

ORIGINAL

SCANNED

## AMENDED AND RESTATED

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

## CASTLE WOOD FOREST SUBDIVISION

(superseding and replacing prior covenants)

THE STATE OF TEXAS §

COUNTY OF BEXAR §

LAD PROPERTIES, INC. and F & K PROPERTIES, INC., Texas corporations, created a Subdivision known as Castle Wood Forest Subdivision ("Subdivision") by recording a Restrictive Covenants and Conditions for LAD Properties, Inc. in Volume 1014, Page 818, Deed Records of Bexar County, Texas, and Declaration of Easements, Restrictions, Covenants, and Conditions recorded in Volume 1139, Page 696, Deed Records of Bexar County, Texas, (collectively "Declaration") covering the property more particularly described therein; and

The Parties hereto representing not less than seventy-five percent (75%) of the Owners wish to amend the Declaration as permitted in Section 5.C. as evidenced by their signatures below; and for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declaration is hereby AMENDED and REVISED in the following respects, effective immediately:

**ARTICLE I**  
**DEFINITIONS**

The following words when used in this Amended and Restated Declaration shall have the following meanings:

(A) "Association" shall mean and refer to CASTLE WOOD FOREST HOMEOWNERS' ASSOCIATION, a Texas non-profit corporation, its successors and assigns, which has the power, duty and responsibility of maintaining and administering the Common Area and administering and enforcing the restrictive covenants contained in this Amended and Restated Declaration. The Association is a "property owners association" as that term is defined in Texas Property Code §202.001(2).

(B) "Subdivision Plat" shall mean and refer to the map or plat of CASTLE WOOD FOREST SUBDIVISION, filed for record in Volume 7900, Page 109, and Volume 8200, Page 227, of the Deed Records of Bexar County, Texas.

(C) "Lot" shall mean and refer to any of the plots of land as shown on the Subdivision Plat.

(D) "Living Unit" shall mean and refer to a single family residence situated on a Lot.

(E) "Single Family" shall mean and refer to a group related by blood, adoption, or marriage

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or a number of unrelated roommates equal to the number of bedrooms in a Living Unit.

(F) "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.

(G) "Common Area" shall mean and refer to Lot 1, Block 1, CASTLE WOOD FOREST SUBDIVISION, as shown on the Subdivision Plat.(including improvements) which is owned by the Association for the common use and enjoyment of the Owners, and Perpetual Easements on Lot 23, Block 10 and Lot 24, Block 3, NCB 16968, CASTLEWOOD FOREST, UNIT 1, all shown on plat recorded in Volume 7900, Page 109, Deed and Plat Records of Bexar County, Texas.

(H) "Resident" shall mean and refer to each Owner who resides within the Subdivision, a bona fide lessee who has an enforceable lease agreement with an Owner and who resides in the Subdivision, and any individual who is otherwise lawfully domiciled in a Living Unit.

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

(J) "Board of Directors" and "Board" shall mean and refer to the Board of Directors of Castle Wood Forest Homeowners' Association, Inc., the election and procedures of which are set forth in the Articles of Incorporation and By-laws of the Association. The Board of Directors shall be the elected body having its normal meaning under the Texas non-profit corporate law.

(K) "Vote" shall mean 2/3rds of the votes received, in person or by proxy, unless otherwise indicated.

## **ARTICLE II**

### **PROPERTY RIGHTS**

Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(A) The right of the Association to suspend an Owner's voting rights and use of the recreational facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for infractions by an Owner of the restrictive covenants contained in this Amended and Restated Declaration and/or the Association's rules and regulations for the duration of the infraction, after notice and hearing are afforded to Owners, pursuant to Texas Property Code Chapter 209;

(B) the right of the Association to grant easements in and to the Common Areas to any public agency, authority or utility for such purposes as benefits the Subdivision and the Owners or Lots;

(C) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area, if approved by a Vote; provided however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Amended and Restated Declaration for the benefit of the Owners, or the holder of any mortgage irrespective of when executed, encumbering any Lot;

(D) the right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be



agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Vote; and

(E) the right of the Association to prescribe rules and regulations as they may be expanded, amended or otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of the Owner's Lot may be affected by this provision and that the rules and regulations may change from time to time.

