



**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
LAKE BREEZE SECTION 3**

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FOR  
LAKE BREEZE SECTION 3**

THE STATE OF TEXAS           §  
  §  
COUNTY OF MONTGOMERY   §

THIS DECLARATION is made on the date hereinafter set forth by FRENCH QUARTER & LAKE BREEZE PROPERTIES, LLC, a Texas Limited Liability Company (hereinafter referred to as "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of the following real property located in Montgomery County, Texas (the "Property"):

**LAKE BREEZE SECTION 3, a subdivision of 18.386 acres of land situated in the Elijah Collard Survey, Abstract No. 7, Montgomery County, Texas, being a remainder of that certain called 39.079 acre tract described under Clerk's File No. 2001-080807, of the Official Public Records of Montgomery County, Texas, and according to the map or plat thereof recorded in Cabinet Z, Sheets 6096-6098, of the Map Records of Montgomery County, Texas**

and,

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of the Property for the benefit of the present and future owners of the lots therein;

NOW, THEREFORE, Declarant does hereby declare that the Property described above shall be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions hereinafter set forth.

**ARTICLE I  
DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings:

**A. ANNUAL MAINTENANCE CHARGE** - The assessment made and levied by the Association against each Owner and his Lot in accordance with the provisions of this Declaration.

**B. APPOINTED BOARD** - The Board of Directors of the Association appointed by Declarant pursuant to the provisions of Article IV, Section 4.1, of this Declaration.

**C. ARCHITECTURAL REVIEW COMMITTEE** - The Architectural Review Committee established and empowered in accordance with Article In of this Declaration.

**D. ASSOCIATION** - Lake Breeze Community Association, Inc., a Texas non-profit corporation, its successors and assigns.

**E. BOARD or BOARD OF DIRECTORS** - The Board of Directors of the Association, whether the Appointed Board, the First Elected Board or any subsequent Board.

**F. BUILDER** - A person or entity other than Declarant who either purchases a Lot within the Subdivision for the purpose of constructing a Residential Dwelling thereon or is engaged by the Owner of a Lot within the Subdivision for the purpose of constructing a Residential Dwelling on the Owner's Lot. The Architectural Review Committee has the authority to approve or disapprove a Builder prior to the commencement of construction on the basis of the experience and reputation of the Builder and the ability of the Builder to obtain (and maintain throughout the entire construction period) all insurance required to be maintained by the Builder pursuant to the Architectural Guidelines, if any. The intent of the requirement that a Builder be approved by the Architectural Review Committee prior to the commencement of construction is to attempt to ensure that the Builder has sufficient experience and financial responsibility to complete the work in accordance with the approved plans and in a timely manner. The approval of a Builder shall not be construed in any respect as a representation or warranty by the Architectural Review Committee, Declarant, the Association, or any of their representatives, to any person or entity that the Builder has any particular level of knowledge or expertise or that a Residential Dwelling constructed by the Builder shall be a particular quality. Although all Owners are required to comply with the provisions of this Declaration relating to architectural review, it is the responsibility of each person or entity that either purchases a Lot and Residential Dwelling from a Builder or engages a Builder to construct a Residential Dwelling or other Improvement on the Owner's Lot to determine the quality of that Builder's workmanship and the suitability of the Builder to construct a Residential Dwelling or other Improvement of the type and design constructed or to be constructed on the Lot.

**G. BYLAWS** - The Bylaws of the Association.

**H. CERTIFICATE OF FORMATION** - The Certificate of Formation of the Association.

**I. COMMON AREA** - Restricted Reserve A, B, C, D, E and F, as shown on the Plat, and all other real property owned by the Association for the common use and benefit of the Members of the Association, including, but not limited to, any private streets within the Subdivision.

**J. DECLARANT - FRENCH QUARTER & LAKE BREEZE PROPERTIES, LLC**, a Texas Limited Liability Company, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**K. FIRST ELECTED BOARD** - The Board of Directors of the Association first elected by the Members of the Association as provided in Article IV, Section 4.4, of this Declaration.

**L. IMPROVEMENT** - A Residential Dwelling, building, structure, fixture or fence constructed or to be constructed on a Lot; a transportable structure placed or to be placed on a Lot, whether or not affixed to the land; and an addition to, or modification of an existing Residential Dwelling, building structure, fixture or fence on a Lot.

**M. LOT or LOTS** - Each of the lots shown on the Plat.

**N. MAINTENANCE FUND** - Any accumulation of the annual maintenance charges collected by the Association in accordance with the provisions of this Declaration and interest, penalties, assessments and other sums and revenues collected by the Association pursuant to the provisions of this Declaration.

**O. MEMBER or MEMBERS** - All Lot Owners who are members of the Association as provided in Article IV hereof.

**P. MEMBER IN GOOD STANDING** - "Member in Good Standing" shall mean and refer to Declarant and (a) a Member who is not delinquent in the payment of any Annual Maintenance Charge or other assessment levied by the Association against his Lot, or any interest, late charges, costs, or reasonable attorney's fees added to such Annual Maintenance Charge or assessment under the provisions of the Declaration or as provided by law, (b) a Member who does not have any condition of his Lot which violates any provision of the Declaration, which has progressed to the stage of a certified demand for compliance by the Association, or beyond, and which remains unresolved as of the date of determination of the Owner's standing, and (c) a Member who has not failed to comply with all terms of a judgment obtained against the Member by the Association, including the payment of all sums due to the Association by virtue of such judgment.

**Q. MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Montgomery County, Texas, and creating a purchase money lien or security interest encumbering a Lot and some or all Improvements thereon.

**R. OWNER or OWNERS** - Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

**S. PLAT** - The plat for Lake Breeze, Section Three (3), recorded under Cabinet Z, Sheets 6096-6098 of the Plat Records of Montgomery County, Texas, the plat for any other section of Lake Breeze annexed and subjected to the provisions of this Declaration, and any replat thereof.

**T. PLANS** - The final construction plans and specifications (including a related site plan) of a Residential Dwelling, building or Improvement of any kind to be erected, placed, constructed, maintained or altered on any portion of the Property.

**U. PROPERTY** - All of Lake Breeze, Section Three (3), a subdivision in Montgomery County, Texas, according to the plat thereof recorded under Cabinet Z, Sheets 6096-6098 of the Plat Records of Montgomery County, Texas, and any other property that may be subjected to the Declaration by annexation document duly executed and recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**V. RESIDENTIAL DWELLING** - The single family residence and appurtenances constructed on a Lot.

**W. RULES AND REGULATIONS** - Rules adopted from time to time by the Board concerning the management and administration of the Subdivision for the use, benefit and enjoyment of the Owners.

**X. SUBDIVISION** - The Property, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto.

**Y. UTILITY COMPANY or UTILITY COMPANIES** - Any public entity, utility district, governmental entity (including without limitation, districts created under Article HE, Section 52, or Article XVI, Section 59, of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

## **ARTICLE II GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY**

### **SECTION 2.1. USE RESTRICTIONS.**

**A. GENERAL.** The Property shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration. Except in cases of a lender acquiring Lots as a result of foreclosure, no individual or entity other than a Builder shall own more than two (2) lots in the Subdivision at any given time.

**B. SINGLE FAMILY RESIDENTIAL USE.** Each Owner shall use his Lot and the Residential Dwelling on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, but without limitation, the use of a Lot for a duplex apartment, a garage apartment or any other apartment or for any

multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Residential Dwelling for residential purposes. As used herein, the term "unobtrusive" means, without limitation, that there is no business, professional, or commercial related sign, logo or symbol displayed on the Lot, there is no business, professional, or commercial related sign, logo or symbol displayed on any vehicle on the Lot, there are no clients, customers, employees or the like who go to the Lot for any business, professional, or commercial related purpose on any regular basis, and the conduct of the business, professional, or commercial activity is not otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic and the like. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents and their dependent grandparents; (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, and their dependent grandparents; and (c) in no event shall a Residential Dwelling be occupied by more persons than the product of the total number of bedrooms contained in the Residential Dwelling multiplied by two (2). No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by this Declaration; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of any provision of this Declaration or any applicable law; (v) unreasonably interfere with the use and occupancy of the Subdivision by other Owners; or (vi) generate an unreasonable amount of vehicular traffic within the Subdivision.

**C. PASSENGER VEHICLES.** Except as provided in Article II, Section 2.1. D, below, no Owner, lessee, or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on a Lot which is visible from any street in the Subdivision or any neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas and a sport utility vehicle used as a family vehicle; the term "pick-up truck" is limited to a three-quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger vehicle or pick-up truck owned or used by the residents of a Lot shall be permitted to be parked overnight on a street in the Subdivision. No guest of an Owner, lessee or other occupant of a Lot shall be entitled to park any passenger vehicle or pick-up truck overnight on a street in the Subdivision or on the driveway of a Lot for a period longer than forty-eight (48) consecutive hours. The Association shall have the right to cause a vehicle parked on a street that is part of the Common Area in violation of the provisions of this Declaration or the Rules and Regulations to be towed in the manner provided in the Texas Transportation Code.

No inoperable vehicle of any kind shall be parked, kept or stored on a Lot if visible from a street in the Subdivision, Common Area or a neighboring Lot. As used herein, a vehicle is deemed to be inoperable if it does not display all required current permits and licenses, it is on a jack or does not have fully inflated tires, or it is not otherwise capable of being legally operated on a public street or right of way.

**D. OTHER VEHICLES.** No mobile home trailer, utility trailer, recreational vehicle, boat or the like shall be parked, kept or stored on a street in the Subdivision for any length of time or on the driveway of a Lot for more than twenty-four (24) hours in any fourteen (14) day period unless parking on a driveway is otherwise permitted in writing by the Board of Directors due to special circumstances (such as, by way of example and not in limitation, a recreational vehicle owned by a relative or guest that is visiting the Owner or occupant of a Lot) but then only at the location and for the duration specified by the Board.

