

**OAK GROVE HOMEOWNERS' ASSOCIATION, INC. AMENDMENT
TO DECLARATION OF COVENANTS AND RESTRICTIONS
FORMERLY KNOWN AS MARINA DEL REY TOWNHOMES**

This DECLARATION amends and replaces the OAK GROVE HOMEOWNERS' ASSOCIATION DECLARATION OF COVENANTS AND RESTRICTION amended by the Board on May 23, 1996 and recorded in the Real Property Records of Tarrant County, Texas under Document No. D197055429, and originally declared on June 21st 1978 by MICO CORPORATION, a Texas Corporation, L & N CONSULTANTS, INC., a Nevada corporation and recorded in Volume 5983, Page 701, of the Deed Records of Tarrant County, Texas.

WITNESSETH:

Whereas, the Lomas & Nettleton Company has heretofore made, declared and established a Declaration of Covenants and Restrictions (Declarations) as and for the plan of dwelling ownership and management of Marina Del Rey Townhomes (now known as OAK GROVE ADDITION), being the property and improvements hereinafter described in the Plat recorded on July 24, 1972 in the Real Property Records of Tarrant County, Texas, under Document No. D172081946 and any improvements thereon.

Whereas, a resolution adopting this Amendment has been approved by Members holding two-thirds (2/3) of the votes, all pursuant to the terms of the Declaration; and Whereas, it is deemed desirable to create an agency to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

Whereas, Declarants have caused to be incorporated under the laws of the State of Texas as a non-profit corporation, OAK GROVE HOMEOWNERS' ASSOCIATION, INC., to provide for the preservation, administration, and maintenance of portions of the Property, and to protect the value, desirability, and attractiveness of the Oak Grove Addition, as more fully described in this Declaration and the other Governing Documents described below.

Now therefore, Declarant hereby DECLARES that the Property (and any improvements thereon) described in the Plat attached hereto and incorporated by reference, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, which run with the Property and bind all parties having or acquiring any right, title, or interest in any part of the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of any part of the Property

**ARTICLE I.
BASIC INFORMATION**

Amendment Date: _____

Association: Oak Grove Homeowners Association, Inc., a Texas nonprofit corporation. (Formerly Marina Del Rey Townhomes)

Declarant's/Association's Address: 1616 Choteau Cr., Grapevine, Texas 76051

ARTICLE II. DEFINITIONS

In addition to the other defined terms herein, the following terms shall have the following meanings:

“ACC” means the Architectural Control Committee established in this Declaration.

“Applicable Law” means all federal, state and local laws, ordinances, regulations, or rules, applicable to the person, circumstance and/or property addressed in the provision of this Declaration in which the term appears.

“Association” and/or “Corporation” means OAK GROVE HOMEOWNERS ASSOCIATION, INC.

“Assessment” means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration, including both Regular and Special Assessments.

“Board” means the Board of Directors of the Association.

“Bylaws” means the Bylaws of the Association adopted by the Board.

“Common Areas” means those portions of the Property (and any improvements thereon) that have been designated by the Declarant and/or the Board as Common Areas for the common use of all Owners. The “Common Areas” as of the date of this Declaration are legally described as:

OAK GROVE ADDITION Block B Lot 20 & 21 COMMON AREA

“Common Area Expenses” means all expenses incurred in the operation, improvement and maintenance of the Common Areas, including, but not limited to, insurance premiums, Property Manager fees, landscaping expenses, costs of repair and upkeep, and capital expenditures for projects approved by the Board in accordance with the provisions of the Governance Documents.

“Covenants” means the covenants, conditions, and restrictions contained in this Declaration, and any amendment and/or supplement thereto.

“Declaration” means this Declaration of Covenants & Restrictions for the Oak Grove Addition

“Design Standards” means the set of standards for the design and construction of Structures, and the design for landscaping, applicable to all Lots.

“Easements” means Easements designated on the Plat for access, utilities, drainage, and other purposes as shown on the Plat.

“Governing Documents” means the Plat, Declaration, Certificate of Formation, Bylaws, Rules & Regulations, Design Standards, and other Policy documents, as the same may be amended from time to time.

“Lot” means each tract of land designated as a Lot on the Plat.

"Majority" means more than fifty percent (50%).

“Member” means Owner.

“Owner” means every record Owner of a fee interest in a Lot, other than the Association.

“Plat” means the Plat recorded on July 24, 1972 in the Real Property Records of Tarrant County, Texas, under Document No. D172081946 and any improvements thereon and any replat of or amendment to the Plat.

“President” means President of the Homeowners’ Association

“Property” and “Oak Grove Addition” mean the Property described in the Plat, and any and all improvements thereon. The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

“Rules” means the rules or regulations adopted by the Board for the operation, maintenance and use of the Common Areas; for the safety, benefit and welfare of the Owners; or to otherwise carry out the powers and duties granted under the Governing Documents.

“Real Property Records” means the real property records of the county or counties in which the Subdivision is located.

“Structure” means any improvement on a Lot, including, but not limited to, a building, home, residence, shed, barn, gazebo, playhouse, greenhouse, porch, carport, outbuilding, fence, wall, paved outdoor seating and/or entertainment area, driveway, sidewalk, pathway, walkway, swimming pool, hot tub, Jacuzzi, pond, or stock tank.

