

BYLAWS  
OF  
NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

OFFICES

SECTION ONE: Principal Office : 738 Link Rd, Houston, TX 77009

The principal office of the NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC. (hereinafter sometimes called the "Association") in the State of Texas shall be located at P.O. Box 10370, Houston, Texas 77206.

SECTION TWO: Other Offices

The Association may have such other offices, either within or without the County of HARRIS, State of Texas, as the Board of Directors may determine or as the affairs of the Association may require from time to time.

ARTICLE II

MEMBERS

SECTION ONE: Members

A. Every Owner shall be a member of the Association. For all purposes hereof, the term "Owner" shall have the meaning designated in that certain Declaration of Covenants, Conditions and Restrictions and Grant of Easements for NEWER HEIGHTS VILLAGE SUBDIVISION in HARRIS County, Texas, filed for record under County Clerk's File No. 680385, Official Public Records of Real Property of HARRIS County, Texas, as amended from time to time ("Declaration"), and reference is hereby made to the Declaration for all purposes. Upon verification of the qualifications established herein, membership shall be automatic.

B. No member of the Association shall have any right or interest in the assets of the Association, including, without limitation, any right to distribution of assets in the event of the liquidation, dissolution or winding up of the Association, whether voluntary or involuntary.

SECTION TWO: Voting Rights

A. Development Period: Notwithstanding anything herein to the contrary, during the "Development Period" as defined in the Declaration there shall be two (2) classes of membership entitled to voting rights in the Association which shall be as follows:

(i) Class A: All Members in the Association, other than the Declarant, shall be considered Class A non-voting Members.

(ii) Class B: Class B Members shall be those individuals or entities who are defined in the Declaration as "Declarant", and for each Lot owned they shall be entitled to three (3) votes on each matter coming before the Members.

B. Post-Development Period: Upon termination of the Development Period, any remaining Class B membership shall automatically convert to Class A membership, and thereafter there shall be only one (1) class of voting membership. Upon termination of the Development Period, all Class A Members shall be entitled to one (1) vote for each Building Site owned on each matter coming before the Members unless their voting rights have been suspended.

C. Multiple Owners: When more than one Person holds an ownership interest in a Lot, all such Persons shall be Members, but in no event shall they be entitled to more than one (1) vote with respect to that particular Lot. When more than one Person holds an ownership interest in a Lot, the vote of all such joint Owners shall be exercised and controlled as provided in the Declaration.

D. Cumulative Voting Prohibited: Cumulative voting shall not be permitted as to any matter placed before the membership for a vote, including election of Directors.

E. Suspension of voting Rights: Voting rights of any Member may be suspended for breach of the Governing Documents as herein provided. Nonpayment of any dues or assessments shall be considered a breach of such Governing Documents.

F. The decision of a majority of the Board of Directors as to the number of votes which any member is entitled to cast, based upon the provisions of the Declaration, Articles of Incorporation and the provisions hereof, shall be final.

### ARTICLE III

#### MEETINGS OF MEMBERS

##### SECTION ONE: Annual Meeting

The first annual meeting of the members shall be held within ninety (90) days following the end of the Development Period. Each annual meeting thereafter shall be held during the month of July of each year, as determined by the Board of Directors, and at such place within HARRIS County, Texas as determined by the Board of Directors.

##### SECTION TWO: Special Meetings

Special meetings of the members may be called by the President, the Board of Directors, or by members of the Association having not less than two-thirds (2/3) of the votes entitled to be cast at such meeting. The Declarant may call special meetings of the members from time to time prior to the first annual meeting of the members for such purposes as the Declarant may deem appropriate.

##### SECTION THREE: Place of Meeting

The Board of Directors may designate any place, either within or without the State of Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Association (or its President) in the State of Texas; but if all of the members shall meet at any time and place, either within or without the State of Texas, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any corporate action may be taken.

SECTION FOUR: Notice of Meetings

Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or such other person authorized to call the meeting, not less than ten (10) nor more than sixty (60) days before such meeting to each Member according to the records of the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose or purposes of the meeting.

SECTION FIVE: Informal Action by Members

Any action required by law to be taken at a meeting of the members, or any action that may be taken at a meeting of members, may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by the members having a majority of the votes entitled to be cast with respect to the subject matter thereof.

SECTION SIX: Quorum

The presence, in person or by proxy and whether or not in good standing, at any meeting of Members representing not less than fifty-one percent (51%) of the Building Sites then contained in the Subdivision shall constitute a quorum for any action except as otherwise required by law, the Articles of Incorporation, the Declaration or these Bylaws. If a quorum shall not be present or represented at any meeting, the Chairperson of the meeting shall have power to adjourn the meeting from time to time, without any further notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented; provided, the adjourned meeting or meetings shall be held within ninety (90) days of the date of the original meeting. At any such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally called.

SECTION SEVEN: Proxies

At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

SECTION EIGHT: Cumulative Voting

At any election for directors of the Association, cumulative voting shall be prohibited.

ARTICLE IV

BOARD OF DIRECTORS

SECTION ONE: General Powers

The Board of Directors shall manage the affairs of the Association. The Board of Directors may exercise all powers, and do all such lawful acts and things as are not by statute, the Declaration, the Articles of Incorporation or these Bylaws prohibited, or directed or required to be exercised or done by the members. These powers shall specifically include, but not be limited to, the following items:

1. to retain, hire, employ or contract for the construction, maintenance, repair, landscaping, insuring, administration and operation of the Subdivision (as said term is defined in the Declaration);
2. to open bank accounts and borrow money on behalf of the Association and to designate the signatories to such bank accounts;
3. to collect delinquent assessments by suit or otherwise, to abate nuisances, to take action in connection with its power to maintain the Subdivision and enforce the Declaration; and
4. to exercise any or all powers granted to the Association and/or the Board of Directors under the Declaration.

SECTION TWO: Number, Tenure, and Qualifications

The number of directors shall be initially three (3) as named in the Articles of Incorporation, but the number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the Articles of Incorporation or the Bylaws; provided, however, that in no event shall the number of directors be less than that required by law. Each director shall hold office for one (1) year, or until his successor shall have been duly elected and qualified. Each director elected at or after the first annual meeting of members must own a Lot in NEWER HEIGHTS VILLAGE, or he must be a shareholder, officer, director or employee in a corporation or be a partner or employee of a partnership that owns a Lot in NEWER HEIGHTS VILLAGE. Prior to the first annual meeting of the members, the Declarant shall appoint the directors. Additionally, prior to the first annual meeting of the members, the Declarant shall have the power to remove any director and appoint a successor, as well as the power to appoint a successor for any vacancy in the Board of Directors.

SECTION THREE: Regular Meetings

A regular annual meeting of the Board of Directors shall be held without other notice than this Bylaw, immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide by resolution the time and place, either within or without the State of Texas, for the holding of additional regular meetings of the Board without other notice than such resolution.

SECTION FOUR: Special Meetings

Special meetings of the Board of Directors may be called by or at the request of the President or any directors. The person or persons authorized to call special meetings of the Board may fix any place, either within or without the State of Texas, as the place for holding any special meeting of the Board called by them.

SECTION FIVE: Notice

Notice of any special meeting of the Board of Directors shall be given at least one (1) business day previously thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The

business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these Bylaws.

SECTION SIX: Informal Action by Directors

Any action required by law to be taken at a meeting of the Board of Directors, or any action that may be taken at a meeting of the Board of Directors, may be taken without a meeting if consent in writing, setting forth the action to be taken, shall be signed by all of the directors. Such consent shall have the same force and effect as a unanimous vote at a meeting and may be stated as such in any articles or document filed with the Secretary of State.

SECTION SEVEN: Quorum

A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

SECTION EIGHT: Manner of Acting

The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

SECTION NINE: Vacancies

Any vacancy occurring in the Board of Directors shall be filled by the affirmative vote of the majority of the remaining board members by a special meeting of the directors. A director elected to fill the vacancy shall be elected for the unexpired term of his predecessor in office.

SECTION TEN: Compensation

The directors shall not receive any stated salaries for their services, but by resolution of the Board of Directors any director may be reimbursed by the Association for expenses incurred by him in connection with the business of the Association.

ARTICLE V

OFFICERS

SECTION ONE: Officers

The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers, including Assistant Treasurers, Assistant Secretaries, and other officers and assistant officers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors and by the Declaration. Any two or more offices may be held by the same person.

SECTION TWO: Election and Term of Office

Directors shall be appointed or elected to one (1) of three (3) Directorship Positions designated as Positions One through Three. The initial Board of Directors named in the Association's Articles of

Incorporation or such other person as shall be appointed by Declarant during the Development Period shall serve until the first annual meeting of the Members. At the first annual meeting of the Members, two (2) Directors shall be elected for a one (1) year term, being Directors to Positions One and Two if said first meeting is in an even numbered year and being Directors to Positions One and Three if said first meeting is an odd numbered year, and one (1) Director shall be elected to the remaining Directorship Position for a two (2) year term. Thereafter Directors shall be elected for two (2) year terms, Directors to Positions One and Two to be elected in each even numbered year and a Director to Position Three to be elected in each odd numbered year.

SECTION THREE: Removal

Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed and the number of owners needed to remove a director shall be fifty-one percent (51%).

SECTION FOUR: Vacancies

A vacancy in any office, because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION FIVE: President

The President shall be the principal executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the members. He may sign, with or without the Secretary or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments that the Board of Directors have authorized to be executed, except in cases when the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Association; and, in general, he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Declaration or the Board of Directors from time to time.

SECTION SIX: Vice-President

In the absence of the President or in the event of his inability to act the Vice-President(s), if any, shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions of the President. Any Vice-President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION SEVEN: Treasurer

If required by the Board of Directors, the Treasurer, if any, shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever; deposit all such monies in the name of the Association in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and, in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or the Board of Directors.

SECTION EIGHT: Secretary

The Secretary shall keep the minutes of the meetings of the members and the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be custodian of the Association records and of the seal of the Association and see that the seal of the Association is affixed to all documents executed on behalf of the Association if expressly required by the Board of Directors or these Bylaws; keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and in general perform all duties as from time to time may be assigned to him by the President or by the Board of Directors or as may be set forth in the Declaration.

SECTION NINE: Assistant Treasurers and Assistant Secretaries

If required by the Board of Directors, the Assistant Treasurers, if any, shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President or the Board of Directors.

ARTICLE VI

COMMITTEES

SECTION ONE: Committees of Directors

The Board of Directors, by resolution adopted by a majority of the Board, may designate one or more committees. Each such committee shall consist of two or more persons, a majority of whom are directors and the remainder of whom need not be directors. Such committees, to the extent provided in said resolution, shall have and exercise the authority of the Board of Directors in the management of the Association; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual director, of any responsibility imposed on it or him by law. A committee duly designated may perform the functions of any officers and all committees, once formed, shall report directly to the Board of Directors and the functions of any two or more officers may be performed by a single committee, including the functions of both President and Secretary. The Board of Directors shall make all final decisions.

SECTION TWO: Architectural Review Committee

The Board of Directors by resolution adopted by a majority of the Board, may designate a committee, which shall have and exercise the authority, rights and obligation of the Board of Directors to approve or disapprove plans for building and improvements as set forth in the Declaration (the "Architectural Review Committee"). Such Architectural Review Committee shall be composed of at least three (3) persons, a majority of whom shall be Directors (and the other member of such committee need not be a member of the Association). Neither the Architectural Review Committee nor any member thereof shall be liable to any member of the Association for any damage, loss or expense claimed on account of the approval or disapproval of any plans, whether or not defective, or the construction or performance of any work, whether or not pursuant to the plans or for failure to approve any plans.

SECTION THREE: Other Committees

Other committees not having and exercising the authority of the Board of Directors in the management of the Association may be designated by a resolution adopted by a majority of the directors

present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Association. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Association shall be served by such removal.

SECTION FOUR: Term of Office

Each member of a committee shall continue as such until the next annual meeting of the members of the Association and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

SECTION FIVE: Chairman

One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

SECTION SIX: Vacancies

Vacancies in the membership of any committee may be filled by the appointments made in the same manner as provided in the case of the original appointments.

SECTION SEVEN: Quorum

Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

SECTION EIGHT: Rules

Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE VII

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

SECTION ONE: Contracts

The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION TWO: Checks, Drafts, or Orders for Payment

All checks, draft, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION THREE: Deposits

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may elect.

SECTION FOUR: Gifts

The Board of Directors may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes, or for any special purpose, of the Association.

ARTICLE VIII

CERTIFICATES OF MEMBERSHIPS

The Board of Directors may provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board. Such certificates shall be signed by the President or a Vice-President and by the Secretary or an Assistant Secretary and shall be sealed with the seal of the Association. All certificates evidencing membership shall be consecutively numbered. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the Association. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued therefore on such terms and conditions as the Board of Directors may determine.

ARTICLE IX

CHARGES AND ASSESSMENTS

SECTION ONE: Fixed by Board

The Board of Directors shall fix, levy, collect, enforce and receipt for all fees, charges, costs, expenses and assessments authorized in the Declaration, including, without limitation, annual or monthly maintenance charge provided for in the Declaration. Said assessments may be adjusted from time to time by the Board of Directors as the needs of the properties subject thereto may, in its judgment, require; provided, however, that such assessments shall be made within the limitations prescribed in the Declaration.

SECTION TWO: Due Date

All fees, charges, costs, expenses and assessments shall be due and payable as set forth in the Declaration or as otherwise established by the Board of Directors

SECTION THREE: Default and Revocation of Voting Rights

Any member shall be deemed in default in the payment of any fees, charges, costs, expenses or assessments by reason of failure to timely pay same in full within the time limits set forth in the Declaration. The voting right of any member in such default shall be automatically revoked for the period during which such default exists.

