

3850  
1-01-6075

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC.

AUG 22-7423-5577 \* 38.50

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - Definitions	
Section 1. Association	2
Section 2. Owner	2
Section 3. Properties	2
Section 4. Common Area	2
Section 5. Lot	2
Section 6. Public Street	2
Section 7. Member	3
Section 8. Membership	3
Section 9. Person	3
Section 10. Board of Directors	3
ARTICLE II - Powers in Declarant	
Section 1. Annexations	3
Section 2. Lot Boundaries	3
ARTICLE III - Property Rights	
Section 1. Owners' Easements of Enjoyment	3
Section 2. Exercise of Powers	5
Section 3. Delegation of Use	5
Section 4. Development and Conveyance of Common Area	5
ARTICLE IV - Membership and Voting Rights	
Section 1. Membership	6
Section 2. Two Classes of Memberships	6
Section 3. Owner's Right to Vote	7
Section 4. Additional Remedies	7
ARTICLE V - Covenant for Maintenance Assessments	
Section 1. Creation of the Lien and Personal Obligation of Assessments	7
Section 2. Purpose of Assessments	8
Section 3. Maximum Annual Assessment	9
Section 4. Special Assessments	10
Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4	11
Section 6. Date of Commencement of Annual Assessments: Due Dates	11
Section 7. Effect of Nonpayment of Assessments: Remedies of the Association	12
Section 8. Subordination of the Lien to Mortgages	13
Section 9. All Assessments Pro Rata	13
Section 10. Diminution or Abatement	13
Section 11. Assessment and Declarant	13
ARTICLE VI - Maintenance By and Services of the Association	
Section 1. Common Area	14
Section 2. Exterior Maintenance	14
Section 3. Easement	14
Section 4. Willful or Negligent Acts	14
Section 5. Merger with Other Associations	14
Section 6. Optional Garbage Service	15

	<u>Page</u>
ARTICLE VII - Party Walls	
Section 1. General Rules	16
Section 2. Destructive Acts	16
Section 3. Damage or Injury	16
Section 4. Sharing of Repair and Maintenance	16
Section 5. Application	17
Section 6. Dispute	17
ARTICLE VIII - Permitted Uses and Restrictions	
Section 1. General Restriction	17
Section 2. Noxious Uses	17
Section 3. Use of Common Area	17
Section 4. Animals	18
Section 5. Antennas and Signals	18
Section 6. Temporary Occupancy	18
Section 7. Trailers, Boats and Motor Vehicles	19
Section 8. Nuisances	19
Section 9. Repair of Buildings	20
Section 10. Trash Containers and Collection	20
Section 11. Clothes Drying Facilities	20
Section 12. Sidewalk Encroachments	20
Section 13. Right-of-Way	20
Section 14. Mineral Exploration	21
Section 15. Machinery and Equipment	21
Section 16. Diseases and Insects	21
Section 17. Restriction on Further Subdivision	21
Section 18. Signs	21
Section 19. Tanks	22
Section 20. Increase Insurance Costs	22
Section 21. Waste	22
Section 22. Lighting	22
Section 23. Garages	23
ARTICLE IX - General Obligations of Owner	
Section 1. General Maintenance	23
Section 2. Complaints by Owner	23
Section 3. Complaints by Association	24
Section 4. Remedy of Violations	24
ARTICLE X - Fire and Extended Coverage Insurance	
Section 1. Individual Policies	25
Section 2. Master Policy	25
Section 3. Attorney-in-Fact	25
Section 4. Restoration	26
Section 5. Assessment for Insurance	27
Section 6. Mechanic's and Materialmen's Lien	27
Section 7. FHA/VA Provisions	27
ARTICLE XI - Environmental Control	
Section 1. Construction of Improvements	28
Section 2. Environmental Control Committee	28
ARTICLE XII - Easement and Rights	
Section 1. General Easement	29
Section 2. Crossover Easement	29
Section 3. Alteration Easement	30
Section 4. Encroachment Easement	30

	<u>Page</u>
Section 5. Drainage Easement	30
Section 6. Easement to Accouterment	30
Section 7. Utility Easement	30
Section 8. Blanket Easement	30
ARTICLE XIII - Deviations	31
ARTICLE XIV - Sales of Lots	
Section 1. Transmittal of Offer and Association's Option	32
Section 2. Application to Lease; Continuing Liability	33
Section 3. Mortgages	33
Section 4. Waiver	33
ARTICLE XV - General Provisions	
Section 1. Enforcement	33
Section 2. Invalidation	33
Section 3. Right to Assign	34
Section 4. Duration and Amendment	34
Section 5. Notices	34
Section 6. FHA/VA Provisions	35

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC. 1-01-6078

THIS DECLARATION, made on the date hereinafter set forth by J L P Development Corporation, a Texas corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the City of Austin, County of Travis, State of Texas, which is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Project");

WHEREAS, Declarant has subdivided a portion of the Project (hereinafter called the "Property") into lots more particularly described as a Subdivision of the City of Austin, County of Travis, State of Texas, as shown on the subdivision map recorded in Vol. 70, Page 26 of the Map and Plat Records of Travis County, Texas (which map is hereinafter called the "Plat" and each of which lots is hereinafter called a "Lot");

WHEREAS, Declarant plans to develop the Property as single-family residence lots for sale and to construct or have constructed thereon single-family attached residences for individual ownership; and

WHEREAS, Declarant plans to provide for the formation of a Texas non-profit corporation, whose members are the owners of the Lots, for the purpose of assuring the upkeep, maintenance, improvement and administration of the Project, including its open areas, playgrounds, mini-parks, swimming facilities, and other recreational facilities, and all improvements now existing or hereafter erected thereon, and for the purpose of enforcing the restrictions and covenants set out herein and collecting and disbursing the assessments and charges hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the Project shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which

are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC., a Texas non-profit corporation to be formed by Declarant, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, provided the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 3. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto within the Project as may hereafter be bought within the jurisdiction of the Association, by the power retained in Section 1 of Article II hereof.