### **ARTICLE III** **ARCHITECTURAL CONTROL**

In order to protect the overall integrity of the Subdivision as well as the value of improvements of all Owners, the Board of Directors shall carry out all duties as noted herein with full authority to approve and disapprove and control all construction, development and improvement activities of any kind, including, but not limited to, structures and buildings, including mailboxes, within the Subdivision and to insure that all such activities are constructed in accordance with good workmanship-like manners and standard industry trade practices and to insure that all improvements are architecturally, aesthetically and ecologically designed to be compatible with the overall scheme of the Subdivision.

The Board shall review all plans, specifications and other information which is submitted for compliance with all the requirements of this covenant and for the compatibility of any improvements therein with the architectural, aesthetic and ecological goals of the Subdivision, it being the intent that such goals require that all improvements be compatible with all other improvements in the Subdivision and that they be in harmony with their natural surroundings. The Board shall have full right and authority to utilize its sole discretion in approving or disapproving any plans and specifications which are submitted. In the event the Board fails to approve submitted plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

The Board of Directors may disapprove the construction or design of any improvement on purely aesthetic grounds where, in its sole judgment, such disapproval is required to protect the continuity of design or value of the Subdivision, or to preserve the serenity and natural beauty of any surroundings. Prior approvals and/or disapprovals of the Board pertaining to any improvement activities or regarding matters of design or aesthetics shall not be deemed binding upon the Board for later requests for approval if the Board feels that the repetition of such matters will have an adverse effect on the Subdivision. The Board of Directors shall have the express power to construe and interpret any covenant herein that may be capable of more than one construction.

The Board shall have the authority to employ professional consultants at the expense of the Association to assist it in performance of its duties. The decision of the Board of Directors shall be final, conclusive and binding upon the applicant.

### **ARTICLE IV** **RESTRICTIVE COVENANTS FOR USE OF LOTS**

(A) Single Family Residential Purpose. All Lots in the Subdivision shall be used for single family residential purposes only.

(B) Accessory Buildings. Every accessory building and/or structure, inclusive of such



structures as a storage building, gazebo, spa, swimming pool, greenhouse or children's playhouse, shall be compatible with the Living Unit to which it is appurtenant in terms of its design and material composition. All such accessory buildings shall be subject to approval of the Board. In no instance shall an accessory building exceed on (1) story in height nor shall the total floor area of an accessory building exceed ten percent (10%), individually or in the aggregate, of the floor area of the Living Unit.

(C) Fences. No fence or wall shall be built or maintained forward of the front wall line, nor any hedge planted or maintained forward of the front setback line, of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot unless otherwise approved in writing by the Board. All fences or walls located on his respective lots are to be maintained at owners expense. All fences shall be of the following composition: all masonry, brick, wood or other material approved by the Board. No fence, wall or hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area as formed by the street right-of-way lines and a line connecting them at points ten feet (10') from the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. 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.

(D) Temporary structures. No structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other accessory buildings) shall be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No trailer, camper, recreational vehicle, or similar vehicles shall at any time be parked in view of any other Lot or Living Unit or connected to utilities situated within a Lot, unless approved in writing by the Board of Directors. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular, manufactured, prefabricated 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 Board of Directors.

(E) Signs. No signs, banners, or pennants of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than five (5) square feet advertising the property for rent or sale. Signs advertising subcontractors or suppliers are specifically prohibited except during work in progress and must be removed upon completion. Distressed, foreclosure and bankruptcy references are specifically prohibited. Political signs may be erected upon a 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. Except for signs advertising a Lot or Living Unit for sale and adhering to the standards of this Article, all signs within the Properties shall be subject to the prior written approval of the Board. The Association or its agents shall have the right to remove any signs, billboard or other advertising structure that does not comply with the above, and in doing so shall not be subject to any liability for trespass or any other liability in connection with such removal.