“Subdivision” means the Property covered by the Plat and any additional property made subject to this Declaration.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

ARTICLE III. INSTITUTION OF CLAUSES AND COVENANTS

A. Imposition of Covenants; Authority of Declarant

1. Declarant is the Owner of all the Lots and imposes this Declaration on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to this Declaration and the other Governing Documents.
2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.
3. Each Owner and occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, including the Easements, is part of this Declaration and is incorporated by reference.
2. The Board has the use and control of the Easements. An Owner may use that portion of the Owner's Lot lying within an Easement for any purpose that does not unreasonably interfere with the purpose of the Easement.
3. No Easement holder is liable for damage to landscaping or a Structure in an Easement that arises from the use of the Easement by the Easement holder for the purpose of the Easement.
4. Each Easement holder may install, maintain, and connect facilities in the Easements. Owners do not own any facilities located in an Easement.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for one attached single-family townhome dwelling not to exceed three (3) stories in height and private garage and/or carport. A lot may be used only for residential purposes, with the following exception:
 - a. *Limited Business Use:* A resident may use a home for reasonable business uses, such as telecommuting, personal business, and professional pursuits, provided that: (1) the uses are incidental to the primary use of the dwelling as a residence; (2) the uses conform to applicable governmental ordinances; (3) the uses do not entail visits to the Lot by employees or the public; and (4) the uses do not interfere with the residential use and enjoyment of the Subdivisions by other residents.
2. *Occupancy.* Other than the completed principal dwelling, no thing or Structure on a lot may be occupied as a residence at any time by any person. This prohibition applies, without limitation, to garages, vehicles, mobile homes, campers, RV's, and storage sheds.
3. *Prohibited Activities.* Prohibited activities are—
 - a. any activity that is in violation of the Governing Documents or the Rules;
 - b. any activity prohibited by Applicable Law;
 - c. any nuisance, noxious, or offensive activity;
 - d. any dumping of rubbish;
 - e. any storage of:
 - i. building materials except during the construction, repair or renovation of a Structure with the appropriate ACC approval;
 - ii. vehicles, except operable vehicles in accordance with applicable Rules, or vehicles located within a Structure; or
 - iii. junk, broken and disused objects, and similar items, that create an unsightly appearance;
 - iv. items that constitute a threat to the safety of persons or property, including toxic or volatile chemicals, unless they are customarily used in the business operated on the Lot, and are properly used and stored in accordance with manufacturer's directions, industry standards and best practices, to mitigate the risk of harm.
 - f. any exploration for or extraction of oil, gas or minerals;

- g. any drilling of wells for the extraction or production of groundwater whether for his personal use or for sale, without the consent of the Board;
 - h. any keeping or raising of animals, livestock, or poultry, except for common domesticated household pets, such as dogs and cats, not to exceed three (3) provided they are not kept, bred, or maintained for any commercial purposes.
 - i. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
 - j. moving a previously constructed house onto a Lot, except with ACC approval;
 - k. installing a tent, or temporary structure on a Lot, except with Board approval;
 - l. interfering with a drainage pattern without ACC approval;
 - m. filing a request for a variance, zoning amendment, or other modification to existing zoning or land use restrictions or regulations applicable to a Lot, without ACC approval;
 - n. occupying a Structure that does not comply with the Design Standards or is otherwise in violation of the Governing Documents.
4. *Driveways.* The driveway portion of a Lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage or car port. Without the Board's prior approval, a driveway may not be used: (1) for storage purposes, including storage of boats, trailers, RV's and inoperable vehicles; or (2) for repair or restoration of vehicles.
5. *Screening barriers.* No fence, wall, hedge or planting shall be located nearer to any front, rear, or side lot lines than the building set-back lines without prior approval by the Architectural Control Committee.
6. *Screening.* The ACC may require that the following items must be screened from the view of the public and neighboring Lots and dwellings, if any of these items exists on a Lot: (1) satellite reception equipment; (2) clotheslines, drying racks, and hanging clothes, linens, rugs, or textiles of any kind; (3) yard maintenance equipment; (4) wood piles and compost piles; (5) garbage cans and refuse containers; and (6) anything determined by the Board to be unsightly or inappropriate for a residential subdivision. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period of time is permitted for the plants to reach maturity as an effective screen. As used in this Section, "screened from view" refers to the view of a person in a passenger vehicle driving on a street or alley, or the view of a person of average height standing in the middle of a yard of an adjoining Lot.
7. *Signage.* No signs may be kept or placed up on any Lot or common area, or mounted, painted or attached to any Improvement except: (a) An Owner who is actively marketing his Lot for sale or lease may place in the front yard one professionally-made traditional yard sign of not more than 5 square feet advertising the Lot for sale or for rent; (b) an Owner may display one professional sign of not more than one (1) square foot; and (c) political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates, or the sponsorship of a political party provided that such signs shall not be erected more than ninety days in advance of the election to which they pertain and are removed within fifteen days after the election. No unsightly object may be erected, placed, or permitted to remain on the Property or to be visible from windows in the dwelling. The Association or its agent may remove any sign or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.