Section 4. "Common Area" shall mean and refer to the following: ALL LAND AND IMPROVEMENTS THEREON DESIGNATED ON RECORDED SUBDIVISION PLAT AS COMMON AREA, PRIVATE DRIVE, PRIVATE STREET.

Section 5. "Lot" shall mean and refer to the following: ALL LAND SHOWN ON RECORDED SUBDIVISION PLAT NOT DESIGNATED AS "COMMON AREA," "PRIVATE DRIVE," "PRIVATE STREET."

Section 6. "Public Street" shall mean any street, lane, drive, boulevard, court circle, road, place, manor or terrace which has been dedicated to public use, as shown on the Plat of the Property but shall not include private streets,

driveways, alleyways and cul-de-sacs forming part of the Common Areas.

Section 7. "Member" shall mean any person and/or entity who owns a fee interest in a Lot.

Section 8. "Membership" is defined in Article IV.

Section 9. "Person" shall mean an individual, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 10. "Board of Directors" shall mean the Board of Directors of the Association.

ARTICLE II

POWERS IN DECLARANT

Section 1. Annexations. In the event the Declarant develops additional lands within the bounds of the Project, such additional land may be annexed to the Property by the Declarant's filing of record an amendment to this Declaration, in which case such additional Property shall be subject to this Declaration.

Section 2. Lot Boundaries. The Declarant reserves the right to make such changes in the boundaries of Lots not sold to others and in the Common Area as it deems advisable, provided that any such changes shall not unreasonably or substantially adversely affect the boundaries or the beneficial use and enjoyment of any Lot then owned by Persons other than Declarant, and provided Declarant complies with all provisions of any applicable law or ordinance.

ARTICLE III

PROPERTY RIGHTS

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

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

(b) the right of the Association to suspend the right to use of the recreational facilities by an Owner (or his family or guests) for any period during which any assessment against his Lot remains unpaid in excess of thirty (30) days, and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations by an Owner or his family or guests;

(c) the right of the Association with the permission of the Declarant to dedicate or transfer a fee interest in or an easement on all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer of a fee interest shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication and transfer has been recorded;

(d) the right of the Association to make such reasonable rules and regulations regarding the use of the Common Area and facilities located hereon by the Members and other persons entitled to such use, including but not limited to restrictions of the number of guests who may use the Common Area and the parts of the Common Area such guests may use;

(e) the right of the Association, to borrow money for the purpose of improving the Common Area and facilities, constructing new facilities thereon or performing the maintenance obligations and providing the services

set forth in Article VI hereof and in connection there-  
with to mortgage the Common Area or portions thereof;  
and

(f) the right of the Association to contract for  
services with third parties on such terms as the Associ-  
ation may determine in the best interests of the  
Association.

Section 2. Exercise of Powers. The powers reserved  
in the Association in Section 1 of this Article and any other  
powers of the Association created herein shall be exercised by  
the Board of Directors unless specifically provided otherwise.

Section 3. Delegation of Use. Any Owner may delegate,  
in accordance with such reasonable rules and regulations as the  
Association may promulgate from time to time, his right of  
enjoyment to the Common Area and facilities to the members of  
his immediate family (that is, spouse, children, grandchildren  
and parents), his tenants or contract purchasers who reside  
on his Lot, and the number of guests permitted by such rules.

Section 4. Development and Conveyance of Common  
Area. The Declarant shall proceed expeditiously to construct  
on the Common Area the initial recreational and other facili-  
ties to be erected thereon. The Declarant may convey all or  
part of the Common Area to the Association at any time; how-  
ever, any untransferred portion of the Common Area shall be  
conveyed when 75% of the Lots have been initially sold and  
conveyed by the Declarant, or the construction of the initial  
improvements on the Common Area has been completed, whichever  
occurs later. After any such conveyance, the Association shall  
be responsible for the maintenance and operation of the Common  
Area. Until the Common Area is conveyed to the Association,  
the Declarant shall have the exclusive use and control thereof,  
except that the Owners shall have the reasonable right of access  
over and along the portions of the Common Area serving as drive-  
ways, sidewalks or parking areas, and shall further have the



right to use all completed facilities on the Common Area subject to such reasonable rules and regulations as may be established therefor by the Association. Until such conveyance, all Annual Assessments collected by the Association shall be paid to Declarant as reimbursement for its cost of maintaining the Common Area.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Each Person (including the Declarant) who is the record owner of any Lot shall have one "Membership" in the Association for each Lot he owns, regardless of the number of persons who hold an interest in said Lot (in other words, if two or more persons are the record owners of one Lot, then such persons shall in any case own only one Membership in the Association). Each Owner shall provide the Secretary of the Association the name of such Owner, his address and telephone number. The foregoing is not intended to include persons who hold a vendor's lien, deed of trust lien or other security interest in a Lot, until such persons become the record Owner of such Lot. The Membership shall be appurtenant to and may not be separated from record ownership of any Lot, and the transfer of any Membership not made as part of a sale of a Lot shall be null and void. Ownership of a Lot shall be the sole qualification for being a Member of the Association.

