

Bill & Return to:  
University Title Company  
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College Station, Texas 77841

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**DECLARATION**  
**OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF**  
**HIDDEN SPRINGS, PHASE ONE**

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF BRAZOS    §

WHEREAS, Homes of Hidden Springs, Ltd., a Texas limited partnership, hereinafter sometimes referred to as "Declarant", is the owner of that certain tract or parcel of real property lying and being situated in Brazos County, Texas, described as Hidden Springs, Phase 1 (the "Property"), a subdivision in Brazos County, Texas, according to the map or plat thereof recorded in Volume 8328, Page 28 of the Map Records of Brazos County, Texas, to which map or plat reference is here made for all purposes; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property; and

WHEREAS, Declarant has filed a Master Plan for said development with Brazos County, Texas ("County") which has been accepted and approved by said County; and

WHEREAS, Declarant desires to impose upon said Property certain protective covenants, conditions, restrictions, liens and charges as deemed appropriate and to retain the right to modify said covenants, conditions, restrictions and charges as appropriate to be commensurate with Declarant's purposes and to comply with the planning set forth by the County; and

WHEREAS, Declarant plans to develop said Property as a residential subdivision:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, liens and charges, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and which shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and (ii) that each contract or deed that may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

## ARTICLE I

### DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified. Said terms may further be utilized in the organizational documents of the Association (as hereinafter defined).

- 1.1. Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements on the Property, or a portion of the Property, governed by the Association.
- 1.2. Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.
- 1.3. Assessment. "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association pursuant to the provisions of Article VII of this Declaration.
- 1.4. Association. "Association" shall mean the Hidden Springs Property Owners Association, or any successor thereto, to be created by the Declarant. If the name "Hidden Springs Property Owners Association" is determined to be unavailable by the Texas Secretary of State, another name will be chosen by Declarant and the term "Association" shall refer to such other named entity.
- 1.5. Board. "Board" shall mean the Board of Directors of the Association.
- 1.6. Bylaws. "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and as from time to time amended.
- 1.7. Certificate. "Certificate" shall mean the Certificate of Formation of the Association, which shall be filed in the office of the Secretary of State of the State of Texas. Said Association shall be created by Declarant and contain such provisions as Declarant deems appropriate for the Association and the Subdivision.
- 1.8. Common Areas. "Common Areas" shall mean any land conveyed, leased, dedicated or assigned by Declarant, or by a third party with the Association's consent, to the Association for maintenance and operation, including, but not limited to, any easements, private roads, roadways, rights-of-way, and parkways, median strips, sidewalks, parks, trails, paths, and water detention ponds within the Property.
- 1.9. Declarant. "Declarant" shall mean Homes of Hidden Springs, Ltd., and any entity which succeeds to all or substantially all of the Subdivision by merger, consolidation or conveyance and to whom the Declarant's rights and privileges as the developer of the Subdivision are specifically assigned in writing.

- 1.10. Declaration. "Declaration" shall mean this instrument, as it may be amended from time to time.
- 1.11. Developer Control Period. "Developer Control Period" is the period of time beginning on the date that this Declaration is filed for record with the County Clerk of Brazos County, Texas and continuing until Declarant owns no part of the Subdivision, or for such shorter period as the Declarant shall determine.
- 1.12. Dwelling. "Dwelling" shall mean the primary structure constructed for the primary purpose of habitation by a person or persons and which shall have enclosed air-conditioned and heated area.
- 1.13. Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including, but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines, meters, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.
- 1.14. Lake. "Lake" shall mean the lake located on portions of the Lake Lots, together with any dam, levee or other area that is appurtenant to or a related element of the Lake.
- 1.15. Lake Lot Assessment. "Lake Lot Assessment" or "Lake Lot Assessments" shall mean such assessments as may be levied by the Lake Owners Association pursuant to the provisions of Article IX of this Declaration. The Lake Lot Assessments are in addition to the Assessments.
- 1.16. Lake Lots. "Lake Lots" shall mean those Lots that are encumbered by the Lake, to be known as "Raymond Nolan Lake," depicted on the Recorded Plat of the Property. Specifically, the Lake Lots are Lots 19 and 20 in Block One, Lots 1, 2, 3, 4, 5, 6 and 7 in Block Two, and Lots 2 and 3 in Block Four of the Property.
- 1.17. Lake Owners Association. "Lake Owners Association" shall mean the Lake Owners Management Association of Hidden Springs Subdivision, or any successor thereto, to be created by the Declarant. If the name "Lake Owners Management Association of Hidden Springs Subdivision" is determined to be unavailable by the Texas Secretary of State, another name will be chosen by Declarant and the term "Lake Owners Association" shall refer to such other named entity.
- 1.18. Lake Owners Association Members. "Lake Owners Association Member" or "Lake Owners Association Members" shall mean any person(s), entity, or entities holding membership rights in the Lake Owners Association.
- 1.19. Lake Rules. "Lake Rules" shall mean rules and regulations promulgated from time to time by Declarant, the Board of Directors of the Association, or the Lake Owners Association, and pertaining to the management, maintenance or use of the Lake.

- 1.20. Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Recorded Plat of the Property, together with all Improvements located thereon.
- 1.21. Member. "Member" or "Members" shall mean any person(s), entity, or entities holding membership rights in the Association.
- 1.22. Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.
- 1.23. Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.
- 1.24. Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any Lot on the Property, but shall not include a Mortgagee or any person or entity holding only an easement or a mineral or royalty interest in the Property or a Lot.
- 1.25. Person. "Person" or "Persons" shall mean any individual, individuals, entity or entities having the legal right to hold title to real property.
- 1.26. Phase. "Phase" shall mean and refer to the Property and also to any additional sections of the Subdivision, if any, which may be hereafter separately identified and platted into Lots and/or Blocks and depicted on one or more plats which are filed in the Map Records of Brazos County, Texas.
- 1.27. Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.
- 1.28. Recorded Plat. "Recorded Plat" shall mean the map or plat of Hidden Springs Subdivision, Phase One, as recorded in Volume 3328, Page 28 of the Map Records of Brazos County, Texas, together with all amendments or revisions thereof as may be hereafter recorded in said Map Records.
- 1.29. Restrictions. "Restrictions" shall mean the provisions of this Declaration, as the same may be amended from time to time, together with the Architectural Committee Rules and the Certificate and Bylaws of the Association as the same are in effect from time to time. In addition to the Restrictions set forth in this Declaration, Declarant may impose additional covenants and restrictions on each additional tract of land brought within the scheme of development of the Subdivision, including future phases of Hidden Springs Subdivision.
- 1.30. Rules. "Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.31. Subdivision. "Subdivision" shall mean and refer to the Property and to any additional properties brought within the scheme of development of Hidden Springs, including future Phases thereof.

## ARTICLE II

### DEVELOPMENT OF THE PROPERTY

2.1 Addition of Land. Declarant may, at any time and from time to time, add any other lands to the Subdivision and subject such other lands to this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as they are with respect to the Property. In order to add lands to the Subdivision, Declarant shall be required only to record in the Official Records of Brazos County, Texas, a notice of addition of land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the file reference number of the Official Records of Brazos County Texas, wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land;  
and
- (C) A legal description of the added land.

