

823724

THE MEADOWS OF RIVERHILL

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by the undersigned, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, known as THE MEADOWS OF RIVERHILL, according to the plat thereof recorded, or to be recorded, in the Plat Records of Kerr County, Texas.

WHEREAS, said property is subject to certain restrictions as set forth in instruments recorded in Volume 179, Page 822, Volume 179, Page 806, and Volume 259, Page 391, Deed Records of Kerr County, Texas, reference to which is hereby made for all purposes.

NOW, THEREFORE, Declarant hereby declares that the Properties as herein defined shall be held, sold and conveyed subject to the above-referenced restrictions and the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. In the event of conflict between the provisions of this Declaration and said prior restrictions, said prior restrictions shall govern; it being intended hereby to add to and supplement said prior restrictions and it being understood and agreed that all owners of any portion of th Properties shall be subject to and shall comply with said prior restrictions and the restrictions herein set forth.

ARTICLE I.

Definitions

Section 1. "Association" shall mean and refer to THE MEADOWS OF RIVERHILL Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by Declarant by the recordation in Kerr County, Texas of a Supplemental Declaration.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners as designated in any plat of the Properties, including any streets and roads, and/or as designated by Declarant upon the transfer of same to the Association.

Section 5. "Lot" shall mean and refer to any tract of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to the undersigned, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 7. "Manager" shall mean and refer to the party or parties under contract in compliance with the provisions of Article X of this instrument.

ARTICLE II.

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days from an infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members of the Association.

(d) The right of the Association to limit the number of guests of members of the Association.

(e) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Area and its facilities and in aid thereof to mortgage said properties and the rights of such mortgagee in such properties shall be subordinate to the rights of the Owners hereunder.

(f) The right of the Association, through its Board of Directors, to determine the time and manner of the use of the recreation facilities by the members of the Association.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common

Area and facilities to the members of his family, his tenants, or contract purchasers who reside on such member's Lot.

ARTICLE III.

Membership and Voting Rights

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs last:

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(ii) five years from the date on which the first Lot is conveyed by Declarant to another Owner.

ARTICLE IV.

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to

the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but shall constitute a lien against and on the property subject thereto.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners of in the Properties; for the improvement, maintenance and management of the Common Area, and of the homes situated upon the Properties; for the payment of insurance premiums as provided for herein; and for the payment of the stand by charges of the Kerrville Municipal Utility District. The assessment shall include all charges for taxes (except real property taxes and other such taxes assessed separately on each Lot or the personal property or any other interest of the Owner), assessments, insurance (including fire and other casualty and liability insurance) on the Common Area, yard, sprinkler system, janitorial, and other similar services, wages, accounting and legal fees, management fees, and other expenses of upkeep, maintenance, and management actually incurred by the Association on or Common Area, the costs of operation of the Common Area, and the cost of and a reserve for maintenance and repair, reinstatement, rebuilding, and replacement of the Common Area which may be required, from time to time.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be FOUR HUNDRED EIGHTY AND NO/100 DOLLARS (\$480.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by a percentage equal to the increase shown for "Housing" from January of the previous year in the "Consumer Price Index - U. S. City Average" published by the U. S. Department of Labor, Bureau of Labor Statistics, without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the percentage equal to the increase shown for "Housing" in the Consumer Price Index by a vote of two-thirds (2/3) of the total votes entitled to be cast who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, which is not covered by the reserve in the annual assessment, provided that any such assessment shall have the assent of two-thirds (2/3) of the total votes entitled to be cast who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for

the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members of the Association not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the votes entitled to be cast shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots owned by Class A members and may be collected on a monthly basis. Class B member(s) assessments, both annual and special, shall be fixed by actual out of pocket expenses on a prorata basis, based on the number of Lots owned by the Class B member(s) as it relates to the total number of Lots within the Properties, and shall be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots with completed houses now owned by Declarant on the first day of the month more than thirty (30) days following the conveyance of the Common Area. The annual assessment as to all other Lots shall commence on the first day of the month more than ninety (90) days following the conveyance of the Common Area. The annual assessment shall be due and payable in monthly installments equal to one-twelfth (1/12) of the annual assessment commencing on the dates provided hereinbefore. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.

Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Collection of Annual Assessment. The annual assessments shall be collected in installments of one-twelfth (1/12) of the assessment. Owners shall remit such collection to the Association at such time as the Association may agree. Each purchaser of a Lot agrees to this provision. Nothing contained in this Section 8 shall be construed to impose any liability on the Association as its agents or representatives for such collections.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or file in Kerr County, Texas a statement describing such Lot and assessment and thereupon a lien shall be imposed upon such Lot in favor of the Association for such assessment and the Association may foreclose the lien against such Lot. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly agrees to and creates a lien for unpaid assessments and vests in the Association, its agents, successors, or assigns, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association, its agents, successors or assigns, in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien and

there is incorporated by reference the provisions of Article 3810, Tax Rev. Civ. Stat., as to the procedure for non-judicial foreclosure.

The lien provided for in this section shall be in favor of the Association, its successors or assigns, and shall be for the benefit of all Owners. The Association, acting on behalf of all Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Special Assessment or Transfer. Upon the transfer of ownership of any Lot, the Association shall be entitled to collect a fee of Fifty Dollars (\$50.00), as a special assessment, which fee shall be payable on the effective date of transfer of ownership.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be prior and superior to all other liens except only (a) ad valorem taxes and (b) all sums unpaid on a first mortgage or deed of trust of record. The sale or transfer of any Lot shall not affect the assessment lien; provided; however, that the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage thereon shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from

taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no lands or improvements devoted to dwelling use shall be exempt from said assessments.

Section 13. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings on the Properties (including all houses unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction) against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Area, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual houses, shall be common expenses. All such insurance coverage, including insurance on individual houses obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners in equal proportions. Insurance on individual houses obtained for such Owners shall be written in the name of the individual Owners. Premiums for insurance obtained by the Board of Directors on individual houses shall not be part of the common expense but shall be an expense of the Owner or Owners of a specific house or houses so covered and a debt owned by the Owners, and shall be collectible by any lawful procedure permitted by the laws of the State of Texas. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall continue to be a lien on such Lot until fully paid. This lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as any lien created by failure to pay assessments. In addition to the aforesaid insurance

required to be carried by the Owners and/or the Association, any Owner may, if he wishes, at his own expense, insure his own house or unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowners liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly existed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal Governmental Agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of a least one-third (1/3) of the members of the Board of Directors of the Association. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstructions or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged houses in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such houses to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a house or unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and Owners in such proportions as the Board of Directors deem fair

and equitable in light of the damage sustained by such houses or units. Such payments shall be made to all such Owners and their mortgagees as their interests may then appear. In the event of damage or destruction by fire or other casualty to any house or other property covered by insurance written in the name of an individual Owner, said Owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the house in a good and workmanlike manner in conformance with the original plans and specifications of said houses. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the house within sixty (60) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such house in a good and workmanlike manner in conformance with the original plans and specifications of the houses. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien on said property securing the payment of same identical to that provided above in this section securing the payment of insurance premiums, and subject to foreclosures as above provided.

ARTICLE V.

Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein (including any change of any exterior material, siding or paint color) be made until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, appearance, location in relation to surrounding structures and topography, compliance with set back and side yard requirements of applicable plats, restrictions or

policy of the Association and compliance with normal safety standards for the same or similar developments and projects by an Architectural Control Committee. Until all Lots within the Properties are sold Declarant and/or Declarants designated agent(s) or representative(s) shall serve and act as the Architectural Control Committee and thereafter it shall be composed of three (3) or more representatives appointed by the Board of Directors of the Association. In the event said Committee fails to approve or disapprove such plans, changes, etc. within sixty (60) days after have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Said Committee and its members or those acting as said Committee shall not be personally liable for the exercise of any authority or power herein set forth and shall not be responsible nor obligated to review or inspect any construction pursuant to said plans, to insure compliance with said plans, to pass upon any methods of construction nor to inspect or prevent any defects in construction.

ARTICLE VI.

Exterior Maintenance

Section 1. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces and patios.

Section 2. In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent act of the Owner, his family or guest, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot or property is subject.