Section 2. The Association shall have two classes of Memberships:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned.

Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

1-01-6004

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

(b) on

Section 3. Each Owner shall have the right to vote, in person or by proxy, his Membership or Memberships in the Association. When more than one Person owns an interest in any Lot, all such Persons shall be Members, but only one Membership may be voted for each Lot. The method of voting a Membership owned by more than one Person shall be such as the Owners shall decide among themselves.

Section 4. Additional Remedies. In addition to the remedies provided in Article V, Section 7, the Board of Directors may suspend the voting rights of any Member for any period during which any assessment against his Lot remains unpaid.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot (except Declarant) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

(1) "Annual Assessments" described in Article V, Section 2, and

(2) "Special Assessments" described in Article V, Section 4, such assessments to be fixed, established and collected as hereinafter provided.

The Annual Assessments and Special Assessments, together with interest, costs of collection (including reasonable attorney's fees), shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation to pay such assessments being part of the purchase

price of each Lot, such lien shall be superior and paramount to any homestead or other exemption provided by law. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by them, but, nevertheless, the lien as to such assessments shall continue to be a lien upon the Lot as above provided.

Section 2. Purpose of Assessments. Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of portions of the land situated upon the Lots, including without limitation the following:

(a) effecting repairs, replacements and additions to the Common Area and facilities thereon and performing all maintenance duties and providing of all services specified in Article VI of this Declaration;

(b) paying ad valorem and other property taxes and assessments levied on the Common Area;

(c) contracting for such employees and independent management necessary or appropriate to the operation and maintenance of the Common Area and supervision thereof and the performance of all duties and the providing of all services specified in Article VI of this Declaration; specifically, the Association may contract with any person or entity including Declarant for the performance of all or any portion of the duties of the Association provided herein;

(d) obtaining utility services for the Common Area; and

(e) obtaining general public liability insurance, property damage insurance and fire and extended coverage insurance in accordance with Article X of this Declaration.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment shall be \$420.00 per Lot.

(a) Commencing December, 1974, the Annual Assessment may be increased each year, effective January 1 of such year without a vote of the Membership in the same proportion as the increase, if any, of the Consumer Price Index for Urban Wage Earners and Clerical Works - U. S. City Average: All Items (published by the Department of Labor, Washington, D. C.) for the preceding month of October over that of the October previous. (The Annual Assessment as so increased is hereinafter called the "Maximum Annual Assessment" for that year.)

(b) If at any time the Board of Directors of the Association feels that the Maximum Annual Assessment is inadequate to fulfill the functions of the Association, it shall duly call a meeting of the Association for the purpose of increasing the Maximum Annual Assessment. At such meeting, the Maximum Annual Assessment may be increased by vote of two-thirds (2/3) of the Memberships of each class in attendance. Such increase shall continue until a two-thirds (2/3) of the Memberships of each Class at a meeting duly called for

1-01-6

that purpose, shall decide otherwise, or until the Maximum Annual Assessment figure set by the computation described above shall be higher, in which case the latter shall be the Maximum Annual Assessment figure.

(c) The failure of the Association to fix the Annual Assessments as provided herein for any year shall not be deemed a waiver or a release of any Owner from the obligation to pay the Annual Assessment, but the Annual Assessment fixed for the preceding calendar year shall continue until a new assessment is fixed.

Section 4. Special Assessments. In addition to the Annual Assessments, the Association may levy in any year Special Assessments, for the following purposes:

(a) Defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Area or the Lots, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Memberships of each class pursuant to votes cast at a meeting, duly called for this purpose.

(b) Exercising the option created by Article XIV of this Declaration.

(c) Defraying the amount of any deficit created by an excess of expenditures of the Association over receipts for the previous year; provided the maximum amount of any Special Assessment for this purpose may not exceed fifteen percent (15%) of the Annual Assessment for the current year.

(d) Paying for repairs and restoration and replacement and remedying violations pursuant to Section 4 of Article VI and Section 4 of Article IX.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. Such notice shall set forth the purpose of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments:  
Due Dates. The Annual Assessments provided for herein shall commence as to each Lot on the first day of the month following the issuance of a certificate of occupancy for the residence on such Lot. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Within thirty (30) days prior to the beginning of each calendar year and after consideration of current maintenance and replacement costs and a reasonable reserve for contingencies of the Association, the Board of Directors shall estimate and fix the Annual Assessment at an amount not in excess of the Maximum Annual Assessment as determined in Section 3 of this Article above. The Association shall then notify each Owner of the amount

of the Annual Assessment and each Owner shall be obligated to pay the Annual Assessment in equal monthly installments on or before the first day of each calendar month beginning January 1 of such calendar year. In the event the amount of the Annual Assessment proves to be inadequate at any time during the course of a calendar year, the Board of Directors of the Association may increase the amount of the Annual Assessment up to the Maximum Annual Assessment for such year. Correspondingly, if the amount of the Annual Assessment is creating a surplus in excess of that necessary as a reserve for contingencies, the Board of Directors of the Association may decrease the Annual Assessment. In such event, the Association shall notify each Owner of the amount of the new Annual Assessment and each Owner shall be obligated to pay a proportionate part of the new Annual Assessment on the first day of each calendar month for the remainder of the calendar year. The Association shall upon request of an Owner at any time furnish a certificate in writing signed by an officer of the Association setting forth whether or not the assessment on the Lot owned by such Owner has been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of nine percent (9%) per annum of the maximum allowed by law, whichever is the lesser. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot and interest, costs and reasonable attorney's fees for such action shall be added to the amount of such assessments as part of the lien against the Lot. No Owner may waive or otherwise escape

liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust lien or any lien securing a debt incurred in improving any Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, except if a mortgagee shall purchase a Lot at a foreclosure or trustee's sale, in which case assessments shall be suspended until such Lot is sold by such mortgagee or until such Lot is occupied as a residence, whichever shall occur first.