Alternatively, Declarant may add lands to the Subdivision by filing in the Official Records of Brazos County, Texas, a declaration which may contain identical, similar or dissimilar covenants, conditions and restrictions as those contained in this Declaration. Any such declaration shall subject the added land to the jurisdiction of the Association.

## ARTICLE III

### GENERAL RESTRICTIONS

All of the Property shall be sold, owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.1 Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior written approval of the Architectural Committee. The exterior of all Dwellings and other approved Improvements must be completed within a reasonable time (not to exceed one (1) year) after construction begins. No mobile homes, manufactured homes, prefabricated homes or modular homes, including homes moved from other locations, shall be allowed on any Lot or elsewhere in the Property; provided, however, during the period when the Subdivision is being marketed for sale or Dwellings are being constructed within the Subdivision, Declarant or any person or entity to whom Declarant grants

written permission may maintain a manufactured or prefabricated building on one (1) Lot within the Property to be used as a model home, sales office and/or construction office.

3.2 Antennae 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, that can be seen from any street, without the prior written approval of the Architectural Committee, except that the Declarant or the Association may erect a common television antenna, cable system or similar reception device, provided same shall not rise more than five feet above the roof line of any structure. No radio signals, television signals or any other form of electromagnetic radiation shall originate from any Lot so as to unreasonably interfere with the reception of television or radio signals on any other Lot.

3.3 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

3.4 Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

3.5 Signs. No sign of any kind shall be displayed to the public view on the Property, except one sign of not more than eight square feet and five feet in height advertising the Property for sale or rent, without the prior written approval of the Architectural Committee and except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising a portion of the Property for sale or lease or it may set standards for the same. No signs shall be attached directly to any improvement or displayed from a window.

3.6 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view.

3.7 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.8 Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the written approval of the Architectural Committee.

3.9 Nuisance and Lateral Support. No noxious or offensive condition, activity or work shall be permitted or conducted upon any Lot so as to impair the structural soundness or integrity

of any Improvement of any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

3.10 Repair of Improvements. All Improvements upon the Property, including any Lot, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner or Owners thereof.

3.11 Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any Improvement which in any way alters the exterior appearance of said Improvement shall be performed only with the prior written approval of the Architectural Committee.

3.12 Roofing Materials. The surface of all roofs on principal and secondary structures shall be metal, wood shingle, tile shakes or composition 3 tab shingles or better. Roof colors shall be approved by the Architectural Committee. The Architectural Committee shall have authority to approve other roof treatments and materials when in its determination such treatments and materials in the form utilized will not be a detriment to the quality of the neighborhood.

3.13 Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Architectural Committee and approval of such design, including the aesthetics thereof, shall be required before construction may begin.

3.14 Driveway. The design of all driveways, including materials which shall be asphalt over stabilized base per County regulations. Location and point of contact with dedicated roads, streets or private driveways within the Property shall be approved by the Architectural Committee prior to commencement of construction.

3.15 Tanks. The Architectural Committee shall have the right to approve the location of any tank used or proposed in connection with a structure, including tanks for storage of fuel, water, oil or LPG and including swimming pool filter tanks. (No elevated or above-ground tanks of any kind shall be erected, placed or permitted on any Lot in view from the street.)

3.16 Utility Lines. Placement of utility lines, including, but not limited to, wires (or other devices for the communication or transmission of telephone or electric current or power), cable television or any other type of line or wire shall be approved in writing by the Architectural Committee, except what may be constructed by a public utility company serving the Property.

3.17 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for property drainage and approved by the Architectural Committee. No property owner may install dams or water diversion terraces that will divert or detain water from its natural route of flow without approval of Declarant.

3.18 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property that are or might be unsafe or hazardous to any person or property.

3.19 Mining and Drilling. Other than by Declarant, no oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in mining for oil or natural gas shall be erected, maintained or permitted upon any Lot. This does not prohibit the owner of the minerals from slant or horizontal drilling from a location outside of the Property, provided there is no disturbance of the surface.

3.20 Private Water Wells. No private water well shall be drilled on any Lot.

3.21 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 Brazos County, Texas in connection with a small farm, garden, or a residence. Inoperable cars, trucks, or machinery of any kind or portions thereof shall not be stored or left on any lot or elsewhere within the Property; provided however, that other non-complying equipment may be used in connection with facilities maintained by the Association and such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by a public utility, in the performance of its legitimate functions.

3.22 Temporary Structures. No tent, shack or other portable or temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Committee; provided however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen on the Property during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.

3.23 Unightly Articles: Vehicles: Parking of Vehicles. No trailer, recreational vehicle, tent, boat, or stripped down, wrecked, junked, dismantled or wholly inoperable vehicle shall be parked or kept, parked, stored, or maintained on any portion of the driveway or in the front yard between a street bordering the Lot and the permanent building structure. Same shall be kept, parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent Lots or streets. No vehicle of any kind shall be parked or kept in the yard on any Lot, but must be parked on the driveway or other paved surface.

3.24 Motor Homes: Travel Trailers. No motor homes shall be parked or placed on any Lot at any time except the same shall be kept, parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent Lots or streets. No travel or camper trailers, recreational vehicle or similar items shall be parked on or near any Lot so as to be visible from adjoining property or public or private thoroughfares for more than forty-eight (48) hours, except that motor homes or travel trailers housing visitors to people living in the Dwelling on a Lot may continue to park on the Lot for a maximum of thirty (30) days.

3.25 Trucks. No trucks used for commercial transportation of materials or goods shall be



brought onto or parked on the Property except for the purpose of taking discarded construction materials from a construction site or delivering building materials to a site in connection with the construction of improvements on the Property, and except such as is usual and customary in Brazos County, Texas in connection with bringing products to or taking products from a residence or a small farm or garden being operated on the Property.

**3.26 Fences.**

- (A) Decorative fencing, if any, shall be wood, masonry, or three rail vinyl and shall be approved by the Architectural Committee. No fencing shall be installed in front of the forward line of the main structure.
- (B) No fence, wall, or hedge shall be built or maintained forward of the front wall line of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot. An exception shall be made in the case of retaining walls not to exceed twenty-four inches (24") above the ground. Notwithstanding the foregoing, the Architectural Committee is empowered to waive the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept design or material and the resulting decorative wall and/or retaining wall will not detract from the general appearance of the neighborhood. No chain-link fences may be built or maintained on any Lot which can be seen from the street.
- (C) Any fence built in accordance with the terms of this Section shall thereafter be maintained by the Owner of the Lot upon which it is situated.

**3.27 Animals - Household Pets.** No pigs, hogs, swine, equine, cattle, poultry for commercial production, or wild or exotic animals may be kept or maintained on any Lot. Any poultry must be kept where they are not visible from a street or a neighboring residence and must not be a noise or odor nuisance. No domestic household pet shall be allowed to make an unreasonable amount of noise or to become a nuisance, and no domestic pets shall be allowed on the Property other than on the Lot of its Owner. No commercial kennels or breeding operation for felines or canines shall be allowed. No domestic household pet shall be allowed to run at large and all of such pets shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with Plans and Specifications approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property. No more than a total of four (4) adult fowls, adult dogs and/or adult cats may be kept on a single Lot. All domestic household pets shall be kept in strict accordance with all local laws and ordinances.

