quarrying, or mining operations of any kind shall be permitted upon any portion of the Properties, nor shall oil, natural gas, tanks, tunnels, mineral excavations or shafts be permitted upon, in or within any portion of the Properties. No derricks or other structures for use in the boring or drilling for oil, natural gas, minerals or water shall be erected, maintained or permitted upon, in or within any portion of the Properties.

Section 26. No Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or residents.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the ACC.) No horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) shall be placed or used upon any Lot.

All matters set forth in this Section requiring approval shall be deemed to require the express written approval, in advance, of the ACC.

ARTICLE IV.

SUBDIVISION PLAT AND CERTAIN EASEMENTS AND USE

Section 1. Subdivision Plat. The Subdivision Plat creates for use as such, subject to the limitations set forth herein, certain private streets and easements shown thereon, and such Subdivision Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Properties. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every

contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof.

Section 2. Certain Other Easements. There is hereby created in favor of the easement owners, Declarant, the Association, and their assignees, a right of ingress or egress across, over, and under the Properties for the purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, electricity, gas, and appurtenances thereto, and to construct, reconstruct, repair, correct, replace, or maintain any wall, fixture, light, or other structure or item required to be constructed or maintained under the terms hereof or to correct or remove any condition prohibited to be maintained under the terms hereof.

Section 3. Washes and Drainage Easements. Natural drainageways occur throughout the Properties. These are important recharge features for the Glen Rose or Trinity aquifers and should not be significantly obstructed. Bridging over by drives or the placement of building improvements alongside or above natural drainage ways are appropriate and can be desirable, as long as they comply with the approved limitations set forth herein and all applicable governmental regulations. Building improvements, however, must be designed so as not to be situated within storm flows. Some drainage easements have been established which encompass washes with projected 100-year storm flows of greater than 50 cubic feet per second.

These easements are areas of special consideration due to the potential for water flows of a high volume, and must remain unaltered and unobstructed except as may be approved by the Architectural Control Committee. In such cases, a drainage analysis prepared by a Texas licensed civil engineer, ensuring the safety and feasibility of the design, may also be required by the Architectural Control Committee.

In general, the surface drainage across a Lot must enter and leave the Lot in the same locations as before construction activities or construction of improvements.

Section 4. Use of Easements and Damages. Neither the Declarant nor the Architectural Control Committee nor any member of the Committee shall be liable for any damage done by any utility company or its assigns, agents, employees or servants, using any easements now or hereafter in existence, whether located on, in, under or through the Properties, to fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Properties. No provision hereof related to placement or nature of structures or conditions on a Lot, nor the approval thereof, express or implied, by the Declarant or the Committee shall affect the rights of easement owners nor enlarge the rights of Lot Owners with regard to the construction or maintenance of improvements or conditions within an easement area.

✓Section 5. Exclusive Ingress Egress Easement over Lot 100, Unit 3. Notwithstanding Article III, Section 1 of this Declaration, Lot 100, Unit 3, (called hereafter "Lot 100") may be used for ingress and egress to the approximately 15 acre tract immediately to the north of Unit 3 and contiguous to Lot 100 under the following circumstances: so long as Lot 100, Unit 3 and the 15 acre adjacent tract (called hereafter the "Adjacent Tracts") are owned by a common owner, and as long as the Mutual Tracts are used for single family residential use, and so long as the use and improvements of the 15 acre tract adhere strictly to all of the restrictive covenants of Unit 3, and so long as the 15 acre tract has not been subdivided and has on it only a single residence, then the owner of the Mutual Tracts may utilize Lot 100 for ingress and egress from Windmill Mountain Road across Lot 100 to the 15 acre tract. If the 15 acre tract is used for any purpose other than a single family residence, or otherwise does not comply with the restrictive covenants of Unit 3 or the conditions of this Section, then no access across Lot 100 will be permitted, except in

the case that the Declarant owns and develops the 15 acre tract as set out below. The rights of ingress and egress granted hereto to the owner of Lots 100 in Unit 3 and the 15 acre tract shall be deemed to be rights running with the land as to the owner and which shall inure to the benefit of owner, their grantees, successors and assigns who own the Property, and shall not be personal to the Owners of the Mutual Tracts nor assignable by the Owners separate from the title to the Property. The obligations imposed upon the owners of the Mutual Tracts shall be binding upon said Owners and their successors and assigns who own the Property.