(F) Maintenance of Lot and Easement Area. The Owners or occupants of all Lots shall at



all times keep weeds and grass thereon cut in a satisfactory, healthful and attractive manner. By the acceptance of a deed of any one or more of the Lots covered hereunder, the Owner covenants and agrees to keep and maintain in a neat and clean condition that portion of the easement line adjacent to such Lot and extending to the centerline of such easement, including the keeping of weeds or grass mowed within such area. Fences must be repaired and maintained and no objectionable or unsightly usage of Lots will be permitted which is visible to public view. Building materials shall not be stored on any Lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from each Lot. The Association 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. The Association 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 any Lot shall be obligated to reimburse the Association for the cost of such maintenance or removal upon demand. The Association may require any Owner to remove or eliminate any object situated on a Living Unit or Lot that is visible from any Common Area or from any other Lot, if, in the Board's sole judgment, such object detracts from the visual attractiveness of the Subdivision. The Association, and its agents, during normal business hours, shall have the right to (after 5 days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this covenant and the action required to be taken, and if at the end of such time reasonable steps to accomplish such action have not been taken by the Owner), to enter on the subject premises (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) and to take the action(s) specified in the notice to remedy or abate said violation(s) or breach(es). The cost of such remedy or abatement will be paid to the Association upon demand, and if not paid within thirty (30) days, shall become a lien upon the Lot affected. The Association, or its agent, shall further have the right (upon like notice and conditions), to trim or prune, at the expense of the Owner, any hedge, tree or any other planting that, in the written opinion of the Association, by reason of its location on the Lot, or the height, or the manner in which it is permitted to grow, is detrimental to the adjoining Lots, is dangerous or is unattractive in appearance. The lien provided under this section will constitute a lien retained against the Lot with the same force and effect as the Lien for assessments set forth in this Amended and Restated Declaration.

(G) Vehicles. No trailer, motor home, tent, boat, marine craft, hovercraft, aircraft, recreational vehicle, motor home, camper body, travel trailer, truck larger than a one (1) ton pick-up, or wrecked, junked, or inoperable vehicle shall be kept, parked, stored or maintained on any portion of the front yard area of a Lot nor shall be kept, parked, stored or maintained on other portions of the Lot, unless in an enclosed structure or in a screened area which prevents the view thereof from any Lots or dwelling and streets. No stripped down, wrecked, junked or inoperable trailers, boats, recreational vehicles or motor vehicles shall be kept, parked, stored or maintained on any Lot. No dismantling or assembling of a motor vehicle, boat, trailer, any truck or any other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. The Association shall have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and adequately screened from public view. Upon an adverse determination by the Board of Directors, the vehicle and/or accessory shall be removed and/or otherwise brought into compliance with this paragraph.

No vehicles, trailers, implements or apparatus may be driven or parked on any easement. No



vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time.

(H) Offensive Activities. 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 Owners, Properties or the Subdivision. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to other Owners or Lots. Reasonable security, landscape, or tennis court lighting is permitted. No exterior speakers, 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) shall be placed or used upon any Lot.

(I) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary containers. No trash or other refuse may be thrown or dumped on any street or drainage area in the Subdivision.

(J) Pets. No animals, livestock, poultry, exotic or dangerous pets of any type (i.e. pit bulls, boa constrictors, ferrets, etc. or animals that may pose a safety or health threat to the community) shall be raised, bred or kept on any Lot except for cats, dogs, or other generally recognized household pets of a reasonable number provided that they are not kept, or maintained for any commercial purposes and provided further that no more than a total of four (4) animals may be kept on a single Lot. Any pet which endangers the health of any Owner or Resident, or which creates a nuisance or an unreasonable disturbance or is not a common household pet, as may be determined by the Board, must be permanently removed from the Subdivision upon seven (7) days' written notice by the Board of Directors. All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Association. It shall be the responsibility of the Owners to prevent the animals from running loose or becoming a nuisance to other Owners and Residents. All waste left by animals shall be promptly removed.