ARTICLE X

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MISCELLANEOUS

SECTION ONE: Books and Records

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

SECTION TWO: Fiscal Year

The fiscal year of the Association shall begin on the first day of January and end on the thirty-first day of December of each year.

SECTION THREE: Corporate Seal

The Board of Directors shall provide a corporate seal, but affixing of a corporate seal shall not be necessary to authenticate any action of the Association unless otherwise required by the Board of Directors or these Bylaws.

SECTION FOUR: Waiver of Notice

Whenever any notice is required to be given under the provisions of the Articles of Incorporation or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XI

AMENDMENTS

The Bylaws of the Association may be amended, repealed, modified or restated by the vote or written assent of a majority of the members of the Association.

ARTICLE XII

INDEMNIFICATION

SECTION ONE: Right to Indemnification

Each person who was or is made a party to or is threatened to be made a party to, or is otherwise involved in any action, suit or proceedings, whether civil, criminal, arbitative, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Association (hereinafter an "indemnatee"), whether the basis of such proceeding is alleged action in an official capacity as a director or officer, or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the Association to the full extent authorized by the Texas Non-Profit Corporation Act (the "Non-Profit Corporation Act"), as the same exists or may hereafter be amended (provided that no such amendment shall adversely affect any right or protection of a director or officer of the Association existing at the time of such amendment), against all expense, liability and loss (including attorney fees, judgments, fines, excise or similar taxes, or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnatee in connection therewith and such

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indemnification shall continue as to an indemnitee who has ceased to be a director or officer, and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section Two of this Article XII with respect to proceedings to enforce rights to indemnification, the Association shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Association. The right to indemnification conferred in this Section One of Article XII shall be a contract right and shall include the right to be paid by the Association the expenses incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that an advancement of expenses incurred by a director or officer who is an indemnitee shall be made only (i) upon delivery to the Association of a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification under the Non-Profit Corporation Act (hereinafter an "affirmations) and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such person is not entitled to be indemnified for such expenses under this Article XII or otherwise (hereinafter an "undertaking"), and (ii) if required by law, following a determination that the facts known to those making the determination would not preclude indemnification under the Non-Profit Corporation Act.

SECTION TWO: Right of Indemnitee to Bring Suit

If a claim under Section One of this Article XII is not paid in full by the Association within sixty days after a written claim has been received by the Association, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty days, the indemnitee may at any time thereafter bring suit against the Association to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Association to recover an advancement of expense pursuant to the terms of an affirmation and an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that the indemnitee has not met the applicable standard of conduct set forth in the Non-Profit Corporation Act. In any suit by the Association to recover an advancement of expenses pursuant to the terms of an undertaking, the Association shall be entitled to recover such expenses upon a final adjudication that the indemnitee has not met the applicable standard of conduct set forth in the Non-Profit Corporation Act. Neither the failure of the Association (including its Board of Directors, independent legal counsel, or its members) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Non-Profit Corporation Act, nor an actual determination by the Association (including its Board of Directors, independent legal counsel, or its members) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of

conduct. In any suit brought by the indemnitee to enforce a right hereunder, or by the Association to recover an advancement of expenses pursuant to the terms of an affirmation and undertaking, the burden of proving that the indemnitee is not entitled to be indemnified or to such advancement of expenses under this Article XII or otherwise shall be on the Association.

SECTION THREE: Non-Exclusivity of Rights

The rights to indemnification and to the advancement of expenses conferred in this Article XII shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Articles of Incorporation of the Association, Bylaws, agreement, vote of members or disinterested directors or otherwise.

SECTION FOUR: Insurance

The Association may purchase and maintain insurance or another arrangement, at its expense, to protect itself and any director, officer, employee or agent of the Association against any expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the Non-Profit Corporation Act.

SECTION FIVE: Indemnification of Employees and Agents of the Association

The Association may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses, to any employee or agent of the Association to the full extent of the provisions of this Article XII with respect to the indemnification and advancement of expenses of directors and officers of the Association.

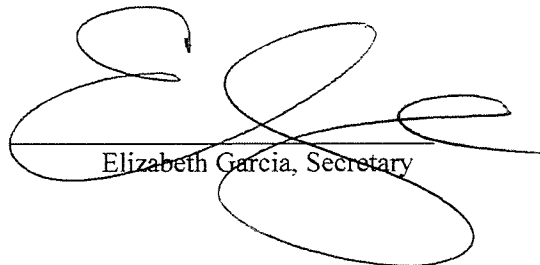
CERTIFICATION BY SECRETARY

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC, a Texas non-profit corporation, and

That the foregoing Bylaws of NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC, a Texas Non-Profit Corporation, is a complete, true and correct statement of the Bylaws of NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC, duly adopted by unanimous written consent of the Board of Directors of the Association.

DATED: 2.7.19



Elizabeth Garcia, Secretary

**DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**

**FOR**

**NEWER HEIGHTS VILLAGE  
A DEVELOPMENT IN HARRIS COUNTY TEXAS**

**STATE OF TEXAS**

§

**KNOW ALL MEN BY THESE PRESENTS THAT:**

§

**COUNTY OF HARRIS**

§

**WHEREAS**, NEWER HEIGHTS VILLAGE LLC, (hereinafter referred to as the “Declarant”), is the owner of all that certain real property located in HARRIS County, Texas, as more particularly described in Section 1.01 hereof; and **WHEREAS**, Declarant desires to create and carry out a general and uniform plan for the improvement, development, maintenance, use and continuation of a residential community on the property as set forth in Article I hereof for the mutual benefit of the successors in title to Declarant which property will be conveyed subject to the covenant, conditions, restrictions, liens, charges and easements as herein set forth.

**NOW, THEREFORE**, in order to carry out a uniform plan for the improvement, development, maintenance, sale and use of the properties within the Development as herein defined, it is hereby declared that all of the properties within the Development shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens (sometimes herein collectively referred to as “covenants and restrictions”), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said properties. These covenants and restrictions shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in said real property or any part thereof, their heirs, predecessors, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**PROPERTY SUBJECT TO THIS DECLARATION**

SECTION 1.01. Property Subjected To Declaration. The real property which, by the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is that certain real property located in HARRIS County, Texas, more particularly described as follows, to wit:

**See Attached Exhibit “A”**

SECTION 1.02. Other Property; Annexation. Only the real property described in Section 1.01 is hereby made subject to this Declaration; provided, however, upon written consent of Declarant without joinder of any other Person or Owner during the Development Period, and thereafter upon written consent of a majority of the Owners of all Lots then contained within the Development, the Association may subject any other property to the scheme of this Declaration.

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**ARTICLE II**  
**DEFINITIONS**

Unless the context otherwise prohibits, the following words, when used in this Declaration, shall mean and refer to the following:

SECTION 2.01. "Architectural Control Committee" or "ACC" shall mean the committee established pursuant to Article IV of this Declaration.

SECTION 2.02. "Architectural Guidelines" shall mean the procedural, aesthetic, environmental and architectural policies and procedures from time to time adopted by the Architectural Control Committee in accordance with Article IV hereof.

SECTION 2.03. "Association" shall mean NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC., or a similarly styled non-profit corporation presently or hereafter incorporated by or on behalf of Declarant for the purposes contemplated by this Declaration, and its predecessors, successors and assigns by merger, consolidation or otherwise.

SECTION 2.04. "Board" or "Board of Directors" shall mean the Board of Directors of the Association, whether such Board is appointed by Declarant or elected in accordance with applicable Governing Documents.

SECTION 2.05. "Bylaws" shall mean the Bylaws of the Association, as from time to time amended in accordance with applicable provisions of the Bylaws, whether or not such Bylaws or amendments thereto are filed of record. Each Person acquiring any right, title or interest in the Development shall acquire and hold such right, title or interest subject to all of the terms and provisions of the Bylaws, and any amendments thereto.

SECTION 2.06. "Community Properties" shall mean Shared Utility Facilities, if any, private streets, leases with adjoining properties, and all other properties, real or personal, conveyed to or dedicated to the use of, or otherwise acquired by the Association for the common use and enjoyment of the Members of the Association, together with all improvements thereon and appurtenances thereto.

SECTION 2.07. "Declarant" shall mean NEWER HEIGHTS VILLAGE LLC, and its successors and assigns if such successors or assigns:

(a) acquire all the undeveloped or developed but previously unoccupied or unsold Lots within the Development from Declarant for purposes of development and resale; or

(b) are expressly designated in writings by Declarant as a successor or assign of Declarant hereunder, in whole or in part.

SECTION 2.08. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for NEWER HEIGHTS VILLAGE SUBDIVISION and any amendments thereto.

SECTION 2.09. "Development Period" shall mean the period of time beginning on and ending on the earlier occurrence of either of the following events:

SECTION 13.1. Beginning on the acquisition of the Property and shall terminate upon the sale and closing of the last improvement or upon the recordation of Declarant's statement in the Real Property Records of HARRIS County, Texas, that the Development Period has ended or has been terminated by Declarant.

SECTION 2.10. "Governing Documents" shall mean all applicable provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association, Rules and Regulations, Architectural Control Guidelines, all written decisions and resolutions of the ACC and Board, and amendments to any of the foregoing.

SECTION 2.11. "Lot" shall mean a building site within the Development, whether conveyed by metes and bounds or by reference to the Plat, upon which there has or will be built a single family residential dwelling.

SECTION 2.12. "Member" shall mean every Person who holds a membership in the Association.

SECTION 2.13. "Owner" shall mean the owner, whether one or more Persons, of the fee simple title to any Lot, including any mortgagee or lien holder who acquires fee simple title to any Lot through judicial or non-judicial foreclosure or proceedings in lieu thereof, but excluding any Person holding a lien or other encumbrance, easement, mineral interest or royalty interest burdening the title thereto or otherwise having an interest merely as security for the performance of an obligation.

SECTION 2.14. "Person" shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other entity.

SECTION 2.15. "Plat" shall mean the map or plat of the Development as described in Section 1.01.

SECTION 2.16. "Private Driveway" shall mean the private street and private drive areas as described in the Plat, and any related curbs, gutters, lighting standards and fixtures and/or other facilities, including without limitation, any Development Access Facilities constructed by Declarant or the Association within the Private Driveway Easement.

SECTION 2.17. "Private Driveway Easement" shall mean and refer to the area covered by the Private Driveway and appurtenant easement rights as set forth in Article IX.

SECTION 2.18. "Regulated Modification" shall mean the placement, construction, reconstruction or erection of, or modification, alteration, or addition to, any building, structure, improvement, thing or device, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural appearance or standards, patterns of usage, or grades or topography generally prevailing in the Development as of the date of establishment of the Regulated Modification, including, by way of illustration and not of limitation:

- (a) any building, garage, porch, greenhouse, bathhouse, coup or cage, covered or uncovered patio, swimming pool, clothes line, radio or television antenna, fence, wall or other screening device, curbing, paving, wall, trees, shrubbery and any other landscaping, fountains, statuary, lighting fixtures, signs or signboard, or any temporary or permanent living quarters (including any mobile home) or any other temporary or permanent modification or alteration;

(b) an excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the flow of surface of subsurface waters to, from, upon or across any Lot or any other portion of the Development, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel to, from, upon, under or across any Lot or other portion of the Development;

I any change in the grade of any Lot or other portion of the Development, and any similar disturbance to the surface of the land within the Development; and

SECTION 13.11 . any erosion control system or devices permitted or required as to any Lot or other portion of the Development.

SECTION 2.19. “Rules and Regulations” shall mean the policies and procedures from time to time adopted by the Board of Directors regulating the operation, use and occupancy of the Development, including the Lots and Community Properties, in accordance with Article VII hereof.

SECTION 2.20. “Shared Utility Facilities” shall mean any sanitary sewer facilities, any drainage or storm water facilities, any water pipelines, water meters and related water facilities and any other common or shared facilities or services constructed, owned, maintained or provided by Declarant or the Association: (i) which connect, for any one or more of the Lots, the individual water and/or sewer lines which service any such Lot(s) to the water and/or sewer facilities owned, maintained or operated by the City of Houston, State of Texas, or any other utility provider; or (ii) which connect or provide to multiple Lots common facilities or services.

SECTION 2.21. “Development” shall mean and refer to , as more particularly described in Section 1.01 hereof, any other real property subjected to this Declaration as herein provided.

SECTION 2.22. “Development Access Facilities” shall mean (i) any controlled access gate, guardhouse and any other access limiting structure or devise and (ii) any fences, freestanding fence type walls, hedges, gates, gateposts, Development identification signs and related improvements which are constructed or maintained by Declarant or the Association within the Private Driveway Easement or the Development Service Easement.

SECTION 2.23. “Development Service Easement” shall mean the area in which Development fencing will be placed and maintained, and all other areas designated by Declarant or the Association for use as to Shared Utility Facilities or any Development Access Facilities as provided in Article IX.

SECTION 2.24. “Utility Easement Area” shall mean all utility easements as provided for in Article IX.

**ARTICLE III**  
**HOME OWNERS ASSOCIATION**

SECTION 3.01. Organization. NEWER HEIGHTS VILLAGE HOMEOWNERS ASSOCIATION, INC. (the "Association") shall be organized and formed by Declarant as a non-profit corporation under the laws of the State of Texas. The Association shall have full power, authority and standing to enforce all provisions of the Governing Documents. The principal purposes of the Association are the collection, expenditure and management of the funds and financial affairs of the Association, enforcement of all provisions of the Governing Documents, providing for maintenance, preservation and architectural control within the Development, the general overall supervision of all of the affairs and well-being of the Development, and the promotion of the health, safety and welfare of the residents and Owners of Lots within the Development.

SECTION 3.02. Board of Directors.

(a) Purpose. The Association shall act through a Board of Directors which shall manage the affairs of the Association as specified in this Declaration and other applicable Governing Documents.