Section 9. All Assessments Pro Rata. The assessment made against any Lot shall in no case be higher or lower than the assessment against any other Lot, except for (i) any Special Assessments allowed pursuant to Section 4 of Article VI and Section 4 of Article IX, which are properly attributable, in the judgment of the Association, to less than all of the Lots.

Section 10. Diminution or Abatement. No diminution or abatement of assessments shall be allowed or claimed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Areas or Lots or from any action taken to comply with any law, ordinance or order of a governmental authority.

Section 11. Assessments and Declarant. Notwithstanding anything herein to the contrary, the Declarant shall not be required to pay any Annual Assessments or Special Assessments, except with respect to any Lot owned by the Declarant which is occupied as a residence.



ARTICLE VI

MAINTENANCE BY AND SERVICES OF THE ASSOCIATION

1-01-6091

Section 1. Common Area. The Association shall maintain the Common Area.

Section 2. Exterior Maintenance. The Association shall paint, repair, replace or otherwise care for all exterior improvements on all Lots including (i) roofs, gutters, downspouts, and exterior building surfaces visible from the Common Area or any other Lot including carports, and (ii) lawns, shrubs, trees and other growing plants installed by Declarant or the Association in any area visible from the Common Area. Such maintenance obligations shall not include garage door opening equipment, air conditioning equipment, glass surfaces, window, gate and door fixtures and hardware, growing plants installed by an Owner, any improvements not visible from the Common Area or another Lot, exterior light fixtures not installed by the Declarant or the Association, utility meters, circuit breakers and switch panels, and any water, sewerage, or cable television systems lines within a Lot (however, the Association shall maintain any common sprinkler system).

Section 3. Easement. The Association is hereby granted an easement of use and right of way on all Lots in order to comply with the terms of this Article and entry on a Lot for such purpose shall not be deemed trespass.

Section 4. Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, his family, guests or invitees, the Association shall add cost of such maintenance or repairs, as a Special Assessment, to the normal Assessment of such Owner.

Section 5. Merger with Other Associations. The Association may merge with any other association which has objectives and purposes similar to the Association upon a vote of two-thirds

5005 534

(2/3) of the Memberships of each class at a meeting duly called for that purpose, written notice of which has been given to all Members not less than ten (10) nor more than fifty (50) days in advance of the meeting. Such a merger shall not be effective until approved by two-thirds (2/3) of the first lienholders of the Lots.

Section 6. Optional Garbage Service. At the option of the Board of Directors of the Association, the Association may provide garbage service to all Owners under the following terms and provisions:

(a) Garbage service shall be reasonably adequate consistent with the usages of the Lots allowed pursuant to this Declaration.

(b) Such service shall continue so long as the Association is able to obtain garbage service from a private business. If such service is restricted or curtailed for any reason, the Board of Directors may prorate such service among the Common Area and the Lots. The Board of Directors shall not be liable for the manner of such proration if the members thereof have acted in good faith.

(c) The Association shall not be liable for damage, injury, sickness or loss to any person or property occasioned by any interruption, curtailment, stoppage or diminution of garbage service. In connection therewith, each Owner shall indemnify and hold harmless the Association from all claims, demands, and actions and expenses (including attorneys' fees) arising from such cause and instituted by a member of such Owner's family or the guests of such Owner or his family.

(d) The cost of such service shall be part of the Annual Assessment of each Owner, however, the amount of each Annual Assessment attributable to such costs shall not be used in calculating whether the Annual Assessment exceeds the Maximum Annual Assessment.

1-01-0093

#### ARTICLE VII

#### PARTY WALLS

Section 1. General Rules. In the case of some of the residences constructed on the Lots, there may be built residences adjoining each other by a wall located on or near the boundary line of two Lots. The wall or other structure separating such residences shall be and remain a party wall and shall be subject to the following provisions.

Section 2. Destructive Acts. Each Owner of a residence having a party wall covenants to do nothing to disturb the integrity and support provided by the wall or other structure by means of a penetration or otherwise. Any Owner (or person for whom an Owner is responsible) causing any such damage or injury shall be liable for the restoration thereof and for any other costs or expenses incurred in connection therewith.

Section 3. Damage or Injury. If damage or injury is caused by neither of such Owners or persons for whom they are responsible, then the restoration and other costs and expenses shall be borne equally by both such Owners except to the extent insurance proceeds may be available. Further, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 4. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall

be shared by both Owners who make use of the wall in equal proportions.

Section 5. Application. This Article shall apply whether the party wall be located exactly on the boundary line between the adjoining Lots or merely in near proximity to the boundary.

Section 6. Dispute. The arbitration procedure specified in Article IX, Section 2 and Section 3, shall apply to any dispute concerning a party wall.