8. *Parking.* All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to this Section and Rules adopted by the Board. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may effect the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.
 - a. Parking in the Street. The following subsection may not be construed to prohibit the parking of all vehicles on public streets. Vehicles that are not prohibited below may park on public streets if the city allows curbside parking, subject to the continuing right of the Association to adopt reasonable rules if circumstances warrant.
 - b. Prohibited Vehicles. Trucks with a tonnage in excess of three-quarter (3/4) ton shall not be permitted to park on the streets, driveways or Lots overnight, and no vehicle of any size which normally transports inflammatory or explosive cargo may be kept on the Properties at any time.
9. *Window Treatments.* All window treatments within a Structure that are visible from the street or another residence must be maintained in good condition and must not detract from the appearance of the Subdivision. The ACC may require an owner to change or remove a window treatment that the ACC determines to be inappropriate or unattractive. The ACC may prohibit the use of certain colors or materials for window treatments.
10. *Trash Receptacles.* Trash receptacles shall be located less than ten feet from the driveway of each Lot and conveniently accessible from the service road, or as otherwise required by the City of Grapevine.

D. Construction and Maintenance Standards

1. Lots

- a. *Consolidation of Lots.* An Owner of adjoining Lots may not consolidate Lots into one site for the construction of one or more Structures, unless approved by the ACC.
- b. *Subdivision Prohibited.* No Lot may be further subdivided.
- c. *Easements.* No easement, except for those easements named herein or identified on the Plat which were granted before this Declaration was filed of record, in a Lot may be granted without ACC preapproval.
- d. *Maintenance.* Each Owner must keep the Lot, all landscaping, and all Structures on his Lot in a neat, well-maintained, and attractive condition, except for those portions of the Lot maintained by the Association.

2. Structures

- a. *ACC Approval.* The construction of any Structure in the Subdivision must have the prior written approval of the ACC, and must conform to this Declaration, the Governing Documents, and the Design Standards.
- b. *Number of Homes.* No more than one home may be constructed on a Lot.

- c. *Design Standards.* All Structures must be aesthetically compatible with the Subdivision, and in conformance with the Design Standards, as determined by the ACC.
 - d. *Damaged or Destroyed Structures.* Any Structure that is damaged must be repaired within ninety (90) days (or within a period approved by the ACC) and the Lot restored to a clean, orderly, and attractive condition. Any Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within one hundred and twenty (120) days and the Lot restored to a clean and orderly condition.
3. *Curb-Cuts.* No Curbs shall be cut in the Subdivision without the prior approval of the ACC.
4. *Drainage.* No person (or Owner) may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board. No person (or Owner) may interfere with the flow of water in any drainage easement without prior approval of the Board.
5. *Maintenance of Drainage Easements.* Each Owner of a Lot shall maintain the drainage Easement(s) on his or her Lot, if any.

E. Association

1. *Establishment and Governance.* The Association was established by the filing of a certificate of formation and is governed by the certificate, this Declaration, the Bylaws. The Association has the powers of a nonprofit corporation and the property Owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.
2. *Board.* The Association shall be governed by a Board of Directors, as provided in the Governing Documents (including the Bylaws of the Oak Grove Homeowners' Association, (the "Bylaws")), consisting of at least three members. The Board will be selected, and Board members replaced or removed as provided in the Bylaws.
3. *Rules and Policies.* The Board may adopt Rules and Policies from time to time that do not conflict with Applicable Law or the provisions of the Governing Documents or Bylaws.
4. *Membership and Voting Rights.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from Ownership of a Lot. All Owners are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons are Members and the vote for such Lot will be exercised as they among themselves determine, but in no event may more than one vote be cast with respect to any Lot.

F. Architectural Control Committee

1. Establishment

- a. *Purpose.* The ACC is established as a committee of the Association to assist the Association in ensuring that all Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Design Standards and other Governing Documents.

- b. *Members.* The ACC consists of not less than three (3) members, which shall be the same members of the Board of Directors. ACC members will be selected, replaced, and may be removed by the Board.
 - c. *Term.* Because the ACC members are the same persons that are the Board members, the ACC members shall serve until their tenure as Board members expires, at which time the new Board member(s) will become the ACC members.
 2. *Design Standards.* The ACC will interpret and apply the Design Standards to applications for construction, and other applications filed with it in accordance with the terms of this Declaration. All Owners must file a request with the ACC for approval before taking any action to secure a zoning change, variance or modification to any other restriction or land use regulation. The Board may amend the Design Standards from time to time, provided that the Design Standards may not be revoked, or materially changed, except with a majority vote of the Members. On request, Owners will be provided with a copy of the most current Design Standards.
 3. *Members, Chairperson and Subcommittees.* At the first Regular Meeting of each calendar year the ACC Members shall appoint a Chairperson from among their number. The ACC Members may appoint from among their number such other members and subcommittees of ACC Members as they shall from time to time determine necessary. If the ACC Members cannot or will not appoint a Chairperson at the designated meeting, the President of the Homeowners' Association shall make the appointment.
 4. *Compensation.* No ACC Members shall receive compensation for any service he may render to the Association. However, any ACC Member may be reimbursed for his/her actual, reasonable expenses incurred in the performance of his/her duties.
 5. *Operations of the ACC.*
 - a. *Meetings.* The ACC shall hold regular meetings (the "Regular Meeting of the ACC") at least annually, but may hold regular meetings more often as may be established by the ACC. Special meetings ("Special Meeting of the ACC") may be called by the Chairman and shall be called by the Chairman upon the written request of at least two ACC Members. Regular and Special Meetings of the ACC shall be held at such time and at such place, in the State of Texas, as the ACC shall specify.
 - b. *Quorum.* At each meeting of the ACC, the presence of a majority of the ACC Members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the ACC Members present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any ACC Member present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At the reconvening of any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.
 - c. *Action Taken Without a Meeting.* Any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the ACC Members and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

