

**VILLAGES OF WESTCREEK  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This document is a reprint of the original Declaration of Covenants, Conditions, and Restrictions, filed on behalf of the Declarant on February 14, 1986, in Bexar County, Texas. This reproduction of the original has been created for the use of the membership to make the reading of this document easier by enlarging the print. Every effort was made to ensure this copy is true to the original, to include all of its errors. The original document, filed in the Bexar County Courthouse, remains the governing document for the Association and this document is still the binding instrument. If errors between this reprint and the original are noted, please contact the community manager, 12354 Military Drive West, San Antonio, TX 78253, and we will attempt to rectify the error as soon as possible. The original is available to the public and can be found in Volume 8921, pages 1961 through 2000 of the county public record.

**THIS DECLARATION (herein called the "Declaration") made on this the 23rd day of January, 1987, by SAN ANTONIO SAVINGS ASSOCIATION, a state-chartered mutual savings and loan association, of Bexar County, Texas, hereinafter called and referred to as "Declarant".**

**WITNESS:**

1. Declarant is the owner of certain real property in Bexar County, State of Texas, which real property is more particularly described by metes and bounds on an instrument attached hereto, marked for identification as Exhibit "A" and incorporated herein by reference for all purposes. The surface estate of such real property and the surface estate of such additional lands as may hereafter be made subject to this Declaration as herein provided, shall be referred to in this Declaration as the "Property".
2. Declarant desires to develop the Property into a residential subdivision known as the Villages of Westcreek, with incidental office, retail and commercial development. Tract One as shown on said Exhibit "A" shall be known as the Oaks of Westcreek Unit I, an Addition to the Villages of Westcreek.
3. It is the intent of Declarant by this Declaration to provide and adopt a general and uniform plan or scheme of covenants, easements, restrictions, conditions, charges and liens designed to govern and control the development, improvement, sale, use and enjoyment of the Property as a residential subdivision with incidental office, retail and commercial development.
4. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said subdivision, to create an association (hereinafter defined) to which shall be delegated and assigned the powers and duties of (a) maintaining and administering the common area (hereinafter defined), (b) administering and enforcing the covenants and restrictions, (c) levying, collecting, and disbursing the assessments and charges hereinafter created and (d) generally administering such association. Declarant has caused the incorporation of the Villages of Westcreek Property Owners' Association, Inc., a non-profit organization created under the laws of the State of Texas for the purpose of exercising the functions aforesaid.
5. Declarant has deemed it desirable for the efficient preservation of the values and amenities in said subdivision, to create a homeowners' association (hereinafter defined) to which shall be delegated and assigned the powers and duties of (a) administering and maintaining the homeowners' common area (hereinafter defined), (b) administering and enforcing the covenants and restrictions herein set forth which are by their terms applicable to such homeowners' common area, (c) levying, collecting and disbursing the assessments and charges hereinafter created for such purposes and (d) generally administering such homeowners' association. Declarant has caused the incorporation of the Villages of Westcreek Homeowners Association, Inc., a non-profit organization created under the laws of the State of Texas for purposes of exercising the functions aforesaid.
6. The purpose of this Declaration is to preserve so far as possible the natural beauty of the Property; to avoid harsh contrasts between structures and landscape; to guard against the erection of poorly designed

or proportioned structures and use of unsuitable materials; to encourage and secure the erection of attractive improvements which are harmonious with their sites; and in general, to enhance the environmental quality and economic value of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, held, used, sold and conveyed in accordance with and subject to the following plan of development, easements, restrictions, covenants, conditions and stipulations, all of which are hereby adopted for and placed upon the Property and shall run with the Property and be binding on all parties (including the Declarant except as hereinafter provided) now or at any time hereafter having or claiming any right, title or interest in the property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each owner thereof or any part thereof.

**ARTICLE I**  
**DEFINITIONS**

Wherever used in this Declaration, the following terms shall have the following meanings:

"ARC" shall mean and refer to the Architectural Review Committee for the Villages of Westcreek.

"ASSOCIATION" shall mean and refer to the Villages of Westcreek Property Owners' Association, Inc., its successors and assigns.

"BOARD" shall mean and refer to the Board of Directors of the Association.

"BUILDING HEIGHT" shall mean and refer to the distance from the average finished grade at the foundation wall to the highest point of the roof or parapet wall, whichever is the higher, excluding cupolas, weather vanes, chimneys, and such similar attachments.

"COMMERCIAL/BUSINESS USE AREA" shall mean and refer to any property designated as a Commercial/Business Use Area in any supplemental declaration (hereinafter defined) which designation shall indicate that such property is restricted for use primarily for office, retail, and/or servicing purposes, as well as any other business or commercial use which may be approved in writing by the Association. Any property so designated shall be restricted for such use only, except as provided herein or in such supplemental declaration.