#### ARTICLE VIII

##### PERMITTED USES AND RESTRICTIONS

Section 1. General Restriction. The Lots shall be used solely for private single family residential purposes and there shall not be constructed or maintained thereon more than one single family residence with a 2-space covered parking facility. No Lot may be used as an apartment house, double house, flat, lodging house, hotel or for any business purpose. Anything contained in this Section to the contrary notwithstanding, an Owner may lease his Lot to a tenant for a term of a minimum of six (6) months.

Section 2. Noxious Uses. The land and improvements located on each Lot shall not be used so as to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance or to violate any public law, ordinance or regulation from time to time applicable thereto. Nor shall such land and improvements be used for any purpose which will create or emit any objectionable, offensive or noxious odors, dust, gas, fumes or other such material.

Section 3. Use of Common Area. The Common Area shall be used for park, recreational, social, access, utility easement and other purposes directly related to the private single family residential use authorized hereunder.

Section 4. Animals. No animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot or the Common Area and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing, or confinement of any animal or bird shall be maintained so as to be visible from neighboring property. Upon the written request of any Owner the Board of Directors of the Association shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds on any such property is reasonable.

Section 5. Antennas and Signals. No antenna or other device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure or otherwise, without approval of the Board of Directors of the Association, except that the Declarant or the Association may erect a common television antenna. No radio signals, television signals or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of television or radio signals on any other Lot.

Section 6. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction, repair or remodeling of a dwelling on any such Lot or Common Area shall be moved immediately after the completion of construction.

Section 7. Trailers, Boats and Motor Vehicles.

mobile home, trailer of any kind, truck camper, motorized recreational vehicle, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property or a public street except in carports; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Environmental Control Committee, and provided further that trailers, truck campers, and boats may be kept and placed in such public parking areas, if any, as may be designated by the Board of Directors. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed, or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property.

Section 8. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Common Area, and no odors shall be permitted to arise therefrom, so as to render any such property or portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.

Section 9. Repair of Buildings. No building or structure upon any property within any Lot or Common Area shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size and style which are approved by the Association, which may include the requirement that all containers will be disposable. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection and, then, only the shortest time reasonably necessary to effect such collection.

Section 11. Clothes Drying Facilities. Outside clothesline or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or Common Area unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise concealed and not visible from neighboring property.

Section 12. Sidewalk Encroachments. No tree, shrub or planting of any kind on any Lot or Common Area shall be allowed to overhang or otherwise encroach upon any sidewalk or other pedestrian way from ground level to a height of seven (7) feet without the prior approval of the Environmental Control Committee.

Section 13. Right-of-Way. During reasonable hours Declarant, any member of the Environmental Control Committee, or member of the Board of Directors or any other representative of any of them, shall have the right to enter upon and inspect any Lot or Common Area for the purpose of ascertaining whether

or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 14. Mineral Exploration. No Lot or Common Area shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

Section 15. Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Travis County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental, or quasi-governmental agency or a public utility.

Section 16. Diseases and Insects. No Owner shall permit anything or condition to exist upon any Lot or Common Area which shall induce, breed, or harbor plant diseases or noxious insects.

Section 17. Restriction on Further Subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot nor any easement or other interest therein, shall be conveyed by any Owner, subject, however, to the provisions of Article II, Section 2 hereof and except easements may be granted to any governmental or quasi-governmental agency or a public utility.

Section 18. Signs. No signs whatsoever (movable or affixed), including, but not limited to, commercial, political and similar signs, which are visible from neighboring property shall be erected or maintained on any Lot except:



Section 23. Garages. No garage may be used by than the Owner of a Lot which the garage is situated or his family or bona fide guests and all garage doors shall be closed at all times except as may be necessary for entry and exit of vehicles and persons.

ARTICLE IX

GENERAL OBLIGATIONS OF OWNER

Section 1. General Maintenance. Each Owner at his own expense shall keep, maintain and care for any buildings and other improvements located on his Lot and all trees, plants, or foliage on his Lot except for areas and items maintained by the Association and otherwise keep his Lot and all improvements thereon in conformity to its condition when new. However, no Owner shall injure, remove or destroy any tree planted on any Lot by the Declarant or the Association or which has reached a height in excess of ten (10) feet without the approval of the Environmental Control Committee of the Association.

Section 2. Complaints by Owner. If any Owner believes any other Owner is in violation of this Declaration, he may so notify such Owner in writing, explaining his reasons for such complaint. If the Owner fails to remedy the alleged violation in ten (10) days after delivery of such notice, a complaint may be transmitted in writing to the Chairman of the Board of Directors of the Association, who shall thereupon choose, within not more than ten (10) days a neutral party to arbitrate the dispute in such a manner as the arbitrator deems best, but the arbitrator shall in all cases announce his decision within thirty (30) days after the transmittal of the complaint to the Chairman of the Board of Directors of the Association. If the Chairman of the Board of Directors or the arbitrator fails to act, the complaint will be considered denied. The arbitrator shall be paid his reasonable expenses, the cost of which shall be borne by the losing party.