Additionally, in the event the 15 acre tract immediately to the north of Section 3 is acquired by the Declarant, the Declarant may develop the 15 acre tract into an additional unit of Windmill Ranch Subdivision so long as the average lot is no smaller than the mean average lot size in Windmill Ranch Units 1-4, and the new unit is subject to the same Covenants, Conditions, and Restrictions as Units 1-4. Lot 100 of Unit 3 may be utilized for a roadway to the 15 acre tract.

ARTICLE V.

GOVERNMENTAL REQUIREMENTS

Section 1. Owner's Acknowledgment. Each Owner is responsible for ascertaining all governmental requirements and prohibitions with respect to his Lot and, by acceptance of a deed to a Lot, agrees to abide by the same. No statement herein, nor action by the Declarant, Committee, or Association shall act to relieve an Owner from such duty of compliance.

Section 2. Additional Obligations of Owners (inclusive of Builders and Contractors). By acceptance of a deed to a Lot from Declarant, or by initiating construction of a Living Unit or any other improvements on a Lot, each Owner (inclusive of a Builder Member or any other builders or contractors) assumes the full and complete duty, obligation and responsibility of causing compliance with all applicable certifications, permitting, reporting, construction, rulings, determinations and procedures required under all applicable governmental rules, regulations, and permits governing the improvement of the Lot, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and those promulgated or issued by the Texas Natural Resources Conservation Commission (TNRCC), related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the sole purpose of expressly advising and disclosing to each Owner (inclusive of all builders and contractors) the need to follow such directives and do not in any way diminish or limit the requirements of this covenant that all Owners (inclusive of all builders and contractors) comply with all governmental regulations and any plan resulting from or required by such regulations (such as a Storm Water Pollution Plan) directly affecting each Lot. Each Owner (inclusive of all builder and contractors), by acceptance of a deed from Declarant to a Lot or by undertaking any improvements to a Lot, shall be deemed to have agreed to hold Declarant harmless and indemnify Declarant from and against any and all cost, loss, or damage occasioned by the failure by such Owner (inclusive of all builders and contractors) to abide by any applicable governmental statute, rule, regulation or permit related to the Lot.

Section 3. Remedies of Declarant and the Association. By acceptance of a deed to a Lot, each

Builder Member and Owner agrees that Declarant and/or the Association shall have the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority, for the purpose of curing any such violation, provided that the Owner or Builder Member has been given five days prior written notice and has failed to remedy the complained of violation within such time, and each such Owner and Builder Member indemnifies Declarant and the Association and holds harmless Declarant and the Association from and against all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Builder Member with respect to his Lot or the Properties. The foregoing remedy shall be cumulative of all other remedies for violations of provisions of these covenants.

ARTICLE VI.

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS OR MODIFICATIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is all of the realty (i.e. Lots and Common Facilities) covered by the Subdivision Plat, which real property is sometimes referred to herein as the "Existing Property". The Existing Property is part of the area that was described in that one certain Declaration of Covenants, Conditions and Restrictions of Windmill Ranch Subdivision, Units 2, 3, and 4 as recorded in Book 13, Pages 31-37 of the Records of Deed and Plats of Comal County, Texas (the "Original Declaration") under the terms of which Declarant reserved the right to annex additional lands and subject same to the jurisdiction of the Association.

Section 2. Additions to Existing Property. Additional lands may become subject to the Original Declaration in the manner set forth therein or to this Declaration in the following manners:

(a) Additions without Association Approval. Either Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration, and without the consent of Members, additional properties in future stages of the development, and within twenty (20) years from the date of this instrument; provided that such additions lie within the area depicted on Exhibit "A" attached hereto and incorporated herein by reference (the "Master Plan"). Declarant, its successors and assigns, shall not be bound to make any additions to the Existing Property or to follow any particular type of development which may be reflected on the Master Plan. Any additions authorized under this and the succeeding subsections shall be made by filing of record a Declaration of Covenants, Conditions and Restrictions or similar instrument with respect to such additional property which shall extend the general scheme of the covenants and restrictions of this Declaration to such property, and the execution thereof by the Declarant shall constitute all requisite evidence of the required approval thereof. Such document may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands and are consistent with the overall development. In no event, however, shall any such instrument be construed so as to revoke, modify or add to the covenants established by this Declaration as they are applicable to the Existing Property.