**E. VEHICLE REPAIRS.** No passenger vehicle, pick-up truck, motorcycle, mobile home trailer, recreational vehicle, utility trailer, boat or other vehicle of any kind shall be constructed, reconstructed, or repaired on a Lot if visible from a street within the Subdivision or another Lot and then only if the work is not a nuisance to surrounding residents due to noise, light, odor and the like.

**F. NUISANCES.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to a Lot and no odors shall be permitted to arise therefrom, so as to render the Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or to its occupants. No nuisance shall be permitted to exist or operate upon a Lot. For purposes hereof, a nuisance is a condition or activity that is offensive to a person of ordinary sensibilities. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on a Lot. The Board of Directors of the Association shall have the authority to determine whether any activity or condition on a Lot constitutes a nuisance and its reasonable, good faith determination shall be conclusive and binding on the Owner and occupant of the Lot.

**G. TRASH; TRASH CONTAINERS.** No garbage or trash, or garbage or trash container, shall be maintained on a Lot so as to be visible from a street within the Subdivision or any neighboring Lot except to make the same available for collection and then only the shortest time reasonably necessary to effect such collection. Garbage and trash made available for collection shall be placed in tied trash bags or covered containers, or as otherwise provided in a trash disposal contract entered into by the Association.

**H. CLOTHES DRYING.** No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on a Lot. No clothes shall be aired or dried outside if visible from a street in the Subdivision or a neighboring Lot.

**I. RIGHT TO INSPECT.** During reasonable hours, Declarant, any member of the Architectural Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect a Lot, and the exterior of the Improvements thereon, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

**J. ANIMALS.** No animals or birds, other than a maximum of two (2) generally recognized house or yard pets, shall be maintained on a Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. The maximum aggregate weight of two (2) full grown pets maintained on a Lot shall not exceed eighty pounds (80 lbs.) No exotic animal or breed of animal that is commonly recognized to be inherently aggressive or vicious toward other animals and/or humans is permitted in the Subdivision. Each dog must be kept either in the Residential Dwelling or other Improvement on the Lot or in a yard fully enclosed by a fence. An "invisible" fence that controls pets through underground electrical wiring is an acceptable form of maintaining a dog in the yard of a Lot. No unleashed dog is permitted on a street in the Subdivision or on the Common Area. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from a street in the Subdivision or another Lot. The Board shall have the authority to determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, is exotic, inherently aggressive and/or vicious, or a nuisance, or whether the number of animals or birds kept on a Lot is reasonable, and its determination shall be conclusive and binding on all parties.

**K. DISEASES AND INSECTS.** No Owner shall permit any thing or condition to exist upon a Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

**L. RESTRICTION ON FURTHER SUBDIVISION.** No Lot shall be further subdivided and no portion less than all of a Lot shall be conveyed to another party.

**M. SIGNS.** No sign shall be erected or maintained on a Lot except:

- (i) Street signs and such other signs as may be required by law;
- (ii) During the time of construction of a Residential Dwelling or other Improvement on a Lot (defined to be from the date that construction commences until the fourteenth day after substantial completion of the Residential Dwelling or other Improvement), one (1) job identification sign not larger than three (3) square feet and not extending more than three (3) feet above the ground;

(iii) Ground-mounted political signs; provided that, only one (1) sign for each candidate or ballot item shall be displayed on a Lot and no sign shall be displayed on a Lot earlier than the 90th day before the date of the election to which the sign relates or longer than the day after the election date; and

(iv) Home security signs and/or school spirit signs, if approved by the Architectural Review Committee, and then only in strict accordance with any Architectural Guidelines governing such signs.

No "For Sale" or "For Lease" sign shall be displayed on a Lot or a Residential Dwelling or other Improvement on a Lot.

**N. EXEMPTIONS.** Nothing contained in this Declaration shall be construed to prevent Declarant, or its duly authorized agents, from erecting or maintaining structures or signs necessary or convenient to the development, advertisement, sale, operation or other disposition of property within the Subdivision. Moreover, any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or Improvements thereon may erect signs on Lots owned by Declarant to identify such lender and the fact that it is supplying such financing.

## **SECTION 2.2. DECORATION, MAINTENANCE, ALTERATION AND REPAIRS.**

**A. DECORATIONS.** Subject to the provisions of Article III, each Owner shall have the right to modify, alter, repair, decorate, redecorate or improve the Residential Dwelling on such Owner's Lot, provided that all such action is performed with a minimum inconvenience to other Owners and does not constitute a nuisance. Notwithstanding the foregoing, the Architectural Review Committee shall have the authority to require any Owner to remove or eliminate any object situated on such Owner's Residential Dwelling or Lot that is visible from any street in the Subdivision or any other Lot, if, in the Architectural Review Committee's sole judgment, such object detracts from the visual attractiveness of the Subdivision.

**B. MAINTENANCE AND REPAIR.** No Residential Dwelling or other Improvement on a Lot shall be permitted to fall into disrepair, and each such Residential Dwelling or other Improvement on a Lot shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner of the Lot at such Owner's sole cost and expense. The Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot and the Residential Dwelling and other Improvements on the Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Director's reasonable, good faith determination shall be conclusive and binding on all parties. In the event the Owner of a Lot fails to keep the exterior of the Residential Dwelling or other Improvement on the Lot in good condition and repair, and such failure continues after not less than ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon the Lot and repair and/or paint the exterior of the Residential Dwelling or

other Improvement on the Lot and otherwise cause the Residential Dwelling or other Improvement on the Lot to be placed in good condition and repair, and do every other thing necessary to secure compliance with this Declaration, and may charge the Owner of the Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirty-first (31st) day after a written invoice is delivered to the Owner.

### **SECTION 2.3. TYPE OF CONSTRUCTION AND MATERIALS.**

**A. TYPES OF STRUCTURES.** No structures shall be erected, altered, placed or permitted to remain on a Lot other than (i) one detached, single family dwelling not to exceed the height limitations set forth in Section 2.4, paragraph B, together with an attached or detached private garage or a carport and (ii) permitted accessory buildings, all of which are subject to approval by the Architectural Review Committee. No permitted accessory building shall exceed six (6) feet in height, measured from the ground to the highest point of the accessory building. An accessory building must be located in the rear yard of the Lot and within the applicable building setbacks.

**B. STORAGE.** Unless otherwise approved in writing by the Architectural Review Committee, no building materials of any kind or character shall be placed or stored upon a Lot more than thirty (30) days before the construction of a Residential Dwelling or other Improvement is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. After the commencement of construction of a Residential Dwelling or Improvement on a Lot, the work thereon shall be prosecuted diligently, to the end that the Residential Dwelling or Improvement shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event, substantial completion of a Residential Dwelling on a Lot must be achieved within two hundred ten (210) days of the date of commencement of construction of the Residential Dwelling; substantial completion of any other Improvement on a Lot must be achieved within sixty (60) days of the date of commencement of construction of the Improvement, unless a longer period is approved in writing by the Architectural Review Committee. For purposes hereof, construction of a Residential Dwelling or other Improvement shall be deemed to have commenced on the date that any equipment or building material relating to such construction is moved onto the Lot. Also for purposes hereof, a Residential Dwelling shall not be deemed to be substantially completed until the date an occupancy permit is issued by any governmental authority having jurisdiction or, if no such occupancy permit is required, the date the Residential Dwelling is ready to be occupied; any other Improvement shall not be deemed to be substantially completed until the date the Improvement is capable of being used for its intended purpose. Upon the completion of the construction, any unused materials shall be removed immediately from the Lot.

**C. TEMPORARY STRUCTURES.** No structures of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, tent, shack, barn or any other structure or building, other than the permanent Residential Dwelling to be built thereon, an attached or detached garage, a carport and one (1) or more accessory building(s) approved by the Architectural Review Committee shall be placed on a Lot, either temporarily or permanently, and no residence house, garage or other structure appurtenant thereto, shall be moved upon a Lot from another location. No accessory building shall have a ground floor area that exceeds sixty-four (64) square feet. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit Builders to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings and construction of other Improvements in the Subdivision.

**D. CARPORTS/GARAGES.** No garage or carport shall be constructed on a Lot without the prior written consent of the Architectural Review Committee. All carports and garages must be constructed in strict accordance with uniform specifications therefor promulgated by Declarant. No garage or carport shall be placed or maintained on an easement. No carport or garage, whether constructed on a Lot at the time of original construction of the Residential Dwelling or thereafter, may be modified so as to deviate from the uniform specifications therefor promulgated by Declarant.

**E. AIR CONDITIONERS.** No window, roof or wall type air conditioner that is visible from a street in the Subdivision or a neighboring Lot, shall be used, placed or maintained on or in a Residential Dwelling, garage or other Improvement on a Lot.

**F. ANTENNAS.** Satellite dish antennas which are forty inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided they are installed in the least obtrusive location that allows reception of an acceptable quality signal. All other antennas are prohibited unless expressly authorized in any recorded Architectural Guidelines and then only in strict accordance with such recorded Architectural Guidelines.

**G. FOUNDATIONS.** Not more than thirty inches (30") of vertical surface of the concrete slab of a Residential Dwelling shall be exposed to view from a street in the Subdivision or an adjacent Lot. A slab in excess of thirty inches (30") in height above finished grade shall have at least the excess in height covered either with the same type, quality and grade of siding or masonry material used in the construction of the Residential Dwelling or with a planting bed. A Residential Dwelling with a pier and beam foundation shall have all mechanical, electrical, plumbing lines and fixtures located thereunder screened from view from a street in the Subdivision or an adjacent Lot. The Architectural Review Committee, in its sole discretion, shall have the authority to determine the adequacy of any screening device or technique.