(K) Microwave, radio, TV Antenna and Solar Collectors. No microwave dishes, radios, citizen band or otherwise, or television aerial wires or antennas shall be maintained on any portion of any Lot, or in the Common Area, except direct broadcast satellite (DBS) antennae less than one meter in diameter, multichannel multipoint distribution system (MMDS) antennae less than one meter in diameter, or television broadcast antennae, which Owners shall screen from view as much as possible without impairing the installation, maintenance or use. Solar apparatus, if erected, must be maintained in such a way that it is screened from view. All matters set forth in this provision require the express approval, in advance, of the Board, which shall be exercised in conformity with the rules of the Federal Communications Commission.

(L.) Sidewalks. All Lots must have sidewalks in front of the residence, and nothing shall be placed, constructed or maintained on a sidewalk which is obstructive to pedestrian use.

## ARTICLE V EASEMENTS AND ACCESS

(A) Easements in General. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Within these easements no structure, planting, fence 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 or impede the direction of flow of water through drainage channels. 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 company is responsible. Neither the Association nor any utility company using the easements shall be liable for any damages done by them or their assigns, agents, employees or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by the easements. There is a right of ingress and egress across, over, and under the Subdivision in favor of the Association (or, in the case of a "Zero Lot Line" easement as provided in Section C below, to the benefitting Owner), for the sole purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, cable TV, electricity, gas, and appurtenances thereto. An easement is hereby extended and acknowledged to all police, fire protection, ambulance, garbage and trash collector pickup vehicles and all similar persons to enter upon the Common Area in performance of their duties. Each Lot is conveyed subject to all easements, conditions and reservations shown on the Plat, and as provided in this Amended and Restated Declaration, and each Owner shall take notice of all such easements, conditions, and reservations. No Owner shall maintain any condition or improvements in any platted easement which will significantly interfere with the intended use of any easement.

(B) Drainage Easements. Easements for drainage throughout the Subdivision are reserved as shown on the Plat. No Owner of any Lot 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, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or Resident of a Living Unit may:

- (1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment;
- (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 without the prior written approval of the Board of Directors or the San Antonio City Engineer;
- (3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;
- (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.

By acceptance of a deed to any Lot, each Owner covenants and agrees to ensure such Lot remains graded and maintained in accordance with the grading plan set forth in accordance with the original grading plan.

(C) "Zero Lot Line" Maintenance Easements. Lots 5 through 10, Block 2, NCB 16976, according to Plat recorded in Volume 8200, Page 227, Plat Records of Bexar County, Texas, and Lots 11 through 23, Block 10, NCB 16968, according to Plat recorded in Volume 7900, Page 109, Plat Records of Bexar County, Texas, are "Zero Lot Line" Lots, and a five foot (5') wide maintenance easement is hereby established on the portion of each of these Lots adjacent to the zero lot line. This easement shall be kept free of any permanent obstruction and is for the purpose of access to the Owner of the benefitting Lot for painting, repairs, and all other necessary maintenance of the Living Unit.



**ARTICLE VI**  
**ENFORCEMENT**

If the Owner of any Lot, or its heirs, executors, administrators, successors, assigns or tenants, shall violate or attempt to violate any of the restrictions and covenants set forth in this Amended and Restated Declaration, it shall be lawful for the Association or any Owner to prosecute any proceedings against the person or persons violating or attempting to violate any such restrictions and covenants. The failure of any Owner or Resident to comply with any restriction or covenant will result in irreparable damage to other Owners of Lots in the Subdivision; therefore, the breach of any provision of this Amended and Restated Declaration may not only give rise to an action for damages at law, but also may be enjoined or may be subject to an action for specific performance in equity in any court of competent jurisdiction. In the event an action is instituted to enforce the terms or prohibited violations, and the party bringing such action prevails, in addition to any other remedy herein provided or provided by law, such party shall be entitled to recover court costs and reasonable attorney's fees. The Association shall not be charged with any affirmative duty to police, control or enforce the terms of this Amended and Restated Declaration and these duties shall be borne by and be the responsibility of the Owners.

**ARTICLE VII**  
**COURTESY PATROL**

Courtesy patrol may be provided by the Association, from time to time; however, the Association is not a provider of security and the Owners must provide their own security for themselves, their Living Unit, Lot and personal property.