(b) Composition. Declarant shall act as and constitute the Board of Directors during the Development Period, and for such purposes may designate any agent or employee of Declarant to discharge such functions. Thereafter, the Board shall be composed and its members elected as provided in the Bylaws.

SECTION 13.11. Open Meetings and Records. Meeting of the Board of Directors, and minutes, documentation and communications related thereto shall be open to Members; provided however, by resolution the Board of Directors may agree to meet in executive closed session to discuss privileged communications and such other matters as the board shall deem in its sole good faith opinion the best interest of the privacy rights of individual Members, consideration of competitive bids until a final bid is accepted, and matters where any conflict of interest exists between a Member and the Association and disclosure would detrimentally affect the interest of the Association.

SECTION 3.03. Membership. Every Person who is the record owner of a fee simple title or undivided fee simple title interest in any Lot that is subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate any Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall automatically pass with the title to the Lot.

SECTION 3.04. Voting Rights of Members.

(a) Development Period: During the Development Period there shall be two (2) classes of membership entitled to voting rights in the Association which shall be as follows:

(i) Class A: All Members in the Association, other than the Declarant, shall be considered Class A non-voting Members.

(ii) Class B: Class B Members shall be those individuals or entities who are herein defined as "Declarant", and for each Lot owned they shall be entitled to one (1) vote on each matter coming before the Members.

(b) Post-Development Period: Upon termination of the Development Period, any remaining Class B membership shall automatically convert to Class A membership, and thereafter there shall be only one (1) class of voting membership. Upon termination of the Development Period all Members of the Association shall be Class A Members, and for each Lot owned shall be entitled to one (1) vote of each matter coming before the Members unless their voting rights have been suspended as herein provided.

I Multiple Owners: When more than one Person holds an ownership interest in a Lot, all such Persons shall be Members, but in no event shall they be entitled to more than one (1) vote with respect to that particular Lot. When more than one Person holds an ownership interest in a Lot, the vote of all such Joint Owners shall be controlled by a majority of such joint Owners. Any individual Owner from among such joint Owners shall be conclusively presumed to be acting in accordance with the decision of the majority in voting either in person or by proxy unless another joint Owner is voting to the contrary, either in person or by proxy. If more than one such joint Owner is voting in person or by proxy, the single vote of such Joint Owners shall be cast in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners shall be permitted to vote as to any such matter upon which a majority decision cannot be reached.

(d) Cumulative Voting Prohibited: Cumulative voting shall not be permitted as to any matter placed before the membership for a vote, including election of Directors.

(e) Suspension of Voting Rights: Voting rights of any Member may be suspended for breach of the Governing Documents as herein provided. Nonpayment of any dues or assessments shall be considered a breach of the Governing Documents.

SECTION 3.05. Books and Records.

(a) Inspection by Members and Mortgagees. Upon written request stating a proper purpose thereof, any Member of the Association or his duly appointed representative shall be entitled to make a reasonable examination of the books and/or records of the Association at any reasonable time and for a proper purpose reasonably related to their interest as a Member at the office of the Association or at such other place in HARRIS County, Texas as the Board of Directors shall prescribe. No Member shall remove any books and/or records from the possession of the Association for any reason. Any Member may request copies of books and/or records which the Member is entitled to inspect upon written request stating the specific books and records desired and a proper purpose for the request. Notwithstanding the foregoing, no Member shall be entitled to examine any documents regarding and the Association shall have the right to refuse to disclose (i) any confidential communications by and between past or current legal counsel to the Association and the Board of Directors of the Association, or any agent, employee, representative or committee of either, (ii) any confidential communications as determined by the Board of Directors in accordance with Section 3.02, and (iii) any communications privileged under the Texas Rules of Civil or Criminal Procedure, the Texas Rules of Civil or Criminal Evidence, and any other applicable statute or law of the State of Texas or United States of America.

(b) Rules for Inspection. The Board of Directors may from time to time establish reasonable rules for inspection of any books and records of the Association (either by resolution or by adoption of Rules and Regulations) with respect to: (i) notice to be given to the custodian of the records; (ii) hours and days of the week when such an inspection may be made; and (iii) payment of reasonable duplication and administrative costs of inspection. Payment of all costs of inspection shall be a condition precedent to the right of any Member to obtain copies of any books and records.

SECTION 3.06 Limitation of Liability: Indemnification

(a) General. Except for intentional misconduct, knowing violation of the law, or as otherwise required by the Texas Non-Profit Corporation Act (including Article 1396-2.22A thereof, as amended), no Director shall be liable to the Association or its Members, and the Association shall not be liable to any Member, for monetary damages or otherwise for any act or omission in the Director's capacity as a Director or any act or omission of the Association within the scope of its purposes. The Association shall indemnify and keep indemnified, and hold harmless any Director or former Director to the fullest extent necessary to accomplishment of the foregoing and to the fullest extent otherwise allowed by law, and hold any such Director or former Director harmless from and against all claims, demands, suits, judgments, court costs, attorney fees, attachments and all other legal action as contemplated thereby. All provisions of this section shall also apply to any officer or former officer of the Association, and to all Association Committees and members thereof (current or former), including the Architectural Control Committee.

(b) Security Services. The Association may from time to time provide Development Facilities, including devices or services, intended to or which may have the affect of limiting or controlling Development access, or providing patrol services or otherwise monitor activities within the Development (including Community Properties), and may from time to time provide information through newsletters or otherwise regarding same (all such Development Facilities herein referred to as, "Security Services"). Without limitation of Section 3.06, each Owner or Member and their tenants, family, guests and invitees, covenant and agree with respect to any and all Security Services provided directly or indirectly by the Association as follows:

1. Security is the sole responsibility of local law enforcement agencies and individual Owners and Members, their tenants, and their respective guests and invitees. Security Services shall be provided at the sole discretion of the Board of Directors. The providing of any Security Services at any time shall in no way prevent the Board from thereafter discontinuing or temporarily or permanently removing same.
2. Any third party providers of Security Services shall be independent contractors, the acts or omissions of which shall not be imputed to the Association or its officers, Directors, committee members, agents or employees.
3. Providing of any Security Services shall never be construed as an undertaking by the Association to provide personal security or as a guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

4. The Association and its officers, Directors, Committee members, agents and employees shall not be liable for, and each Owner or Member, their tenants, and their respective guests and invitees, shall indemnify, keep indemnified and hold the Association and its officers, Directors, Committee members, agents and employees harmless at all times from, any injuries, loss or damages whatsoever, including without limitation any injury or damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any Person or property arising, directly or indirectly, from the providing or failure to provide any Security Services, or the discontinuation, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services.

I Liability Arising From Conduct of Owners. Each Owner, and each Owner's tenants, shall indemnify and keep indemnified, and hold harmless, the Association, and its officers, Directors, servants, agents and employees from and against all claims, damages, suits, judgments, court costs, attorney fees, attachments and all other legal actions caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or the family, guest, invitees, servants, agents or employees of either.

(d) Subsequent Statutory Authority. If the Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended subsequently to the filing of this Declaration to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Section 3.06, then liability shall be eliminated or limited and right to indemnification shall be expanded to the fullest extent permitted by such construction or amendment.

SECTION 13.1 . No Impairment. Any repeal or modification of this Section 3.06 by the Members of the Association shall not adversely affect any rights or protection existing at the time of such repeal or modification.

#### **ARTICLE IV** **ARCHITECTURAL CONTROL COMMITTEE**

SECTION 4.01. Organization.

(a) General. There is hereby established an Architectural Control Committee (herein sometimes referred to as the ACC"). Declarant shall act as the ACC during the Development Period, and shall retain all authority of the ACC as to initial construction of a residence upon each Lot which is commenced during the Development Period whether or not such initial construction is completed during or after the Development Period. Declarant shall not be required to obtain ACC approval regarding any of its developmental activities during the Development Period. Thereafter, the ACC shall be composed of either: (i) all members of the Board of Directors; or (ii) an executive committee of the Board of Directors formed and designated as the ACC by resolution adopted by the Board of Directors. The ACC may designate any one (1) of its members to act in its stead.

SECTION 13.1 . ACC Executive Committee. If an executive committee is appointed by the Board of Directors to act as the ACC, then the provisions of this Section shall apply. Such executive committee shall be composed of three (3) or five (5) members, a majority of whom shall at all times also be Directors. All such members shall serve at the discretion of the Board, and all of its decisions shall

be subject to review and modification by the Board except as herein otherwise expressly provided. In the event of the death or resignation of any person serving on the Committee, the Board of Directors shall designate a successor or successors who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been appointed, the remaining member or members shall have full authority to exercise all powers of the ACC.

(c) Compensation. No person serving on the ACC shall be entitled to compensation for services performed; provided, the ACC may employ one or more architects, engineers, attorneys or other consultants, as approved by the Board of Directors of the Association, to assist the ACC in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the ACC, and members of the ACC may be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board of Directors.

SECTION 4.02. Function and Powers.

(a) Submission of Plans Required. Except as to any building or construction by Declarant, no Regulated Modification shall be commenced, constructed, erected, placed, maintained or made unless and until complete plans and specifications have been submitted to and approved in writing by the ACC as to compliance with applicable Architectural Review Criteria as set forth in Section 4.03. Any plans and specifications to be submitted shall specify, in such form as the ACC may reasonably require, the location upon the Lot or within the Development where the Regulated Modification will occur or be placed; the dimensions, nature, kind, shape, height, and color scheme of and all materials to be used in connection with the Regulated Modification; appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details; intended uses; and such other information, plans or specifications as may be requested or required by the ACC which in the sole opinion of the ACC is reasonably necessary to fairly and fully evaluate all aspects of the proposed Regulated Modification.

(b) Architectural Guidelines. The ACC may, from time to time, promulgate, modify and delete such reasonable Architectural Guidelines applicable to the Development, including Lots and Community Properties, as it shall deem appropriate to maintain or enhance the architectural, environmental or aesthetic standards of the Development. Such authority shall include, but shall not be limited to, the right to specify:

SECTION 13.[] . specific procedural guidelines for submission of requests for, and plans, specifications and other information necessary to obtain, ACC approval to commence, erect, construct or maintain any Regulated Modification, and procedural requirements for the conducting of all activities necessary to accomplish same;

SECTION 13.[] . the amount and manner of payment of any fees or charges reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advise or consultation and all other costs and expenses in connection with review and evaluation of an application and monetary work thereunder (such costs and expenses herein referred to as the "Architectural Review Fee" which during the Development Period shall not exceed \$300.00);

(iii) specific types of Regulated Modifications which may be commenced, constructed, erected or maintained upon any Lot or anywhere within the Development, as well as specific types of Regulated Modifications which will not be permitted upon any Lot or within the Development;

(iv) permissible uses of any Regulated Modification;

SECTION 13.1 . a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of Regulated Modifications;

SECTION 13.1 . minimum setbacks;

SECTION 13.1 . the location, height and extent of fences, walls or other screening devices, walk, decks, patios or courtyards;

(viii) the orientation of structures and landscaping with respect to streets, walks, driveways and structures on adjacent properties; and

(ix) in general, all requirements reasonably deemed necessary to maximize compliance with Architectural Review Criteria as set forth in Sections 4.03.

I Manner and Effect of Adoption of Architectural Guidelines. Architectural Guidelines shall be of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, provided: (i) such Architectural Guidelines shall not be deemed a waiver modification, or repeal of any of the provisions of this Declaration and shall not be less restrictive than provided herein, but same may be more restrictive than provided herein in accordance with the aesthetics, environment or architectural appearance or standards generally prevailing in the Development as of the date of enactment, and may supplement the provisions hereof; (ii) such Architectural Guidelines shall not be enacted retroactively except that if any Regulated Modification existing at the time of enactment is in violation of an Architectural Guideline when enacted, then any re-construction or replacement of such Regulated Modification thereafter shall be in conformity with applicable Architectural Guidelines, and all repairs, modifications or maintenance performed thereon shall be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with applicable Architectural Guidelines; and (iii) Architectural Guidelines shall not become effective until thirty (30) days after true and correct copies thereof are delivered or mailed to each Member of the Association.

(d) Variances. Declarant during the Development Period, and thereafter the ACC or Board, by vote of two-thirds (2/3rds) of all members of the ACC or Board as the case may be, may grant specific variances to Architectural Guidelines and to the architectural and use restrictions set forth in Articles VII and VIII of this Declaration upon specific findings of compliance with the grounds for granting of a variance as set forth hereafter. A variance shall be granted only with respect to specific instances upon written request therefore, shall not be binding with respect to any other request for a variance whether or not similar in nature, and shall not constitute a waiver, modification or repeal of any of the provisions of this Declaration or other Governing Documents except for the limited purpose and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings that:

SECTION 13.1 . denial of the variance will cause the applicant a substantial hardship; and

SECTION 13.1 . the variance is necessary due to unusual circumstances not occasioned by the conduct of the applicant for the variance, and which are reasonably beyond the control of the applicant and the Association to mitigate or rectify; and

SECTION 13.1 . the applicant for a variance has acted in good faith in seeking a variance or in his failure to otherwise comply with the provisions of this Declaration or other Governing Documents; and

(iv) the granting of a specific variance will not materially and adversely affect the architectural, aesthetic or environmental integrity of the Development or the scheme of development therein.

SECTION 4.03. Architectural Review Criteria – General. The ACC shall evaluate all submitted applications for ACC approval on the individual merits of the particular application. Judgments and decisions of the ACC shall be based on the following criteria applied in accordance with the aesthetics, environment or architectural appearance or standards generally prevailing in the Development as of the date of submission of an application:

(a) Compliance With Governing Documents and Governmental Laws. The proposed Regulated Modification shall substantially comply with applicable provisions of the Governing Documents and governmental laws, ordinances and regulations.

(b) Harmony and Compatibility. The Regulated Modification shall relate favorably to its surroundings and the Development in terms of harmony, compatibility and conformity with surrounding buildings, structures, grades, topography, location, color, workmanship, materials, usage and design.