**H. EXTERIOR FINISH.** The exterior of the front of the Residential Dwelling on each Lot must be comprised of not less than fifty-one percent (51%) brick or masonry material. For purposes of this provision, stucco, including synthetic stucco, Hardi plank or similar material shall be considered a masonry material. All brick, stonework and mortar must be approved by the Architectural Review Committee as to type, size, color and application. No concrete, concrete block or cinder block shall be used as an exposed building surface. Any concrete, concrete block or cinder block utilized in the construction of a Residential Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Residential Dwelling. Metal flashing, valleys, vents and gutters installed on a Residential Dwelling shall blend with the color of the exterior materials to which they are adhered or attached.

**I. EXTERIOR LIGHTING.** All exterior lighting on a Lot must be approved by the Architectural Review Committee as to type, location and illumination. No exterior lighting shall be directed toward another Lot or illuminate beyond the boundaries of the Lot on which the lighting fixture is located.

**J. MAILBOXES.** It is anticipated that cluster, as opposed to individual, mailboxes will be used in the Subdivision. If individual mailboxes are used, all such mailboxes shall be of a standard design approved by the Architectural Review Committee. If cluster mailboxes are used, an individual mailbox on a Lot is prohibited.

**K. ROOFS.** The Architectural Review Committee shall have the right to establish specific requirements for the pitch of any roof and the type of roofing materials which may be utilized for a Residential Dwelling. No solar or other energy collection panel, equipment or device shall be installed or maintained on a Lot or Residential Dwelling, including, without limitation, the roof of a Residential Dwelling, if visible from a street at ground level. All such vents, stacks and other projections from the roof of a Residential Dwelling shall, to the extent possible, be located on the rear roof of such Residential Dwelling.

**L. WINDOW TREATMENTS AND DOORS.** Reflective glass shall not be permitted on the exterior of a Residential Dwelling or other Improvement. No foil or other reflective materials shall be installed on any windows or used for sunscreens, blinds, shades or other purposes except as approved in writing by the Architectural Review Committee. Burglar bars or doors shall not be permitted on the exterior of any windows or doors. Screen doors shall not be used on the front or side of a Residential Dwelling. No aluminum or metal doors with glass fronts (e.g., storm doors) shall be allowed on the front of a Residential Dwelling. Drapes, linings and all other types of window coverings which are visible from a street in the Subdivision or a neighboring Lot must be white or beige in color or some other neutral color approved by the Architectural Review Committee.

**M. UTILITY METERS AND HVAC EQUIPMENT.** All electrical, gas, telephone and cable television meters shall be located, to the extent possible, in the least obtrusive location. All exterior heating, ventilating and air-conditioning compressor units and equipment shall be located

at the rear of the Residential Dwelling or at the side of the Lot screened from view in a manner approved by the Architectural Review Committee.

**N. PLAY STRUCTURES.** One (1) free-standing play structure is permitted on a Lot with the prior written approval of the Architectural Review Committee; provided that, in no event shall a permitted play structure exceed twelve (12) feet in height, measured from the ground to the highest point of the play structure and in no event shall a platform of a play structure extend above the ground by more than five (5) feet. The canopy on a play structure, if any, shall be a solid color approved by the Architectural Review Committee; a multi-colored canopy is not permitted. A play structure on a Lot must be located within the rear yard behind a fence in accordance with the applicable side and rear building setbacks; provided that, in no event shall any part of a play structure be located nearer to a fence, Residential Dwelling or garage than four (4) feet. A free standing play structure shall not be deemed to be an accessory building for purposes of Section 2.3A of this Declaration.

**O. LANDSCAPING.**

- (1) The entirety of the front yard of a Lot and any portion of a side or rear yard of a Lot outside a fence shall be sodded with grass within thirty (30) days of the date of substantial completion of a Residential Dwelling on the Lot. Rock or similar hardscape may be incorporated into the landscaping if approved in writing by the Architectural Review Committee; provided that, a solid rock yard or similar type of hardscape is not permitted in the front yard of a Lot or in the side yard of a Lot if visible from the street in front of the Lot at ground level or, if a corner Lot, the side street adjacent to the Lot at ground level or if visible from Common Area at ground level.
- (2) No hedge or shrubbery shall be placed or permitted to remain on a Lot if such hedge or shrubbery interferes with traffic sight-lines for streets within the Subdivision. The determination of whether any such obstruction exists shall be made by the Architectural Review Committee and its reasonable, good faith determination shall be conclusive and binding on all Owners.
- (3) No rocks, rock walls or other substances shall be placed on a Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. No bird baths, foundations, reflectors, flag poles, statues, lawn sculptures, artificial plants, rock gardens, rock walls, freestanding bird houses or other fixtures and accessories shall be placed or installed within the front yard of a Lot, or in the side yard of a lot if visible from a street, without the prior written approval of the Architectural Review Committee.

- (4) No vegetable, herb or similar gardens or plants shall be planted or maintained in the front yard of a Lot or in the side yard of a Lot if visible from a street in the Subdivision or Common Area.
- (5) No Owner shall allow the grass on his Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground.
- (6) Seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall be removed from each Lot or Residential Dwelling or other Improvement on a Lot within thirty (30) days after the holiday passes.
- (7) No Owner or occupant of a Lot shall plant any plants, flowers, herbs, vegetables, shrubbery or trees on any portion of the Common Area.

**P. SWIMMING POOLS AND OTHER AMENITY STRUCTURES.** Swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools, playhouses, and other amenity structures may be constructed, installed, and maintained on a Lot subject to the prior written approval of the plans for the same by the Architectural Review Committee. The Architectural Review Committee shall have the right to adopt further Rules and Regulations governing the construction of swimming pools, other outdoor water features or amenities within the Subdivision. A permanent, above-ground swimming pool is not permitted on a Lot.

**Q. DRIVEWAYS AND SIDEWALKS.** The driveway on a Lot and any sidewalk on a Lot that is visible from a street in the Subdivision shall be constructed of concrete; other materials (e.g., brick) may be used but only if approved by the Architectural Review Committee. All driveways and all sidewalks which are visible from the street in front of the Lot at ground level or, if a corner Lot, the side street adjacent to the Lot at ground level, shall be paved; chert, gravel and loose stone driveways and visible sidewalks are prohibited. No driveway or sidewalk shall be painted or stained without the prior written approval of the Architectural Review Committee. The driveway within the boundaries of a Lot, and any portion of a driveway serving a single Lot which extends from the Lot across an unpaved portion of a street, if any, shall be maintained by the Owner of the Lot. All sidewalks within Common Area shall be maintained by the Association; all other sidewalks shall be maintained by the Owner of the Lot on which the sidewalk is situated.

**R. LOT MAINTENANCE.** The Owner or occupant of a Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner. In no event shall an Owner use a Lot for storage of materials and equipment (except for normal residential requirements or incident to construction of Improvements thereon as herein permitted) or permit the accumulation of garbage, trash or rubbish of any kind thereon. An Owner shall not burn any leaves, trash, debris or the like on a Lot. The Owner or occupant of a Lot at the intersection of streets where the rear yard or portion of the Lot is visible to full public view, shall construct and maintain a suitable enclosure approved in writing by the Architectural Review Committee to screen yard equipment, wood piles and storage piles that are incident to the normal residential requirements of a typical family from public view.

Until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, Declarant shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision, and Declarant's determination shall be conclusive and binding on all parties; thereafter, the Board of Directors shall have the exclusive authority to determine whether an Owner is maintaining his Lot in a reasonable manner and in accordance with the standards of the Subdivision and the Board of Directors' determination shall be conclusive and binding on all parties. In the event the Owner or occupant of a Lot fails to maintain the Lot in a reasonable manner as required by this Section and such failure continues after not less than ten (10) days written notice from the Association, the Association may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the Lot to be mowed, edged and cleaned, cause the landscaping beds to be weeded and cleaned, cause shrubs and trees to be trimmed or pruned, and do every other thing necessary to secure compliance with the provisions of this Declaration, and may charge the Owner of such Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirtieth (30th) day after a written invoice is delivered to the Owner.

**S. EXTERIOR COLORS.** Iridescent colors or tones considered to be brilliant are not permissible. For the purpose of this paragraph, "brilliant" is construed to mean a color that is not in the general texture of both the overall community and natural setting of the Subdivision. The purpose of this covenant is to maintain harmony of the exterior paint colors of the Residential Dwellings and other Improvements throughout the Subdivision. All colors used on the exterior of a Residential Dwelling on a Lot must be consistent with the colors used at the time of original construction, it being the express intent of Declarant to preserve the original color scheme for Residential Dwellings in the Subdivision.

**T. BASKETBALL GOALS.** No pole-mounted or wall or roof mounted basketball goal shall be installed on a Lot without the prior written approval of the Architectural Review Committee. Upon reviewing an application for a pole-mounted or wall or roof mounted basketball goal, the Architectural Review Committee is expressly authorized to consider, in addition to all other factors, the location of the proposed basketball goal in relation to the Residential Dwelling on an adjacent Lot and the potential impact of the proposed basketball goal on the Owner or occupant of an adjacent Lot with regard to noise. A portable basketball goal may not be located nearer to the front property line than either the front wall of the Residential Dwelling or the building setback applicable to the Lot, whether or not in use.

**U. STORAGE OF PERSONAL PROPERTY.** Items of personal property including, without limitation, lawn furniture, barbecue grills, toys, automobile parts and accessories, tools, lawn equipment and similar items must be kept out of view from the street in front of the Lot and, if a corner lot, the side street and from the Common Area.