"COMMON AREA" shall mean and refer to that portion of the Property described by metes and bounds on an instrument attached hereto, marked for identification as Exhibit "B" and incorporated herein by reference for all purposes, including such other property that may be hereafter conveyed to, acquired by or otherwise accepted by the Association as Common Area, which shall be subject to the provisions of this Declaration, excepting and excluding all minerals, and any other restrictions or easements of record. The Common Area shall be for the common convenience, use and benefit of the Owners.

"DECLARANT" shall mean and refer to San Antonio Savings Association, its successors and assigns.

"DECLARATION" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be amended at any time and from time to time as provided for herein.

"HOMEOWNER" shall mean and refer to the owner (hereinafter defined) of a part of the Property which is included in a single-family residential area (hereinafter defined).

"HOMEOWNERS' ASSOCIATION" shall mean and refer to the Villages of Westcreek Homeowners Association, Inc., its successors and assigns.

"HOMEOWNERS' BOARD" shall mean and refer to the Board of Directors of the Homeowners' Association.

"HOMEOWNERS' COMMON AREA" shall mean and refer to the portion of the Property described by metes and bounds on an instrument attached hereto, marked for identification as Exhibit "C" and incorporated herein by reference for all purposes and such other property that may be hereafter conveyed to, acquired by or otherwise accepted by the Homeowners' Association as Homeowners' Common Area, which shall be subject to the provisions of this Declaration, excepting and excluding all minerals and any other matters of record. The Homeowners' Common Area shall be for the common convenience, use and benefit of the Homeowners, to the exclusion of all other owners (but not to the exclusion of Declarant).

"IMPROVEMENT" shall mean and include any and all buildings, roof structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, grading and site preparation work, concrete or asphalt pads, ponds, lakes, swimming pools, tennis courts, signs, utility connections, exterior illumination, changes in any exterior color or shape, and any new exterior construction or exterior improvement that may not be included in any of the foregoing. Improvement includes original improvements and later changes and improvements, including changes in exterior color.

"LOT" shall mean and refer to each tract, part or parcel of land shown as a lot upon the map or plat of the Property, including other land which Declarant may hereafter add as a part of the Property as herein provided, and which is designated on said plat by an identifying number, including any subsequent, permitted subdivision thereof.

"MAJOR STREET" shall mean and refer to any publicly dedicated street, highway or other thoroughfare within the Property with a dedicated right-of-way measuring greater than sixty (60) feet in width.

"MASTER PLAN SCHEMATIC" shall mean and refer to the schematic drawing of the Villages of Westcreek on file with the Association which shows the Property, the proposed future expansion of the Property and the proposed designated use of such Property as expanded, as well as proposed Common Areas, proposed roadways, easement areas, and other features of the Property, and shall include any amendments to such drawing as may be made at any time, and from time to time, as herein provided. Subsequent to any such amendment, each reference to the Master Plan Schematic shall refer to the most recently amended drawing.

"MINOR STREET" shall mean and refer to any street, highway, or other thoroughfare within the Property with a right-of-way width measuring sixty (60) feet or less in width.

"MULTI-FAMILY RESIDENTIAL AREA" shall mean and refer to any property designated as Multi-Family Residential Area in any supplemental declaration (hereinafter defined), and such designation shall mean and refer to an area which is restricted to use for residential purposes wherein two or more residential units are contained within the same structure, including multi-family residential complexes wherein individual units are leased or rented, as well as those wherein individual units are conveyed to individual owners, provided that all developments where units are to be conveyed must be subject to a condominium regime pursuant to the provisions of the Texas Condominium Act, and the Revised Civil Statutes of Texas, as amended. Any property so designated shall be restricted for such use only, except as provided herein or in such supplemental declaration.

"OWNER" shall mean and refer to the fee title owner, whether one or more persons or entities, of any Lot, including contract sellers and any person or entity holding legal title as Trustee, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" as used in this Declaration is further defined to include and refer to the heirs, executors, personal representatives, administrators, devisees and assigns of any Owner, and all other persons, firms or corporations acquiring or succeeding to the title of the Owner by sale, grant, will, foreclosure, execution, or by any legal process, or by operation of law or in any other legal manner.

"PLAT" or "MAP" or "SUBDIVISION PLAT" shall mean and refer to the recorded map or plat of the Property as well as the map or plat of any property annexed thereto and filed for record during the existence of this Declaration and any supplemental declarations hereto.

"RELIGIOUS USE" shall mean and refer to any use of any structure, either temporarily or permanently, as a church, temple, synagogue, mosque, religious meeting place, or any other use primarily for religious purposes.