(b) Other Additions. The owner of any property not described above who desires to add it to the scheme of the Original Declaration or this Declaration and to subject it to the jurisdiction of the Association, may make written submission therefore to the Association together with the following:

(1) The proposed property shall be described by size, location, proposed land use, and general nature of proposed private improvements;

(2) the proponent shall describe the nature and extent of Common Facilities to be located on the proposed property and fully describe any mortgage debt related to the Common Facilities or other debt which he seeks the Association to assume;

(3) the proponent shall state that the proposed additions if made will be subjected to the general scheme of this Declaration and all Association assessments.

Upon such submission and subject to the Association's later review and approval of a proposed form of Declaration of Covenants, Conditions and Restrictions for the proposed property, the Association shall vote by class on the proposal. Two-thirds (2/3) approval of each class of membership shall be required for approval. If the proposed property shall be approved for addition to the jurisdiction of the Association, such addition shall be complete upon the proponent's filing of record a Declaration of Covenants, Conditions and Restrictions or similar instrument in form approved by the Board of Directors of the Association and executed by said Board of Directors or one or more authorized officers of the Association.

ARTICLE VII.

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Creation and Initial Composition. There is hereby created an Architectural Control Committee, initially composed of Tom Taylor, Nick McFadin, III, and Dick Dickenson to serve until their successors are named. A majority of Committee may act for the Committee and no notice of any of its meetings shall be required. Subject to the terms hereinafter set forth, Declarant shall have the right to remove or add members to the Committee and fill vacancies in the committee membership and Declarant may assign such rights to the Association. The sale of the last Lot owned by Declarant within the Properties shall be deemed to be an assignment to the Association of Declarant's powers with respect to ACC membership. Committee members shall not be entitled to compensation for their services rendered in such capacity.

Section 2. Required Submission of Plans. No building, fence, wall, landscaping, recreational facilities, outbuilding or other structure or improvement shall be erected, altered, added onto, placed or repaired on any Lot in the Subdivision until the complete plans including site plans, grading plans, floor plans depicting room sizes and layouts, exterior elevations, any other plans or information deemed necessary by the ACC for the performance of its function ("Required Plans"), are submitted and approved in writing by the Architectural Control Committee as to the conformity and harmony of exterior design with existing structures in the Subdivision, the location with respect to topography, existing trees, and finished elevation, and apparent conformity with the requirements of this Declaration. In addition, the Owner shall submit the identity of the individual or company intended to perform the work and projected commencement and completion dates. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties and may create and impose reasonable fees for processing of applications.

Section 3. Submittal Requirements. The content of the Required Plans Submittal to the Architectural Control Committee shall be determined by the Committee from time to time but Owners are advised that current procedures require the following minimum Submittal:

Building Submittal:

- A. Completed Submittal form;
- B. Two complete site plans showing:
 - (1) House;
 - (2) Flatwork;
 - (3) Setbacks;
 - (4) Easements;
 - (5) Fencing (if known);
 - (6) Swimming pool and related improvements (if any);
 - (7) Adjacent greenbelts and drainage;
 - (8) Proposed Lot grading and drainage;
- C. Two sets of plans depicting room size and layout and exterior elevations; and
- D. Building specifications, materials list and exterior colors.

Fencing Plan:

Two site plans showing fence location with clear labeling of all fence materials.

Landscape Plans:

- A. Two sets of Plans; and
- B. List of all plants to be used and clear identification of locations.

All Other Exterior Modifications:

Two site plans showing item location in reference to property lines and other structures with clear labeling of materials.

Section 4. Procedure. Within thirty (30) days after the Committee has received the Required Plans and written notice that the Owner desires to obtain Committee approval, the Committee shall notify Owner in writing whether the Required Plans are approved or disapproved. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance. In the event the Required Plans submitted by the Owner have not been approved or disapproved within thirty (30) days after being submitted, the Required Plans so submitted will be deemed to have been approved but a deemed approval shall not permit a violation of any of the terms of this Declaration nor extend to any deviation from or alteration to the Required Plans actually submitted nor to any matter requiring a written variance.

All matters requiring approval of the Architectural Control Committee whether or not specifically addressed hereinabove or hereinbelow shall require that such approval be in writing, and, with respect to all such matters requiring such approval, in the event the Committee fails to approve or disapprove any of such matters within thirty (30) days after proper written submission thereof to the Committee, approval will not be required, and the requirement that such approval be obtained shall be deemed to have been fully complied with.