- d. *Action Taken in the Absence of an ACC Member.* If one or more ACC Members is unavailable, for any reason, to conduct the affairs of the ACC as required, the President of the Homeowners' Association shall appoint a Member or Members to the position of "Temporary Member" of the ACC. Such appointment shall be subject to confirmation by a majority of the other Directors. Action taken by a majority of such ACC Members and Temporary Member(s) with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or to the Appeals Process. The term of Temporary Member(s) shall cease immediately upon the availability of the missing ACC Member(s).
 - e. *Conflict of Interest.* If an ACC Member makes an Application to the ACC, that ACC Member shall recuse him/herself from any action involving such Application and the President shall appoint a Member to the position of Temporary Member of the ACC. Such appointment shall be subject to confirmation by a majority of the other Directors. Action taken by a majority of the ACC Members and the Temporary Member with respect to the matters specified shall be final and binding upon the ACC and upon the applicant for an approval, permit or authorization, subject however, to the Appeals Process. The term of Temporary Member shall cease immediately upon the approval or denial of the Application.
 - f. *Notice.* The ACC Chairman shall send notice of each Regular Meeting of the ACC by regular mail or electronic mail to each ACC Member thereof at his/her residence or at his/her usual place of business at least ten (10) calendar days before the day the meeting is to be held. Notice of Special Meetings of the ACC may be made by telephone or by any other method of written or oral communication. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any ACC Member who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice.
 - g. *Records and Minutes.* The ACC shall maintain both (a) minutes and (b) a record of votes for each of its meetings. The ACC shall make such minutes and voting records available at reasonable places and times for inspection by Members of the Association and by the Secretary.
6. *Application Process.*
- a. *Application Requirement.* Members must make written application ("Application") to the ACC prior to any installation, construction or alteration of any Structure or any alteration to any Lot. The ACC shall have the authority, at its sole discretion, to require plans, drawings, specifications, engineering reports or any other information it deems necessary for review.
 - b. *Approval Requirement.* No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered, nor shall any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless the plans and specifications have been submitted to and approved in writing by the ACC.

- c. *Conversions of Carports into Garages.* The conversion of carports into garages shall be automatically approved by the ACC.
 - d. *Contents of Plans and Specifications Required for Application.* The ACC shall have the authority determine on a case by case basis the type of plans and specifications it requires for any particular Application. Such plans and specifications shall be in such form and shall contain such information as the ACC may, at its sole discretion, determine. Such plans and specifications may include, for purposes of example but not limitation:
 - i. a site plan showing the location of all proposed and existing Structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof and all siltation and erosion control measures;
 - ii. a foundation plan;
 - iii. a floor plan;
 - iv. exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all back-filling and landscaping are completed;
 - v. specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures;
 - vi. plans for landscaping and grading;
 - vii. names of any and all contractors or sub-contractors to be used;
 - viii. signed written statement by all contractors, acknowledging that he/she has read and will comply with existing deed restrictions;
 - ix. copies of plans and specifications submitted to the city, county, state or any other governmental body or agency for purposes of acquiring any permit(s);
 - x. copies of any permits acquired from the city, county, state or any other governmental body or agency.
7. *Good faith effort to Act.* The ACC shall make a good faith effort to approve or disapprove a written application within thirty days after all plans and specifications required by the ACC have been submitted but shall have not incur liability because the application approval process takes longer than thirty days.
8. *Appeals Process.*
- a. *Deadline for Filing a Request for Reconsideration.* Within ten business days of receipt of notice of any decision, the Applicant may file a written request to have the matter in question reconsidered by the ACC.
 - b. *Duty of ACC to accept a Request for Reconsideration.* The ACC shall accept and promptly review a written *request for reconsideration* that meets the deadline along with any additional submitted information the applicant considers relevant.
 - c. *Obligation to Act.* The ACC shall issue notice of its final decision no later than ten (10) business days of receipt of the *request for reconsideration*. Failure to issue such notice within ten (10) business days shall be deemed a denial. There shall be no presumed or automatic approval of an Appeal or a Variance.
 - d. *Appeals to the Board.* If the applicant considers the ACC decision to be unsatisfactory, he/she may appeal to the Board within ten (10) days. The Board will have fifteen (15) days to respond to the appeal.

- e. *Procedure to Overturn Board's Final Decision.* If the applicant considers the final decision of the Board to be unsatisfactory, he/she may attempt to overturn the decision of the Board. A decision of the Board shall be overturned and the Application shall be deemed approved if the applicant obtains the written and signed approval of 67% of the Members eligible to vote. Such approval may be obtained by way of petition or by a vote at a Special Meeting. Signatures on a petition are subject to independent verification by the Board.
9. *Inspection Rights.* Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot is in compliance with the provisions of the Restrictive Covenants; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

10. *Violations.*

- a. *Structures.* It is a violation of the Covenants and Restrictions if any Structure is erected, placed, maintained or altered upon any Lot without approval pursuant to this Article.
- b. *Lots.* If any Lot is altered or allowed to exist in a condition other than in accordance with the approval process herein or in accordance with plans and specifications approved by the ACC pursuant to the provisions of this Article, or is found to be in a condition that contradicts this Declaration, such alteration shall be deemed to be in violation of the Covenants and Restrictions.
- c. *Duty to Notify the Association of Violations.* If the ACC has determined that a violation has occurred, or if the ACC has determined that a violation of any Covenant or Restriction has occurred, the ACC shall notify the Board in writing. The Board shall issue a Demand for Abatement and shall take all appropriate measures to enforce the Covenants and Restrictions.