I Precedence for Approval or Disapproval. The ACC shall use all reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated Modifications. To this end, consideration will be given to similar applications for architectural approval, and the decisions and actions of the ACC with regard thereto.

SECTION 4.04. Basis for Disapproval by ACC. The ACC may disapprove any request for approval submitted pursuant to this Article IV for any of the following reasons:

(a) failure to comply with any applicable Architectural Review Criteria as set forth in Section 4.03; or

SECTION 13.1 . lack of sufficient information, plans or specifications as reasonably determined by the ACC to enable the ACC to fairly and fully evaluate the aesthetic, environmental or architectural impact of a proposed Regulated Modification or the uses thereof, or failure to include any information, plans or specifications required by applicable Governing Documents, or as may be requested by the ACC.

In the event of disapproval, the ACC shall so notify the applicant in writing; and if disapproval is based on lack of sufficient information, plans or specifications, then the ACC shall also notify applicant of the additional information, plans or specifications required.

SECTION 4.05. Approval and Conditional Approval by ACC.

(a) Manner. The ACC may fully approve any request for approval made pursuant to this Article IV, or the ACC may approve any such request subject to compliance with conditions stated in a conditional approval. A conditional approval shall be effective only upon full compliance with the stated condition(s). The ACC shall notify the applicant in writing of such approval (together with any qualifications or conditions of approval).

(b) Effect. Except for fraud, misrepresentation, accident or mistake, approval or conditional approval shall be final as to each Regulated Modification covered thereby, and such approval or conditional approval may not be revoked or rescinded thereafter. Approval or conditional approval shall not constitute a waiver, modification or repeal of any covenant, condition or restriction contained in this Declaration, or other Governing Documents, or preclude by estoppel or otherwise full enforcement of all provisions hereof, except as to compliance with Sections 4.02(a) and 4.02(b) and except to the extent of a specific variance granted pursuant to Section 4.02(d). Approval of any plans and specifications shall not be deemed a waiver of the right of the ACC to subsequently disapprove similar requests for approval, or any of the features or elements included therein.

SECTION 4.06. Submission and Response: Failure of ACC to Act.

(a) Submission and Response. Applications for ACC approval and requests for variances, shall be delivered to the ACC in accordance with Section 13.01 hereof, and shall be deemed submitted to the ACC only upon actual receipt thereof. All responses by the ACC shall be in writing, and shall be deemed given when deposited in the United States mail, postage prepaid and addressed to the applicant for approval or variance at the address specified in the application or request for variance or the last known address of the applicant according to the records of the Association. The ACC shall have no duty to respond to, and the provisions of this Section shall not apply regarding, any application or request for variance if the Person(s) identified in the application do not appear as Members or Owners according to the books and records of the Association. Lessees shall file applications or requests for variance in the name of their Lessors, and shall also join therein. Where more than one (1) Member or Owner applies for approval or a variance, the mailing of a response to any such Member or Owner as aforesaid shall constitute notice to all such Members or Owners.

(b) Failure to Respond – Applications. If any applicant has not received notice from the ACC approving, conditionally approving or disapproving a request for approval within thirty (30) days after the Application was originally received by the ACC, said applicant may notify the ACC in writing of that fact. If notice of failure to respond as aforesaid is not received by the ACC within forty-five (45) days after submission of an application, approval of the application shall be deemed denied. If notice of failure to respond is given to the ACC as aforesaid, then the request for approval to which such notice relates shall be deemed approved by the ACC unless the ACC shall respond to the contrary not later than fifteen (15) days after the date such notice is received by the ACC.

I Failure to Respond – Variances. Failure of the ACC to respond to any request for a variance within thirty (30) days after the request was originally received by the ACC shall operate as a denial in all respects of the request for variance.

SECTION 4.07. Implied Conditions of Approval. Unless expressly waived or modified by the ACC in writing and except as otherwise provided as to initial construction of a residence upon a Lot as set forth in Section 8.04 hereof, each and every approval or conditional approval by the ACC of a Regulated Modification shall be subject to compliance with the following conditions whether or not stated in the approval or conditional approval:

(a) Commencement and Completion of Work. Work on each Regulated Modification shall commence within thirty (30) days after ACC approval or conditional approval thereof. Upon commencement, the work shall be prosecuted diligently to obtain completion of all work as reasonably soon thereafter as possible, and in any event the work shall be substantially completed within sixty (60) days after ACC approval or conditional approval.

(b) Equipment and Materials. No equipment or building or other materials necessary to completion of a Regulated Modification shall be replaced or stored upon a Lot more than thirty (30) days prior to commencement of the work on the Regulated Modification. All such equipment and materials shall be placed within the property lines of the affected Lot. So far as practical, all such equipment and materials shall be stored in locations not visible from any street, Lot or the Community Properties. Upon completion of the work on the Regulated Modification, any such equipment and materials shall be immediately removed from the Lot and Development.

I New Construction Materials Required. Only new construction materials (except for used brick if approved by the ACC) may be used in construction of any Regulated Modification.

SECTION 13.11 . Compliance With Plans. All work on a Regulated Modification shall proceed in strict compliance with the plans and specifications approved by the ACC, all conditions stated by the ACC and all applicable Governing Documents and governmental regulations and ordinances.

SECTION 4.08. Inspection Rights. Upon reasonable notice (oral or written), any member of the ACC or the Board of Directors and their designated representatives may enter upon a Lot without liability for trespass or otherwise for purposes of confirming compliance with any applicable provisions of the Governing Documents regarding a proposed Regulated Modification, the work in progress, and the completed Regulated Modification.

SECTION 4.09. Records of Architectural Control Committee. The ACC shall not be required to maintain records of any of its meetings. The ACC shall keep and maintain records evidencing the final decision(s) of the ACC regarding all requests for approval and requests for variance for not less than four (4) years after the dates of such records, and all current Architectural Guidelines.

SECTION 4.10. Liability of Architectural Control Committee. Neither the Association nor the ACC, nor any member, subcommittee, employee or agent of either, shall be liable to any Owner, Member or any other Person for any actions or failure to act as a member of the Board or ACC, or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of plans or specifications and no publication of Architectural Guidelines shall ever be construed as representing or implying that, or as a warranty or

guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements except as stated in Section 4.05(b), or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. Any person submitting plans and/or specification and/or any other matter for approval hereunder, and any person on whose behalf said plans and/or specifications or any other matter are submitted, by submitting of same, agrees to indemnify and hold the ACC, the Board and the Association, and all officers, agents or employees thereof, harmless from and against any cost, claim, damage, penalty, fine, expense or liability whatsoever, including reasonable attorney's fees and court costs at all Judicial levels, arising out of or in connection with any approval, conditional approval or denial of approval of plans and/or specifications or any other matter submitted to the ACC.

**ARTICLE V**  
**MAINTENANCE FUND**

SECTION 5.01.            Obligation for Payments to Maintenance Fund.

(a)    Establishment of Maintenance Fund. There is hereby established a Maintenance Fund in to which shall be paid all assessments as provided for herein. The Board shall be responsible for the collection, management, control and expenditure of the Maintenance Fund which shall be deposited in accounts specifically designated for the Association as from time to time designated by the Board.

(b)    Types of Assessments. Each Owner of any Lot, by acceptance of a contract for deed, deed or other instrument of conveyance therefore and whether or not it shall be so expressed therein, covenants and agrees to pay the following assessments (collectively herein referred to as the "Maintenance Fund"), to wit:

SECTION 13.1 .            regular or annual assessments, including premiums for any "Master" Insurance policy, if such protection is so voted by the board.

SECTION 13.1 .            Shared Utility Facilities assessments which shall include Master metered utilities for all Lots, such as water and sewer.

(iii)    special assessments, such assessments to be established and collected as hereinafter provided; and

(iv)    specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

(v)    assessments for Shared Utilities for Master metered utilities such as water and sewer.

I        Purpose of Maintenance Fund. The Maintenance Fund shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the owners and occupants of the Development, including the maintenance of all Community Properties and Shared Utility Facilities, if any, the discharge of all obligations of the Association pursuant to this Declaration and other Governing Documents, and the doing of any other thing necessary or desirable in the opinion of the Board for accomplishment of the foregoing, including the establishment and maintenance of reserves for repairs, maintenance, taxes, insurance, and

other charges, and the expenditure of funds for the benefit of other properties within the vicinity of the Development, if in the Judgment of Board, the Development as a whole will benefit thereby. The Judgment of the Board in establishing any assessments and in the collection, management and expenditure of the Maintenance Fund shall be final and conclusive so long as exercised in good faith.

(d) Personal Obligation: Transferees. In addition to the assessment lien herein established, all assessments shall be and remain the personal obligation of the Owner or Owners who owned the Lot at the time the assessment became due notwithstanding any subsequent transfer of such Lot. Except as provided in Sections 5.01 (e) and 5.07I, each Owner's transferee, whether by purchase, gift, devise or otherwise, and whether voluntary or by operation of law, shall also be Jointly and severally liable for payment of all unpaid assessments at the time of transfer without prejudice to the rights of the transferee to recover from the transferor the amounts paid by said transferee.

SECTION 13.1 . Statement of Assessments. Any transferee (or prospective transferee upon presentment of an earnest money contract or other writing satisfactory to the Board) shall be entitled to a statement from the Association setting forth all assessments due as of the date of the written request. Any such request shall be in writing, shall be addressed to the Association (with copy to Declarant if made during the Development Period), and shall be delivered by and only by certified mail, return receipt requested. The Board may set a reasonable charge for providing a statement of indebtedness, the payment of which shall be a condition precedent to the Board's obligation to provide same. If the Association fails to respond to a proper written request for a statement of indebtedness within the time specified by the requesting party, which specified time shall not be less than ten (10) business days after receipt of same by the Association (and Declarant, if applicable), and upon submission of a properly executed certified mail return receipt to the Association (and Declarant, if applicable), such transferee (or prospective transferee) shall not be liable for, nor shall the Lot transferred be subject to a lien for, any unpaid assessments against the subject Lot accruing prior to the date of the written request. Except for fraud or misrepresentation, any statement of indebtedness provided as aforesaid shall be conclusive upon the Association.

SECTION 5.02. Management of Maintenance Fund.

(a) When Assessed; Payment; Rates.

SECTION 13.1 . Regular assessments and Shared Utility Facilities assessments shall be assessed on an annual basis. Except as otherwise determined by the Board, regular assessments and Shared Utility Facilities assessments shall be due and payable annually, in advance, on the first (1<sup>st</sup>) day of January of each calendar year. The Board may elect to collect either regular assessments or Shared Utility Facilities assessments, or both, in advance on a monthly or quarterly basis in which case such assessments shall be due and payable, in advance, on or before the first (1<sup>st</sup>) day of each month or each quarter, as the case may be.

(ii) In the event of foreclosure of a first mortgage or first deed of trust or in the event of a discharge in bankruptcy, the purchaser at foreclosure or the owner discharged in bankruptcy shall be liable for unpaid regular assessments and Shared Utility Facilities assessments which are assessed or assessable from and after the first (1<sup>st</sup>) day of the month following the date of foreclosure or filing of bankruptcy, and any installments for special assessments or under any agreement for payment of any assessments over a period of time which become due and payable after said date. The foregoing shall apply regardless of whether assessments are payable annually, quarterly or monthly.

(iii) Except as provided in Sections 5.02(b) and (c) and Section 5.05, both regular and special assessments and Shared Utility Facilities assessments on all Lots, including Lots owned by Declarant, shall be fixed at a uniform rate and shall be determined on a per Lot basis.

(b) Payment of Assessments by Declarant During Development Period. Notwithstanding anything to the contrary contained herein, all Lots owned by Declarant shall be exempt from payment of all assessments (regular, Shared Utility-Facilities, -special or specific) until the first (1<sup>st</sup>) day of the month following expiration or termination of the Development Period at which time the provision of Section 5.02(c) shall become applicable to Declarant with respect to any Lots then owned by Declarant. In lieu of payment of assessments as aforesaid, Developer shall contribute to the Maintenance Fund during the Development Period an amount equal to the Actual Operating Expenses of the Association less all assessments received from all other Owners or builders up to a maximum contribution equal to the full annualized rate of assessments which would otherwise be applicable to Declarant's Lots. Said contribution shall be paid from time to time as Declarant shall determine, but not less frequently than annually within sixty (60) days after the end of Declarant's fiscal year. "Actual Operating Expenses" shall mean those expenses reasonably necessary for the discharge of the Association's functions and duties under this Declaration, but shall not include capital expenditures (determined in accordance with generally accepted accounting principals), any amounts paid or to be paid to capital or contingency reserves, or prepaid items, inventory or similar expenses attributable to periods after expiration or termination of the Development Period. The determination of Actual Operating Expenses by Declarant shall be final and conclusive so long as made in good faith.

(c) Initial Construction Rate of Assessment. From the first (1<sup>st</sup>) day of the month following conveyance of a Lot by Declarant to a builder or Owner and until construction and occupancy of the initial residence constructed thereon or until the last day of the sixth (6<sup>th</sup>) month from the first (1<sup>st</sup>) day of the month after conveyance, whichever first occurs (said date of occupancy or expiration of six (6) months as aforesaid herein referred to as the "Conversion Date"), the rate applicable to any such Lot regarding payment of any regular, special or Shared Utility Facilities assessments shall be one-half (1/2) of the full rate of assessment. The full rate of assessment shall be applied from and after the Conversion Date notwithstanding any subsequent vacancy or reacquisition unless initial construction of the residence thereon is not completed and the Lot is reacquired by Declarant during the Development Period. In the event assessments are being collected in advance at the time of the Conversion Date, then upon occurrence of the Conversion Date the then Owner of the affected Lot shall pay the additional assessments due by reason of application of the full rate of assessment prorated according to the number of months remaining in the calendar year from the Conversion Date.