"RESTRICTIONS" shall mean and refer to those certain covenants, stipulations, conditions, easements and restrictions hereinafter set forth.

"SINGLE-FAMILY RESIDENTIAL AREA" shall mean and refer to that portion of the Property described by metes and bounds on an instrument attached hereto, marked for identification as Exhibit "D" and incorporated herein by reference for all purposes and any other property so designated in any supplemental declaration (hereinafter defined) and which shall be composed of Lots restricted to use for the construction, occupation, and habitation of a structure as a residence or dwelling unit by a single person, a family or a family-sized unit, including any permitted subsequent subdivision thereof. Any property so designated shall be restricted for such use only.

"SPECIAL USE AREA" shall mean and refer to any Lot designated as a Special Use Area on the Plat or so designated in any supplemental declaration (as hereinafter defined) and shall mean and refer to any

Lot restricted for uses other than residential (whether single-family or multi-family), commercial or business uses, including, without limitation, religious uses and school uses.

"SUPPLEMENTAL DECLARATION" shall mean any supplemental declaration of covenants, conditions, restrictions, stipulations and easements filed for record in the office of the County Clerk of Bexar County, Texas by Declarant which, by its terms, is applicable to the Property or any part thereof, or any additions thereto, or by which additional properties are brought within the scheme of this Declaration.

"UTILITY SERVICE ENTITY" shall mean and refer to any private utility company or governmental entity which has ownership of utility service facilities or the means of delivery of any utility service, including cable TV.

"VILLAGES OF WESTCREEK" shall mean and refer to all of the Property, together with any property annexed or added thereto by (i) express dedication and plat, or (ii) by deed of conveyance or Supplemental Declaration duly filed for record, (but only if such dedication and plat, or deed or Supplemental Declaration shall expressly state that such land constitutes a part of the Villages of Westcreek and has been approved by Declarant).

**ARTICLE II**  
**GENERAL PROVISIONS**

2.01 - Establishment of Restrictions and Protective Covenants - Declarant does hereby declare that each portion of the Property now or hereafter designated as Single-Family Residential, Multi-Family Residential, Commercial/Business, Religious and Special Use Areas, and defined herein as "Lot," shall be sold and transferred, conveyed and occupied subject to covenants, conditions, restrictions, easements, development standards, and uses as hereinafter provided for, all of which shall be binding upon any and all parties having or acquiring any right, title and interest in any such Lot. The portions of the Property to be so conveyed shall be designated as such in the deeds of conveyance thereof by reference to, and adoption of, this Declaration, together with any other additional covenants and restrictions which may be placed on any such Lot, but the failure to so designate any portion of the Property as a Lot shall not limit the application of this Declaration to such portion of the Property. The Board, acting on behalf of the Association, shall have the right to include and/or exclude portions of the Property from the covenants, conditions, restrictions and other matters set forth herein, by amendment to this Declaration in the manner set forth herein.

2.02 - Purpose of Restrictions - The purposes of this Declaration are:

(a) Generally to protect the Declarant and the Owners against the improper development and use of those Lots within the Property; to assure compatibility of design of improvements within the Property; to secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; to provide for landscaping and the maintenance thereof; and in general to encourage construction of attractive, high quality, permanent improvements that will promote the general welfare of the Declarant and all Owners, while retaining for Declarant reasonable flexibility to respond to changing or unforeseen circumstances so as to alter permitted uses and control and maintain the first class quality and distinctive nature of the Property.

(b) With respect to utilities, to limit the density of development and use of the Property so that the limited utility capacity available to the Property can be controlled by the Declarant by limiting density of development on specific Lots. To further this purpose, Declarant has contracted with the City Water Board, the City of San Antonio and Lackland City Water Department for capacity to bring sewer and water mains to the Property. The capacities in those mains will be limited. At such time as a Lot is conveyed, the Declarant shall designate a specific development density and/or an allocation of water and sewer capacity that are to be made available to the Lot by the Declarant or a Utility Service Entity. No use of any Lot shall be made, nor shall any Lot be developed to any density which will require any water or sewer capacity in excess of the designated development density or the allocation.

2.03 - Staged Subdivision - The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development without the consent or approval of Owners of any Lots (other than Declarant). As additional properties are included, Declarant shall, with respect to said properties, record Supplemental Declarations which may incorporate this Declaration herein by reference, and which may supplement or modify this Declaration with such additional covenants, restrictions and conditions which may be appropriate for those properties. Upon the filing of a Supplemental Declaration, then and thereafter the Owners of all Lots in the Villages of Westcreek shall have the rights, privileges and obligations with respect to all Property in the Villages of Westcreek (including such additional properties) in accordance with the provisions of, and to the extent set forth in, this Declaration and each such Supplemental Declaration.