11. *Letter of Compliance.*

- a. *Issuance of Certificate and Record Keeping.* Upon completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Letter of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of the Letter of Compliance shall be filed for permanent record with the plans and specifications on file with the ACC.
- b. *Evidence of Approval.* Any Letter of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrance in good faith and for value, or as to any title insurer, such letter shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Letter shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function

or operation of the Structures or of any construction, workmanship, engineering, materials or equipment. The issuance of the Letter shall in no way be construed to certify to any party that the structures have been built in accordance with any applicable rule or regulation.

12. *Nondiscrimination by ACC.* The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to the Restrictive Covenants shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.
13. *Disclaimer as to ACC Approval.* Plans and specifications are not reviewed for all systems, mechanical, plumbing, electrical, engineering, or structural design or quality of materials, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither the Declarant, Association, the ACC, the Board, nor the Directors, Members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against the Declarant, Association, the ACC, the Board, the Directors, Members, employees, or agents of any of them to recover any such damages and hereby releases, quitclaims, and covenants not to sue for any claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.
14. *No Liability.* The Association, the Board, the ACC, and their members will not be liable to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any request.

G. Assessments

1. *Purpose of Assessments.* The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of Owners and residents, including but not limited to maintenance of real and personal property, maintenance of Common Areas, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of assessments is final.
2. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant upon the sale of a Lot and assigned to the Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of foreclosure, to the Association to secure Assessments.
3. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.
4. *Personal Obligation.* An Owner is obligated to pay assessments levied by the Board against the Owner or his Lot. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner

has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

5. *Control for Assessment Increases.* This Section of the Declaration may not be amended without the approval of no less than sixty seven percent (67%) of the Owners. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget:
 - a. *Veto Increased Dues.* At least 30 days prior to the effective date of an increase in regular assessments, the Board will notify each Owner of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless Owners of at least a majority of the Lots disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.
 - b. *Veto Special Assessment.* At least 30 days prior to the effective date of a special assessment, the board will notify each Owner of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless Owners of at least a majority of the Lots disapprove the special assessment by petition or at a meeting of the Association.

6. *Types of Assessments.* There are 4 types of assessments: Regular, Special, Individual, and Deficiency.
 - a. *Regular Assessments.* Regular assessments are based on the annual budget. Each Lot is liable for its equal share of the annual budget. If the Board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, Owners will continue to pay the regular assessment as last determined. If during the course of a year the Board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the Board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:
 - i. Maintenance, repair, and replacement, as necessary, of the Common Area(s).
 - ii. Utilities billed to the Association.
 - iii. Services billed to the Association and serving all Lots / Common Area(s).
 - iv. Taxes on property owned by the Association and the Association's income taxes.
 - v. Management, legal, accounting, auditing, and professional fees for services to the Association.
 - vi. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
 - vii. Premiums and deductibles on insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
 - viii. Contributions to the reserve funds.
 - ix. Any other expense which the Association is required by law or the Governing Documents to pay, or which in the opinion of the Board is necessary or proper for

the operation and maintenance of the Property or for enforcement of the Governing Documents.

- b. *Special Assessments.* In addition to regular assessments, and subject to the Owners' control for assessment increases, the Board may levy one or more special assessments against all Lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the Owners, except that special assessments for the following purposes must be approved by Owners of least a majority of the Lots:
 - i. Acquisition of real property, other than the purchase of a Lot at the sale foreclosing the Association's lien against the Lot.
 - ii. Construction of additional improvements within the Property, but not replacement of original improvements.
 - iii. Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.
 - c. *Individual Assessments.* In addition to regular and special assessments, the Board may levy an individual assessment against a Lot and its Owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Governing Documents; fines for violations of the Governing Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.
 - d. *Deficiency Assessments.* The Board may levy a deficiency assessment against all Lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.
7. *Basis & Rate of Assessments.* The share of liability for common expenses allocated to each Lot is uniform for all Lots, regardless of a Lot's location or the value and size of the Lot or dwelling.
8. *Annual Budget.* The Board will prepare and approve an estimated annual budget for each fiscal year. The annual budget will have three components: an operating budget, a short-term capital improvement budget, and a long-term capital improvement budget. The budget will consider the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to an Owner of each Lot, although failure to receive a budget or summary does not affect an Owner's liability for assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.
9. *Due Date.* The Board may levy regular assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

10. *Reserve Funds.* The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair of Common Area improvements. The Association must budget for reserves and may fund reserves out of regular assessments.
11. *Association's Right To Borrow Money.* The Association is granted the right to borrow money, subject to the consent of Owners of at least a majority of Lots and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.
12. *Limitations of Interest.* The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the Owner if those assessments are paid in full.
13. *Effect of Nonpayment of Assessments.* An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association, acting through the Board, is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to applicable laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the Bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.
14. *Interest.* Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the Board fails to establish a rate, the rate is 10 percent per annum.
15. *Late Fees.* Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.
16. *Costs of Collection.* The Owner of a Lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorney's fees and processing fees charged by the manager.
17. *Acceleration.* If an Owner defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting Owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

18. *Money Judgment.* The Association may file suit seeking a money judgment against an Owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.
19. *Notice to Mortgagee.* The Association may notify and communicate with the holder of any lien against a Lot regarding the Owner's default in payment of assessments.
20. *Foreclosure of Assessment Lien.* As provided by this Declaration, the Association may foreclose its lien against the Lot.