(d) Application of Payments. All payments made by or on behalf of an Owner, builder or Declarant for assessments (regular, Shared Utility Facilities, special or specific) shall be deemed made upon the date of receipt of the payment by the Association or its designated agent. All payments received, including payments received in consequence of Judicial or non-Judicial foreclosure, shall be applied first to payment of all Shared Utility Facilities assessments due, then to payment of all specific assessments due which application to be made in inverse order of the specific assessments listed in Sections 5.06(a)(i) through (a)(v), then to payment of all special assessments due, and finally to payment of all regular assessments due, application within each category to be on a first in, first out basis.

SECTION 5.03. Commencement. Base Rate and Subsequent Computation of Regular Assessments.

(a) Commencement and Initial Base Rate. Regular assessments shall commence as to each Owner and builder upon the first (1<sup>st</sup>) day of the month following conveyance of a Lot to the Owner or builder, and as to Declarant upon the first (1<sup>st</sup>) day of the month following expiration or termination of the Development Period. The full annualized initial base rate of regular assessments for the year 2004 per Lot (and for each calendar year thereafter unless modified as herein provided) shall not exceed ONE THOUSAND EIGHT HUNDRED AND 00/100S DOLLARS (\$1,800.00) per Lot per year, assessed at the rate of ONE HUNDRED FIFTY AND 00/100 DOLLARS (\$150.00) per Lot per month. This annualized initial base rate of regular assessments does not include any Shared Utility Facilities Assessment as further described in Section 5.05.

(b) Establishment of Budget and Rate of Regular Assessment. Annually, prior to the close of each fiscal year, the Board shall:

SECTION 13.[] . prepare a budget covering the estimated costs and expenses of operations during the coming year;

SECTION 13.[] . fix an annualized regular rate of assessment and Shared Utility Facilities assessment, if any, per Lot based upon and applicable to such budget which rate of assessment may be the same, higher or lower than the rate of assessment then in effect; and

(iii) specify separately as to such annualized regular rate of assessment and Shared Utility Facilities assessment if any, whether same shall be payable monthly, quarterly or annually.

Any such budget may be modified, corrected or amended and/or the rate of assessment changed by the Board from time to time as the Board may determine.

SECTION 13.[] . Notice of Rate of Assessment. At any time when the existing rate of assessment will be changed, the Board shall cause a notice of rate of assessment to be levied against each Lot to be mailed or delivered to each Owner. The notice of rate of assessment shall become effective on the date stated in the notice of rate of assessment (which date shall not be less than thirty (30) days after mailing or delivery of same) unless the budget or notice of rate of assessment is disapproved by vote of the Owners of two-thirds (2/3rds) of the Lots then contained within the

Development at a special meeting of the Owners called within thirty (30) days and actually conducted within sixty (60) days after the effective date of the notice of rate of assessment. Such special meeting shall be called and conducted upon the written request of any two (2) members of the Board or the Owners of fifty percent (50%) of the Lots then contained within the Development. In the event a notice of rate of assessment is mailed or delivered later than thirty (30) days prior to the effective date of the rate of assessment stated therein, then the stated rate of assessment shall become effective on the first (1<sup>st</sup>) day of the month following expiration of thirty (30) days from mailing or delivery of same, again subject to the right of the membership to disapprove the rate of assessment as aforesaid.

- (d) Disapproved or Undetermined Rate of Assessment. Notwithstanding anything to the contrary herein, in the event the Owners disapprove any proposed rate of assessment or the Association fails for any reason to establish a rate of assessment, then and until such time as a rate of assessment shall have been determined, as provided herein, the rate of assessment or initial base rate of assessment above set forth, as the case may be, then in effect shall continue in full force and effect; and the omission or failure for any reason to determine a rate of assessment or to mail or deliver a notice of rate of assessment shall not be deemed a waiver, modification or release of an Owner's obligation to pay assessments or other charges.

SECTION 5.04. Special Assessments. In addition to the other assessments authorized herein, the Board may levy special assessments at any time during each fiscal year for purposes of defraying, in whole or in part, any expenses not anticipated by the budget then in effect, or to replace part or all of any contingency or reserve fund. So long as the total amount of special assessments allocable to each Lot does not exceed Five Hundred Dollars (\$500.00) in any one fiscal year, the Association may impose the special assessment without vote or approval of any Owner. Any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by the Owners of two-thirds (2/3rds) of the Lots then contained within the Development. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

SECTION 5.05. Shared Utility Facilities Assessment. Each Lot and the Owner thereof shall be subject to such Shared Utility Facilities assessments as may be set by Declarant during the Development Period and thereafter by the Board, payable and to be determined in the same manner as regular assessments except as herein provided. The amount of the Shared Utility Facilities assessment shall reflect the anticipated costs and expenses of providing the Shared Utility Facilities, including without limitation any charges by the City of Houston, State of Texas or any other shared utility or service provider for water, sewer and all other shared facilities or services, as well as all anticipated construction, maintenance, repair or replacement expenses. The Shared Utility Facilities assessment shall be uniform as to each Lot except that the Board may apply surcharges to individual Lots to cover added expenses for swimming pools, spas or similar appurtenance, or other factors unique to individual Lots causing higher expenses related to such Lots. The initial base rate of the Shared Utility Facilities assessment per Lot per year shall be set by Declarant during the Development Period, or if not set by Declarant then thereafter by the Board .

SECTION 5.06. Specific Assessments.

(a) Types. Specific assessments shall be assessed against individual Lots and the Owner thereafter at the time liability for same accrues as follows:

SECTION 13.1 . Interest. Interest at the rate of the lesser of eighteen percent (18%) per annum or the maximum legal rate shall be charged on all delinquent assessments, regular, Shared Utility Facilities, special or specific, which are not paid in full within thirty (30) days after the due date from and after the date payment of same is due.

SECTION 13.1 . Late Charges. A late charge in the amount of TWENTY FIVE DOLLARS (\$25.00), or such other reasonable amount as from time to time determined by the Board, is hereby imposed as to any regular, Shared Utility Facilities or special assessment, and as to any of the specific assessments which are not paid in full within thirty (30) days after payment of-same is due.

(iii) Compliance Costs. All expenses incurred by reason of a breach or violation of or to obtain compliance with any provisions of this Declaration or other Governing Documents shall be assessed against the Owner of the Lot who occasioned the incurrence of such expenses, including reasonable attorney's fees whether incurred prior to, during the pendency of or after successful completion of any actions in a court of competent Jurisdiction.

(iv) Foreclosure of Assessment Lien. In the event of foreclosure of the assessment lien as herein provided, the Owner shall be required to pay to the Association a reasonable rental as determined by the Board for the use of the Lot and improvements thereon during the period of foreclosure, and the Board shall be entitled to a receiver to collect same. The "period of foreclosure shall commence on the date of posting of the Lot for foreclosure in the event of non-judicial foreclosure, or on the date of entry of judgment granting foreclosure in the event of judicial foreclosure. The "period of foreclosure" shall continue through the date of acquisition of actual possession of the Lot by the purchaser at the foreclosure sale.

(v) Other Obligations. All other monetary obligations established by or pursuant to this Declaration, or other Governing Documents, including reasonable charges as the Board may by resolution from time to time determine for providing a statement of indebtedness, a transfer fee to reflect changes of ownership or occupancy on the records of the Association, fines for violation of Rules and Regulations and charges for processing of applications for architectural approval, if any, which are intended to apply to one (1) or several but not all Lots shall be assessed against the Owner(s) of the Lot(s) incurring same.

SECTION 13.1 . Payment; Waiver. Specific assessments shall become due and payable immediately upon the occurrence of the event giving rise to liability for payment of same. Failure of the Association to impose or collect any specific assessment shall not be grounds for any action against the Association, or any director, officer, agent or employee thereof, and shall not constitute a waiver of the Association's right to exercise its authority under this Section in the future. For

good cause shown as determined in the sole good faith discretion of the Board, the Board may waive, wholly or partially, imposition of any specific assessment; provided, any such waiver shall be conditioned upon payment in full of all remaining monetary obligations then owed to the Association or receipt of written commitment that same will be paid within a specified period of time.

SECTION 5.07. Lien for Assessments.

(a) Establishment of Lien. All sums assessed against any Lot pursuant to this Declaration, whether by regular, Shared Utility Facilities, special or specific assessment as provided herein, shall be secured by a continuing lien on such Lot in favor of the Association.

(b) Perfection of Lien. The recordation of this Declaration constitutes record notice and perfection of the Association's continuing lien, effective from the date of recordation of this Declaration. No further recordation of a claim of lien or other notice of any type or kind whatsoever shall be required to establish or perfect such lien. To further evidence such lien, the Association may, but shall not be required to, prepare and file in the Real Property Records of HARRIS County, Texas, written notice of default in payment of assessments in such form as the Association may direct.

I Priority of Lien. The Association's continuing lien shall be superior to all other liens or encumbrances on each Lot except:

SECTION 13.[] . a first purchase money-mortgage or deed of trust covering a Lot or any lien for work and materials used in constructing improvements thereon if duly recorded before the date sums assessed pursuant to this Declaration became due, and only to the extent of sums unpaid under such liens or encumbrances; and

SECTION 13.[] . liens for real estate taxes and other governmental assessments or charges.

Sale or transfer of a Lot shall not affect the Association's lien; provided, however, in the event of sale or transfer of any Lot pursuant to Judicial or non-judicial foreclosure of a superior lien as aforesaid or discharge of an Owner in bankruptcy, the Association's lien shall be extinguished only to the extent same secures payment of assessments or charges due up to the date of foreclosure or as of the date of filing of bankruptcy. Foreclosure of a superior lien shall not relieve the former Owner of the Lot from the personal obligation for payment of assessments due up to the date of foreclosure. Foreclosure of a superior lien or discharge in bankruptcy shall not relieve the effected Lot or any Owner thereof subsequent to the date of foreclosure or filing of bankruptcy from liability for assessments thereafter assessed or from the Association's lien therefore. Except as set forth above, all other Persons acquiring liens or encumbrances on any Lot shall be deemed to consent that such liens or encumbrances shall be inferior to the Association's lien for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances. In addition to the automatic subordination provided hereinabove, the Board may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as the Board may determine.

SECTION 5.08. Effect of Nonpayment of Assessments.

(a) Effect. Any assessments which are not paid when due shall be delinquent. If any assessments are not paid within thirty (30) days after the due date, then:

SECTION 13.1 . late charges, interest from the due date, and all costs of collection (including reasonable attorney's fees), all as set forth in Section 5.06, shall be added to and included in the amount of such assessment;

(ii) all rights of the Owner shall be automatically suspended until all assessments are paid in full as follows: (1) such Owner shall not be entitled to vote upon any matters coming before the Owners, and (2) no such Owner shall be counted in determining the total number of Lots within the Development for purposes of determining a quorum or for any other purposes when voting by a designated percentage of Lot Owners is required by this Declaration or other Governing Documents; and

(iii) upon ten (10) days written notice, the Association may: (1) accelerate through the end of the twelve month period from the first (1<sup>st</sup>) day of the month following the date of giving of notice of acceleration all regular and Shared Utility Facilities assessments, and any installments for special or specific assessments due or to become due during said period; (2) suspend all rights of the delinquent Owner, and the Owner's tenants, and the guests and invitees of either, to the usage of Community Properties (including all recreational facilities); and (3) suspend all maintenance, utility or other services (including Shared Utility Facilities) provided by the Association to the Owner, and the Owner's tenants, and the guests and invitees of either.

SECTION 13.1 . Action for Debt: Foreclosure. Each Owner vests in the Association or its agents the right and power to bring all actions against each Owner, personally for the collection of all delinquent assessments as a debt, and to foreclose the Association's lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association either judicially or non-judicially by power of sale, and each Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Association's lien. Non-judicial foreclosure shall be conducted by notice and posting of sale in accordance with the then applicable laws of the State of Texas; and the Association is expressly empowered hereby to designate a trustee in writing from time to time to post or cause to be posted any required notices and to conduct any such non-judicial foreclosure sale. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same.

SECTION 5.09. Assessments as Independent Covenant. No Owner may waive or otherwise escape liability for the payment of assessments as provided for herein for any reason, including, by way of illustration but not limitation, by nonuse of the Community Properties or abandonment of the Lot; and no diminution or abatement of assessments shall be claimed or allowed by reason of any alleged actions or failure to act by the Association whether or not required under this Declaration or other Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or by reason of any action taken by the Association to comply with any law, ordinance, or any order or directive of any governmental authority,

the obligation to pay assessments hereby expressly declared to be a separate and independent covenant and contractual obligation on the part of each Owner.

**ARTICLE VI**  
**MAINTENANCE**

SECTION 6.01. Responsibility of Association. The Association shall maintain the Community Properties and Shared Utility Facilities, if any, and keep same in good repair. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Community Properties. The Association shall also construct and maintain such drainage facilities and devices upon the Community Properties, and upon area bayous or other drainage courses and area lands to the extent it may reasonably do so, as may be reasonably necessary to protect Lots from and to provide effective erosion control for the Development.

SECTION 6.02. Owner's Responsibility.

(a) General. All maintenance of the Lots and all improvements thereon shall be the sole responsibility of the Owner thereof who shall maintain such Lot in a manner consistent with the standards of use, conduct, appearance and maintenance generally prevailing in the Development as may be more specifically determined by this Declaration and other Governing Documents, including as determined from time to time by duly adopted Architectural Guidelines and Rules and Regulations.

(b) Disturbance of Community Properties. In the event that the performance of any Owner's maintenance responsibilities shall require that any portion of the Community Properties, including any Shared Utility Facilities, be modified, removed or disturbed, then such Owner's obligations shall be performed, at the option of the Association, either under the supervision of the Association in accordance with plans and specifications approved by the Association, or by the Association at the expense of the Owner. If the Association shall perform such obligations at the expense of the Owner, the Owner shall pay such expense upon demand. Such indebtedness shall be added to and become a part of the specific assessment to which such Owner and the Owner's Lot shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Lot.