5005 532

Section 3. Complaints by Association. If the Association believes any Owner is in violation of these Restrictive Covenants, it shall so notify such Owner in writing, explaining its reason for such complaint. If the Owner fails to remedy the alleged violation within ten (10) days following delivery of such notice, then the Association shall have the right to (i) institute appropriate legal action, or (ii) submit the dispute to arbitration, such arbitration to be held in accordance with the rules of the American Arbitration Association by the action of a majority of arbitrators chosen by the two (2) arbitrators previously chosen. If either party fails to choose an arbitrator within fifteen (15) days after the transmission of the complaint to the Owner, the other party may choose the second arbitrator. The decision of the arbitrators shall be made within thirty (30) days after the transmission of the complaint to the Owner. If the arbitrators fail to act within ninety (90) days, the complaint will be considered dismissed. The prevailing party in any such litigation or arbitration shall be entitled to recover from the other party all costs and expenses thereof, including attorney's fees, in connection therewith.

Section 4. Remedy of Violations. If the arbitrator(s) as provided in Section 2 or Section 3 above upholds the complaint, the Owner shall be so notified in writing and shall promptly remedy the violation of this Declaration, and if he fails to remedy such violation within thirty (30) days after the date of such notice or in the time specified in any such proceeding, as appropriate, the Association may (but shall not be obligated to) make the appropriate repairs and add the cost of such repairs, as a Special Assessment, to the normal assessment of such Owner. The Association, and its designees, shall have the right of entry upon the Lot owned by such Owner for such purpose.

## FIRE AND EXTENDED COVERAGE INSURANCE

Section 1. Individual Policies. The Board of Directors may obtain a master policy of fire and extended coverage insurance and until such a master policy of fire and extended coverage insurance is obtained, each Owner shall obtain an individual policy of fire and extended coverage insurance covering the improvements on his Lot in an amount equal to at least ninety percent (90%) of the insurable value of such improvements and the Association shall be named an additional insured in such policy as its interest may appear. Additionally, such policy shall contain a clause providing that said policy cannot be cancelled except upon thirty (30) days' written notice to the Association. Upon the request of the Board of Directors of the Association a certificate showing such insurance policy is in effect shall be given to the Association.

Section 2. Master Policy. If the Board of Directors of the Association chooses to obtain a master policy of fire and extended coverage insurance, such policy shall be in amount equal to at least eighty percent (80%) of the insurable value of all improvements on the Lots and the Common Area (unless higher coverage is required by the first lienholders on a majority of the Lots) with a co-insurance clause and each Owner and each mortgagee of each Lot shall be designated an additional insured as their interests may appear. The Association, upon request of any mortgagee of a Lot, shall provide such mortgagee with a certificate of insurance indicating that such insurance has been obtained and applies to the buildings on such Lot. This Section shall not preclude any Owner from obtaining an individual policy of fire and extended coverage insurance covering improvements on such Owner's Lot.

Section 3. Attorney-in-Fact. Each Owner hereby appoints the Association as its agent and attorney-in-fact for

collection of all proceeds payable under any master policy of fire and extended coverage insurance and any individual policy of fire and extended coverage insurance if the master policy has not been obtained and pursuant to such authority, the Board of Directors of the Association may negotiate, compromise and settle any disputed claim with the insurance company providing the master policy of fire and extended coverage insurance and may execute any releases, acquittances, discharges and other documents as may be necessary to effect such end and may institute such actions at law as it deems necessary to collect the proceeds of said insurance, provided, however, if the mortgagee of any Lot requires such the proceeds attributable to such Lot be paid to it, it shall be so paid to such mortgagee.

Section 4. Restoration. In the event of any fire or other casualty covered under the master policy of fire and extended coverage insurance, the Association shall collect all insurance proceeds and will, to the extent of such proceeds, repair, restore and replace any damaged or destroyed structures to their same or similar condition existing just prior to the damage or destruction thereof. Such repair, restoration or replacement shall be commenced and completed within a reasonable time in a good and workmanlike manner using the same or similar materials as were originally used in the structures damaged or destroyed. The Association shall not be liable to any Owner or his family for any delay in the completion of any repair, restoration or replacement due to causes beyond the reasonable control of the Association, its contractors or subcontractors. Specifically the Association shall not be liable for delay occasioned by weather, shortage or unavailability of materials and strikes or other work stoppages. To the extent that insurance proceeds are not sufficient to effect such repair, restoration or replacement, the Association shall levy against the Owners of the structures damaged or destroyed, a Special

Assessment sufficient to effect such repair restoration or replacement. Such Special Assessment shall be prorated among the Owners of the structures damaged or destroyed in proportion to the extent to which such Owner's structure has been so damaged or destroyed.

Section 5. Assessment for Insurance. The cost of obtaining the master policy of fire and extended insurance shall be added to and become a part of the Annual Assessment of each Owner, however, to the extent of the amount so included in the Annual Assessment, such amount shall not be included in calculating whether the Annual Assessment is in excess of the Maximum Annual Assessment. If such a master policy is so obtained and any mortgagee of a Lot requires the Owner of that Lot to escrow the portion of the master policy's premium attributable to that Lot with such mortgagee, such Owner shall have the right to so escrow such premium.

Section 6. Mechanic's and Materialmen's Lien. Each Owner whose structure is repaired, restored or replaced by the Association hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed structure to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement. Upon request by the Board of Directors of the Association and before the commencement of any reconstruction, repair, restoration or replacement, such an Owner shall execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

Section 7. FHA/VA Provisions. Notwithstanding the foregoing provisions of this Article X, it is further provided that the requirement for the maintenance of insurance covering the improvements on a Lot when the Association is not obtaining the master policy of fire and extended coverage insurance shall

not apply to any Lot acquired by the Veteran's Administration or the Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said governmental bodies.