H. Assessment Lien

1. *Assessment Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant upon the sale of a Lot and assigned to the Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to secure Assessments.
2. *Superiority of Assessment Lien.* The assessment lien on a Lot is subordinate and inferior to (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original dwelling, (4) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due, (5) a home equity or reverse mortgage lien which is a renewal, extension, or refinance of a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due, (6) an FHA-insured or VA-guaranteed mortgage. Except for the foregoing, the assessment lien is superior to all other liens and encumbrances on a Lot.
3. *Effect of Mortgagee's Foreclosure.* Foreclosure of a superior lien extinguishes the Association's claim against the Lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.
4. *Notice and Release of Notice.* The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the Real Property Records of Tarrant County, Texas. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing Owner.
5. *Power of Foreclosure.* By accepting an interest in or title to a Lot, each Owner grants to the Association a private power of foreclosure in connection with the Association's assessment lien. The Board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of foreclosure. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board meeting.

6. *Foreclosure of Lien.* Any foreclosure must comply with the requirements of applicable law, such as Chapter 209 of the Texas Property Code.

I. Variances. The use of the Property is subject to the restrictions contained in this Declaration and the Governing Documents. The Board or the ACC, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance.

ARTICLE IV. ENFORCING THE DOCUMENTS

A. Notice and Hearing. Before the Association may exercise certain of its remedies for a violation of the Governing Documents or damage to the Property, including but not limited to the assessment of fines for violations, the Association must give an Owner written notice and an opportunity for a hearing, according to the requirements and procedures in the Bylaws and in applicable law, such as Chapter 209 of the Texas Property Code. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorneys' fees incurred by the Association.

B. Remedies. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Governing Documents and by law, the Association has the following right to enforce the Governing Documents, subject to applicable notice and hearing requirements (if any):

1. *Nuisance.* The result of every act or omission that violates any provision of the Governing Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.
2. *Fine.* The Association may levy reasonable charges, as an individual assessment, against an Owner and his Lot if the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues and does not constitute a waiver or discharge of the Owner's obligations under the Governing Documents.
3. *Suspension.* The Association may suspend the right of Owners and residents to use Common Areas for any period during which the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate the Governing Documents. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Governing Documents.
 - a. **Notice.** Before an association may suspend an Owner's right to use a Common Area, file a suit against an Owner other than a suit to collect a regular or special assessment or foreclose under an association's lien, charge an Owner for property damage, or levy a fine for a violation of the restrictions or bylaws or rules of the association, the association or its agent must give written notice to the Owner by certified mail, return receipt requested.
 - b. **Right to Cure & Hearing.** The notice must: (1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the

association from the Owner; and (2) inform the Owner that the Owner: (a) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; (b) may request a hearing under Property Code §209.007 on or before the 30th day after the date the Owner receives the notice; and (c) may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the Owner is serving on active military duty.

4. *Self-Help.* The Association has the right to enter any part of the Property, including Lots, to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates the Governing Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Lot and Owner as an individual assessment. The Board will make reasonable efforts to give the violating Owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the Owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the neighborhood.
5. *Suit.* Failure to comply with the Governing Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

C. Board Discretion. The Board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

D. No Waiver. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Governing Documents. Failure by the Association or by any Owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director, or member of the Association is liable to any Owner for the failure to enforce any of the Governing Documents at any time.

E. Recovery of Costs. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

**ARTICLE V.
MAINTENANCE AND REPAIR OBLIGATIONS**

A. Association Maintains. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on Lots or Common Areas.

- a. The Common Areas.
- b. Any real and personal property owned by the Association, but which is not a Common Area, such as a Lot owned by the Association.
- c. Any area, item, easement, or service - the maintenance of which is assigned to the Association by the Board, this Declaration or by the Plat.

B. Owner Responsibility. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements of Article III and the use restrictions of in this Declaration:

1. *House Maintenance.* Each Owner, at the Owner's expense, must maintain all improvements on said Owner's Lot, including but not limited to the dwelling, fences, sidewalks, and driveways. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his or her Lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.
2. *Yard Maintenance.* Each Owner, at the Owner's expense, shall maintain the yards on his Lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. "Yards" means all parts of the Lot other than the dwelling, including fenced and unfenced portions of the Lot. Specifically, each Owner must:
 - a. Maintain an attractive ground cover or lawn on all yards visible from a street.
 - b. Edge the street curbs at regular intervals.
 - c. Mow the lawns and grounds at regular intervals.
 - d. Prevent lawn weeds or grass from exceeding 6 inches in height.
 - e. Not plant vegetable gardens that are visible from a street.
 - f. Maintain an attractive appearance for shrubs and trees visible from a street.
3. *Avoid Damage.* An Owner may not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.
4. *Responsible for Damage.* An Owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Areas or the property of another Owner.