Section 3. Owner's Maintenance. The Owners shall maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric power service conductors from the exterior of the building to the point of connecting to the electric utility company's junction box or transformer, electric circuit breakers, any portion of natural gas, and/or telephone service lines located on the Lot but not maintained by the gas and/or telephone service companies, and water service line from curb stop to and throughout the dwelling unit.

Added to Section 3 of Common Area Restrictions

An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or herditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners.

Section 4. Outside Antennas. Without prior written approval of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon any Lot, nor upon any structure situated upon the Properties.

Added to Section 5 of Common Area Restrictions

Section 5. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any owner or others in favor of another Owner.

ARTICLE VII.

Use Restrictons

In order to provide for a congenial occupation of the Properties and to provide for the protection of the value of the entire development and in addition to all other valid restrictions, the use of the residences and Common Area shall be in accordance with the following provisions:

(a) Each residence shall be occupied by only one family (two or more individuals), its servants, and guests, as a residence and for no other purposes. No house may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred.

(b) The Common Areas shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Owners. No use or practice shall be permitted in any house or in the Common Areas which is the source of annoyance to the residents, or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the Properties shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor fire hazard allowed to exist. No immoral, improper, offensive or unlawful use shall be made of the Properties or any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No Owner shall permit any use of his Lot or of the Common Area which will increase the rate of insurance upon the Properties.

(c) Until the Declarant, its successors or assigns, has sold all of the Lots, neither the Owners nor the Association shall interfere with the sale thereof. The Declarant, its successors or assigns, may make such use of the unsold units and Common Area as may facilitate sale, including but not limited to the maintenance of a sales office, the showing of the property and the display of signs.

(d) Except as provided in Paragraph (c) no signs of any kind or for any use or purpose whatsoever shall be erected, posted, painted, or displayed upon any exterior wall or roof, or any part thereof, without the prior written consent of the Association, which consent will not be unreasonably withheld.

(e) No turkeys, geese, chickens, ducks, pigeons, or fowls of any kind, or goats, rabbits, hares, horses or animals usually

termed "farm animals", shall be kept or allowed to be kept in any residence or in the Common Area, nor shall any commercial dog raising or cat raising, or any kind of commercial business be conducted on the Properties, except that household pets may be permitted in written rules adopted by the Association. Any household pets permitted shall be leashed when not inside a unit or its patio.

(f) No recreation vehicles or commercial vehicles, including but not limited to boats, boat trailers, house trailers, camping trailers; motorcycles, pick-up trucks or similar type items shall be kept other than in the garage of the Owner's residence.

(g) Reasonable rules and regulations concerning the use of the Properties may be made and amended from time to time by the Association in the manner provided by its By-laws.

(h) An Owner shall not, without the prior written consent of the Association, make any structural alteration in a unit or residence or in the water, gas or steam pipes, electrical conduits, plumbing or other fixtures connected therewith, or remove any addition, improvements or fixtures from the house or Common Area.

ARTICLE VIII.

Easements

Each Lot shall include, and there is hereby granted and created, the following easements from each Owner to each other Owner and the Association and the same shall pass with each Lot and shall rest in the grantee thereof as an inseparable appurtenance thereto:

Section 1. Ingress and Egress. Easements through the Common Area for ingress and egress for all persons making use of such Common Area in accordance with the terms of this Declaration.

Section 2. Maintenance, Repair and Replacement. Easement across and through the Lots and Common Area for maintenance,

repair and replacement as herein specified. Use of these easements, however, for access to the Lots shall be limited to reasonable hours except that access may be had at any time in case of an emergency.

Section 3. Utilities. Easements across and through the Lots and Common Area for all facilities for the furnishing of utility services within the Properties and to the various Lots, which facilities shall include but not be limited to conduits, ducts, plumbing and wiring.

Section 4. Roof Projections. Each roof, projection, and the like, which is built as a part of the original construction of the residences upon the Properties which projects onto adjacent Lots shall constitute permissible encroachments, and each Owner of a residence which as originally built projects onto adjacent Lots shall have a right and easement of enjoyment in and to said encroachment, which easement shall be appurtenant to and shall pass with the title to each said Lot, whether expressly provided in the deed to said Lot or not, and every Lot onto which such roof, projection, and the like, encroaches shall be subject to the aforesaid easement, whether expressly stated in the deed to said Lot or not.