Section 5. Powers. The Committee shall have the express authority to perform fact finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one interpretation. The goal of the Committee is to encourage the construction of dwellings of good architectural design, quality and proper size compatible with Declarant's conceptual plan for the Subdivision. Dwellings should be planned and designed with particular attention to the design and aesthetic appearance of the exterior and the use of such materials, which, in the sole judgement of the Committee, create an attractive and harmonious blend with existing and proposed dwellings in the immediate area and the natural surroundings. The Committee may disapprove the construction or design of a home on purely aesthetic grounds where, in its sole judgement, such disapproval is required to protect the continuity of design or values of the neighborhood and of other Owners or to preserve the serenity and natural beauty of any surroundings. Members of said Committee and their representatives shall not be liable to any person subject to or possessing or claiming the benefits of these restrictive covenants for any damage or injury to property or for damage or loss arising out of their acts hereunder. The Committee's evaluation of Required Plans is solely to determine compliance with the terms of this Declaration and the aesthetics or the proposed improvements and the Committee disclaims any responsibility to determine compliance with any applicable building code or other standard for construction.

Section 6. Variances. The Architectural Control Committee shall have the right, but not the obligation, to grant variances and waivers relative to deviations and infractions of the Declaration or to correct or avoid hardships to Owners.

Upon submission of a written request for same, the ACC may, from time to time, in its sole discretion, permit an Owner to construct, erect or install a dwelling which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration. In any case, however, the dwelling with such variances must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the neighborhood and must not detrimentally affect the integrity of the Subdivision or be incompatible with the natural surroundings. All requests for variances shall be in writing, shall be specifically indicated to be a request for variance, and shall indicate with specificity the particular standard sought to be varied and the nature of the variance requested. All requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any Owner for any claims, causes of action or damages arising out of the grant or denial of any variance to an Owner. No individual member of the ACC shall have any personal liability to any Owner or any other person for the acts or omissions of the ACC if such acts or omissions were committed in good faith and without malice. Each request for a variance submitted hereunder shall be reviewed independently of similar request and the grant of a variance to any one Owner shall not constitute a waiver of the Committee's right to deny a variance to another Owner. The decisions of the Architectural Control Committee with respect to variances shall be final and binding upon the applicant.

Section 7. Decisions Final. All decisions of the Committee shall be final and binding, and there

shall not be revisions of any action of the Committee except by procedure for injunctive relief when such action is patently arbitrary and capricious. In the event of construction of improvements or threatened construction of improvements in violation of this Declaration, any Owner, the Association, Declarant or the Committee may seek to enjoin such construction or seek other relief against the Owner or builder responsible therefor provided that each such offending party shall first be given written notice of the perceived violation and the opportunity to remedy the violation prior to the filing of suit. Neither the Declarant, the Architectural Control Committee, nor any member of such Committee shall be liable in damages, or otherwise, to anyone submitting plans and specifications for approval or to any Owner who believes himself adversely affected by this Declaration by reason of mistake of judgement, negligence or nonfeasance in connection with the approval or disapproval of plans or requests for a variance. The ACC is not required to police or enforce compliance with such considerations as minimum size, setbacks, or other specific, objective construction requirements.

Section 8. Continued Existence and Turnover to Association. The Architectural Control Committee shall be duly constituted and shall continue to function for the entire duration of this Declaration, including any extensions thereof. Upon completion of construction of the last residence in the Properties, or such prior time as Declarant may elect in writing, the Association, acting through its Board of Directors, shall succeed to the powers of Declarant with respect to the Committee and shall thereafter have the right and obligation to appoint the members of the Committee.

At such time when the Architectural Control Committee is turned over to the Association, the process shall be as follows:

Three (3) or more Association members shall be named by legal name and legal address.

2. The Committee shall be under the jurisdiction of the Board of Directors and shall function as any other committee that may be formed by the Board.

3. The Committee shall receive its orders from the Board and shall follow the guidelines in reporting to the Board as deemed necessary by the Board.

4. By order and majority of the Board, any member on the Architectural Control Committee as set up in the above appointment guidelines may be removed, and a replacement named by the Board, from the Architectural Control Committee at any time as deemed necessary.

ARTICLE VIII.

MEMBERSHIP IN THE ASSOCIATION AND CLASSES OF MEMBERS

Every person or entity who is a record Owner of a fee or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a Member of the Association, provided, however, that any person or entity holding an interest in any such Lot or Lots merely as security for the performance of an obligation, shall not be a Member.