**SECTION 2.4. SIZE AND LOCATION OF RESIDENCES.**

**A. MINIMUM ALLOWABLE AREA OF INTERIOR LIVING SPACE.** The minimum allowable area of interior living space for a Residential Dwelling shall be:

All Lots	Single story	1,500 square feet
	Two story	2,000 square feet with a minimum 1,200 square feet in the ground level

For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies, and garages.

**B. MAXIMUM ALLOWABLE HEIGHT OF BUILDING.** No Residential Dwelling shall exceed a height of thirty-five (35) feet measured from to the highest point of the Residential Dwelling, excluding a chimney. A chimney shall not extend above the peak of the roof of the Residential Dwelling by more than two (2) feet unless otherwise required by a governmental entity having jurisdiction. No Residential Dwelling shall have more than two (2) stories of living space above finished grade.

**C. LOCATION OF IMPROVEMENTS - SETBACKS.** No Residential Dwelling, garage or Improvement on a Lot other than fencing and/or landscaping approved by the Architectural Review Committee shall be located nearer to the front building line than that shown on the Plat. No Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping on a Lot shall be located nearer to the rear property line than three (3) feet. No Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping on a Lot shall be located nearer to a side property line than three (3) feet, except a corner Lot in which case no Residential Dwelling, garage or Improvement other than approved fencing and/or landscaping shall be located nearer to the side property line adjacent to the side street than that shown on the Plat. Notwithstanding the foregoing, the Architectural Review Committee may grant variances from these setbacks, in the manner provided in Article III, Section 3.12, when, in its sole discretion, a variance is deemed necessary or appropriate.

**D. LOCATION OF FACADE.** All Residential Dwellings constructed on Lots 1-28, in Block 2, Section 3 of the Subdivision shall require the front facade of the Residential Dwelling to face the Boardwalk (Reserve "D").

**SECTION 2.5. WALLS, FENCES AND DOCKS.**

**A. FENCES.** Except as provided in Section 2.5C, below, no fence or wall on a Lot shall be constructed of chain link or wire. No fence or wall shall be located nearer to the street in front of the Lot than the front wall of the Residential Dwelling. No fence or wall shall be located nearer to the side street adjacent to a corner Lot than the side wall of the Residential Dwelling. No fence or wall shall exceed six (6) feet in height. No hedge or pergola that serves as a fence or wall shall be allowed

to grow more than seven (7) feet in height. In addition, a hedge or pergola that serves as a fence or wall must comply with the provisions of this section relating to the location of a fence or wall on a Lot. Materials utilized for (including the color thereof) and the location of all fences and walls must be approved by the Architectural Review Committee; provided that, all replacement fences must be white and the materials used in the construction of a fence which replaces a fence constructed at the time of original construction of the Residential Dwelling must be visually compatible with the materials used to construct the original fence.

**B. MAINTENANCE OF FENCES.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and it shall be the Lot Owner's responsibility to maintain such wall or fence. If a fence is located on the property line separating two (2) Lots, the Owners of the two (2) Lots shall have equal responsibility to maintain, repair and/or replace the fence. In the event the Owner or occupant of a Lot fails to maintain a wall or fence and such failure continues after thirty (30) days' written notice thereof from the Association, Declarant, its successors or assigns, or the Association, may, at their option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the fence or wall to be repaired or maintained or to do any other thing necessary to secure compliance with this Declaration, and to place said wall or fence in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner agrees by the purchase of such Lot to pay such charge to the Association, plus fifty percent (50%) of such costs for overhead and supervision, immediately upon receipt of the corresponding statement. Payment of such charges shall be added to the Owner's assessment account and secured by the lien created in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirtieth (30th) day after a written invoice is delivered to the Owner. A replacement fence must be the same height as the previously existing fence and constructed with the same materials used to construct the previously existing fence unless otherwise approved in writing by the Architectural Review Committee.

**C. FENCES ERECTED BY DECLARANT.** Declarant shall have the right, but not the obligation, to construct fences and/or berms within or around the Subdivision which are deemed by the Declarant to enhance the appearance of the Subdivision, including, but not limited to, a two (2) rail fence along the perimeter of the Subdivision. An Owner shall be responsible for any damage to a fence or wall constructed by or at the direction of the Declarant which is caused by such Owner or his family members, or the negligent, but not the intentional, acts of his guests, agents or invitees. The Association shall maintain the area between the fence erected along the perimeter of the Subdivision and the paved public right of way.

Notwithstanding the foregoing, if substantial completion of a Residential Dwelling on a Lot is effected prior to the commencement of construction of a Residential Dwelling on an adjacent Lot, Declarant shall have the right, but not the obligation, to erect a chain link, plastic, wire or similar type of fence on the Lot on which the Residential Dwelling that is substantially complete exists for the maximum period of time specified herein. The purpose of this provision is to allow a temporary fence to be erected to avoid damage to the permanent fencing which would otherwise be required

once the construction of a Residential Dwelling on the adjacent Lot commences. Any such temporary fence erected by Declarant must be erected within sixty (60) days of the date of substantial completion of the Residential Dwelling on the Lot. For the purpose of this provision, "substantial completion" means the date the Residential Dwelling is ready for occupancy. Any temporary fence erected on a Lot by Declarant pursuant to this paragraph must be replaced with a permanent fence (a) within 300 days of the date that the fence is erected, if the construction of a Residential Dwelling on the adjacent Lot has not commenced as of the expiration of such 300 day period, or (b) at the time of substantial completion of the Residential Dwelling on the adjacent Lot, if the construction of the Residential Dwelling on the adjacent Lot commences prior to the expiration of the 300 day period. If Declarant commences the construction of permanent fencing along one perimeter of the Subdivision (i.e., parallel to one of the streets adjacent to the Subdivision), Declarant shall not be obligated to erect fencing along any other perimeter of the Subdivision until Residential Dwellings on all Lots along that perimeter of the Subdivision have been substantially completed.

**D. PLAN OF DEVELOPMENT FOR DOCKS ALONG ADJACENT WATERWAYS; OTHER ENVIRONMENTAL MATTERS.**

**Construction of Docks and Bulkheads.** Owners of Lots fronting on Lake Conroe shall be permitted to erect docks where approved by governmental authority with jurisdiction thereof:

- (1) **Plans and Specifications: Siting.** Complete plans and specifications including, color or finish must be submitted to the Architectural Review Committee in writing for approval in accordance with Article III and must conform to the architectural standards therefor adopted by the Architectural Review Committee in conformity with construction, siting and other conditions established by any governmental authority with jurisdiction issuing any such construction, siting or other conditions.
- (2) **Governmental Approval of Docks.** Owners shall comply with all applicable governmental regulations, laws and ordinances for obtaining approval from agencies having approval authority, including, but not limited to, the San Jacinto River Authority. No representation is made by Declarant that any such agency approval will be granted, nor shall any such representation be inferred from the matters set forth herein.
- (3) **Alteration of Docks.** Any alterations of the plans and specifications or of the completed structure must also be submitted to the Architectural Review Committee in writing and the Architectural Review Committee's approval in writing must be similarly secured prior to construction, the Architectural Review Committee being granted the same rights to disapprove alterations as it retains for disapproving the original structures. Governmental approval of any such alteration shall be undertaken and completed as may be required by the original permit therefor and by applicable regulations.

- (4) **Maintenance of Docks.** All Owners who construct, or cause to be constructed, docks as herein provided, must maintain said structures in good repair and keep the same safe, clean and orderly in appearance at all times, and further agree, if required by the Architectural Review Committee, to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings, and to maintain such paint or preservatives in an attractive manner. The Architectural Review Committee shall be the judge as to whether the docks are clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards as may be adopted therefor by the Architectural Review Committee, and where the Architectural Review Committee notifies the particular Owner in writing that said dock fails to meet acceptable standards, said Owner shall thereupon remedy such conditions within thirty (30) days of notice from and to the satisfaction of the Architectural Review Committee, and that failing to so remedy such conditions, each affected Owner hereby covenants and agrees that the Architectural Review Committee may make the necessary repairs, but is not obligated to do so, or take such actions as will bring said dock up to acceptable standards, all such repairs and actions to be at the sole expense of the Lot Owner in question and a lien upon his Lot as a specific Assessment.

## **SECTION 2.6. RESERVATIONS AND EASEMENTS.**

**A. UTILITY EASEMENTS.** Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all necessary utility systems including systems of electric light and power supply, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it shall be expressly permissible for the Utility Companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, under the land within the utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 2.6.A., no utilities or appurtenances thereto may be installed or relocated on the Subdivision until approved by Declarant or the Board.

**B. ADDITIONAL EASEMENTS.** Declarant reserves the right to impose further restrictions and dedicate additional easements and roadway rights of way by instrument recorded in the Official Public Records of Real Property of Montgomery County, Texas or by express provisions in conveyances, with respect to Lots that have not been sold by Declarant.

**C. CHANGES TO EASEMENTS.** Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility systems.

**D. MINERAL RIGHTS.** It is expressly agreed and understood that the title conveyed by Declarant to a Lot or parcel of land in the Subdivision by contract, deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas, sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or upon said easements or any part thereof to serve said Lot or parcel of land or any other portions of the Subdivision. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the fact that the title conveyed by Declarant to a Lot or parcel of land in the Subdivision by contract, deed, or other conveyances shall not be held or construed to include the title to oil, gas, coal, lignite, uranium, iron ore or any other minerals, Declarant shall have no surface access to the Property for mineral purposes.