## ARTICLE XI

### ENVIRONMENTAL CONTROL

Section 1. Construction of Improvements. Since the maintenance of environmental and architectural harmony and unity is essential for the preservation and enhancement of the value of the Lots and the harmonious functioning of the community affected hereby, no improvements may be erected on any Lot by anyone other than the Declarant or an assignee of Declarant without the approval of the Environmental Control Committee (as such term is hereinafter defined) appointed by the Association. The term "improvements" shall include but shall not be limited to the erection of any structure, including but not limited to additions to or alterations of any buildings, detached buildings, storage buildings, tool sheds, kennels, or other buildings for the care of animals, and greenhouses; the erection of any fence; the moving of any structure from another locality to a Lot; the grading, scraping, excavation or other rearranging of the surface of any Lot; the construction of any driveway, alleyway, walkway, entryway, patio or other similar item; the alteration or replacing of any exterior surface, including the repainting of any painted surfaces and the painting of formerly unpainted surfaces; and the planting, replanting or rearrangement of any plant life visible from another Lot, the Common Area, or the Public Streets.

Section 2. Environmental Control Committee. The Board of Directors of the Association shall appoint an Environmental Control Committee composed of at least three (3) Persons to approve improvements proposed to be made by any

Owner other than the Declarant. The Environmental Control Committee shall meet within fifteen (15) days after an Owner has made application to it for approval, submitting at that time two (2) sets of plans and specifications. The Environmental Control Committee shall render its decision within thirty (30) days after this meeting, either approving the plans or disapproving them, in the latter case making specific reference to those features which caused the disapproval. Approval may be conditioned upon completion within a specified period of time. All decisions shall be made by a majority vote of the Environmental Control Committee. A failure of the Committee to act will result in the project being considered approved.

#### ARTICLE XII

##### EASEMENT AND RIGHTS

Section 1. General Easement. The Declarant, so long as he shall retain record title to any Lot or the Common Area, and the Association, reserve the right and easement to the use of the Common Area and any Lot or any portion thereof, as may be needed for repair, maintenance, or construction on such Lot or any other Lot or the Common Area.

Section 2. Crossover Easement. If the Owner (including the Declarant) of any Lot must, in order to make reasonable repairs or improvements to a building on his Lot, enter or cross the Common Area or a Lot of another Owner, such Owner shall have an easement to do so; provided that such Owner shall use the most direct, feasible route in entering and crossing over such an area and shall restore the surface so entered or crossed to its original condition at the expense of said Owner and further provided such easement shall not exist on the land of any other Lot Owner if the purpose for the entrance or crossing is one requiring, by virtue of Article XI of this Declaration, approval of the Environmental Control Committee of the Association, unless such approval has been given.

Section 3. Alteration Easement. If the Owner (including the Declarant) of any Lot, must, in order to make reasonable repairs or improvements to a building on such Lot, alter the building of any other person, said Owner shall have the right to do so; provided that said Owner shall (i) create as little alteration as possible consistent with good building and engineering practices (ii) promptly restore the building altered to its original condition at the expense of said Owner, and (iii) provide such bonding as the Owner of the building to be altered shall reasonably require; and further provided such alteration shall not be allowed if the purpose for the alteration must occur is one requiring, by virtue of Article XI of this Declaration, approval of the Environmental Control Committee of the Association, unless such approval has been given.

Section 4. Encroachment Easement. If any structure erected or reconstructed by Declarant or by an Owner with the approval of the Environmental Control Committee shall encroach on the Lot of an adjoining Owner, the latter grants to such Owner an easement permitting the persistence of such encroachment. In addition, an overhang easement is granted to any Owner whose eaves, gutters or similar items overhang a reasonable distance or about the Lot of another Owner.

Section 5. Drainage Easement. Each Owner covenants to provide such easements for drainage and waterflow as the contours of the land and the arrangement of buildings by Declarant thereon requires.

Section 6. Easement to Accouterment. Declarant in constructing single-family residences and associated accouterments on the Lots may place certain portions of such residences and accouterments consisting primarily of (but not limited to) air conditioning equipment, fences, walls, walkways, and patios on the Common Areas. Declarant and each Owner, if the proposal



is approved by the Environmental Control Committee, hereby serves the right and easement to place such items on the Common Areas. Further, the subsequent Owner of any Lot on which such item is a part is granted an easement for the purpose of traversing the Common Areas in order to effectuate repairs thereto and make replacements thereof, such easement not existing, however, if the purpose for such traversing is one required by virtue of Article XI of this Declaration, approval of the Environmental Control Committee of the Association, unless such approval has been given.

Section 7. Utility Easement. An easement of ingress and egress is hereby granted on all Lots and the Common Areas in favor of any utility company for the purpose of the repair, construction and maintenance of all utility lines; provided, however, no new utility line may be constructed or no existing utility line may be relocated without the approval of the Environmental Control Committee.

Section 8. Blanket Easement. An easement is hereby retained in favor of Declarant and the Association over the Lots and the Common Areas for the construction of a common cable television system, a common sprinkler, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of the repair and maintenance of any item so constructed: An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association and/or Declarant harmless for the cost of repairing or replacing any portion damaged or destroyed by such Owner, his family, his guests and invitees.