SECTION 13.11 . Owner's Default. In the event that the Board determines that (i) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible under this Declaration or other Governing Documents, or (ii) the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder has been caused through the willful or negligent act of an Owner, the Owner's tenants, or the family, guests, or invitees of either, then the Association may perform the repair, replacement or maintenance at such Owner's sole cost and expense; provided, the Association shall, except in the event of an emergency, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall be delivered or-mailed to the Lot affected, and the Owner's last known address according to the records of the Association if different than the Lot address, and shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance,

repair, or replacement is not capable of completion within a ten (10) day period, to commence such work within ten (10) days and to complete same within a reasonable time not to exceed thirty (30) days unless otherwise specifically approved by the Association. If any Owner does not comply with the provisions hereof, the Association shall have the right (but not the obligation), through its officers, directors, agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements located thereon; and in case of emergency, or to the extent necessary to prevent rat infestation or other infestations nuisances such as roaches and other infestations, including mold or mildew, or to diminish health, fire, structural or cosmetic damage or other safety hazards, the Association shall have the right (but not the obligation), through its officers, directors, agents and employees, to enter any residence or improvement located upon such Lot. Neither the Association nor its officers, directors, agents or employees shall be liable for trespass or any other tort or claim for damages in connection with the performance of any maintenance and the other work authorized under this Article VI. All costs of such maintenance, repair or replacement shall be added to and become a part of the specific assessment to which such Owner and the Owner's Lot shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Lot.

## **ARTICLE VII**

### **USE RESTRICTIONS**

SECTION 7.01. Residential Use. Each Lot shall be restricted to single family residential use only. No trade or business may be conducted in or from any Lot, except that an Owner or occupant may conduct business activities within the residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (b) the business activity does not involve persons coming onto the Development who do not reside in the Development or door-to-door solicitation of residents of the Development; and (c) the business activity is consistent with the residential character of the Development and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other Owners. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provisions of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant or conducted by a builder with approval of the Declarant, with respect to its development and sale of the Lots and/or residence or its use of any Lots which it owns within the Development.

No structure other than one single family residence and its permitted outbuildings shall be constructed, placed on or permitted to remain on any Lot in the Development. Without limitation of the foregoing, as used in this Declaration: (i) the term "residential use shall be construed to prohibit the use of any Lot for apartment houses or other type of dwelling designed for multi-family dwelling, or for more than one (1 ) Unit upon any single Lot (provided such Unit may be contained in a Duplex), or the use of any garage as a garage apartment or residential living quarters; (ii) the term "single family" shall be

construed to mean and include only parents, children, grandparents, and grand children and domestic servants; and-(iii) in no event shall a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single family residence multiplied by two (2).

SECTION 7.02. Animals and Livestock. No hogs, horses, livestock or poultry of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs, cats or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business purpose, and further provided that no more than one (1) such pet shall be kept on a Lot. All such household pets must be kept on a leash or otherwise maintained under the control of their Owner when not maintained in an enclosed yard. In the event permitted pets, as aforesaid, are permitted to roam free, or, in the sole discretion of the Association, endanger the health or safety, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to or in the vicinity of the Development, the Association may cause any such pet to be removed from the Development and may prohibit the return of any such pet to the Development, all at the sole expense of the Owner and without liability of any kind whatsoever to the Association or any Person which the Association may direct to remove any such pet. Without prejudice to the Association's right to remove any household pets, no household pet that has caused damage or injury may be walked in the Development regardless of whether such pet is leashed.

SECTION 7.03. Vehicles.

(a) Street and Driveway Parking. No vehicle of any kind shall be parked, stored or otherwise permitted to remain overnight upon any street or upon any Community Properties, or upon the Private Driveway, unless prior written consent of the Board is obtained. No boat, mobile home, trailer, boat rigging, truck larger than a three-quarter ton pickup, bus, unused vehicle, or inoperable vehicle of any kind (including any vehicle requiring same which does not have both a current and valid license plate and current and valid state inspection sticker) shall be parked or kept on any street in front of, or along the side or back of any Lot, or on any Lot, or on any driveway at any time unless such vehicle is stored within a garage.

(b) Repair of Vehicles. No Person shall be permitted to perform work on any vehicle on any street in front of or along the side or back of any Lot, or on any Lot, at any time other than temporary emergency repairs required in order to promptly remove an inoperable or disabled vehicle from the Development or to and within a garage.

I Vehicle Defined. As used in this Section, "vehicle" shall include without limitation, motor homes, boats, trailers, motorcycles, scooters, trucks, campers, buses, and automobiles.

SECTION 13.1 . Towing. The Association may cause any vehicle which is parked or stored (whether or not pending repairs) in violation of this Declaration or other Governing Documents to be removed from the Development to any vehicle storage facility within HARRIS County, Texas at the sole cost and expense of the Person owning such vehicle (whether or not such Person is an Owner) and/or the Owner as to whom such Person is a tenant, visitor, guest or invitee. Neither the Association nor any officers, directors, agents or employees thereof, shall have any liability whatsoever in consequence of such removal, and the Owner as to whom the Person whose vehicle has been so removed shall hold the Association, and its officers, directors, agents and employees harmless from any and all claims, suits, actions, liabilities or damages arising, directly or indirectly, as at result of such removal.

SECTION 7.04. Nuisance; Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye. No hobbies or activities which will cause disorderly, unsightly, or unkempt conditions, including without limitation the assembly or disassembly of motor vehicles or other mechanical devices, shall be performed within the Development. No substance, thing, or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or a nuisance to any residents of the Development or to any Person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Development. No spirituous, vinous, malt, medicated bitters, alcohol, drugs or other intoxicants shall be sold or offered for sale on any part of any Lot or any other place within the Development. No Lot or any part thereof shall be used for any immoral or illegal purposes. Upon the good faith determination of the Board that a violation of this Section exists, the Board may take such actions as it shall deem necessary to abate the violation in the manner provided in Section 6.02I at the sole cost and expense of the violating owner.

SECTION 7.05. Sprinkler Systems: No sprinkler or similar water systems shall be permitted upon any Lot without the approval of the ACC.

SECTION 7.06. Disposal of Trash. No trash, rubbish, garbage, manure, debris or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. No incinerator may be maintained on any portion of the Development. All trash and similar matter to be disposed of shall be placed in plastic bags tied or otherwise tightly secured, and shall be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition, and shall comply with all current laws and regulations and those which may from time to time be promulgated by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. Heavy trash shall be removed from each Lot immediately. Trash and garbage for pickup by a regular service shall be placed in such area or areas as the Board may from time to time direct, or as the garbage and sanitation service or City of Houston, State of Texas may require; provided trash and garbage shall not be placed for pickup earlier than twenty-four (24) hours prior to a scheduled pickup day.

SECTION 7.07 Development Activities. Declarant may or will be required during the Development Period to engage in construction activities upon multiple Lots or Community Properties, store equipment or materials on multiple Lots or Community Properties, create accumulations of trash and debris and otherwise engage in activities and create conditions related to its initial development of the Development (the 'Developmental Activities'). Declarant will use reasonable efforts to minimize the adverse effects of its Developmental Activities upon Owners and their tenants, guests and invitees. However, Declarant shall not be liable to any Owner, tenant or guests or invitees of either for any consequences of the reasonable conducting of its Developmental Activities. Further, Declarant may establish any reasonable regulations as to Owners, tenants, and the guests and invitees of either which Declarant deems appropriate to avoid hindrance or interference with its Developmental Activities,

including limiting or denying access to areas of the Development, designating temporary dumping sites, maintenance of metal buildings or structures and use of Community Properties and/or Development Facilities in connection with its Developmental Activities.

SECTION 7.08. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist as determined by the Board, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. to 10:00 p.m., Monday through Sunday provided that the activity is not offensive in nature.

SECTION 7.09. Building Materials. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot and/or upon an adjacent vacant Lot at the time construction is commenced. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay, after which time such materials shall be removed from the Lot(s) and Development.

SECTION 7.10. Outdoor Cooking. Outdoor cooking shall be permitted on any Lot only in equipment especially constructed for same, and only in such manner as not to create a hazard of fire or injury to persons or property. Outdoor cooking is prohibited upon Community Properties unless authorized by the Board. All outdoor cooking equipment shall be properly maintained, and shall be stored in an area screened from public view when not in use.

SECTION 7.11. Firearms. The use of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small or large firearms of all types.

SECTION 7.12. Basketball Goals. No basketball goals or backboards shall be mounted on a garage or on a pole, or otherwise erected or maintained upon any Lot, without the prior written approval of the ACC.

SECTION 7.13. Leases.

(a) Restrictions. No Lot may be leased other than for use as a single family residence as herein provided and defined. No Owner may lease a Lot and attendant use of the residence and improvements thereon for transient or hotel purposes. No Owner may lease less than an entire Lot and attendant use of the residence and improvements thereon. All leases shall:

(i) be in writing; and

(ii) shall be specifically subject in all respects to all provisions of this Declaration and all other Governing Documents (whether or not expressly stated in the lease), and any failure by lessee to comply with the terms and conditions of the Governing Documents shall be a default under the lease and grounds for termination of the lease and eviction by the Owner or the Association.

(b) Liabilities. Lessor(s) and lessee(s) shall be jointly and severally liable for the observance and performance of all of the terms and provisions of this Declaration, all other Governing Documents and lessor(s) and lessee(s) shall be jointly and severally liable for all damages, costs and expenses resulting from any violation of, and/or all fines and assessments imposed thereby.

SECTION 13.11 . Surrender of Use of Community Properties and Services by Lessor(s). During all periods of time during which a Lot is occupied by lessee(s), lessor(s) shall surrender all of lessors' rights as an Owner to the use of all of the Community Properties unto such lessee(s), including without limitation all rights of use of recreational facilities, if any. The provisions of this Section shall not impair the voting rights of any lessor as Owner of any Lot, and shall not affect the rights of the lessor(s) to inspect the leased premises or to exercise any other rights or remedies customarily reserved for the protection of lessor(s).

SECTION 7.14. Unoccupied Residences. The Owner of a Lot with an unoccupied residence, including Declarant, any mortgagee in possession and any mortgagee obtaining title to a Lot by foreclosure or by any deed or other arrangement in lieu of foreclosure, shall remain liable for full observance and performance of all terms and conditions of this Declaration and all other Governing Documents, including in particular but without limitation: (i) proper maintenance of the Lot and all improvements thereon; and (ii) securing of the unoccupied residence including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use.

SECTION 7.15. Visitors, Guests and Invitees. Each Owner and each Owner's tenant shall insure that their visitors, guests and invitees fully comply with applicable provisions of this Declaration and all other Governing Documents, and shall be liable for all costs, expenses, losses, damages and fines caused by violations by any such visitor, guest or invitee.

SECTION 7.16. Children and Other Dependents. Owners and their tenants shall insure that their children and other dependents, and the children and other dependents of their visitors, guests or invitees, are properly supervised at all times, and shall not permit such children and other dependents to engage in any activity or conduct that will cause damage to or require additional maintenance of any of the Community Properties or other Lots, including landscaped areas and recreational facilities, or which is otherwise in violation of this Declaration. The parent(s), guardian(s) or other Person(s) with whom any child or dependent resides or who are otherwise legally responsible for the care and custody of the child or dependent shall be responsible for ensuring such child or dependent complies with applicable provisions of the Declaration and other Governing Documents, and shall be liable for the consequences of any violations(s) thereof by any such child or dependent.

SECTION 7.17. Garage Usage. No portion of any garage shall be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. In particular but not in limitation of the foregoing, no portion of any garage shall be used as a residence or game room, or for similar residential purpose. Garage doors shall be kept in a closed position when the garage area is not being actively used.

SECTION 7.18. Mineral Production. No drilling, development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 7.19. Clotheslines. No outside clotheslines shall be constructed or maintained on any Lot, nor shall any other outside drying of clothes be permitted.

SECTION 7.20. Rules and Regulations. The Board is hereby specifically authorized to promulgate, modify and delete such reasonable Rules and Regulations applicable to the operation, use

and occupancy of the Development, including all Lots and the Community Properties, as the Board shall from time to time deem beneficial to the Development. Such authority shall include, but is not limited to, the right to limit, in addition to the provisions of Section 7.03, the type and size of vehicles within the Development, traffic and parking regulations and other traffic control procedures, and the maximum permissible noise levels of vehicles within the Development. The Rules and Regulations shall be enforceable in the same manner as the provisions of this Declaration, provided:

- (a) such Rules and Regulations shall not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity shall cease after enactment of the Rules and Regulations covering same, then the Rules and Regulations shall apply to the activity thereafter); and

## **ARTICLE VIII**

### **ARCHITECTURAL RESTRICTIONS**

#### SECTION 8.01. Type of Residence.

- (a) Type of Structures. Only one single family residence not to exceed three stories shall be built or permitted on each Building Site.

- (b) Garages. All single family residences shall have an enclosed garage. Each such garage shall contain a minimum of three hundred fifty (350) square feet of interior floor space, and shall not be larger than a two car garage. Carports on Building Sites are prohibited. All garages must be enclosed with permanent walls and their front enclosed with standard type metal overhead doors customarily used in the building industry, and shall be equipped with an automatic door opener which shall be maintained in good working order by the Owner at all times. Any replacement garage door shall be painted to match the then existing color scheme of the residence. No modification of the exterior of any garage as originally constructed shall be permitted without prior written approval of the ACC as herein provided.

SECTION 13.1 . New Construction Required. All structures shall be of new construction, and no structure shall be moved from another location to any Lot. All residences must be kept in good repair, and must be painted when necessary to preserve their attractiveness.