**3.28 Sports Equipment.** No basketball goals or backboards or any other similar sports equipment of either a permanent or temporary nature shall be placed between the front of the dwelling and the front property line of any Lot without the prior written consent of the

Architectural Committee.

3.29 Window Treatment. All windows visible from any street shall have standard window treatment installed covering the surface of the window. The use of any material as window covering, either interior or exterior, such as aluminum foil, that is not manufactured specifically for window treatment is prohibited. The use of any window treatment such as awnings or energy conserving screens must first be approved by the Architectural Committee.

3.30 Maintenance of Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on said Owner's Lot cultivated, pruned, and free of trash and other unsightly material. Trees, shrubs, vines and plants that die shall be promptly removed. Declarant, the Association and the Architectural Committee shall have the right at any reasonable time after not less than ten days notice to Owner and an opportunity to cure any violation of this provision, to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon, and to charge the cost thereof to the Owner of the Lot as provided in Section 6.5(E) below.

3.31 Landscape Design. All landscaping shall be designed so as to protect and promote, as far as practicable, the natural local landscape environment through use of native materials, natural drainage, indigenous plant selection and site design. All landscaping designs shall:

- (A) Wherever possible, save and incorporate into the Plans and Specifications existing trees having trunk diameters of four (4) or more inches. To insure the viability of these trees, soil compacting, trenching and/or cut and fill shall be avoided, to the greatest extent possible, in the area defined by the trees' drip line.
- (B) Maintain or enhance, wherever possible, existing vegetation within drainage easements to prevent erosion, siltration, or impediment of runoff augmented by development.
- (C) Install live, growing sod covering the front and side yards of the dwelling a distance of forty (40) feet from the dwelling foundation, within thirty (30) days of occupancy of any dwelling constructed on a Lot, and/or an equivalent substitute which achieves as satisfactory a ground cover in approximately the same period of time in the backyard, all such ground cover to be indigenous to the area, and maintained in a healthy and growing condition.
- (D) Require all sidewalk construction to be of concrete or other materials as approved by the Architectural Committee.
- (E) Require any clotheslines to be located in a place not visible from the street.

3.32 Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of

signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, not to exceed one (1) year, and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence construction of Improvements, and then the material shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed on the street or on any other part of the Property. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction. At such time as the Declarant ceases using any portion of the Property as a model home or sales office, the affected Property shall be altered and/or remodeled, if necessary or desirable, to comply with the covenants and restrictions contained herein.

**3.33 Mailbox.** Mailboxes for each Lot shall be erected in an enclosure consisting of the same or similar masonry material as used in the masonry veneer or finish of the main structure, conforming to postal authority standards and maintained at the location along the street upon which a dwelling is situated, and shall be, when installed, constructed of durable steel or aluminum, and of a size and shape conforming to postal authority standards for single family residential postal depositories. Mailboxes shall be located at the curb in accordance with postal regulations.

**3.34 Compliance with Provisions of Restrictions.** Each Owner shall comply strictly with the provision of the Restrictions as the same may be amended from time to time including those for each Phase. Failure to comply with any of the Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by any aggrieved Owner. Declarant, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all subdivided Lots controlled by these covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.

**3.35 No Warranty of Enforceability.** While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance upon one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

## ARTICLE IV

### DWELLING SIZE AND CONSTRUCTION MATERIALS

4.1 Dwelling Size. The heated/air conditioned floor area of all one-story main Dwellings, exclusive of open porches, stoops, and garage, shall not be less than 2,850 square feet. The minimum first floor heated/air conditioned area of all one and one-half and two-story main Dwellings, exclusive of open porches, stoops, and garage, shall be not less than 2,000 square feet.

4.2 Dwelling Design and Exterior. The exterior building design shall be traditional and not modern in style. The exterior veneer or finish of any residence shall consist of not less than 90% brick, stone, or other equivalent masonry product. Exterior masonry material shall include a masonry product such as cement-constructed wallboard such as Hardi-Plank but the use of this material shall be limited to 40% of the total masonry material used. The use of all Stucco or stucco type material shall be subject to written approval of the Architectural Committee. All dwellings shall have a garage with a minimum capacity of two cars.

- (A) Except for rear entry garages, all garages shall face in the opposite direction of the direction of traffic entering the subdivision and no garage entrance shall face a street. The design of garage entrances shall be approved by the Architectural Committee.
- (B) Each Lot shall be limited to one driveway except where a circular driveway is installed and all culverts at driveways shall have concrete headwalls.
- (C) A deposit of \$1,000 shall be required prior to commencement of construction, which deposit shall be held and used for actual repairs to the asphalt or other street structures caused by connection of the driveway to the street or other damage to the street caused by the contractor or subcontractors during construction. The Architectural Committee shall solely determine if the deposit or the remainder thereof shall be returned to the depositor.

## ARTICLE V

### MAINTENANCE AND SET BACK REQUIREMENTS

5.1 Outbuildings. Every outbuilding, inclusive of such structures as a detached barn, garage, storage building or greenhouse, shall be compatible with the Dwelling to which it is appurtenant in terms of its design and material composition. All such buildings shall be subject to written approval by the Architectural Committee. In no instance shall outbuildings have total floor area in excess of one hundred fifty percent (150%) of the floor area of the main Dwelling. Construction of any outbuilding on a Lot shall not be commenced prior to the construction of the Dwelling on that Lot.

5.2 Building Height. No Improvement greater than thirty-two (32) feet in height may be

constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridgeline of the roof of the proposed Improvement.

5.3 Setback Requirements. No building shall be located or erected in violation of or encroaching upon the standards set by the County Ordinances of Brazos County for the Lot or tract concerned. Setback lines for dwellings or other structures are as follows:

- (A) The front line of the Dwelling shall be no closer to the street pavement edge than seventy five (75) feet except for Lots 3, 4, 5, 12, and 13 of Block 1 and these shall be determined in coordination with and subject to the approval of the Architectural Committee.
- (B) All outbuildings including but not limited to equipment and detached garages, vehicle storage buildings, sheds, or greenhouses shall be at least twenty five (25) feet further from the street than the rear building line of the Dwelling.
- (C) The design and construction of all outbuildings shall include an exterior wainscot of four feet (4') of masonry material, excluding cement-constructed wallboard such as Hardi-Plank, matching the exterior veneer of the main structure.

5.4 Structure Maintenance. Declarant further reserves the right to require the Association created pursuant to Article VI hereof to maintain structures required by Brazos County in the development of the Property, and all members of said Association shall be bound by said requirements whether constructed before or after becoming a member.