#### ARTICLE XIII

#### DEVIATIONS

The Association may grant approval for deviations from the restrictions provided in Article VIII. Such approval

shall require the affirmative vote of holder of two-thirds (2/3) of the Memberships of each class voting at a meeting duly called for this purpose, written notice of which shall be delivered to all Members not less than ten (10) days nor more than fifty (50) days before the date of the meeting, setting forth the purposes of the meeting. Deviations from the provisions of Section 5, Section 7 and Section 15 of Article VIII shall not require such approval.

#### ARTICLE XIV

##### SALES AND LEASE OF LOTS

Section 1. Transmittal of Offer and Association's Option. If any Owner of a Lot (other than Declarant) wishes to sell or lease the same and receives a bona fide offer for purchase or lease of his Lot which such Owner deems acceptable, such fact shall be transmitted in writing to the Chairman of the Board of Directors of the Association and to Declarant together with a copy of such offer (which must be a written offer) and the terms thereof. The Owner shall also transmit an affidavit executed by such Owner and duly notarized, attesting that such offer has been made and the offeror, to the best of such Owner's knowledge, is acting in good faith. The Association or Declarant shall have the right to purchase or lease the Lot on the terms and conditions specified in the offer. Such right is assignable, but in all cases is exercisable only within ten (10) days of the receipt of the written notice from the Owner by written notice to the Owner and the deposit of a matching down payment or deposit. If the Association and Declarant shall both exercise such option, only Declarant may consummate the proposed sale unless the Declarant shall waive such right in writing. In the event the Association or Declarant fails to exercise its option within such ten (10) day period, such Owner shall have the right to sell or lease his Lot to the person making such offer and on the terms and conditions therein set forth.

Section 2. Application to Lease; Continuing Liability. Any lease or sublease shall be subject to the provisions hereof. The liability of the Owner under this Article continues notwithstanding the fact he may have leased his Lot.

Section 3. Mortgages. This Article shall not affect the right of an Owner to subject his Lot to a deed of trust, mortgage or other security interest.

Section 4. Waiver. The failure or refusal of the Association, the Declarant or the party to whom either's rights under this Article have been assigned to exercise its right to so purchase or lease shall not be deemed a waiver of such a right when an Owner receives any subsequent bona fide offer from a prospective purchaser or tenant.

#### ARTICLE XV

##### GENERAL PROVISIONS

Section 1. Enforcement. The restrictions herein set forth shall run with the land and bind the present Owner except as otherwise provided, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the Owner of said land, its or their heirs, personal representatives, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding on any Person except in respect to breaches committed during his ownership of title to this Lot. No action for enforcement of these covenants may be commenced until the procedure specified in Article IX, Section 2 or Section 3 as appropriate has been completed. Failure of any Owner or Owners or the Association to enforce any of the restrictions herein set forth shall in no event be deemed a waiver of the right to do so or to enforce other restrictions.

Section 2. Invalidation. The invalidation of any of the covenants or restrictions set forth herein by judgment

1-01-6110

or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Right to Assign. The Declarant may, by appropriate instrument, assign or convey to any Person any or all of the rights, reservations, easements, and privileges herein reserved by the Declarant, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times in the same way and manner as those directly reserved by them or it in the instrument.

Section 4. Duration and Amendment. All of the restrictions set forth herein shall continue and be binding for a period of twenty-five (25) years from the date of this instrument and shall automatically be extended thereafter for successive periods of ten (10) years; provided, however, that the Owners of three-fourths (3/4) of the Lots may, at the end of such twenty-five (25) year term or at the end of any successive ten (10) year period thereafter, by a written instrument signed by all of such Persons, vacate or modify all or any part of this Declaration. During the initial twenty-five (25) year period a vacation or modification hereof shall be effective if a written instrument be signed by ninety percent (90%) of the Owners of the Lots. Any such vacation or modification shall be filed of record in the Travis County Deed Records promptly when executed. In order for any such amendment to be effective as to holder of any lien on any Lot, such amendment must be executed by at least fifty percent (50%) of all holders of liens of the type specified in Article V, Section 8.

Section 5. Notices. All notices given or required to be given by the Association to its Members shall be deemed to have actually been given if actually received and, whether

or not actually received, when deposited in the United States mail, postage prepaid, and addressed to the Member at his address as it appears on the books of the Association, and shall be deemed given when mailed.

Section 6. FHA/VA Provisions. If Declarant shall decide that the Lots should have available permanent loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration, the following provisions shall apply, notwithstanding anything herein to the contrary.

(a) As long as there is a Class B. membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration.

(b) Declarant may, by appropriate instrument recorded in the Deed Records of Travis County, Texas, amend this Declaration to conform to the requirements specified by the Federal Housing Administration or Veterans Administration for approval as a loan-guaranty project.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 20th day of August, 1974.

SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC.

(NO SEAL)

By William E. Jones

ATTEST:

\_\_\_\_\_

5005 000-D

THE STATE OF TEXAS  
COUNTY OF DALLAS

1-01-6112

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this day personally appeared William E. Jones, of SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said SUMMERWOOD HOMEOWNER'S ASSOCIATION OF AUSTIN, INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20 day of August, 1974.

NOTARY SEAL

Sharon Ross  
Notary Public, in and for  
Travis County, Texas

FILED  
AUG 22 1 04 PM '74  
*Louis Stapp*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on the date and at the time stated herein and was duly RECORDED in the public records of the County of Travis County, Texas, as stamped hereon by me, on

AUG 22 1974



*Louis Stapp*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

5000 000-E