SECTION 8.02. Living Area Requirements. All single family dwellings, exclusive of porches and garages, shall contain not less than eighteen hundred (1,400) square feet.

#### SECTION 8.03. Location of Residence on Lot.

- (a) General. No building or structure (including any single family dwelling, but excluding any roof overhang, fireplace, chimney, bay window, steps or similar architectural detail which is part of a single family residence) shall be located upon any Building Site (i) except in accordance with building setback lines shown on the Plat, or as established by this Declaration or applicable ordinances of the City of Houston, State of Texas, or (ii) within any easement existing at the time of construction as shown on the Plat or otherwise prohibited by Article IX hereof.

(b) Setback. No single family residential dwelling shall be located upon any Building Site except as provided herein. A single family residence, once constructed, shall not thereafter be modified or reconstructed except within the footprint of the single family residence as originally constructed.

I Encroachment. In addition to the provisions of Section 9.03, any roof overhang, fireplace, chimney, bay window, steps or similar architectural detail of a single family residence may encroach across any setback line or Lot line up to a maximum distance of thirty inches (30").

SECTION 8.04. Construction Standards. Except as may be built by Declarant or as otherwise authorized by the ACC and in addition to all other applicable requirements of this Declaration, initial construction of all residences and appurtenant structures shall be in accordance with, and such residences or appurtenant structures shall thereafter be maintained to the extent applicable in accordance with, the following:

(a) Zero Lot Line Walls; Common Walls. Any wall of a single family residence located within one foot (1') of a Building Site boundary (a "Zero Lot Line Wall") shall be constructed using permanent low-maintenance material as approved by the ACC and as required by applicable building codes and other governmental regulations or ordinances. No Zero Lot Line Wall shall have any exterior objects or appurtenances, including without limitation electrical panels, vents, plumbing clean outs, windows or openings of any kind, and nothing shall be attached to a Zero Lot Line Wall by any Person. The provisions of Article XI hereof shall apply to all Common Walls.

(b) New Construction Materials Required. Only new construction materials (except for used brick if approved by the Association) may be used.

I Storage of Materials; Clean-Up. No building material of any kind or character shall be placed or stored upon any Lot more than thirty (30) days before the construction is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. At the completion of such building or improvements, any unused materials shall be removed immediately.

(d) Landscaping Sprinkler System. All landscaping installed on any Building Site shall be in accordance with the plans and specifications therefore approved by the ACC and shall thereafter be kept and maintained in a clean, neat and attractive manner.

(e) Home Address Numbers. Any house address number markers shall be subject to the prior written approval of the ACC, and as to same the ACC shall maintain uniformity as developed from initial approved number markers.

(f) Driveways. Each Lot shall contain a driveway constructed of from the garage to the abutting street, including any street right-of-way. All driveways shall be constructed of reinforced concrete, concrete pavers or, as otherwise approved by the ACC.

(g) Exterior Materials. The exterior materials for a single family residence and appurtenant structures constructed on a Building Site must be of such materials as the ACC may from time to time establish by Architectural Guidelines or otherwise expressly approve.

(h) Drainage. All construction of residences and appurtenant structures or other improvements, and all grading and all other work in relation thereto shall be performed in such manner as to prevent drainage from such Lot to another Lot and to such end gutters on roofs, drains, drainage lines and similar devices may be required by the ACC either upon initial construction or at any time thereafter when circumstances reasonably require.

(i) Garage Height. No garage shall exceed in height the dwelling to which it is appurtenant.

(j) Roof Materials. Roofs of all residences shall be constructed so that the exposed material is material which is compatible in quality and appearance to the foregoing as may be approved by the ACC. Wood shingles of any type are prohibited on any residence, building or structure.

SECTION 13.1 . Tree Removal. No living tree shall be cut down or removed from any Common Area unless approved by the ACC.

SECTION 8.05. Maximum Density. No more than forty-five(45) single family residential dwellings shall be constructed upon the land included herein.

SECTION 8.06. Metal Building Structures. No metal buildings or structures of any kind are permitted anywhere within the Development.

SECTION 8.07. Mobile Homes; Temporary Structures; Sales Office. No mobile homes, modular homes or similar pre-fabricated residential structures of any kind shall be permitted upon any Lot. Temporary buildings or structures shall not be permitted on any Lot. Declarant, during the Development Period and thereafter, subject to the Board's approval, may permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and sale of residences at such locations as Declarant or the Board shall direct, and may authorize usage of garages as sales offices for the time of marketing of homes for sale within the Development. At the time of the sale of a residence, any garage appurtenant to such residence used for sales purposes must have been reconverted to a garage. During all times when a garage is used as a sales office, as aforesaid, there shall be posted a conspicuous sign in such garage advising prospective purchasers that the area must be reconverted to and thereafter maintained as a garage upon the sale of the Lot.

SECTION 8.08. Fences, Walls and Hedges. No building Site Fencing shall be constructed, placed or maintained on any Building Site without prior written approval of the ACC. No fence, freestanding fence type wall, gatepost, planter or hedge shall exceed eight (8') feet in height. No chain link fences shall be permitted. No Building Site Fencing shall extend past the front setback line of the Building Site or the front of the residence.

SECTION 8.09. Antennas and Satellite Dish Systems. No radio or television wires or antenna shall be placed on any Lot between a residence and any adjoining street, and no free standing antenna shall be placed anywhere upon a Lot or within the Development. Any permitted exterior antenna shall be placed on a portion of the roof of the residence which does not face a street, shall be securely anchored and fastened, and shall not extend more than five feet (5') above the peak of the roof of the residence to which attached. Citizen band radio and other publicly or privately owned radio operation antenna are strictly prohibited. No satellite dish system of any type shall be permitted on any Lot or elsewhere in the Development unless approved by the ACC. The ACC may (but shall not be required to) permit installation of a satellite dish system only if no part of same is visible from any street or any other Lot. To the extent that this provision violates any Federal Law or Regulation, such Federal Law or Regulation shall control.

SECTION 8.10. Signs. No signs, billboards, posters or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, shall be permitted on any Lot, or upon any residence, or within any residence if visible from the exterior of the residence, or within the Development without the prior written consent of the ACC other than: (i) one sign of not more than four (4) square feet advertising the particular Lot on which the sign is situated for sale; and (ii) during the period of actual construction of a single family residence upon a Lot, one sign of not more than six (6) square feet to identify the particular Lot and residence thereon for sale. For rent signs are prohibited. During the Development Period Declarant may construct and maintain such signs, billboards and advertising devices as are customary in connection with the sale of newly constructed residential dwellings. The Association shall also have the right to erect identifying signs at the entrance to the Development. Any member of the ACC or Board of Directors, or an authorized representative of either, may remove any sign, billboard, poster or advertising device located upon or within the Development in violation of the foregoing and dispose of same as trash without liability for trespass or in tort, or otherwise.

SECTION 8.11. Exterior Lighting. Any exterior lighting of a residence or Lot shall be subject to prior ACC approval. No exterior lighting shall be directed outside lot lines of the Lot upon which same is located. All lighting fixtures shall be compatible in style and design to the residence where located.

SECTION 8.12. Traffic Sight Areas. No fence, wall, hedge, tree, shrub planting or any other thing or device which obstructs sight lines at elevations between two and six feet above a street shall be permitted to remain on any corner Lot within the triangular area formed by the two (2) Lot lines abutting the street and a line connecting them at points twenty-five feet (25') from their intersection, or within the triangular area formed by the Lot line abutting a street, the edge line of any driveway or alley pavement and a line connecting them at points ten feet (10') from their intersection.

SECTION 8.13. Solar Devices. No artificial or manmade device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, without the prior written consent of the ACC. Any such installation shall be in harmony with the design of the residence, and such that the device is not visible from the Private Driveway or any street.

SECTION 8.14. Exterior Colors. Unless otherwise approved by the ACC, all residences must be painted or repainted in a color used in the original construction of residences within the Development.

SECTION 8.15. Maintenance Of Utilities. All utility services intended to be provided to each residence as originally constructed, including without limitation water, sewage, electric and gas services, shall be maintained by the Owner at all times.

SECTION 8.16. Disposal Units. Each kitchen in each residence shall be equipped with a garbage disposal unit, and same shall at all times be maintained in a serviceable condition .

SECTION 8.17. Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the ACC, and shall be maintained at all times by the Owner of the Lot upon which located.

SECTION 8.18. Electronic Signal Devices. Owners shall register the frequencies of any electronic signal devices such as garage door openers, fence openers, remote controls for lights or other electronic devices with the Board. In the event a similar frequency is already registered with the Board, the Board shall have the right to require the later registering Owner to change its proposed frequency. The Board shall attempt to coordinate such frequencies so that one owner's electronic devices will not interfere with other Owners' devices.

SECTION 8.19. Compliance with Laws. All construction of any single family residence shall be in compliance with applicable governmental laws, ordinances and regulations, including applicable building codes or permit or licensing requirements.

**ARTICLE IX**  
**EASEMENTS**

SECTION 9.01. Incorporation of Other Easements. All easements, dedications, limitations, restrictions and reservations shown on the surveys of each Lot, the Development Plat and any plat or map filed in the plat or map records of HARRIS County, Texas, and grants and dedications of easements and related rights heretofore made by Declarant and Declarant's predecessors in title affecting the Development or any Lots and filed in the real property records of HARRIS County, Texas, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant covering any portion of the Development or any Lot.

SECTION 9.02. Owner's Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Community Properties (except for perpetual easements granted by the Declarant during the Development Period and the Board thereafter) and a private easement for vehicular and pedestrian ingress and egress over, across and upon the Private Driveway which shall be appurtenant to and shall pass with the title to the Lot, subject to the following provisions:

- (a) Usage Control. The Association shall have the right to establish and regulate a limited access gate and such other security oriented systems and procedures as it may determine, to issue, charge for, and require as a condition of entry to the Development and Community Properties such identification cards, passes, keys, or similar devices as the Board may from time to time determine, to limit the number of guests of Lot Owners and tenants who may use the Community Properties, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees; and to charge reasonable admission and other fees for the use of any portion of the Community Properties.

SECTION 13.1 . Suspension of Usage Rights. Except as to ingress and egress upon the Private Driveway, the Board shall have the right upon ten (10) days written notice to suspend the right of an Owner, and the Owner's tenant, and the guests or invitees of either, to use all or any part of the Community Properties for any infraction of the Declaration until all such infractions are cured.

SECTION 9.03. Easements for Encroachment and Overhang. In the event that any portion of any roadway, walkway, parking area, driveway, water line, sewer line, utility line, sprinkler system, building or any other structure or improvement, including without limitation any building steps, fences, paving, decking, footings, piers, piles, grade beams or similar improvements, or any overhang of

walls or roofs of any such building or structure as originally constructed encroaches on any Lot or the Community Properties due to the unintentional placement or settling or shifting of any of the foregoing to a distance of not more than twenty-four inches (24”), as measured from any point on the common boundary between each Lot and the adjacent portion of the Community Properties or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point, it shall be deemed that the Owner of such Lot or the Association has granted a perpetual easement to the Owner of the adjoining Lot or the Association for continuing maintenance and use of such encroaching structure or improvement. The foregoing shall also apply to any necessary maintenance, repair or replacement of any of the foregoing if performed in substantial compliance with the original construction. So long as necessary, the foregoing easements shall be perpetual in duration, and once established shall not be subject to amendments or terminate otherwise applicable to this Declaration.

SECTION 9.04. Owners’ Access Easement.

(a) Defined. Each Lot and the Community Properties shall be subject to a non-exclusive access easement for the construction, maintenance, repair and replacement of improvements located upon any adjacent Lot (the “Accessing Lot”) for usage by accessing Lot Owner or occupant, or their agents or employees. The Lot or Community Properties being accessed is herein referred to as the “Easement Lot”.

(b) Notice: Duration. Prior to use of the Access Area, the Owner or occupant of the Accessing Lot shall give written notice of intent to utilize the Access Area stating therein the nature of intended use and the duration of such usage. Such notice shall be delivered to the Owner or occupant of the Easement Lot by regular or certified mail or personal delivery, or by attaching same to the front door of the residence located upon the Easement Lot. If by mail, such notice shall be given at least five (5) business days prior to use of the Access Area; and if by personal delivery or affixing to the front door, such notice shall be given at least forty-eight (48) hours prior to use of the Access Area. In case of emergency the Accessing Lot Owner or occupant may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the emergency and complete work necessitated thereby, but shall proceed with giving of required notice as soon as practical after commencement of usage.

I Usage. Usage of the Access Area shall be limited to the minimum reasonable amount of time required to complete necessary work to preserve, protect, construct, maintain, repair and replace the Accessing Lot and the residence or other structures and improvements located thereon. Work during the usage period shall be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Easement Lot and its occupants. Except in case of emergency or unless otherwise authorized by the Owner or occupant of the Easement Lot, work during the usage period shall be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays.

(d) ACC Approval of Access Area Improvements. No structure or improvements shall be placed within the Access Area at any time without the prior written approval of the ACC.

(e) Restoration. Promptly after completion of usage of an Access Area, the Accessing Lot Owner or occupant shall thoroughly clean the Access Area and repair and restore same to substantially the same condition that existed at the time of commencement of usage; provided, such obligation for restoration shall not apply to exotic structures or improvements which

substantially exceed the norms for Access Areas existing in the Development at the time notice is given of intent to access the Access Area.

SECTION 9.05. Utilities.

(a) Service Vehicles. An easement is hereby-granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles and other service vehicles to enter upon the Lots in the performance of their duties. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Development in performance of mail delivery or any other United States Post Office services .