**E. DRAINAGE.** Except as shown on the drainage plan for the Subdivision, no Owner of a Lot shall be permitted to construct Improvements on such Lot or to grade such Lot or permit such Lot to remain in or be placed in such condition that water on such Lot drains to any other Lot. The Declarant may, but shall not be required to, install drainage inlets or underground drains within the utility easement on one or more Lots. If so, no Owner shall in any manner obstruct or interfere with such drainage system. All portions of the private storm sewer system within the Subdivision shall be maintained by the Association. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing replacing, repairing and maintaining all portions of the private storm sewer system.

**F. COMMON AREA.** The Common Area is reserved for the common use, benefit and enjoyment of the Owners, subject to such reasonable Rules and Regulations governing the use thereof as may be promulgated by the Association. An Owner's right to use the Common Area is appurtenant to title to a Lot. Each Owner shall observe and comply with any reasonable Rules and Regulations promulgated and published by the Association relating to the Common Area and shall be deemed to acknowledge and agree that all such Rules and Regulations, if any, are for the mutual and common benefit of all Owners.

**G. ELECTRIC DISTRIBUTION SYSTEM.** An electric distribution system will be installed in the Subdivision, which service area embraces all of the Lots which are platted in the Subdivision. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the underground residential subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the

requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as service is maintained, the electric service to each dwelling unit therein shall be uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Subdivision is being developed for residential dwelling units, consisting solely of homes, all of which are designed to be permanently located where originally constructed which are built for sale or rent. The provisions of the two preceding paragraphs also apply to any future residential development in Lake Breeze.

**H. REAR YARDS.** The rear yard of Lots within the Subdivision may be enclosed by a fence at the time of original construction of the Residential Dwelling. In certain instances, the area enclosed by a fence for the use and benefit of the Owner or occupant of a particular Lot may include a portion of an adjacent Lot. The portion of the adjacent Lot enclosed by a fence at the time of original construction shall be shown on a survey attached to the deed conveying the Lot to the Owner who is entitled to the use and benefit of such area. The area shall also be shown on a survey attached to the deed conveying the subject Lot. In all instances in which the area enclosed by a fence for the use and benefit of the Owner or occupant of a particular Lot includes a portion of an adjacent Lot, there is hereby established and dedicated for the use of the Owner of each Lot a limited perpetual easement over and upon that portion of the adjacent Lot enclosed by a fence and depicted in the surveys attached to the deeds. Each easement is for the purpose of planting grass, flowers and shrubbery, and maintaining and repairing the fence thereon. The Owner of the Lot subject to the easement shall not have the right to remove or relocate the fence or otherwise interfere with the adjacent Lot Owner's right to use the easement. In the event that the portion of the fence on a Lot which solely benefits the owner of the easement requires repair and/or replacement, it shall be the responsibility of the owner of the easement to repair and/or replace the fence at his sole cost and expense and in accordance with Section 2.5, paragraph A, of the Declaration. The maintenance, repair and replacement of that portion of the fence enclosing the rear of a Lot which benefits not only

the owner of the easement, but also the Owner of the Lot, shall be the responsibility of both Owners and the cost of repairing and replacing any such portion of the fence shall be shared equally.

**I. SIDEWALKS.** Declarant shall have the right, but not the obligation, to construct a sidewalk on Lots parallel to the perimeter boundary of the Subdivision for use by all Owners, their tenants, invitees and guests. If such a sidewalk is constructed the sidewalk on each Lot shall be maintained by the Association. There is hereby established and dedicated for the use and benefit of the Association limited perpetual easements upon and across each Lot on which such a sidewalk is constructed for the purposes of providing to the Association ingress and egress to maintain, repair and replace the sidewalk.

### **ARTICLE III ARCHITECTURAL APPROVAL**

**SECTION 3.1. ARCHITECTURAL REVIEW COMMITTEE.** The Architectural Review Committee shall be comprised of three (3) members, all of whom shall be appointed by Declarant, except as otherwise set forth herein. Declarant shall have the continuing right to appoint all three (3) members until the earlier of (a) the date the last Lot owned by Declarant is sold (except in connection with a conveyance to another party that is a successor Declarant), or (b) such date as the Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint all members of the Architectural Review Committee. As long as Declarant has the authority to appoint members of the Architectural Review Committee, members of the Architectural Review Committee may be, but need not be, Members of the Association. After Declarant's authority to appoint members of the Architectural Review Committee ceases, members of the Architectural Review Committee must be Members of the Association. Members of the Architectural Review Committee appointed by Declarant may be removed at any time and shall serve until resignation or removal by Declarant. Members of the Architectural Review Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

**SECTION 3.2. APPROVAL OF IMPROVEMENTS REQUIRED.** In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the development, to establish and preserve a harmonious design for the development, and to protect and promote the value of the Property, the Lots and Residential Dwellings and all Improvements thereon, no Improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on a Lot or Residential Dwelling or other Improvement by any Owner, other than Declarant, which affect the exterior appearance of a Lot or Residential Dwelling or other Improvement unless plans and specifications therefor have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article. Without limiting the foregoing, the construction and installation of a Residential Dwelling, sidewalk, driveway, deck, patio, landscaping, swimming pool, tennis court, greenhouse, playhouse, awning, wall, fence, exterior light, garage, carport, guest or servant's quarter, garage or any other Improvement, shall not be undertaken, nor shall any exterior addition to or

change or alteration be made (including, without limitation, painting or staining of any exterior surface) to a Residential Dwelling or Improvement, unless the plans and specifications for the same have been submitted to and approved by the Architectural Review Committee in accordance with the terms and provisions of this Article.

The Architectural Review Committee is hereby authorized and empowered to approve all plans and specifications and the construction of all Residential Dwellings and other Improvements on any part of the Property and the Builder of such Improvements. Prior to the commencement of a Residential Dwelling or other Improvement on a Lot or Residential Dwelling, the Owner thereof shall submit to the Architectural Review Committee plans and specifications and related data for all such Improvements, which shall include, as appropriate, the following:

- (1) A check in the amount of the then applicable Submission Fee, if any, made payable to "Lake Breeze Community Association, Inc. "
- (2) Two (2) copies of an accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Residential Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, patios and outbuildings and the relationship of the same to any setback requirements applicable to the Lot or Residential Dwelling.
- (3) Two (2) copies of a foundation plan, floor plans and exterior elevation drawing of the front, back, and sides of the Residential Dwelling to be constructed on the Lot.
- (4) Two (2) copies of written specifications and, if requested by the Architectural Review Committee, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Residential Dwelling on such Lot or any other Improvements thereto, including, without limitation, the type and color of all brick, stone, stucco, roofing and other materials to be utilized on the exterior of a Residential Dwelling and the color of paint or stain to be used on all doors, shutters, trim work and eaves on the exterior of such Residential Dwelling.
- (5) Two (2) copies of the lighting plan, including specifications, for any exterior lighting to be utilized with respect to such Lot or Residential Dwelling.
- (6) Two (2) copies of the landscaping and irrigation plans prior to the installation of any landscaping or irrigation.
- (7) A written statement of the estimated date of commencement, if the proposed Improvement is approved, and the estimated dated of completion.

- (8) Such other plans, specifications or other information or documentation as may be required by the Architectural Guidelines.

The Architectural Review Committee shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. One copy of all plans, specifications and related data so submitted to the Architectural Review Committee shall be retained in the records of the Architectural Review Committee and the other copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". The Architectural Review Committee may establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof ("the Submission Fee").

Notwithstanding the foregoing, Declarant acknowledges that one (1) or more Builders may acquire multiple Lots in the Subdivision for the purpose of constructing Residential Dwellings thereon and that the design of some of the Residential Dwellings (i.e., the basic floor plan and exterior elevations) may be repeated. In that event, the Builder shall not be required to submit a full set of plans and specifications each time a particular floor plan or model is repeated. Rather, the Builder shall submit whatever plans are deemed necessary by the Architectural Review Committee upon the initial submission of a particular floor plan or model but, thereafter, each time the same Residential Dwelling is to be constructed, the Builder shall only be required to submit to the Architectural Review Committee the floor plan or model number.

The Architectural Review Committee shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the Architectural Guidelines, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed Improvement with the scheme of development proposed for the Subdivision, objection to the location of any proposed Improvements on any such Lot or Residential Dwelling, objection to the landscaping plan for such Lot or Residential Dwelling, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole judgment of the Architectural Review Committee, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Review Committee shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot or Residential Dwelling shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements or Residential Dwelling. Approval of plans and specifications by the Architectural Review Committee for Improvements to one particular Lot or Residential Dwelling shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve similar plans and specifications of any of the features or elements for the Improvements for any other Lot or Residential Dwelling within the Subdivision.

Any revisions, modifications or changes in any plans and specifications previously approved by the Architectural Review Committee must be approved by the Architectural Review Committee in the same manner specified above.

If construction of the Residential Dwelling or the Improvements has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing framing and other related construction work) within ninety (90) days of approval by the Architectural Review Committee of the plans and specifications for such Residential Dwelling or other Improvements, then no construction may be commenced (or continued) on such Lot or Residential Dwelling and the Owner of such Lot or Residential Dwelling shall be required to resubmit all plans and specifications for a Residential Dwelling or other Improvements to the Architectural Review Committee for approval in the same manner specified above.

**SECTION 3.3. ADDRESS OF COMMITTEE.** The address of the Architectural Review Committee shall be at the principal office of the Association or such other address as may be designated from time to time by the Architectural Review Committee by notice recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 3.4. ARCHITECTURAL GUIDELINES.** The Architectural Review Committee may from time to time promulgate, supplement or amend the Architectural Guidelines, which provide an outline of minimum acceptable standards for proposed Improvements; provided, however, that such outline will serve as a minimum guideline only and the Architectural Review Committee may impose other requirements in connection with its review of any proposed Improvements. If the Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall control.