**ARTICLE VI  
HIDDEN SPRINGS  
PROPERTY OWNERS ASSOCIATION**

6.1 Organization. The Declarant has caused or will cause the formation and incorporation of the Hidden Springs Property Owners Association, a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Certificate and Bylaws or in this Declaration. Neither the Certificate of Formation nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

6.2 Board of Directors. The Association shall act through a Board of Directors which shall manage the affairs of the Association as specified in the Bylaws of the Association. During the Developer Control Period, the Board shall consist of not less than three (3) Directors, none of whom need be Owners or Members of the Association. After the Developer Control Period, the Board shall consist of not less than five (5) Directors, all of whom shall be Members of the Association. The initial members of the Board of Directors shall be chosen by the Declarant. Except for the initial Directors, during the Developer Control Period the Directors of the Association shall be appointed or elected by the Board of Directors. After the Developer Control Period, the Board of Directors shall be elected by the Members of the Association.

**6.3 Membership.** Every person or entity (including the Declarant), who is an Owner of any Lot within the Subdivision which is subject, or which may hereafter be subject to the Association, shall be a Member of the Association. No Owner shall have more than one membership. Memberships shall be appurtenant to and may not be separated from ownership of the Lot. Membership shall automatically pass with the title to the Lot and may not be severed from, or in any way transferred, pledged, mortgaged or alienated except together with the title to the Lot. Ownership of such land shall be the sole qualification for membership.

**6.4 Classes of Membership: Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. During the Developer Control Period, the Class A Members shall not be entitled to vote on (i) the election of Directors, (ii) amendment of the Certificate of Formation of the Association, or (iii) amendment of the Bylaws of the Association.

**Class B.** Class B Member shall be Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot owned within the Subdivision and shall have the exclusive right to vote on (i) the election of Directors (if the Directors are not elected by the Board of Directors), (ii) amendment of the Certificate of Formation of the Association, and (iii) amendment of the Bylaws of the Association. The Class B membership shall exist during the Developer Control Period. At the end of the Developer Control Period the Class B membership shall cease. If Declarant (or any other person or entity entitled to Class B membership) then owns any Lot in the Subdivision, it shall become a Class A Member with all of the rights and privileges of the Class A Members.

Declarant hereby agrees to assign to the Association all of its rights and powers as herein expressly provided for at such time as the Class B membership shall terminate in accordance with the foregoing provisions.

**6.5 Powers and Authority of the Association.** The Association shall have the powers of a Texas nonprofit corporation, subject only to any limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts, which may be necessary or proper for, or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association, and the Board acting on behalf of the Association, shall have the following powers and authority at all times:

- (A) **Rules and Bylaws.** To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Rules and Bylaws, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions.
- (B) **Insurance.** To obtain and maintain in effect policies of insurance which, in the opinion

of the Board, are reasonably necessary or appropriate to carry out Association functions.

- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy Assessments as provided in Article VII below.
- (E) Right of Entry and Enforcement. To enter at any time in an emergency, or in a non-emergency, after ten (10) days written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Restrictions or for the purpose of erecting, maintaining or repairing any Improvement to conform to the Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.
- (F) Fines for Violations. In addition to the other remedies and rights of enforcement provided for herein, the Association may assess fines for violations of the restrictive covenants contained in this Declaration, other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors of the Association, which fines shall be secured by the continuing assessment lien set out in this Declaration. Such fines shall be recoverable in the same manner as the maintenance charge; provided however, the Association may not foreclose the Association's lien if the debt secured by the lien consists solely of fines assessed by the Association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.
- (G) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Association.
- (H) Delegation to Committees. To set up one or more committees as authorized by the Texas Business Organizations Code, as the same is amended from time to time.
- (I) Employees. To engage such employees as may be reasonably necessary in the management of the Association and the performance of its duties.
- (J) Powers Under Texas Property Code. To exercise all of the powers and authority

granted to property owners associations in Title 11 (including, without limitation, Chapters 202 and 204) of the Texas Property Code.

6.6 Maintenance. The Association shall be authorized to landscape, maintain and repair easements, rights-of-way, sidewalks, paths, trails, drainage facilities, detention ponds, lakes, and other areas of the Subdivision, as appropriate.

6.7 Common Areas.

- (A) Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:
- (1) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with any Improvements of any kind or purpose located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant; and to maintain in good repair and condition all lands, Improvements, and other Association property owned by or leased to the Association, whether by Declarant or by other Persons.
  - (2) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon individual Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
  - (3) To execute mortgages, both construction and permanent, for construction of Improvements on property owned by or leased to the Association and to accept land in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien, as deemed appropriate by borrower, whether Declarant or the Association, on the improvement to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of Members, or otherwise, or any combination thereof, as may be deemed appropriate by Declarant or the Association, as the case may be, but subject to the limitations imposed by this Declaration.
- (B) In addition to, and not in limitation of, the power and authority of the Association as set forth elsewhere in this Declaration, the Association, acting through the Board, shall have the power and authority:



- (1) To grant and convey portions of Association property, including fee title, leasehold estates, easements, rights-of-way, and/or mortgages, to any person or entity for the purpose of constructing, erecting, operating or maintaining the following:
  - (a) Parks, parkways, or other recreational facilities or structures;
  - (b) Roads, streets, walks, driveways, trails and paths;
  - (c) Lines, cables, wires, conduits, pipelines or other means of providing utilities;
  - (d) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
  - (e) Any similar public, quasi-public or private Improvements.
- (a) Nothing contained in this Subparagraph, however, shall be construed to permit use or occupancy of any Common Area or Improvement in a way that would violate applicable use and occupancy restrictions imposed by other provisions of this Declaration, or by any statute, rule, regulation, ordinance or other law of any governmental entity, including but not limited to rules and orders of the Texas Water Development Board, Texas Water Commission, and any flood plain, industrial waste or other ordinance of Brazos County.
- (2) To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for the property of the Association.
- (3) To pay for any other services necessary or proper in the performance of Association functions, and to pay for any other taxes or assessments that the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Certificate or Bylaws of the Association.
- (4) To own and operate any and all types of facilities for both active and passive recreation.
- (5) To construct new Improvements or additions to Association properties, subject to the approval of the Architectural Committee as required in this Declaration.
- (6) To enter into contracts with Declarant and other persons, on such terms and provisions as the Board shall determine, to operate and maintain any of the Common Areas or to provide any service or perform any function on behalf of Declarant or the Association in connection with the purposes

of the Association.

- (7) To acquire and own and to dispose of all manner of real and personal property, whether by purchase, grant, lease, gift or otherwise.

6.8 Agreements with Brazos County. The Association may enter into one or more agreements with Brazos County with respect to the dedication of any drainage basin, park or other common area within the Property for County maintenance.

6.9 Books and Records. The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, for any proper purpose. The Certificate of Formation, Bylaws, and this Declaration shall likewise be available, upon written request, for inspection, by appointment during normal business hours by any Member at the office of the Association, for any proper purpose. The Association may charge a reasonable fee for copies of any books, records, papers or dedicatory instruments requested by a Member or other person.