(b) Changes and Additions. At the sole election of Declarant during the Development Period, and thereafter upon the written consent of a majority of the Owners:, Declarant or the Association shall have the right to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public, quasi-public or private utility purposes, including, without limitation, gas, electricity, telephone, sanitary or storm sewage, cable television, security systems, and drainage in favor of any Person furnishing or to furnish utility services to the Development, along, over, above, across and under the Development and any Lot, provided, such additional easements shall not interfere with any existing building (including a residence) or swimming pool within the Development or upon any Lot.

SECTION 9.06. Community Service Easements.

(a) Defined. Declarant during the Development Period, and the Association thereafter, may construct and provide the services, facilities and amenities hereafter enumerated in this Section 9.06. In such event each Lot and the Community Properties shall be subject to a non-exclusive access easement to conduct such services or construct, maintain, repair and replace such facilities and amenities as provided in Sections 9.04(b), (c) and (e). The provisions of this Section shall be subject to the provisions of all prior recorded easements.

(b) Blanket Easement. An easement is hereby granted to Declarant and to the Association, and their respective officers, agents, employees and management personnel to enter in or cross over any Community Properties and/or the Lots to render any service or to perform any maintenance which the Association is permitted or required to provide or perform under this Declaration, including work permitted under Section 6.01 (c), and all work necessary to construct, maintain, repair, replace and operate the Private Driveway; and by virtue of said easement to do all things reasonably necessary to provide services or perform maintenance.

SECTION 13.1 . Shared Utility Facilities. Declarant during the Development Period, and the Association thereafter with approval of a majority of the then Lot Owners, shall have the right, but no obligation, at the sole option and at the sole cost and expense of Declarant or the Association to construct Shared Utility Facilities. In such event the Association shall thereafter maintain the Shared Utility Facilities in good condition and repair; and for such purposes an easement is hereby granted to Declarant and the Association. Any easement areas established by this Section 9.06I shall be evidenced as soon as practical after establishment by filing notice of same in the Real Property Records of HARRIS County, Texas.

SECTION 9.07. Electrical Distribution System. An underground electric distribution system will be installed within the Development, designated herein as EDS, which EDS embraces all of the Lots within the Development, EDS shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. The Owner of each Lot shall at such Owner's sole cost and expense furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the Plat of the Development or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its EDS, and has also granted to the various Owners reciprocal easements providing for access to the area occupied by and centered on the service wires. In addition, the Owner of each Lot shall at such Owner's sole cost and expense furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each residential dwelling involved. For so long as the EDS is maintained, the electric service to each residential dwelling therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

SECTION 9.08. Title to Easements and Appurtenances Not Conveyed. Title to any Lot conveyed by contract, deed or other conveyance shall not be held or construed in any event to include the title to any easement established by this Article IX, including but not limited to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way or any pipes, lines, poles, or conduits on or in any utility facility, service equipment or appurtenances thereto, constructed by or under Declarant or the ACC, as the case may be, or their agents, through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Lots; and the right to maintain, repair, sell or lease -such- appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant during the Development Period, and thereafter in the ACC.

**ARTICLE X**  
**INSURANCE, CASUALTY LOSSES, AND CONDEMNATION**

SECTION 10.01. Insurance. The Association or its duly authorized agent shall have the authority to obtain, with such deductibles as the Board shall determine, the following insurance coverage or substantial equivalent, and to pay all premiums or other costs thereof from the Maintenance Fund:

- (a) Insurance for all insurable improvements on the Community Properties covering loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard (exclusive of land, foundations or slabs, excavations and such other items usually excluded from insurance coverage);
- (b) Officers' and directors' liability insurance and public liability applicable to the Community Properties covering the Association and its members for all damage or injury caused

by the negligence of the Association and the ACC or any of its members, agents or employees; and

(c) Worker's compensation of and to the extent required by law.

SECTION 13. If so decided, the Board may purchase a Master Insurance Policy providing for liability and or property insurance for the benefit of the Owners of the units, with the costs of such premiums being assessed against the Owners.

SECTION 10.02. Damage and Destruction of Lots. Liability and property insurance for Lots and all improvements thereon (including residences and appurtenant structures, and the contents of residences) shall be the sole responsibility of the Owners thereof. At a minimum, the Owner(s) of each Lot shall obtain property insurance to insure the residence thereon, and all fixtures, equipment and other improvements pertaining thereto normally insured under building coverage. Said building coverage shall be on a current replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value against risks of loss or damage by fire and other hazards as are covered by standard extended coverage, and shall include coverage against vandalism. Said building coverage shall be obtained effective as of the date of acquisition of ownership of a Lot by an Owner (or after substantial completion of construction of a residence thereon, if applicable), and shall remain continuously in effect to the date of acquisition of ownership by the next succeeding Owner(s). Each Owner of a Lot shall provide to the Association proof of said building coverage satisfactory to the Board upon not less than five (5) days written notice failing which the Board may obtain said building coverage on behalf of the Owner and assess as a specific assessment all premiums and all other costs and expenses related thereto to the defaulting Owner.

SECTION 10.03. Repair or Replacement Required. Whether or not insured, the damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction, or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter as determined by the Association. In the event of noncompliance with this provision, the Association shall have all enforcement powers permitted by law and this Declaration, including without limitation, the right to seek specific performance and/or to invoke the powers specified in Section 6.02.(c) of this Declaration.

SECTION 10.04. Condemnation. Whenever all or any part of the Community Properties shall be taken (or conveyed in lieu of and under threat of condemnation by the Association, acting on the written direction of a majority of Owners of Lots then contained within the Development) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners.

## **ARTICLE XI** **ENFORCEMENT**

SECTION 12.01. General. The Association, its successors and assigns, and any Owner shall have the right to enforce observance and performance of all restrictions, covenants, and conditions set forth in this Declaration and in other Governing Documents, and in order to prevent a breach or to enforce the observance or performance thereof shall have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory. Failure of the Association or any Owner to enforce any of the provisions of this Declaration or any other Governing Documents shall in no event be deemed a waiver of

the right to do so thereafter as to the same or similar violation whether occurring prior or subsequent thereto. No liability shall attach to Declarant, the Association, or to any of their respective officers, directors, agents, employees or members for failure to enforce the provisions of this Declaration or any other Governing Documents.

SECTION 12.02. Obligation for Payment of Costs and Expenses Resulting from Violations. Each Owner and tenant of an Owner found to have committed, or who is responsible for, a violation or violations of any of the provisions of this Declaration or any other Governing Documents, shall be Jointly and severally liable for payment to the Association for, and to indemnify the Association and to hold and save it harmless from, any and all claims, liabilities, damages, loss, costs and expenses of whatsoever kind, including reasonable attorney's fees whether incurred prior to, during or after formal proceedings in a court of competent Jurisdiction, incurred or attributable to any such violation(s), and shall pay over to the Association all sums of money which the Association or its representatives shall pay or become liable to pay as a consequence, directly or indirectly, of such violation(s). All such sums shall be assessed as a specific assessment, and shall be due and payable upon demand by the Association or its representatives upon presentment of a written statement setting forth the Association's payment or liability to pay such sums without the necessity of any other or further notice of any act, fact or information concerning the Association's rights or such Owner's or tenant's liabilities under this Section.

SECTION 12.03. Cumulative Rights and Remedies. Each right and remedy set forth herein shall be separate, distinct and non-exclusive, all shall be deemed cumulative, the pursuit of any right or remedy provided for herein or by law shall not preclude pursuit of any other right or remedy provided for herein or by law, and the failure to exercise at particular right or remedy shall not be construed as a waiver of such right or remedy or any other right or remedy.

## **ARTICLE XII** **GENERAL PROVISIONS**

SECTION 13.01. Notices to Association, ACC and Owners. Unless otherwise expressly provided herein, all notices or other communications permitted or required under this Declaration shall be in writing and shall be deemed properly given if but only if given in accordance with the following:

(a) Notices to Association or ACC. All notices or other communications to the Association or ACC shall be given by certified mail, return receipt requested, and by deposit in the United States mail, postpaid and properly addressed, to any member of the Association or ACC, such notice or other communications to be deemed given upon receipt of same by the Association and ACC. Until expiration or termination of the Development Period, the address of the Association or ACC shall be NEWER HEIGHTS VILLAGE LLC., P O Box 10370, Houston, TX 77206. or such other address as Declarant shall designate by written notice thereof filed in the Real Property Records of HARRIS County, Texas.

SECTION 13.02. Notice to Owners. All notices or other communications to any Owner shall be deemed given upon personal delivery or when deposited in the United States mail, postage prepaid, and properly addressed to the street address of the Owner's Lot located within the Development, or to the most current street address provided by an Owner for purposes of notice. Where more than one (1) Person is the Owner of a single Lot, the mailing of any notices or other

communications as aforesaid to any single Owner shall constitute notice given to all such Owners.

The foregoing provisions shall also apply to notices or other communications permitted or required by the Governing Documents other than this Declaration except as otherwise expressly provided in such other Governing Documents.

SECTION 13.02. Conveyance of Community Properties. Declarant may convey, transfer or assign any of all Community Properties and/or Development Facilities to the Association during the Development Period, and shall do so within a reasonable time after termination of the Development Period; provided, from the date of termination of the Development Period and thereafter, the Association shall be solely liable and responsible for payment (by reimbursement to Declarant or direct payment) of all costs pertaining thereto, shall be solely liable for damages or otherwise regarding the Community Properties and any usage thereof by any Person and indemnify and hold Declarant harmless regarding same to the fullest extent provided herein as to the Association. The Community Properties shall remain undivided and shall at all times be owned by the Association or its successors.

SECTION 13.03. Term. These covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, predecessors, successors and assigns, and all Persons claiming under them for a period of twenty (20) years from the date this Declaration is recorded in the Real Property Records of HARRIS County, Texas, unless amended in accordance with Section 12.03 hereof and in such event shall be binding as amended, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended for successive periods of ten (10) years each unless an instrument agreeing to terminate all said covenants, conditions, restrictions, reservations, easements, liens and charges is signed during the initial twenty (20) year term by the Owners of ninety percent (90%) of the Lots then contained within the Development and thereafter by the Owners of two-thirds (2/3rds) of the Lots then contained within the Development and duly filed for record in the Real Property Records of HARRIS County, Texas.

SECTION 13.04. Amendment.

(a) By Declarant. During the Development Period, Declarant shall have the right from time to time and at any time to amend, modify or repeal this Declaration, in whole or in part, without joinder of any Owner or any other Person effective upon recordation of an instrument of amendment in the Real Property Records of HARRIS County, Texas.

(b) By Owners. After the expiration of the Development Period the Owners of three-fourths (3/4ths) of the total number of Lots then contained within the Development shall always have the power and authority to amend, modify or repeal this Declaration, in whole or in part, at any time and from time to time, and any such amendment shall become effective upon the date an instrument of amendment covering same is signed by the requested number of Owners and filed for record in the Real Property Records of HARRIS County, Texas.

I By Association. After the Development Period, the Association, by vote of the Board of Directors, shall have the right from time to time and at any time to amend, modify or repeal this Declaration, in whole or in part, without joinder of any Owner or any other Person, effective upon recordation of an instrument of amendment in the Real Property Records of HARRIS County, Texas:

SECTION 13.0 . to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, errors or omissions herein; or

SECTION 13.0 . to conform this Declaration to the requirements of any governmental agency, including the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration.

SECTION 13.05. Interpretation. The provisions hereof are to be liberally construed to give full effect to their intent and purposes. If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and the scheme of development thereunder shall govern. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience, and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. In particular and without limitation, the subdivision of use restrictions under Article VI hereof and architectural restrictions under Article VII hereof are for convenience of reference, it being the intent that all such provisions be given full effect in an integrated manner in light of the general purposes and objectives of this Declaration and the scheme of development accomplished thereby. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

SECTION 13.06. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable,

#### EXEMPTION OF DECLARANT

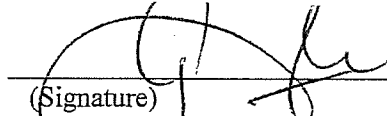
Notwithstanding anything herein to the contrary, during the Development Period Declarant, its agents, employees, representatives, appointees (including suppliers, vendors, contractors and subcontractors) assignees and or successors shall be exempt from the provisions of the Governing Documents. Declarant, its employees, representatives, agents successors and assigns shall have no liability for any assessment or charge created by the governing Documents during the Development Period. Declarant, its agents, employees, representative, successors and assigns may enforce any term, provision or assessment against any Owner during the Development Period.

EXEMPTION OF DECLARANT

Notwithstanding anything herein to the contrary, during the Development Period Declarant, its agents, employees, representatives, appointees (including suppliers, vendors, contractors and subcontractors) assignees and or successors shall be exempt from the provisions of the Governing Documents. Declarant, its employees, representatives, agents successors and assigns shall have no liability for any assessment or charge created by the governing Documents during the Development Period. Declarant, its agents, employees, representative , successors and assigns may enforce any term, provision or assessment against any Owner during the Development Period.

In **WITNESS THEREOF**, the undersigned, being the sole Owners of all Lots initially subject to this Declaration have executed this Declaration to be effective upon the date of filing of this Declaration in the Real Property Records of HARRIS County, Texas.


Newer Heights Village Homeowners Association, Inc.

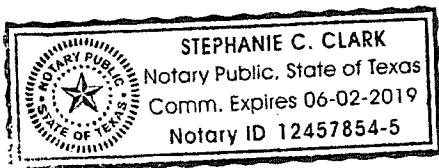
  
\_\_\_\_\_  
(Signature)  
Printed Name: NIEL JAYASINGHE  
Title: PRESIDENT

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 26<sup>th</sup> day of February, 2019, by Niel Jayasinghe, President of Newer Heights Village Homeowners Association, Inc.

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



RP-2019-80974

RP-2019-80974  
# Pages 53  
02/28/2019 02:20 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
DIANE TRAUTMAN  
COUNTY CLERK  
Fees \$220.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Diane Trautman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2019-80974