**SECTION 3.5. FAILURE OF COMMITTEE TO ACT ON PLANS.** Any request for approval of a proposed Improvement on a Lot shall be deemed approved by the Architectural Review Committee, unless disapproval or a request for additional information or materials is transmitted to the applicant by the Architectural Review Committee within forty-five (45) days after the date of receipt by the Architectural Review Committee of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines.

**SECTION 3.6. PROSECUTION OF WORK AFTER APPROVAL.** After approval of any proposed Improvement on a Lot, the proposed Improvement shall be prosecuted diligently and continuously and shall be completed within the time frame approved by the Architectural Review Committee and in strict conformity with the description of the proposed Improvement in the materials submitted to the Architectural Review Committee. No building materials shall be placed upon a Lot until the Owner is ready to commence construction. Owners shall keep the job site and

all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot shall be properly disposed of at least weekly. In no event shall any used construction material be buried on or beneath a Lot or Residential Dwelling. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any street. All construction vehicles must be parked on the Lot or in areas designated by the Architectural Review Committee. Construction on a Lot is permitted only between the hours of 7:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday. No Improvement on a Lot shall be deemed completed until the exterior fascia and trim on the structure has been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Residential Dwelling, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

**SECTION 3.7. NOTICE OF COMPLETION.** Promptly upon completion of the Improvement on a Lot, the applicant shall deliver a notice of completion ("Notice of Completion") to the Architectural Review Committee and, for all purposes hereunder, the date of receipt of such Notice of Completion by the Architectural Review Committee shall be deemed to be the date of completion of such Improvement, provided that the Improvement is, in fact, completed as of the date of receipt of the Notice of Completion.

**SECTION 3.8. INSPECTION OF WORK.** The Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement on a Lot before or after completion.

**SECTION 3.9. NOTICE OF NONCOMPLIANCE.** If, as a result of inspections or otherwise, the Architectural Review Committee finds that any Improvement on a Lot has been constructed or undertaken without obtaining the approval of the Architectural Review Committee, or has been completed other than in strict conformity with the description and materials furnished by the applicant to the Architectural Review Committee, or has not been completed within the required time period after the date of approval by the Architectural Review Committee, the Architectural Review Committee shall notify the applicant in writing of the noncompliance ("Notice of Noncompliance"), which notice shall be given, in any event, within sixty (60) days after the Architectural Review Committee receives a Notice of Completion from the applicant. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the applicant to take such action as may be necessary to remedy the noncompliance. If the applicant does not comply with the Notice of Noncompliance within the period specified by the Architectural Review Committee, the Association may, acting through the Board, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the real property on which the noncompliance exists in the Official Public Records of Real Property of Montgomery County, Texas; (b) remove the noncomplying Improvement on the Lot; and/or (c) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question), and, if the Board elects to take any action with respect to such violation, the applicant shall reimburse the Association upon demand for all expenses incurred therewith. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Board to

take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise. Any expenses incurred by the Association as a result of the applicant's noncompliance shall be charged to the applicant's assessment account and collected in the same manner as provided in Article V.

**SECTION 3.10. FAILURE OF COMMITTEE TO ACT AFTER NOTICE OF COMPLETION.** If, for any reason other than the applicant's act or neglect, the Architectural Review Committee fails to notify the applicant of any noncompliance within sixty (60) days after receipt by the Architectural Review Committee of a written Notice of Completion from the applicant, the Improvement on a Lot shall be deemed in compliance if the Improvement on a Lot in fact was completed as of the date of Notice of Completion; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the Architectural Guidelines, the Architectural Review Committee at all times retaining the right to object to any Improvement on a Lot that violates this Declaration or the Architectural Guidelines.

**SECTION 3.11. NO IMPLIED WAIVER OR ESTOPPEL.** No action or failure to act by the Architectural Review Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Architectural Review Committee or the Board of Directors, with respect to any Improvement on a Lot. Specifically, the approval by the Architectural Review Committee of any Improvement on a Lot shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement on another Lot or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement on a Lot by such person or otherwise.

**SECTION 3.12. POWER TO GRANT VARIANCES.** The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article II of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of Improvements on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

**SECTION 3.13. COMPENSATION OF ARCHITECTURAL REVIEW COMMITTEE MEMBERS.** The members of the Architectural Review Committee shall be entitled to reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

**SECTION 3.14. ESTOPPEL CERTIFICATES.** Except with respect to Improvements originally constructed by Declarant, the Board of Directors, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Committee, shall furnish a certificate with respect to the approval or disapproval of any Improvement on a Lot or with respect to whether any Improvement on a Lot was made in compliance herewith. Any person, without actual notice of any falsity or inaccuracy of such a certificate, shall be entitled to rely on such certificate with respect to all matters set forth therein.

**SECTION 3.15. NONLIABILITY FOR ARCHITECTURAL REVIEW COMMITTEE ACTION.** None of the members of the Architectural Review Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Furthermore, none of the members of the Architectural Review Committee, any member of the Board of Directors, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Review Committee, the Board of Directors, or otherwise.

**SECTION 3.16. CONSTRUCTION PERIOD EXCEPTION.** During the course of actual construction of any permitted structure or Improvement on a Lot, and provided construction is proceeding with due diligence, the Architectural Review Committee may temporarily suspend the provisions of Article II contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Subdivision.

**SECTION 3.17. SUBSURFACE CONDITIONS.** The approval of plans and specifications by the Architectural Review Committee for a Residential Dwelling or other Improvement on a Lot shall not be construed in any respect as a representation or warranty by the Architectural Review Committee or Declarant to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility

of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of a Lot for the construction of any contemplated Improvements thereon.

**SECTION 3.18. LANDSCAPING.** No landscaping, grading, excavation or fill work of any nature should be implemented or installed by any Owner other than Declarant on a Lot unless and until landscaping plans therefor have been submitted to and approved by the Architectural Review Committee in accordance with the provisions of this Article III.

#### **ARTICLE IV MANAGEMENT AND OPERATION OF SUBDIVISION**

**SECTION 4.1. MANAGEMENT BY ASSOCIATION.** The affairs of the Subdivision shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Subdivision as herein provided for and as provided for in the Certificate of Formation, Bylaws and Rules and Regulations. The business and affairs of the Association shall be managed by its Board of Directors. The Declarant shall determine the number of directors and appoint, dismiss and reappoint all of the members of the Board until the First Meeting of the Members of the Association is held in accordance with the provisions of Section 4.4 and a Board of Directors is elected. The Appointed Board may engage the Declarant or any entity, whether or not affiliated with Declarant, to perform the day to day functions of the Association and to provide for the maintenance, repair, replacement, administration and operation of the Subdivision. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with the provisions of this Declaration, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest.

**SECTION 4.2. MEMBERSHIP IN ASSOCIATION.** Each Owner, whether one or more persons or entities, of a Lot shall, upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

**SECTION 4.3. VOTING OF MEMBERS.** The Association shall have two classes of membership.

**Class A.** Class A Members shall be all those Owners as defined in Section 4.2, with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership in Section 4.2. When more than one (1) person holds interest in a Lot, all such persons shall be Members.

**Class B.** The Class B Members shall be Declarant, its successors and assigns, and any party to whom Declarant has conferred Class "B" Member status by executing and recording a notice of same in the Official Public Records of Real Property of Montgomery County, Texas. Declarant shall have the authority to terminate Class "B" Member status previously conferred upon a party at any time, as deemed by Declarant to be appropriate, by recording a notice in the Official Public Records of Real Property of Montgomery County, Texas. The termination of Class "B" Member status previously conferred upon a party by Declarant shall in no way effect Declarant's status as a Class "B" Member. A Class B Member shall be entitled to eight (8) votes for each Lot in which it holds the interest required for membership by Section 4.2; provided, however, that the Class B membership shall cease and be converted to Class A membership at the conclusion of the meeting at which the First Elected Board is elected, as provided in Section 4.4, or on any earlier date elected by Declarant and evidenced by a written notice thereof recorded in the Official Public Records of Real Property of Montgomery County, Texas.

In the event that ownership interests in a Lot are owned by more than one Class "A" Member of the Association, such Class "A" Members shall exercise their right to vote in such manner as they may among themselves determine, but in no event shall more than one (1) vote be cast for each Lot owned. Such Owners shall appoint one of them as the Member who shall be entitled to exercise the vote of that Lot at any meeting of the Association. Such designation shall be in writing to the Board and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Member of the Association and no single Member is designated to vote on behalf of the Members having an ownership interest in such Lot, the single Member exercising the vote for such Lot shall be deemed to have been designated as the Member entitled to exercise the vote for that Lot. All Members of the Association may attend meetings of the Association and all Members may exercise their vote at such meetings either in person or by proxy. Any person who occupies a Residential Dwelling on a Lot in the Subdivision but is not an Owner may attend meetings of the Association and serve on committees (other than the Architectural Review Committee after Declarant's authority to appoint the members of the Architectural Review Committee ceases) and, if authorized by the Bylaws, serve on the Board of Directors of the Association. Cumulative voting shall not be permitted.

**SECTION 4.4. MEETINGS OF THE MEMBERS.** The first meeting of the Members of the Association ("First Meeting") shall be held when called by the appointed Board upon not less than ten (10) and not more than fifty (50) days written notice to the Members. Such written notice may be given at any time but must be given not later than thirty (30) days after all of the Lots subject to this Declaration have been sold by Declarant and by all other parties to whom Class "B" Member status has been conferred by Declarant, as evidenced by a deed recorded in the Official Public Records of Real Property of Montgomery County, Texas for each Lot. The First Elected Board shall be elected at the First Meeting of the Members of the Association. Thereafter, annual and special meetings of the Members of the Association shall be held at such place and time and on such dates as shall be specified or provided in the ByLaws.