5. *Owner's Default in Maintenance.* If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an individual assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

**ARTICLE VI.
COMMON AREAS;
STREETS WITHIN THE SUBDIVISION**

A. Common Area Ownership. The designation of real property as a Common Area is determined by the Plat and this Declaration, and not by the Ownership of the Property. This Declaration contemplates that the Association holds title to every Common Area capable of independent Ownership by the Declaration. All costs attributable to Common Areas, including maintenance, property taxes, insurance, and enhancements, are the responsibility of the Association, regardless of the nature of title to the Common Areas, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

B. Common Area Acceptance. By accepting an interest in or title to a Lot, each Owner is deemed (1) to accept the Common Area of the Property, and any improvement therein, in its then-existing "as is" condition; (2) to acknowledge the authority of the Association, acting through its Board of directors, for all decisions pertaining to the Common Area; and (3); to acknowledge the continuity of maintenance of the Common Area, regardless of changes in the Association's Board of directors or management.

C. Common Area Components. The Common Areas of the Property consists of the following components on or adjacent to the Property, even if located on a Lot or a public right-of-way:

1. All of the Property, save and except for the Lots;
2. OAK GROVE ADDITION Block B Lot 20 & 21 COMMON AREA
3. Any and all improvements on the above-described Lots, including but not limited to:
 - a. The water meter, water lines, and sprinkler system(s) serving the Common Area(s);
 - b. The formal entrances to the Property, including the Association signage in the Common Area(s);
 - c. The dryscaping (rock) in the Common Area(s);
 - d. Any and all other landscaping in the Common Area(s);
4. Any modification, replacement, or addition to any of the above-described areas and improvements; and
5. Personal property owned by the Association, such as books and records, office equipment, and supplies.

D. Rights of City in Common Areas. The City of Grapevine, including its agents and employees, has the right of immediate access to the Common Areas at all times necessary for the welfare or protection of the public, to enforce City ordinances, or to improve the appearance of or to preserve public property, public easements, or public rights of way.

E. Streets within the Subdivision. Pursuant to the Plat, the streets within the Subdivision are Sonnet Drive and Choteau Circle (the "Streets"). Pursuant to the Plat, the Streets are dedicated to the public use, and are not considered to be Common Areas. The Streets shall be maintained by the City of Grapevine.

ARTICLE VII. INSURANCE

A. General Provisions. All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:

1. *Notice of Cancellation or Modification.* Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured.
2. *Deductibles.* An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an Owner or resident or their invitees, the Owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.

B. Property. To the extent it is reasonably available; the Association will obtain property insurance for insurable Common Area improvements. Also, the Association will insure the improvements on any Lot owned by the Association.

C. General Liability. The Association will maintain a commercial general liability insurance policy over the Common Areas - expressly excluding the liability of each Owner and resident within his Lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

D. Directors & Officers Liability. To the extent it is reasonably available, the Association will maintain directors' and officers' liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

E. Other Coverages. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including but not limited to worker's

compensation insurance, fidelity coverage, and any insurance and bond requested and required by an Underwriting Lender as long as said Underwriting Lender is a mortgagee or an Owner.

F. Owner's Responsibility for Insurance. Each Owner will obtain and maintain property insurance on all insurable improvements on his Lot, in an amount sufficient to cover 100 percent of the replacement cost, minus a reasonable deductible, of any repair or reconstruction in event of damage or destruction from any insured hazard. Further, each Owner will obtain and maintain general liability insurance on his Lot. Each Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on behalf of the Owner who will be obligated for the cost as an individual assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and resident is solely responsible for insuring his personal property in his dwelling and on the Lot, including furnishings, vehicles, and stored items.

ARTICLE VIII. MORTGAGEE PROTECTION

A. Introduction. This Article establishes certain standards for the benefit of Mortgagees, as defined below.

1. "Underwriting Lender" means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or U. S. Department of Veterans Affairs (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner's financing options nor as a representation that the Property is approved by any institution.
2. "Mortgagee" means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a Lot, or any renewal, modification, or refinancing thereof. In dealing with the Association, a Mortgagee may be represented by a mortgage services, agent, or representative.
3. "Eligible Mortgagee" means a Mortgagee that submits to the Association a written notice containing its name and address, the loan number, the identifying number and street address of the mortgaged Lot, and the types of actions for which the Eligible Mortgagee requests timely notice. A single notice per Lot will be valid so long as the Eligible Mortgagee holds a mortgage on the Lot. The Board will maintain this information.

B. Mortgagee Rights.

1. *Lien Superiority.* As stated in the Assessment Lien Article of this Declaration, the lien in a Mortgagee's recorded deed of trust is superior to the Association's lien for assessments.
2. *Termination.* An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by at least 51 percent of Eligible Mortgagees, in addition to the required consents of Owners. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by no less than sixty seven percent (67%) of Eligible Mortgagees.

3. *Inspection of Books.* Mortgagees may inspect the Association's books and records, including the Governing Documents, by appointment, during normal business hours.
4. *Financial Statements.* If a Mortgagee so requests, the Association will give the Mortgagee an audited statement for the preceding fiscal year within 120. days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.
5. *Right of First Refusal.* Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Lot does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.
6. *Amending Governing Documents.* If a Mortgagee requests from the Association compliance with the guidelines of an Underwriting Lender, the Board, without approval of Owners or Mortgagees, may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the Underwriting Lender. This Article is supplemental to, not a substitution for, any other provision of the Governing Documents. In case of conflict, this Article controls.
7. *Attend Meetings.* A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.
8. *Insurance.* If an Underwriting Lender is a Mortgagee or an Owner, at the request of the Underwriting Lender the Association will comply with the Underwriting Lender's insurance requirements to the extent the requirements are reasonable and available, and do not conflict with other insurance requirements of this Declaration.