6.10 Indemnification. The Association shall indemnify any director, officer, or member of a committee duly appointed pursuant to the Certificate or Bylaws who was, is, or is threatened to be made a named defendant or respondent in any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit; or proceeding (hereinafter a "Proceeding") by reason of the fact that such person is or was a director, officer or member of such a committee of the Association, against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with any such Proceeding to the fullest extent permitted by the Texas Business Organizations Code, as amended and in effect from time to time. Such authorization of indemnification shall be deemed to be mandatory and deemed to constitute authorization of indemnification and advancement of expenses to the fullest extent permitted by the Texas Business Organizations Code, as amended and in effect from time to time.

6.11 Security. NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER

SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNATED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST, INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF DWELLINGS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES. DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

## ARTICLE VII

### ASSOCIATION FUNDS AND ASSESSMENTS

#### 7.1 Assessments.

- (A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform among all Lots, provided, however, that no Assessments hereunder shall be levied against Declarant or any Lot during any period in which such Lot is owned by Declarant.
- (B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.
- (C) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot at the time the Assessment falls due, and shall become a lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

7.2 Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

**7.3 Regular Annual Assessments.** Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions, including but not limited to the cost of all roadway, median strip and right-of-way maintenance, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior years' fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. The Assessment for each Lot for the first year of Assessment by the Association shall be one hundred fifty dollars (\$150) per year. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or in such other manner as the Board may designate in its sole and absolute discretion.

**7.4 Special Assessments.** In addition to the Regular Annual Assessments provided for above, the Board may levy Special Assessments whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Restrictions. The amount and due date of any Special Assessments shall be at the reasonable discretion of the Board.

**7.5 Owner's Personal Obligation for Payment of Assessments.** The Regular Annual and Special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. Except as otherwise provided in Section 7.1 (A) hereof, no Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1-1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

**7.6 Assessment Lien and Foreclosure.** All sums assessed in the manner provided in this Article but unpaid, together with interest as provided in Section 7.5 hereof and the costs of collection, including attorney's fees as herein provided, shall be secured by a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question or home equity loans. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination shall be effectuated by an officer of the Association, duly authorized by the Board. To evidence an Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by an officer of the Association, duly authorized by the Board, and shall be recorded in the office of the County Clerk of Brazos County, Texas. Such lien for payment of Assessments shall attach

with the priority above set forth from the date that such payment becomes delinquent, and may be enforced by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage secured by a deed of trust on real property (and the Association is specifically granted a power of sale with respect to the assessment lien herein provided and the power and authority to appoint a trustee or substitute trustee to conduct a nonjudicial sale in the manner provided by Section 51.002 of the Texas Property Code, for enforcement of such lien), or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or nonjudicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee the status of any Assessments relating to the Mortgagee's Mortgage and remaining unpaid for longer than thirty (30) days after due.

#### ARTICLE VIII

#### LAKE OWNERS MANAGEMENT ASSOCIATION OF HIDDEN SPRINGS SUBDIVISION AND LAKE LOT ASSESSMENTS

**8.1 Organization.** The Declarant has caused or will cause the formation and incorporation of the Lake Owners Management Association of Hidden Springs Subdivision (the "Lake Owners Association"), a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Certificate of Formation and bylaws or in this Declaration. Neither the Certificate of Formation nor the bylaws of the Lake Owners Association shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**8.2 Management of Lake Owners Association.** The business and affairs of the Lake Owners Association shall be managed by the Lake Owners Association Members. Subject to the provisions of the succeeding sentence, unless a greater percentage is required elsewhere in this Declaration, the vote of Lake Owners Association Members holding a majority of the total votes of the Lake Owners Association Members present in person or by proxy at a duly called and noticed meeting of the Lake Owners Association Members at which a quorum is present shall be required to take any action on the part of the Lake Owners Association; provided however, in no event shall any action be taken by the Lake Owners Association without a minimum of four (4) votes of the Lake Owners Association Members. Any action required to be taken at a meeting of the Lake Owners Association Members, or any action which may be taken at a meeting of the Lake Owners Association Members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by Lake Owner Association Members representing a majority of the total votes of the membership of the Lake Owners Association Members. Prompt notice of the taking of any action by the Lake Owners Association Members without a meeting by less than unanimous written consent shall be given to those Lake Owners Association Members who did not consent in writing to the action.

The Lake Owners Association Members may appoint officers of the Lake Owners Association (i.e., a President, Vice President, Secretary and/or Treasurer to perform the day to day business and functions of the Lake Owners Association.

**8.3 Lake Owners Association Membership.** Every person or entity (including the Declarant), who is an Owner of a Lake Lot shall be a member of the Lake Owners Association. No Owner of a Lake Lot shall have more than one membership. Memberships shall be appurtenant to and may not be separated from ownership of the Lake Lot. Membership shall automatically pass with the title to the Lake Lot and may not be severed from, or in any way transferred, pledged, mortgaged or alienated except together with the title to the Lake Lot. Ownership of such land shall be the sole qualification for membership in the Lake Owners Association. Membership in the Lake Owners Association shall be in addition to membership in the Hidden Springs Property Owners Association.

**8.4 Voting Rights.** Members of the Lake Owners Association shall be entitled to one (1) vote for each Lake Lot owned. When more than one person holds an interest in any Lake Lot, all such persons shall be Lake Owners Association Members. The vote for such Lake Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lake Lot.

**8.5 Functions: Powers and Authority of the Lake Owners Association.** The primary function and duties of the Lake Owners Association shall be to manage, maintain, and regulate the use of the Lake. The Lake Owners Association shall have the powers of a Texas nonprofit corporation, subject only to any limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts, which may be necessary or proper for, or incidental to the exercise of any of the express duties imposed upon it and powers granted to it by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Lake Owners Association shall have the following powers and authority at all times:

- (A) **Lake Rules and Bylaws.** To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such bylaws and Lake Rules, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions. Any Lake Rules promulgated by the Lake Owners Association may be more restrictive but shall not be less restrictive than or in conflict with any Lake Rules promulgated by the Board of Directors of the Hidden Springs Property Owners Association.
- (B) **Insurance.** To obtain and maintain in effect policies of insurance which are reasonably necessary or appropriate to carry out Lake Owners Association functions.
- (C) **Records.** To keep books and records of the Lake Owners Association's affairs.
- (D) **Lake Lot Assessments.** To levy Lake Lot Assessments as provided in Article IX.
- (E) **Right of Entry and Enforcement.** To enter at any time in an emergency, or in a

non-emergency, after ten (10) days written notice, without being liable to any Owner, upon any Lake Lot for the purpose of enforcing the provisions of the Restrictions as they relate to the Lake. The Lake Owners Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner of a Lake Lot who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the Lake Rules or these Restrictions as they relate to the Lake. The Lake Owners Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Lake Rules or these Restrictions as they relate to the Lake.

- (F) Fines for Violations. In addition to the other remedies and rights of enforcement provided for herein, the Lake Owners Association may assess fines for violations of the Lake Rules or any restrictive covenants contained in this Declaration relating to the Lake, other than non-payment or delinquency in assessments, in amounts to be set by the Lake Owners Association, which fines shall be secured by the Lake Owners Association Lien set out in Section 7.6 of this Declaration. Such fines shall be recoverable in the same manner as the Lake Lot Assessments; provided however, the Lake Owners Association may not foreclose the Lake Owners Association Lien if the debt secured by the lien consists solely of fines assessed by the Lake Owners Association or attorney's fees incurred by the Lake Owners Association solely associated with fines assessed by the Lake Owners Association.
- (G) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper for the operation of the Lake Owners Association.
- (H) Delegation to Committees. To set up one or more committees as authorized by the Texas Business Organizations Code, as the same is amended from time to time.
- (I) Employees. To engage such employees as may be reasonably necessary in the management of the Lake Owners Association and the performance of its duties.