**ARTICLE VIII**  
**VOTING RIGHTS AND REGISTRATION**

(A) Voting. Every person or entity who is a record Owner of a free or undivided interest in any Lot shall be a Member of the Association. When more than one person holds an interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(B) Suspension of Voting Rights. All voting rights of an Owner may be suspended by the Board of Directors during any period in which such Owner is delinquent in the payment of an assessment or is otherwise in default and/or violation of this Amended and Restated Declaration, the By-laws or Rules and Regulations.

**ARTICLE IX**  
**COVENANTS FOR MAINTENANCE ASSESSMENTS**

Each Owner covenants, by acceptance of a deed to a Lot in the Subdivision, 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; (2) special assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided; and (3) charges levied against individual Owners to reimburse the Association for extra or unusual costs incurred by the Association for curing the Owner's violation of a covenant contained in this Amended



and Restated Declaration, By-laws or rules and regulations. The annual and special assessments, together with such late charges, reasonable attorney's fees and costs of collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which the assessment is made, and shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation accrued.

(A) Annual Assessments. The annual assessments shall be determined by the Board of Directors after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made. The maximum annual assessment may be adjusted by a majority vote of the Board of Directors, without membership vote, but shall not be increased to more than the greater of: eighteen percent (18%) above the prior year's annual assessment. Each year, the Board shall notify each Owner of the next year's budget at least thirty (30) days prior to the Annual Meeting.

(B) Special Assessments. In addition to the annual assessments provided for above, the Association may levy, in any assessment year, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Area, respond to the unusual emergency needs of the Association as may be expected to appear from time to time, or for such other lawful purpose needed by the Subdivision, as the Board of Directors or the Owners may determine; provided that any such assessment shall have the approval of two-thirds (2/3) of the votes of the Owners, voting in person or by proxy, at a meeting duly called for this purpose. Written notice of such a meeting shall be sent to all Owners and shall set forth the purpose of the meeting.

(C) Member Charge. In addition to the annual assessment and special assessment, the Board of Directors may impose a charge upon any Owner for the purposes of reimbursing the Association for all direct and indirect costs incurred for the maintenance, repair or replacement of landscaping or site improvements on any Lot when the Board has determined the maintenance, repair or replacement of improvements have been neglected to the point where conditions existing on such Lot are not in conformance with the maintenance obligations set forth in Article IV, Section (F) of this Amended and Restated Declaration, or if an Owner places anything in the Common Area. The Owners of such Lot shall be notified in writing of said determination and the specific deficiencies found to exist and shall be afforded a reasonable period of time to respond to said notice by correcting the deficiencies. The Owner shall be assessed the cost of reimbursing the Association for any and all costs, including attorney's fees, to secure compliance, in accordance with State Law.

(D) Due Dates, Budget and Late Charges. The annual assessment shall become due and payable and shall be collected as the Board of Directors of the Association shall determine. The amount of the annual assessment shall be an amount which bears the same relationship to the annual assessment provided for above as the remaining number of months in that year bear to twelve. The Board of Directors shall use reasonable effort to provide each Owner with an invoice of the amount due, but any failure to provide such a notice shall not relieve any Owner of the obligation. The due date of any special assessment under the provisions hereof shall be fixed in the resolution authorizing such assessment. Member charges are due and payable as stated in the notice, but not to exceed sixty (60) days after the Owner was served with notice by the Association of the amount of such Member Charge, in accordance with State Law.

Each year, the Board of Directors shall adopt an annual budget and set the amount of the



annual assessment, taking into consideration the Association's operating cost for the current year, expected increases or decreases in such costs over the next year, and future needs of the Association. The annual budget shall be adopted by the Board at least thirty (30) days prior to the commencement of each fiscal year.

An Owner who has not paid an assessment within thirty (30) days after the due date shall incur a late charge from the due date at a rate to be determined, from time to time, by the board. If the Board shall refuse or fail to determine a late charge, it shall be eighteen percent (18%) per annum. If applicable State Law provides or requires an alternate ceiling under Vernon's Annotated Texas Civil Statutes Article 5069-1.04, then that ceiling shall be the indicated rate ceiling.