**SECTION 4.5. PROFESSIONAL MANAGEMENT.** The Board shall have the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the construction, maintenance, repair, landscaping, administration and operation of the Subdivision as provided for herein and as provided for in the Bylaws.

**SECTION 4.6. BOARD ACTIONS IN GOOD FAITH.** Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

**SECTION 4.7. STANDARD OF CONDUCT.** The Board of Directors, the officers of the Association, and the Association shall have the duty to represent the interests of the Owners in a fair and just manner. Any act or thing done by any Director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the Declaration, Certificate of Formation, ByLaws and the laws of the State of Texas, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing shall not be a breach of duty on the part of the Director, officer or committee member if taken or done within the exercise of their discretion and judgment. The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, officer or committee member. A court shall not re-examine the decisions made by a Director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith and in what the Director, officer, or committee member believed to be in the best interest of the Association.

## **ARTICLE V MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND**

**SECTION 5.1. MAINTENANCE FUND.** All Annual Maintenance Charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Board, at its discretion, for the benefit of the Subdivision and the Owners of Lots therein. The Board shall, by way of illustration and not by way of limitation, expend the Maintenance Fund for the administration, management, and operation of the Subdivision; for the maintenance, repair and improvement of the Common Area; for the maintenance of any easements granted to the Association; for the enforcement of the provisions of this Declaration by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Subdivision and the Lots therein. The Board and its individual members shall not be liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings.

**SECTION 5.2. COVENANTS FOR ANNUAL MAINTENANCE CHARGES AND ASSESSMENTS.** Subject to Article V, Section 5.7, below, each and every Lot in the Subdivision is hereby severally subjected to and impressed with an Annual Maintenance Charge or assessment in an amount to be determined annually by the Board, which Annual Maintenance Charge shall run with the land. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the Annual Maintenance Charges and assessments against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The Annual Maintenance Charges and assessments herein provided for, together with late charges, interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each Annual Maintenance Charge or assessment, together with late charges, interest, costs, and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such Annual Maintenance Charge or assessment accrued, but no Member shall be personally liable for the payment of any Annual Maintenance Charge or assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such Annual Maintenance Charge or assessment by waiver of the use or enjoyment of the Common Areas, or any part thereof, or by abandonment of his Lot or his interest therein.

**SECTION 5.3. BASIS AND MAXIMUM ANNUAL ASSESSMENT.** Until January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment shall be \$750.00 per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot from Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be automatically increased, effective January 1 of each year, by an amount equal to a ten percent (10%) increase over the prior year's maximum Annual Maintenance Charge or assessment without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum Annual Maintenance Charge or assessment may be increased more than ten percent (10%) above the prior year's maximum Annual Maintenance Charge or assessment only if approved by the vote of not less than two-thirds (2/3) of each class of Members. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the Annual Maintenance Charge or assessment at an amount not in excess of the maximum Annual Maintenance Charge or assessment established pursuant to this section. Except as otherwise expressly provided in this Declaration, the Annual Maintenance Charge or assessment levied against each Lot shall be uniform.

**SECTION 5.4. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT.** The initial maximum Annual Maintenance Charge or assessment provided for herein shall be established as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant. However, the Annual Maintenance Charge or assessment shall commence as to each Lot on the date of the conveyance of the Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. On or before the 30th day of

November in each year, the Board of Directors of the Association shall fix the amount of the Annual Maintenance Charge or assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the Annual Maintenance Charge or assessment shall be sent to every Owner. Provided that, the failure to fix the amount of an Annual Maintenance Charge or assessment or to send written notice thereof to all Owners shall not affect the authority of the Association to levy Annual Maintenance Charges or assessments or increase Annual Maintenance Charges or assessments as provided in this Declaration. Rather, until the Board of Directors fixes the amount of an Annual Maintenance Charge for a particular year, the Annual Maintenance Charge applicable in the prior year shall remain in effect.

**SECTION 5.5. SPECIAL ASSESSMENTS.** If the Board at any time, or from time to time, determines that the Annual Maintenance Charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by this Declaration, then the Board shall have the authority to levy such special assessments ("Special Assessments") as it shall deem necessary to provide for such continued maintenance and operation. No Special Assessment shall be effective until the same is approved by the vote of not less than a majority of each class of Members present and voting, in person or by proxy, at the meeting of the Members called for that purpose at which a quorum is present. Any such Special Assessment shall be payable in the manner determined by the Board and the payment thereof shall be subject to interest, late charges, costs and attorney fees, shall be secured by the continuing lien established in Section 5.2 of this Article, and may be enforced in the manner herein specified for the payment of the Annual Maintenance Charges.

**SECTION 5.6. ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE/SUBORDINATION OF LIEN.** The Annual Maintenance Charge assessed against each Lot shall be due and payable, in advance, on the date of the sale of such Lot by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each January thereafter, provided that the Board of Directors have the sole discretion to allow an Annual Maintenance Charge to be paid in monthly or quarterly installments. Any Annual Maintenance Charge which is not paid and received by the Association by the thirty-first (31st) day of each January thereafter or other due date established by the Board shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate allowed by law, whichever is less, from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent Annual Maintenance Charge or Special Assessment. The monthly late charge, if imposed, shall be in addition to interest. To secure the payment of the Annual Maintenance Charge, Special Assessments and any other sums levied hereunder (including, without limitation, interest, late fees, costs, attorney's fees or delinquency charges), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all Improvements thereon for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section 5.6 and the superior title herein reserved shall be deemed subordinate to any Mortgage for the purchase of a Lot and any renewal, extension, rearrangements or refinancing thereof. The collection of such Annual Maintenance Charge, Special Assessment and other sums due

hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Notice of the lien referred to in the preceding paragraph may, but shall not be required to, be given by recording an affidavit in the Official Public Records of Real Property of Montgomery County, Texas, which affidavit shall be duly executed, and acknowledged by an authorized representative of the Association, and shall set forth the amount owed, the name of the Owner or Owners of the affected Lot according to the books and records of the Association, and the legal description of such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid Annual Maintenance Charges, Special Assessments and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time hereafter). In addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (or to such other person duly appointed by the Association to act as trustee, whether substitute, successor or otherwise) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid Annual Maintenance Charges, Special Assessments and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the office of the Official Public Records of Real Property of Montgomery County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as same may hereafter be amended. 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 the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer.

**SECTION 5.7. SUMS PAYABLE BY DECLARANT.** So long as there is Class B membership in the Association, Declarant shall pay to the Association each year a sum equal to any deficiency in the operating budget. Commencing with the assessment year next following the year in which Class B membership in the Association ceases, Declarant shall pay to the Association, for each Lot owned by Declarant, the amount of the Annual Maintenance Charge applicable to all other Lots. So long as there is Class "B" membership in the Association, a Builder shall pay, for each Lot owned,

an amount equal to one-half (½) of the Annual Maintenance Charge applicable to other Lots; thereafter, a Builder shall pay, for each Lot owned, an amount equal to the Annual Maintenance Charge applicable to all other Lots.

**SECTION 5.8. NOTICE OF SUMS OWING.** Upon the written request of an Owner, the Association shall provide to such Owner a written statement setting out the then current total of all Annual Maintenance Charges, Special Assessments and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as same may be identified by said Owner to the Association in the written request for such information. The Association shall be entitled to charge the Owner a reasonable fee for such statement.

**SECTION 5.9. FORECLOSURE OF MORTGAGE.** In the event of a foreclosure of a Mortgage on a Lot that is superior to the continuing lien created for the benefit of the Association pursuant to Section 5.2 of this Article, the purchaser at the foreclosure sale shall not be responsible for Annual Maintenance Charges, Special Assessments, or other sums, if any, which accrued and were payable to the Association by the prior Owner of the Lot, but said purchaser and its successors shall be responsible for Annual Maintenance Charges, Special Assessments, and other sums, if any, becoming due and owing to the Association with respect to said Lot after the date of foreclosure.

**SECTION 5.10. TRANSFER FEES/RESALE CERTIFICATES.** The Board of Directors of the Association shall establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing information in connection with the sale of a Lot in the Subdivision and changing the ownership records of the Association ("Transfer Fee"). A Transfer Fee shall be paid to the Association or the managing agent of the Association, if agreed to by the Association, upon each transfer of title to a Lot. The Transfer Fee shall be paid by the purchaser of the Lot, unless otherwise agreed by the seller and purchaser of the Lot. The Association shall also have the authority to establish and change from time to time, if deemed appropriate, a fee sufficient to cover the expense associated with providing a Resale Certificate in connection with the sale of a Lot (payable to the Association or the managing agent of the Association, if agreed to by the Association). The fee for a Resale Certificate shall be in addition to, not in lieu of, the Transfer Fee.

## **ARTICLE VI INSURANCE; SECURITY**

**SECTION 6.1. GENERAL PROVISIONS.** The Association shall, to the extent reasonably available, have and maintain (a) commercial general liability insurance in an amount determined by the Board covering all occurrences commonly insured against for death, bodily injury and property damage, (b) Directors' and Officers' liability insurance in an amount determined by the Board, and (c) worker's compensation insurance on all Association employees. Other insurance may be obtained if determined by the Board to be necessary or desirable. All premiums for insurance shall be an expense of the Association which shall be paid out of the Maintenance Fund.