#### 8.6 Additional Powers.

- (A) In addition to, and not in limitation of, the power and authority of the Lake Owners Association as set forth elsewhere in this Declaration, the Lake Owners Association shall have the power and authority:
  - (1) To pay all expenses for the management and maintenance for the Lake.
  - (2) To pay for any other services necessary or proper in the performance of Lake Owners Association's functions.
  - (3) To enter into contracts with Declarant and other persons, on such terms and provisions as the Association shall determine, to manage and maintain the Lake or to provide any service or perform any function on behalf of

the Lake Owners Association in connection with the purposes of the Lake Owners Association.

**8.7 Agreements with Brazos County.** The Lake Owners Association may enter into one or more agreements with Brazos County.

**8.8 Books and Records.** The books, records and papers of the Lake Owners Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Owner of a Lake Lot, for any proper purpose. The Certificate of Formation and bylaws of the Lake Owners Association shall likewise be available, upon written request, for inspection, by appointment during normal business hours by any Owner of a Lake Lot at the office of the Lake Owners Association, for any proper purpose. The Lake Owners Association may charge a reasonable fee for copies of any books, records, papers or dedicatory instruments requested by an Owner of a Lake Lot or other person.

**8.9 Indemnification.** The Lake Owners Association shall indemnify any Lake Owner Association Member, officer, or member of a committee duly appointed pursuant to the Certificate of Formation or bylaws of the Lake Owners Association who was, is, or is threatened to be made a named defendant or respondent in any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit; or proceeding (hereinafter a "Proceeding") by reason of the fact that such person is or was a Lake Owner Association Member, officer or member of such a committee of the Lake Owners Association, against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with any such Proceeding to the fullest extent permitted by the Texas Business Organizations Code, as amended and in effect from time to time. Such authorization of indemnification shall be deemed to be mandatory and deemed to constitute authorization of indemnification and advancement of expenses to the fullest extent permitted by the Texas Business Organizations Code, as amended and in effect from time to time.

**8.10 Security.** NEITHER THE LAKE OWNERS ASSOCIATION, ITS MEMBERS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY OR SAFETY WITHIN THE LAKE. NEITHER SHALL THE LAKE OWNERS ASSOCIATION, ITS MEMBERS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR SAFETY MEASURES OR THE INEFFECTIVENESS OF SECURITY OR SAFETY MEASURES UNDERTAKEN. EACH OWNER AND OCCUPANT OF ANY LAKE LOT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER OF A LAKE LOT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE LAKE OWNERS ASSOCIATION, ITS MEMBERS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND EACH TENANT, GUEST, OR INVITEE OF ANY OWNER OF A LAKE LOT ASSUMES ALL RISKS FOR LOSS, INJURY OR DEATH TO PERSONS AND DAMAGE TO PROPERTY, AND FURTHER ACKNOWLEDGES THAT



THE LAKE OWNERS ASSOCIATION, ITS MEMBERS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE SECURITY OR SAFETY OF THE LAKE.

## ARTICLE IX

### LAKE OWNERS ASSOCIATION FUNDS AND ASSESSMENTS

#### 9.1 Lake Lot Assessments.

- (A) The Lake Owners Association may from time to time levy Lake Lot Assessments against each Lake Lot whether or not improved. The level of Lake Lot Assessments shall be equal and uniform among all Lake Lots, provided, however, that no Lake Lot Assessments hereunder shall be levied against Declarant or any Lake Lot during any period in which such Lake Lot is owned by Declarant.
- (B) Where the obligation to pay a Lake Lot Assessment first arises after the commencement of the year or other period for which the Lake Lot Assessment was levied, the Lake Lot Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Lake Lot Assessment year or other period remaining after said date.
- (C) Each unpaid Lake Lot Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lake Lot at the time the Lake Lot Assessment falls due, and shall become a lien against each such Lake Lot and all Improvements thereon. The Lake Owners Association may enforce payment of such Lake Lot Assessments in accordance with the provisions of this Article.

9.2 Maintenance Fund. The Lake Owners Association shall establish a maintenance fund into which shall be deposited all monies paid to the Lake Owners Association and from which disbursements shall be made in performing the functions of the Lake Owners Association under this Declaration. The funds of the Lake Owners Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

9.3 Regular Lake Lot Assessments. Prior to the beginning of each fiscal year, the Lake Owners Association shall estimate the expenses to be incurred by the Lake Owners Association during such year in performing its functions under the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from any prior years' fund. Lake Lot Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Lake Lot Assessments set by the Lake Owners Association shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Lake Lot Assessment, the Lake Owners Association may at any time, and from time to time, levy further Lake Lot Assessments in the same manner as aforesaid. All such regular Lake Lot

Assessments shall be due and payable to the Lake Owners Association at the beginning of the fiscal year or in such other manner as the Lake Owners Association may designate in its sole and absolute discretion.

9.4 Special Lake Lot Assessments. In addition to the Regular Lake Lot Assessments provided for above, the Lake Owners Association may levy Special Lake Lot Assessments whenever in the Lake Owners Association's opinion such Special Lake Lot Assessments are necessary to enable the Lake Owners Association to carry out the mandatory functions of the Lake Owners Association under the Restrictions. The amount and due date of any Special Lake Lot Assessments shall be at the reasonable discretion of the Lake Owners Association.

9.5 Lake Lot Owner's Personal Obligation for Payment of Lake Lot Assessments. The Regular and Special Lake Lot Assessments provided for herein shall be the personal and individual debt of the Owner of the Lake Lot covered by such Lake Lot Assessments. Except as otherwise provided in Section 9.1 (A) hereof, no Lake Lot Owner may exempt himself from liability for such Lake Lot Assessments. In the event of default in the payment of any such Lake Lot Assessment, the Owner of the Lake Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Lake Lot Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1-1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