(E) Remedies and Lien for Assessments. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt or to enforce the lien by all methods available, including non-judicial or judicial foreclosure by an action brought in the name of the Association, and grants to the Association the power of sale of the lien. The Board of Directors shall have the right to appoint an Agent, to mail and file the notices required by Texas Property Code § 51.002, to conduct the sale, and to otherwise comply with State Law. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot.

In addition to the foregoing charges for delinquent accounts, each Owner shall be obligated to pay to the Association all actual costs of collection incurred, including attorney's fees, late charges and collection costs, all of which shall be a part of the Association's lien.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

Notice of the lien may be given, but is not required, by the recordation in the Real Property Records of Bexar County, Texas an Affidavit of Delinquent And Notice Of Assessment Lien, duly executed by an officer, managing agent, attorney or officer of the Association, setting forth the amount owed, the name of the last known Owner of record, and the legal description of the Lot.

At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot, and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to appoint a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer or by Writ of Possession.

The lien of the assessments shall be subordinate to the lien of any purchase money mortgage; 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, non-judicial foreclosure, or conveyance in lieu of foreclosure or in satisfaction of mortgage debt. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due



nor from the lien of any such subsequent assessment.

## **ARTICLE X**

### **MAINTENANCE FUND**

The Board, for the benefit of the Owners, shall establish and maintain a maintenance fund into which shall be deposited the annual assessments collected from Owners and which maintenance fund shall be used, without limitation, for the payment of the following:

- (A) taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas;
- (B) care and preservation of the Common Area;
- (C) the services of a professional person to meet the administrative needs of the Association, including, but not limited to legal and accounting services;
- (D) policies of insurance insuring the Association, its Directors, and Officers against any liability to the public or to the Owners (and/or invites or Residents) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors;
- (E) materials, supplies, labor, maintenance, repairs, structural alterations, taxes or assessments which the Board of Directors is required to obtain or pay for pursuant to the terms of this Amended and Restated Declaration or by law or which is necessary or proper; and
- (F) routine maintenance and enhancement of the Common Area.

## **ARTICLE XI**

### **GENERAL POWERS AND DUTIES**

#### **OF THE BOARD OF DIRECTORS OF THE ASSOCIATION**

The Board of Directors, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the By-laws of the Association:

- (A) to execute all declarations of Ownership for tax assessment purposes and with regard to the Common Areas, if any, on behalf of the Owners;
- (B) to enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association;
- (C) to protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for repair and replacements;
- (D) to make reasonable rules and regulations for the operation of the Common Area;
- (E) to make available for inspection by Owners each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals;
- (F) to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;
- (G) to enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules;
- (H) to collect assessments including the filing of liens and institution of legal proceedings;
- (I) to establish a monetary "fines" system which shall include due process hearings and



a discretionary range of fine amounts, which, when levied, shall constitute a permitted Member Charge assessment secured by the lien herein established; and

(J) to establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses.

## ARTICLE XII

### INSURANCE AND CONDEMNATION

(A) Fire, Hazard and Casualty Insurance. Owners hereby covenant and agree to carry all-risk casualty insurance on their Lot. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original Living Unit. In the event the Living Unit is totally destroyed and the Owner determines not to rebuild or reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of the construction.

(B) Property and Public Liability Insurance With Respect to Common Area, Errors and Omissions and Indemnification.

(1) The Board of Directors shall obtain and continue in effect blanket property insurance, to insure the Common Area, naming the Association as beneficiary against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, and against vandalism.

(2) The Board of Directors shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, the Board of Directors, agents and employees, and each Owner, from and against liability in connection with the Common Area.

(3) The Board of Directors shall obtain liability insurance covering errors and omissions of directors, officers, managers, employees and representatives of the Association, and fidelity bonds for all officers and employees which have control over the receipt or disbursement of funds.