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Article 1 with the exception of the Declarant and Builder Members. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by this Article. When more than one person holds such interest of interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. Class B Members shall be the Declarant and Builder Members. Class B Members shall be entitled to five votes for each Lot in which they hold the interest required by this Article, provided that the Class B membership shall cease and become converted to Class A membership on the happening of the following events, whichever occurs earlier: When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) On January 1, 2015.

From and after the happening of these events, whichever occurs earlier, the Class B Members shall be deemed to be Class A Members entitled to one vote for each Lot in which they hold the interest required for membership under this Article.

ARTICLE IX.

PROPERTY RIGHTS IN THE COMMON FACILITIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Sections 3 and 4 of this Article IX., every Member shall have a common right and easement of enjoyment in and to the Common Facilities and such right and easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Facilities. The Declarant may retain the legal title to any Common Facilities until such time as it has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same, but notwithstanding any provision herein, the Declarant hereby covenants, for itself, its successors and assigns that it will convey the Common Facilities to the Association, not later than two years after the filing of record of this Declaration.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The rights and easements existing or hereafter created in favor of others as provided for in the Subdivision Plat and/or in this Declaration.

(b) The rights of the Association, once it has obtained legal title to the Common Facilities, as provided in Article IX, Section 2, above, to do the following:

(1) to borrow money for the purpose of constructing or improving the Common Facilities and, in aid thereof, to mortgage said properties and facilities, in accordance with the

Articles of Incorporation and Bylaws of the Association;

(2) to take such steps as are reasonably necessary to protect the above-described properties and facilities against foreclosure; and

(3) to enter into one or more contracts or agreements for the maintenance or improvement of the Common Facilities.

Section 4. Entry Gate, Streets and Security. Streets within the Subdivision shall be private and shall be owned and maintained by the Association. Access to the Subdivision will be via a controlled entry gate. Except as herein provided, the Association may make rules governing access to the Subdivision and the use (including parking) of Subdivision streets.

Absent Declarant's written consent to the contrary, the Subdivision entry gate, when constructed, shall be kept open to the public during daylight hours (or from 6:30 a.m. to 7:00 p.m., whichever is longer) until three months following the conveyance of the last Lot owned by Declarant within the Subdivision and future phases of development annexed to the jurisdiction of the Association. This right of entry is to ensure access to Lots by prospective new home purchasers and builders to complete construction of homes.

Security may be provided by the Association, from time to time; however, the Association is not now a provider of security, and the Owners must provide their own security for their home and property.

ARTICLE X.

ASSESSMENTS AND ASSOCIATION LIENS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements or extraordinary expenses, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting recreation, health, safety and welfare of the Members, preserving or enforcing the rights and obligations of the Owners and the Association, or for the improvement, maintenance and operation of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties by the Members.

Section 3. Basis and Maximum of Annual Assessments. The annual assessments for both Improved and Unimproved Lots shall be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for

which the assessment is being made, but the annual assessment for Unimproved Lots shall not exceed twenty-five percent (25%) of the annual assessment for Improved Lots. A Lot shall be deemed to be an "Improved Lot" when construction of a Living Unit thereon is completed, and a closing of a sale thereof has taken place, when a Living Unit on the Lot has been occupied as a residence, or twenty-four (24) months after the closing of the sale thereof by Declarant, whichever first occurs. All other Lots shall be "Unimproved Lots". The maximum annual assessment for all Lots shall be subject to increase as provided in Article X., Section 5 hereof.

Section 4. Special Assessments. In addition to the annual assessments provided for in Article X., Section 3, the Association may levy, in any assessment year, a Special Assessment on Improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Facilities, or to finance or defray the cost of any extraordinary expense of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of a quorum of each of the Improved Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Improved Lot Owners at least 30 days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. For all annual assessments accruing after January 1 of the year following conveyance of the first Lot by Declarant, the maximum annual assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent (10%) above that of the previous year without a vote of the membership. Any increase in the maximum annual assessment of more than ten percent (10%) above that of the previous year shall require approval of two-thirds (2/3) vote of a quorum of each class of Members voting at a meeting duly called for that purpose.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5. The quorum required for any action by Members authorized by Article X., Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Article X., Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the requirements set forth in Article X., Section 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following conveyance of the first Lot by Declarant, or such later date as the Board may determine. The first annual assessments shall be made for the balance of the calendar year, shall be prorated for such partial year, and shall be due and payable, and shall be collected, quarterly in advance, unless the Board of Directors shall determine otherwise. When a Lot becomes an Improved Lot after the annual assessment for it as an Unimproved Lot has been paid, there shall be payable as of the first day of the month following the month when it becomes an improved Lot, a sum equal to the difference between the annual assessments for Unimproved Lots and the annual assessment for Improved Lots prorated over the balance of the year then remaining. The due date of any special assessment under Article X., Section 4 hereof shall be fixed in the resolution authorizing such

assessment.