9.6 Lake Owners Association Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, together with interest as provided in Section 9.5 hereof and the costs of collection, including attorney's fees as herein provided, shall be secured by a continuing lien and charge ("Lake Owners Association Lien") on the Lake Lot covered by such Lake Lot Assessment, which shall bind such Lake Lot in the hands of the Owner of the Lake Lot, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be inferior and subordinate to the Association's Assessment Lien provided for in Section 7.6, but shall be superior to all other liens and charges against the said Lake Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lake Lot in question or home equity loans. The Lake Owners Association shall have the power to subordinate the aforesaid Lake Owners Association Lien to any other lien. Such power shall be entirely discretionary with the Lake Owners Association and such subordination shall be effectuated by an officer of the Lake Owners Association, duly authorized by the Lake Owners Association Members. To evidence a Lake Owners Association Lien, the Lake Owners Association may prepare a written notice of Lake Owners Association Lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lake Lot covered by such lien, and a description of the Lake Lot. Such notice shall be signed by a duly authorized officer of the Lake Owners Association, and shall be recorded in the office of the County Clerk of Brazos County, Texas. Such lien for payment of Lake Lot Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent, and may be enforced by the foreclosure of the defaulting Owner's Lake Lot by the Lake Owners Association in like manner as a mortgage secured by a deed of trust on real property (and the Lake Owners Association is specifically granted a power of sale with respect to the Lake Owners Association Lien herein provided and the power and authority to appoint a trustee or substitute trustee to conduct a nonjudicial sale in the manner provided by Section 51.002 of the Texas Property Code, for

enforcement of such lien), or the Lake Owners Association may institute suit against the Owner of the Lake Lot personally obligated to pay the Lake Lot Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or nonjudicial, the Owner of the Lake Lot shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Lake Owners Association. The Lake Owners Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Lake Owners Association shall report to said Mortgagee the status of any Lake Lot Assessments relating to the Mortgagee's Mortgage and remaining unpaid for longer than thirty (30) days after the same is due.

## ARTICLE X

### ARCHITECTURAL COMMITTEE

10.1 Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. After the Developer Control Period, or sooner if determined by Declarant and its right of appointment is delegated to the Board, said Committee shall maintain records of said appointment and its actions as a Committee. In the event a member resigns or no longer serves for any reason; the remaining members shall select a replacement.

10.2 Action of Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.

10.3 Advisory Members. The Voting Members may from time to time designate Advisory Members.

10.4 Term. Each member of the Architectural Committee shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed as provided herein.

10.5 Declarant's Rights of Appointment. During the Developer Control Period, the Declarant shall have the right to appoint and/or remove all Voting Members of the Architectural Committee(s), which persons need not be drawn from Association Members. Notwithstanding the preceding sentence, Declarant may delegate its right of appointment to the Board by written instrument before the end of the Developer Control Period. After the Developer Control Period, or sooner if determined by Declarant and its right of appointment is delegated to the Board, the Board shall have the right to appoint all Voting Members. At such time as the Board gains the right to appoint and remove Voting Members of the Architectural Committee, the Voting Members so appointed shall be drawn from Members of the Association. Advisory Members shall, when reasonably possible, be drawn from Members of the Association.

10.6 Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it deems necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing

code, and other similar codes.

**10.7 Review of Proposed Construction.** Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts, which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved in writing such Plans and Specifications. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. Upon receipt of all necessary information, the Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other related duties assigned or authorized by this Declaration, including at its option inspection of construction in progress to assure its conformance with previously approved Plans and Specifications. The Architectural Committee shall have the express authority to perform fact finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one construction. The Architectural Committee may, in its review of Plans and Specifications and such other information as it deems proper, consider whether any proposed Improvement upon a Lot would unreasonably obstruct the view from other portions of the Property. The Architectural Committee may, but shall not be required to, disapprove any Improvement upon any Lot that would unreasonably obstruct the view from any other portion of the Property. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with residential development within the Property and the surrounding area. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans and Specifications be deemed an endorsement from the standpoint of structural safety, engineering soundness, or conformance with building or other codes not of its authorship.

**10.8 Actions of the Architectural Committee.** The Architectural Committee may, by resolution unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

**10.9 No Waiver of Future Approvals.** The approval or consent of the Architectural Committee of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any other Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

10.10 Work in Progress. The Architectural Committee may at its option inspect all work in progress to insure compliance with approved Plans and Specifications.

10.11 Non-liability of Architectural Committee Members. Neither the Architectural Committee nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its members, as the case may be. Neither the Architectural Committee nor any member thereof shall be liable to any Owner due to the construction of any Improvements within the Property, or the creation thereby of an obstruction of the view from such Owner's Lot or Lots.

10.12 Address. Plans and Specifications shall be submitted to the Hidden Springs Architectural Committee at P. O. Box 10233, College Station, Texas 77842, or at such other address as may be designated by Declarant or the Board, as the case may be, from time to time. Plans and Specifications may be hand delivered to 16055 FM 2154, College Station, Texas 77845, the dated receipt of which shall be required.

10.13 Certificate of Compliance. Upon completion of any Improvement approved by the Architectural Committee and upon written request by the Owner of the Lot, the Architectural Committee shall issue a Certificate of Compliance in a form suitable for recordation. The Certificate shall identify the Lot, the Plans and Specifications pursuant to which the Improvements were made, the use or uses to be conducted with respect to the Improvements, and shall further specify that the Improvements comply with the approved Plans and Specifications and that said Plans and Specifications are on file with the Architectural Committee. The Certificate shall not be construed to certify the acceptability or sufficiency of, or endorsement by, the Architectural Committee of the actual construction of the Improvements or of the structural integrity, workmanship or materials thereof. The Owner is hereby notified that the Certificate in no way warrants, except as set forth above, the sufficiency or acceptability of or endorsement by, the Architectural Committee of the construction, structural integrity, workmanship or materials of the Improvements. Preparation and recordation of such a Certificate shall be at the expense of the Owner of the improved Lot.

10.14 Failure to Act. In the event the Architectural Committee or its designated representative fails to approve or disapprove any Plans and Specifications within thirty (30) days after the same have been submitted to it, complete with all other information requested by the Architectural Committee in connection with such submission, approval shall be assumed and, upon construction completion, the Owner of the Improvements so Completed may obtain a Certificate of Compliance as set forth in Section 10.13 above.

10.15 Variances. Notwithstanding any other provision of this Declaration, in order to prevent undue hardship upon the Owner or Owners of any individual Lot or Lots upon the Property, variance from any restrictions set out in this Declaration may be granted by a unanimous decision of the Architectural Committee in a written instrument to be duly acknowledged and recorded in the Official Records of Brazos County, Texas.

10.16 Governmental Agency Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing such approvals, certificates and/or permits as may be required by law in connection with the construction of any Improvement on any Lot.

10.17 Relationship with Association. The Architectural Committee has been created pursuant to this Declaration to perform certain functions specified herein relating to the review and approval of Plans and Specifications for Improvements built on the Property. The Architectural Committee does not exercise the authority of the Board, and shall not do so unless and until (i) the Board shall have duly appointed a majority of Board members to the Architectural Committee, and (ii) the Board shall by unanimous resolution, duly recorded in the records of the Association, make the Architectural Committee a committee of the Board in accordance with the applicable provisions of the Texas Business Organizations Code.

10.18 Fees. A fee of two hundred dollars (\$200) shall be paid to the Architectural Committee for the review of plans and, should a revision be submitted, a fifty dollar (\$50) re-submit fee shall be charged. The Architectural Committee, in its discretion, may increase or decrease these fees in reasonable amounts to defray the costs of such reviews.

## ARTICLE XI

### EASEMENTS

11.1 Reserved Easements. All dedications, limitations, restrictions, easements, rights-of-way and reservations shown on the Recorded Plat of the Property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant or other Persons prior to the Property becoming subject to this Declaration, 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 conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most effectively, efficiently and economically developing and marketing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other-person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, any such easement having a maximum width of seven and one-half (7 1/2) feet on each side of such Lot line.