(4) The Association may indemnify directors, officers, employees and agents and may purchase indemnity insurance in accordance with the provisions of Article 2.22A of the Texas Non-profit Corporation Act.

(C) Insurance Premiums with Respect to Common Area. All costs, charges and premiums for all insurance with respect to the Common Area that the Board of Directors authorizes as provided herein shall be a common expense of all Owners and shall be part of the annual assessment.

(D) Homeowner's Insurance. Each Owner shall be responsible, at his own cost and expense, for personal liability insurance to the extent not covered by the Association and public liability insurance acquired by the Association on behalf of all Owners with respect to the Common Area.

(E) Condemnation. If part or all of the Common Area shall be taken or condemned by any authority having the power of eminent domain, any compensation and damages shall be paid to the Association. The Board of Directors shall have the exclusive right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation issues affecting such Common Area. The Owners may, by vote of seventy-five per cent (75%) or more of the total voting power hereunder, agree to distribute the proceeds of any condemnation or taking by eminent domain, to each Owner and his mortgagee, if any, as their interest may appear. In event that the Owners shall



not so agree, such proceeds shall be added to the funds of the Association, and the Association shall decide on whether or not to replace or restore, as far as possible, the Common Area so taken or damaged. The Association shall give timely notice of the existence of such proceedings to all Owners and their mortgagees, if any. The expense of participation in such proceedings shall be common expenses chargeable to the Owners.

(F) Insufficient Proceeds. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article IX, Section (B) of this Amended and Restated Declaration.

### **ARTICLE XIII**

#### **AMENDMENT**

This Amended and Restated Declaration may be amended by written instrument approved by the affirmative vote of the Members of the Association holding at least seventy-five percent (75%) of the total votes. The amendment shall be effective when it is certified by the President of the Association as to the requisite number or votes and recorded in the Official Public Records of Real Property of Bexar County, Texas. Any amendment recorded shall be conclusively presumed to have been duly adopted. Notwithstanding the foregoing, the Board of Directors shall have the right to amend this Amended and Restated Declaration, without the necessity of joinder by the Owners for the limited purposes of correcting a clerical error, clarifying an ambiguity, or removing any contradiction in the terms.

### **ARTICLE XIV**

#### **GENERAL PROVISIONS**

(A) Interpretation. If this Amended and Restated Declaration, or any word, clause, sentence, paragraph, or other part shall be susceptible to more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives shall govern. Whenever the application of the provisions of this Amended and Restated Declaration, conflicts with the application of any provision of the By-laws of the Association, the provisions or application of this Amended and Restated Declaration shall prevail.

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 Amended and Restated Declaration shall be omitted, such omission was unintentional and the omitted punctuation, word, clause, sentence or provision shall be supplied by inference. 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.

(B) Notices. Any notice required to be given to any Owner, Member or Resident shall be complete when the notice is deposited in the United States Mail, postage prepaid, and addressed to the Owner, Member or Resident at the last known address as shown by the records of the Association.

(C) Headings. The headings contained in this Declaration are for reference purpose only and shall not in any way affect the meaning or interpretation of this Declaration.



***"Amended and Restated Declaration of Covenants, Conditions and Restrictions for Castle Wood Forest Subdivision"***

**SIGNATURE PAGE**

Lot(s) Owned and Street Address(es)  
Within Subdivision:

3806 Hunters Bow  
Street Address

\_\_\_\_\_  
Street Address

1/25/04  
Date Signed

Lot Owner(s):

Mark Stone  
Signature

Mark Stone  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law STATE OF TEXAS, COUNTY OF BEXAR  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

MAY 06 2004



Gerry Rickhoff  
COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20040100030  
# Pages 84  
05/06/2004 10:29:00 AM  
Filed & Recorded in  
Official Records of  
BEXAR COUNTY  
GERRY RICKHOFF  
COUNTY CLERK  
Fees \$180.00

(Last page of 70 signature pages.)



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AFTER RECORDING, RETURN THIS INSTRUMENT TO:  
Rosemary B. Jackson  
700 N. St. Mary's, Suite 1000  
San Antonio, Texas 78205