**SECTION 6.2. INDIVIDUAL INSURANCE.** Each Owner, tenant or other person occupying a Residential Dwelling, shall be responsible for insuring his Lot and his Residential Dwelling, its contents and furnishings. Each Owner, tenant or other person occupying a Residential Dwelling, shall, at his own cost and expense, be responsible for insuring against the liability of such Owner, tenant or occupant.

**SECTION 6.3. INDEMNIFICATION OF ASSOCIATION.** Each Owner shall be responsible for any costs incurred as a result of such Owner's negligence or misuse or the negligence or misuse of his family, tenants, guests, invitees, agents, employees, or any resident or occupant of his Residential Dwelling, and by acceptance of a deed to a Lot does hereby indemnify the Association, its officers, directors and agents, and all other Owners against any such costs.

**SECTION 6.4. SECURITY.** THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND ATTORNEYS, ("ASSOCIATION AND RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. THE ASSOCIATION AND RELATED PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. OWNERS, LESSEE AND OCCUPANTS OF ALL LOTS, ON BEHALF OF THEMSELVES, AND THEIR GUESTS AND INVITEES, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. OWNERS, LESSEES, AND OCCUPANTS OF LOTS ON BEHALF OF THEMSELVES, AND THEIR GUESTS AN) INVITEES, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT AN INSURER AND THAT EACH OWNER, LESSEE AND OCCUPANT OF A LOT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL DWELLINGS AND TO THE CONTENTS OF THEIR RESIDENTIAL DWELLING AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING

DEVICES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

**ARTICLE VII  
FIRE OR CASUALTY; REBUILDING**

**SECTION 7.1. REBUILDING.** In the event of a fire or other casualty causing damage or destruction to the Residential Dwelling or other Improvement on a Lot, the Owner of such damaged or destroyed Residential Dwelling or other Improvement shall, within ninety (90) days after such fire or casualty (or such longer period if agreed to in writing by the Board of Directors of the Association) contract to repair or reconstruct the damaged portion of the Residential Dwelling or other Improvement and shall cause the Residential Dwelling or other Improvement to be fully repaired or reconstructed in accordance with the original plans therefor, or in accordance with new plans presented to and approved by the Architectural Review Committee, and shall promptly commence repairing or reconstructing the Residential Dwelling or other Improvement, to the end that the Residential Dwelling shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. Alternatively, such damaged or destroyed Residential Dwelling or other Improvement shall be razed and the Lot restored as nearly as possible to its original condition within ninety (90) days of its damage or destruction (or such longer period if agreed to in writing by the Board of Directors of the Association). In the event that the repair and reconstruction of the Residential Dwelling or other Improvement has not been commenced within ninety (90) days after such fire or casualty (or such longer period if agreed to in writing by the Board of Directors of the Association) and the damaged or destroyed Residential Dwelling or other Improvement has not been razed and the Lot restored to its original condition, the Association and/or any contractor engaged by the Association, upon thirty (30) days written notice to the Owner at the Owner's last known mailing address according to the records of the Association, shall have the authority but not the obligation to enter upon the Lot, raze the Residential Dwelling or other Improvement and restore the Lot as nearly as possible to its original condition. Any costs incurred by the Association to raze the Residential Dwelling or other Improvement and to restore the Lot to its original condition, plus fifty percent (50%) of such costs for overhead and supervision, shall be charged to the Owner's assessment account and collected in the manner provided in Article V of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum or the maximum, non-usurious rate, whichever is less, shall begin to accrue on such sum on the thirtieth (30th) day after the date that a written invoice therefor is mailed to the Owner at the last known mailing address of the Owner according to the records of the Association.

**ARTICLE VIII  
AMENDMENT, DURATION, ANNEXATION AND MERGER**

**SECTION 8.1. AMENDMENT.** For a period of five (5) years after the date this Declaration is recorded, Declarant shall have the authority to amend this Declaration, without the joinder or consent of any other party, so long as an amendment does not adversely affect any substantive rights of the Lot Owners. After the expiration of the five (5) year period, Declarant shall have the right to amend

this Declaration, without the joinder or consent of any other party, for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors, or omissions; provided, however, any such amendment shall be consistent with and in furtherance of the general plan and scheme of development for the Subdivision. In addition, the provisions of this Declaration may be amended at any time by an instrument in writing signed by the Secretary of the Association certifying that Owners representing not less than two-thirds (2/3) of the Lots have approved such amendment, in writing, setting forth the amendments, and duly recorded in the Official Public Records of Real Property of Montgomery County, Texas; provided that, until the First Meeting of the Members of the Association, as provided in Section 4.4 of this Declaration, an amendment of this Declaration must also be approved in writing by Declarant. Provided further that, without the joinder of Declarant, no amendment may diminish the rights of or increase the liability of Declarant under this Declaration. In the event that there are multiple Owners of a Lot, the written approval of an amendment to this Declaration may be reflected by the signature of a single Co-Owner. Any legal challenge to the validity of an amendment to this Declaration must be initiated by filing a suit not later than one (1) year after the date the amendment document is recorded in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 8.2. DURATION.** The provisions of this Declaration shall remain in full force and effect until January 1, 2030, and shall be extended automatically for successive ten (10) year periods; provided however, that this Declaration may be terminated on January 1, 2030, or on the commencement of any successive ten year period by filing for record in the office of the Official Public Records of Real Property of Montgomery County, Texas, an instrument in writing signed and acknowledged by Owners representing not less than seventy-five percent (75%) of the Lots in the Subdivision.

**SECTION 8.3. ANNEXATION.** Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, without the consent of the Members, within ten (10) years of the date that this Declaration is recorded in the Official Public Records of Real Property of Montgomery County, Texas. Thereafter, additional land may be annexed and subjected to the provisions of this Declaration only with the consent of not less than two-thirds (2/3) of the Members of the Association present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. The annexation of additional land shall be effective upon filing of record an annexation instrument in the Official Public Records of Real Property of Montgomery County, Texas.

**SECTION 8.4. MERGER.** Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the merging or consolidating associations as one scheme. No such merger or consolidation shall effect any revocation, change or addition to the provisions of this Declaration.

**ARTICLE IX  
MISCELLANEOUS**

**SECTION 9.1. SEVERABILITY.** In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

**SECTION 9.2. NUMBER AND GENDER.** Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

**SECTION 9.3. ARTICLES AND SECTIONS.** Article and section headings in this Declaration are for convenience of reference and shall not affect the construction or interpretation of this Declaration. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

**SECTION 9.4. DELAY IN ENFORCEMENT.** No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

**SECTION 9.5. LIMITATION OF LIABILITY.** Notwithstanding anything provided herein to the contrary, neither the Declarant, the Architectural Review Committee, the Association, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in any Plans submitted, reviewed, or approved in accordance with the provisions of Article HI above, (b) any defects, structural or otherwise, in any work done according to such Plans, (c) the failure to approve or the disapproval of any Plans, submitted by an Owner for approval pursuant to the provisions of Article YU, (d) the construction or performance of any work related to such Plans, (e) bodily injuries (including death) to any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or occupant, or other damage to a Residential Dwelling, Improvements or the personal property of any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or occupant, which may be caused by, or arise as result of, any defect, structural or otherwise, in a Residential Dwelling or Improvements or the Plans thereof or any past, present or future soil and/or subsurface conditions, known or unknown and (f) any other loss, claim, damage, liability or expense, including court costs and attorney's fees suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of a Lot, Residential Dwelling, or any other Improvements situated thereon.

**SECTION 9.6. ENFORCEABILITY.** The provisions of this Declaration shall run with the Subdivision and shall be binding upon and inure to the benefit of and be enforceable by Declarant, the Association, each Owner of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. If notice and an opportunity to be heard are given, the Association shall be entitled to impose reasonable fines for violations of this Declaration, or any Rules and Regulations adopted by the Association or any Architectural Guidelines adopted by the Architectural Review Committee pursuant to any authority conferred by either of them by the provisions of this Declaration and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the provisions of this Declaration. Such fines, fees and costs may be added to the Owner's assessment account and collected in the manner provided in Article V of this Declaration.

**SECTION 9.7. REMEDIES.** In the event any one or more persons, firms, corporations or other entities shall violate or attempt to violate any of the provisions of this Declaration, the Declarant, the Association, or an Owner may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on this the 2nd day of January, 2020, to become effective upon recording in the Official Public Records of Real Property of Montgomery County, Texas.

DECLARANT:

**FRENCH QUARTER & LAKE BREEZE  
PROPERTIES, LLC**

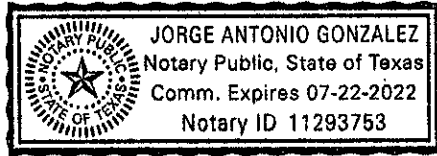
  
\_\_\_\_\_  
**JOHN R. CHRISTIE a/k/a JACK  
CHRISTIE, Sole Manager/Director**


STATE OF TEXAS

§  
§  
§

~~COUNTY OF MONTGOMERY~~  
**HARRIS Co**

This instrument was acknowledged before me on this the 2<sup>ND</sup> day of January, 2020, by JOHN R. CHRISTIE a/k/a JACK CHRISTIE, Sole Manager/Director of FRENCH QUARTER & LAKE BREEZE PROPERTIES, LLC, a Texas Limited Liability Company, on behalf of said company.




  
\_\_\_\_\_  
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:  
**FRENCH QUARTER & LAKE  
BREEZE PROPERTIES, LLC  
2040 N. Loop 336 W., Ste. 216  
Conroe, Texas 77304**

FILED FOR RECORD

01/07/2020 02:57PM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

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

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number sequence on the date and time stamped herein by me and was duly RECORDED in the Official Public Records of Montgomery County, Texas.

01/07/2020



County Clerk  
Montgomery County, Texas