Section 8. Duties of the Board of Directors. In December of each year, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for the following year and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid or the balance due. Such certificate, when signed by an authorized officer or agent of the Association, shall be conclusive evidence of payment of any assessment herein stated to have been paid. The Association may charge a reasonable fee for issuing such a certificate.

Section 9. Effect of Non-Payment of Assessments; The Lien; Remedies of the Association. If any assessment or other sum due the Association hereunder is not paid on the date when due, then such assessment or amount shall become delinquent and shall, together with such interest thereon and cost of collection thereof provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The charges and liens created herein shall apply only to the Lots, and the remainder of the Properties shall not be subject thereto.

ARTICLE XI.

AMENDMENT

This Declaration may be amended until January 1, 2020, by written instrument executed by the Owners of ninety percent (90%) or more of the residential Lots subject to the jurisdiction of the Association, upon recording of such written instrument in the Real Property Records of Comal County, Texas, provided that until such date no amendment hereto shall be effective unless approved and executed by Declarant. After January 1, 2020, this Declaration may be amended in like manner by ninety percent (90%) of the Owners of residential Lots subject to the jurisdiction of the Association but the approval and joinder of Declarant shall not be required after said date. Notwithstanding the foregoing, Declarant shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein, for the limited purposes of correcting a clerical error, clarifying an ambiguity, or removing any

contradiction in the terms hereof.

ARTICLE XII.

ENFORCEMENT

In addition to the remedies for enforcement provided for elsewhere in this Declaration or by law, the violation or attempted violation of the provisions of this Declaration, or any amendment hereto, or of any guidelines, rules, regulations, bylaws, or Articles of Incorporation herein referenced or permitted, by any Owner, his family, guests, lessees or licensees shall authorize Declarant or the Association (in the case of all of the following remedies) or any Owner [in the case of the remedy provided in (c), below], including Declarant, to avail itself of any one or more of the following remedies:

- (a) The suspension by the Association of rights to use any Association property or Common Facilities for a period not to exceed thirty (30) days per violation, plus attorney's fees incurred by the Association with respect to the exercise of such remedy;
- (b) The right of Declarant or the Association to enter the Lot to cure or abate such violation through self help and to charge the expense thereof, if any, to such Owner, plus attorney's fees incurred by the Association with respect to the exercise of such remedy; or
- (c) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to attorney's fees and court costs.

Before the Association may invoke the remedy of suspension of privileges as set forth in Section (a) above, it shall give written notice of such alleged violation to Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Association's right to proceed with the suspension of privileges shall be absolute. Each day a violation continues after notice thereof has been given to the Owner shall be deemed a separate violation. Failure of the Association, the Declarant, or of any Owner to take any action upon any violation shall not be deemed a waiver of any right to take enforcement action thereafter or upon a subsequent violation. No Owner shall have the right to compel or require the filing of suit by Declarant or the Association. Neither this Article nor the other terms of this Declaration shall be deemed or construed to impose an obligation on Declarant or the Association to police, control, restrain, enjoin or seek redress for any violation of the terms hereof.

All assessments, charges and costs imposed by the Association and unpaid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, said interest to be compounded monthly.

ARTICLE XIII.

TITLES

The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

ARTICLE XIV.

INTERPRETATION

If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

ARTICLE XV.

OMISSIONS

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

ARTICLE XVI.

GENDER AND GRAMMAR

The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XVII.

DESIGN GUIDELINES AND OTHER RULES AND REGULATIONS

The ACC has the right to establish and enforce Architectural Design Guidelines for the Subdivision and the Association has the right to establish and enforce Rules and Regulations related to the use of the Common Areas and other matters. Architectural Design Guidelines for the Subdivision, Rules and Regulations of the Association, Rules and Regulations regarding use of Common Areas and the other documents and information which may affect an Owner, prospective Owner, Builder Member, or contractor for improvements to a Lot are maintained at the offices of the Association and Declarant. Each Owner and prospective Owner is advised to obtain these documents and carefully examine each of them in addition to this Declaration to determine his rights and obligations.