C. Limits On Association's Duties.

1. The Association's affirmative obligations to Mortgagees under the Governing Documents extend only to those Mortgagees of whom the Association has actual knowledge. This Article may not be construed to require the Association to perform title research to ascertain the existence and identify of a Mortgagee on a Lot. Any duty of the Association to a Mortgagee is conclusively satisfied if performed for Mortgagees known to the Association, without regard to other holders of liens on Lots. The Association may rely on the information provided by Owners and mortgagees.
2. Communications with Mortgagee. If the Governing Documents or public law require the consent of Mortgagees for an act, decision, or amendment by the Association, the approval of a Mortgagee is implied when the Mortgagee fails to respond within 30 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

ARTICLE IX. AMENDMENT

A. Consents Required. As expressly permitted by this Declaration, certain amendments of this Declaration may be executed by the Board alone. Otherwise, amendments to this Declaration must be approved by no less than sixty seven percent (67%) of the Lot Owners. Approval of Owners does not require that the amendment be signed by the consenting Owners, or that consents be executed and acknowledged by the approving Owners.

B. Method of Amendment. For an amendment that requires the approval of Owners, this Declaration may be amended by any method selected by the Board from time to time, pursuant to the Bylaws, provided the method gives an Owner of each Lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

C. Effective. To be effective, an amendment approved by the Owners or by the Board must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners or directors and, if required, Eligible Mortgagees; and (3) recorded in the Real Property Records of Tarrant County, Texas, except as modified by the following section.

D. Merger. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by Owners of at least a majority of the Lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving association pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

E. Termination. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by no less than sixty seven percent (67%) of the Lot Owners. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by no less than sixty seven percent (67%) of the Lot Owners.

F. Condemnation. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the Common Area, the Association will be the exclusive representative of the Owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the Common Area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE X. DISPUTE RESOLUTION

A. Introduction & Definitions. The Association, the Owners, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

1. "Claim" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:
 - a. Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.

- b. Claims relating to the design, construction, or maintenance of the Property.
2. "Claimant" means any Party having a Claim against any other Party.
3. "Exempt Claims" means the following claims or actions, which are exempt from this Article:
 - a. The Association's claim for assessments and any action by the Association to collect assessments.
 - b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
 - c. Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
 - d. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.
4. "Respondent" means the Party against whom the Claimant has a Claim.

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

C. Notice. A Claimant must notify the Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and the Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (3) what the Claimant wants the Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

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

E. Mediation. If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

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

G. Allocation of Costs. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

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

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

J. Litigation Approval & Settlement. To encourage the use of alternate dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of no less than sixty seven percent (67%) of the Lot Owners.

1. *Owner Approval.* The Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a majority of the Lots, except that no such approval is required (1) to enforce provisions of this Declaration and other Governing Documents including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo.
2. *Funding Litigation.* Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a special assessment, the Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

3. *Settlement.* The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

ARTICLE XI. GENERAL PROVISIONS

A. Compliance. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

B. Higher Authority. The Governing Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance. In the event of a conflict between the Governing Documents, the hierarchy of authority is as follows: this Declaration (highest), Certificate of Formation, Bylaws, and the Rules (lowest). Within the Declaration, Article XI has the highest authority.

C. Notice. All demands or other notices required to be sent to an Owner or resident by the terms of this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association on the date the notice is issued. If an Owner fails to give the Association an address for sending notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether he actually receives it.

D. Changing Technology. The Governing Documents are drafted at the end of an era that uses ink on paper to communicate, to give notice, and to memorialize decisions. The next era of communications may be paperless, relying on electronic communications for many activities that are customarily papered on the date of this Declaration. As technology changes, the terms of the Governing Documents that pertain to communications, notices, and documentation of decisions may be interpreted and applied in ways that are consistent with and customary for the then current technology for standard business practices, without necessity of amending the Governing Document.

E. Liberal Construction. The terms and provision of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved first in favor of the operation of the Association and its enforcement of the Governing Documents.

F. Severability. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

G. Captions. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

H. Interpretation. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

I. Duration. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

J. Preparer. This Declaration was prepared in the law offices of Richard M. Kilgore, 1201 N. Carroll, Oak Grove HOA Covenants and Restrictions

Southlake, Texas 76092.

Certification

I the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of the Oak Grove Homeowners' Association, Inc., a Texas non-profit Corporation, and that the foregoing Declaration of Covenants and Restrictions were duly adopted at a meeting of the Board of Directors held on _____ day of _____, 2019.

SIGNED this ____ day of _____, 2019.

For Oak Grove Homeowners' Association, Inc.,

By: _____
Lisa Hall, Secretary

STATE OF TEXAS

§
§
§

COUNTY OF _____

On this _____ day of _____ 2019, before me, the undersigned officer, personally appeared _____, who acknowledged herself to be the Secretary of the Oak Grove Homeowners' Association and further acknowledged that she, as such being authorized to do so, executed the foregoing instrument as the act and deed of corporation for the purposes therein contained.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2019.

Notary Public in and for the State of Texas

(Print Name of Notary Public Here)

After recording, please return to:
Richard M. Kilgore
1201 N. Carroll
Southlake, Texas 76092