11.2 Installation and Maintenance. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of or impede the flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all Improvements in such area shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. Neither Declarant nor any utility company using the easements herein or referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements.

**11.3 Surface Areas.** The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such easement area.

**11.4 Drainage Easements.** Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Committee thereon require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as may be approved in writing by the Architectural Committee.

**11.5 Lake Easement.** With respect to the Lake Lots (*i.e.*, Lots 19 and 20 in Block One, Lots 1, 2, 3, 4, 5, 6 and 7 in Block Two, and Lots 2 and 3 in Block Four of the Property), there is hereby reserved and dedicated for the use and benefit of each of the Owners of the Lake Lots, and their respective guests and invitees, an easement (the "Lake Easement") to use the surface of the Lake currently located on portions of said Lake Lots for recreational purposes, subject to the Lake Rules referred to in this Declaration. The Lake Easement is for the sole benefit of the Owners of the Lake Lots, their guests and invitees, and shall not be used or occupied by the Owners of any other Lots in the Subdivision. The Lake Easement encompasses the surface area only of the Lake and does not include the right to use, occupy or go upon any portion of a Lake Lot (other than the Lake Lot owned by the Owner thereof) that is not inundated by the Lake. The Owners of the Lake Lots shall be jointly and severally obligated to maintain the Lake and keep it free of trash and obstructions, such obligations to be carried out and performed by the Lake Owners Association. If both the Lake Owners Association and the Lake Lot Owners shall fail to maintain the Lake, the Association, and the Board acting on behalf of the Association, shall have the right of entry and enforcement pursuant to Section 6.5(E) of this Declaration for the purpose of performing such maintenance.

The Declarant or the Association shall have the right, but not the obligation, to construct and maintain within the Lake Easement a fountain or other water feature. If a fountain or other water feature is constructed by Declarant or the Association, the Association shall be responsible for all costs of operation and repair and maintenance thereof.

**11.6 Drainage and Storm Water Easements on Certain Lots in Blocks Two and Four: Responsibility for Maintenance.** Additionally, there is reserved and dedicated on the Lake Lots described in Section 11.5, as and to the extent depicted on the Recorded Plat, (i) a drainage easement within the area depicted on the Recorded Plat and designated as "H.O.A.D.E.," and (ii) a flowage and storm water easement within the area depicted on the Recorded Plat and designated as "Flood Hazard Limits per City of College Station's Stormwater Management Ordinance."

**11.7 Drainage and Storm Water Easements on Certain Lots in Block One: Responsibility for Maintenance.** With respect to Lots 3, 4, 5, 6, 12, 13 and 14 in Block One, there is reserved and dedicated, as and to the extent depicted on the Recorded Plat, (i) a drainage easement within

the area designated as "H.O.A.D.E.," and (ii) a flowage and storm water easement within the area designated as "Flood Hazard Area Zone "A" Limits as determined per City of College Station's Stormwater Management Ordinance." The Owner(s) of each of the above-referenced Lots shall be obligated to maintain the areas within each Owner(s) Lot burdened by said easements (including the creek therein known as Peach Creek) and to keep such areas free from trash and obstruction. If said Owners shall fail to maintain the easements, the Association, and the Board acting on behalf of the Association, shall have the right of entry and enforcement pursuant to Section 6.5(E) of this Declaration for the purpose of performing such maintenance.

11.8 Encroachment Easement. If any Improvement erected or reconstructed by Declarant, a builder or by an Owner, with the approval of the Architectural Committee, shall encroach on the Lot of an adjoining Owner, the latter grants to the Owner of the Improvement an easement permitting the persistence of such encroachment.

11.9 Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Area for the purpose of enforcing the Restrictions in accordance with Section 6.5(E) hereof, and for the construction of a common cable television system, a common sprinkler system, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed a trespass.

## ARTICLE XII MISCELLANEOUS

12.1 Restrictions on Recorded Plat. The Property is also subject to and burdened with certain restrictions, covenants, easements and conditions set out and contained in the Recorded Plat which are made a part of and incorporated in this Declaration by reference.

12.2 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2030, unless amended as herein provided. After December 31, 2030, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended as provided in Section 12.3 below or terminated by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration, filed of record in the Official Records of Brazos County, Texas.

12.3 Dissolution. Upon termination of this Declaration in accordance with Section 12.1 above, the Association shall be dissolved. In the event of any such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those of the Association with respect to the Common Areas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

### 12.4 Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant, acting alone, during the Developer Control Period. No amendment by Declarant shall be



effective until there has been recorded in the Official Records of Brazos County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment.

- (B) By Owners. In addition to the method in Section 12.4(A), after the Developer Control Period, this Declaration may be amended by the recording in the Official Records of Brazos County of an instrument executed and acknowledged by the President and Secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Members entitled to cast at least seventy-five percent (75%) of the number of votes entitled to be cast by all of the Members of the Association.

12.5 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association or Lake Owners Association, as applicable, for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association or Lake Owners Association, as applicable.

12.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

12.7 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

12.8 Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

12.8 Enforcement and Nonwaiver

- (A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce any and all of the provisions of the Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

- (B) Nonwaiver. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions.
- (C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

12.9 Construction.

- (A) Restrictions Severable. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- (C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles.
- (D) Deadlines on Business Day. If any deadline in this Declaration should fall on a Saturday, Sunday or a Texas or federal holiday, such deadline shall automatically be extended to the next business day.
- (E) Choice of Law. This Declaration shall be construed in accordance with the laws of the State of Texas.
- (F)

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 18<sup>th</sup> day of October, 2007.

HOMES OF HIDDEN SPRINGS, LTD.,  
a Texas Limited Partnership

By: THE DUNCUM GROUP, L.L.C., a Texas  
limited liability company, its General Partner

By:   
John M. Duncum, Vice President

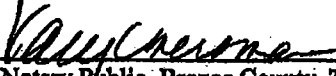
**ACKNOWLEDGMENT**

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STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 18<sup>th</sup> day of October, 2007 by JOHN M. DUNCUM, Vice President of THE DUNCUM GROUP, L.L.C., a Texas limited liability company, general partner, on behalf of HOMES OF HIDDEN SPRINGS, LTD., a Texas limited partnership.

  
Notary Public, Brazos County, Texas



Filed for Record in:  
BRAZOS COUNTY

On: Nov 16, 2007 at 02:16P

As a  
**NO LABEL RECORDING**

Document Number: 00981970

Amount: 147.00

Receipt Number - 329582

By:  
Cynthia Rincon

STATE OF TEXAS COUNTY OF BRAZOS  
I hereby certify that this instrument was  
filed on the date and time stamped hereon by me  
and was duly recorded in the volume and page  
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Nov 16, 2007

HONORABLE KAREN MCKEEN, COUNTY CLERK  
BRAZOS COUNTY

**AFTER RECORDING RETURN TO:**  
Homes of Hidden Springs, Ltd.  
P. O. Box 10233  
College Station, Texas 77845

Hidden Springs, Phase One  
College Station, Texas

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