ARTICLE XVIII.

ACKNOWLEDGMENTS BY OWNERS

Each prospective Lot Owner is hereby notified that the streets with the Subdivision are not public streets, but are private streets. In order to maintain the aesthetics of a rural Subdivision, the Declarant has made an effort to preserve native trees wherever possible and to maintain an ambience of country lanes.

Each prospective Lot Owner should carefully note the width of the paved portion of the streets, the

proximity of trees to the pavement, and the location of trees within various esplanades. In purchasing a Lot, the Owner specifically assumes the risk for himself, his family, employees, guests, contractors and all other invitees of driving in narrow streets bordered closely by native trees and agrees to do so in a safe manner. Each prospective Lot Owner also is notified that the drainage ditches, culverts and other drainage facilities within the Subdivision are not publicly owned but are privately owned. Each prospective Lot Owner should carefully note the location of the facilities and avoid unsafe conduct in those areas. In purchasing a Lot, the Owner specifically assumes the risk for himself, his family, employees, guests, contractors and all other invitees of knowing the location of such drainage facilities and agrees to refrain from unsafe conduct in the proximity of such facilities.

Each Owner is hereby further notified and advised that Declarant reserves the right to cause the Association from time to time to enter into certain reciprocal agreements with other developers (or nonprofit associations formed by such developers) of lands abutting the Properties or in close proximity thereto, whether or not located within the Master Plan and whether or not formally annexed into the scope of jurisdiction of the Association, such reciprocal agreements covering joint access and maintenance agreements affecting the residents of each development.

ARTICLE XIX.

ADDITIONAL INFORMATION

The ACC and Association may establish Architectural Design Guidelines for the Subdivision, Rules and Regulations of the Association, and the other documents and information which may affect an Owner, prospective Owner, Builder Member, or contractor for improvements to a Lot. All such documents, if any, shall be maintained at the offices of the Association and Declarant. Each Owner and prospective Owner is advised to carefully examine each of such documents in addition to these Restrictions to determine his rights and obligations.

ARTICLE XX.

PURCHASE "AS IS"

Each prospective purchaser of a Lot is responsible for thoroughly inspecting and examining the Lot in which he is interested and for conducting such investigations of such Lot(s) as he deems necessary for him to evaluate his purchase. By completing the purchase of a Lot, each prospective purchaser is acknowledging that he is purchasing the Lot on an "as is," "where is" and "with all faults" basis. By purchasing a Lot, each Owner agrees to indemnify and hold harmless Declarant, its partners, officers, directors, contractors, employees and agents from and against any claims, costs, fees, expenses, damages or liabilities that an Owner, his family, employees, guests, contractors and any other invitees may suffer or incur as a result of, arising out of or related to the above described caves, sinkholes, streets, trees within or near the street rights-of-way and/or drainage facilities. Each Owner unconditionally releases Declarant, its partners, officers, directors, contractors, employees and agents, from any claims, demands or causes of action both known and unknown, present and future, arising out of or related to said caves, sinkholes, streets, trees within or near the street rights-of-way and/or drainage facilities.

SIGNATURE PAGE FOLLOWS

EXECUTED effective the 29th day of April, 1999.

DECLARANT

D.M.M. L.L.C.

By: Nick McFadin, III
Nick McFadin, III
Its Managing Partner

STATE OF TEXAS

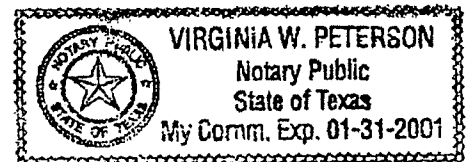
COUNTY OF COMAL

This instrument was acknowledged before me the 29th day of April, 1999 by Nick McFadin III., the Managing Partner of D.M.M. L.L.C., a Texas Limited Liability Company on behalf of said company.

Virginia W. Peterson
Notary Public, State of Texas

Exhibits:

Exhibit A -Master Plan (showing annexable areas)



AFTER RECORDING RETURN TO:

Michael Baucum, 1100 N.W. Loop 410, #260, San Antonio, Texas 78213