ARTICLE IX.

Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence of willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE X.

Management Agreements

It shall be the duty of the Board of Directors of the Association to manage the project or to effect a contract for the management of the Properties and to delegate to such manager the management duties of the Board of Directors, to be performed by such manager under the supervision of the Board of Directors. Should the Board of Directors enter into a management contract, the Board shall not enter into any new management agreement without thirty (30) days prior written notice to the holder of any first mortgage or deed of trust upon any Lot. Any and all management agreements may be cancelled by an affirmative vote of sixty (60%) percent of the votes of all of the members of the Association. Each Owner of a lot hereby agrees to be bound by the terms and conditions of any management contract or agreements entered into by the Board of Directors. A copy of any such

agreements shall be available to each Owner. No management agreement shall be for a term in excess of two (2) years.

ARTICLE XI.

Additional Rights of Mortgagees

Section 1. Notice to Mortgagees. Upon request to the Association, the holder of a first mortgage on a Lot shall be entitled to receive written notice of:

(a) All meetings, both annual and special, of the Association at least ten (10) days but not more than fifty (50) days prior thereto;

(b) Any material amendment to this Declaration, the By-laws, or Articles of incorporation;

(c) Substantial damage to or destruction of the Common Area and facilities, or any individual house, or any condemnation or eminent domain proceedings; and

(d) Any default under the Declaration or By-laws by an Owner which is not cured within sixty (60) days.

Section 2. Books and Records. The holder of a first mortgage on a Lot shall have the right to examine the books and records of the Association during normal business hours, and upon written request to the Association, shall be entitled to receive a copy of the annual financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association.

Section 3. Right to Pay Amounts in Default. The holder(s) of a first mortgage on a Lot may, jointly and singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area, and the holder(s) making such payments shall be owed immediate reimbursement therefor from the Association.

Section 4. Prior Written Approval. Unless at least seventy-five (75%) percent of the holders of first mortgages on

individual lots have given their prior written approval, the Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area, or any part thereof, or improvements thereon. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this clause.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.

(c) By act or omission change, waive or abandon any of the restrictions, or enforcement thereof, pertaining to architectural control, exterior maintenance, or party walls.

(d) Fail to maintain insurance in accordance with the provisions of this Declaration, or to use the proceeds of such insurance for losses to the Common Area for other than the repair, replacement or reconstruction of such improvements.

ARTICLE XII.

General Provisions

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of

twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than seventy-five (75%) percent of the total votes of the membership of the Association. It is the specific intention of this provision that ownership of a Lot by a member entitles that member to vote or votes on questions of amendment in accordance with the provision of hereof. In the case of amendment, each amendment shall be placed in recordable form, and filed of record in the Deed Records of Kerr County, Texas accompanied by a statement that the requisite approval had been obtained to make such amendment to this Declaration. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by any federal, state or local agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any lending institution as a condition precedent to lending funds upon the security of any portion of the Properties. Any such amendment shall be effected by the recordation, by Declarant, of a Certificate of Amendment signed by a duly authorized agent of Declarant, with his signature acknowledged, specifying the Federal, state or local governmental agency or the lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment.

Section 4. Interpretation of the Covenants. Except for judicial construction, the Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Declarant's

construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

Section 5. Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 6. Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be those which would be used in determining the validity of the challenged interest.

Section 7. Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder.

Section 8. Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 9. Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

Section 10. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either

personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given by such person to the Declarant for the purpose of service of such notice or to the address of the Dwelling Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing to the Declarant.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed, this the 16th day of May, 1982.

BOYINGTON CONSTRUCTION COMPANY

By: William H. Boyington, Jr.
William H. Boyington, Jr.

THE STATE OF TEXAS §

COUNTY OF KERR §

BEFORE ME, the undersigned authority, on this day personally appeared WILLIAM H. BOYINGTON, JR., the duly authorized agent and representative of BOYINGTON CONSTRUCTION COMPANY, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office, this the 16th day of May, 1982.



Rebecca S. Coons
Notary Public, County of Kerr
State of Texas
My commission expires: 8-28-85
REBECCA S. COONS
(Type or Print Name of Notary)