2.04 - Other Additions - Additional land within the Thomas York Survey No. 201 1/2, H. Meurer Survey Co. 359, D. Crockett Survey No. 383, B.F. Bradford Survey No. 201, J. Blannerhassett Survey No. 202, A. Cagnion & Bros. Survey No. 208, J.M. Garcia Survey No. 200 1/2, Vincinte Hernandez Survey No. 200 3/4 and V. Hoefflinger Survey No. 200 1/4 in Bexar County, Texas, now owned by Declarant ("Additional Land") may be added or annexed to said Property and made subject to the terms hereof by the Declarant without the consent of Owners at any time or from time to time by the filing for

record of an instrument expressly stating an intention to so annex such additional land. Such Additional Land and the Property are described by metes and bounds on an instrument attached hereto, marked for identification as Exhibit "E" and made a part hereof for all purposes. Such additional land which may be added or annexed shall become subject to all assessments existing at the time of such addition or annexation.

2.05 - Lot Descriptions - In all contracts, deeds, conveyances, mortgages, deeds of trust, releases and other legal instruments, each Lot shall be described by reference to the recorded map or plat of the Property in which it is located.

**ARTICLE III**  
**COMMON AREA**

3.01 - Description - The Common Area shall include and consist of lots and property which hereafter may be acquired by the Association for use as easements for privately owned utilities, easements for public utilities, easements for storm sewers and drainage facilities, parking areas, recreational areas, pedestrian paths, landscaped or other green areas, and other open areas. All other property as the Association may at any time acquire by purchase or otherwise shall also be part of the Common Area. The Common Area shall be subject to the provision of this Declaration, the rights and easements of use and enjoyment for the benefit of the Owners and all other easements mentioned or provided for in this Declaration.

3.02 - Owner's Easement of Enjoyment - Each and every Owner shall have and are hereby expressly granted a perpetual and non-exclusive right and easement of use and enjoyment for the purposes intended in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to make, publish and enforce reasonable rules and regulations governing the use and enjoyment of Common Area or any part thereof, all of which reasonable rules and regulations shall be binding upon, complied with and observed by each Owner;
- b. The right of the Association to grant or dedicate easements in, on, under or above the Common Area or any part thereof to any public or governmental agency or authority or to any utility company, person, firm or corporation for any service to the Property or any part thereof;
- c. The right of the Association to prohibit any Owners from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or other Improvement on the Common Area, from storing any of their personal property on the Common Area, from inhibiting the free flow of pedestrian traffic on the Common Area or any part thereof, each without the written consent of the Association being first obtained. The Association shall have the right to remove anything placed on the Common Area in violation of the provisions of this section and to recover the cost of such removal from the Owners responsible;
- d. The right, but not the obligation, of the Declarant to construct private streets, drainage structures, landscape areas, and other improvements within the Common Area;
- e. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Association, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by two-thirds (2/3) of each class of members of the Association entitled to cast the votes as hereinafter set forth has been filed for record in Bexar County, Texas, agreeing to such dedication, transfer, purpose or condition; and
- f. The right of the Association, as provided in its Articles and By-Laws, to suspend the voting rights and the right to usage of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

3.03 - Delegation of Use - Any Owner may delegate his right of use and enjoyment of the Common Area and facilities to the members of his family, his tenants, and contract purchasers who are occupying the Owner's premises. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation, Bylaws, this Declaration, and any amendments to same. Neither the Articles of Incorporation nor the Bylaws shall for any reason be interpreted or changed so as to be inconsistent with this Declaration.



## ARTICLE IV

### VILLAGES OF WESTCREEK PROPERTY OWNERS' ASSOCIATION

4.01 - The Association - The Declarant shall charter a corporation organized under the Texas Non-Profit Corporation Act to be known as "Villages of Westcreek Property Owners' Association, Inc.", which incorporation shall be prior to the conveyance of any Lot, for the purposes of assuring compliance with the terms of this Declaration. The Association, acting through its Board, shall have the authority to enforce the covenants, conditions, restrictions, and all other items contained in this Declaration, and, subject to the provisions set forth herein, shall also have the following powers:

- a. To grant variances from the Restrictions and obligations set forth herein;
- b. To set forth, modify, amend or delete any of the uses, restrictions, terms, covenants and conditions of this Declaration subject to the requirements and approvals set forth in Section 15.02 hereof;
- c. To enforce the obligations and covenants of any Owner as set forth herein; and
- d. To exclude or include portions of the Property from the purview of the covenants, conditions, restrictions and other matters set forth herein by amendment to this Declaration (subject to the requirements and approvals set forth in Section 15.02 hereof).

Neither the Declarant, the Association nor the Board, shall ever be under any obligation to enforce the covenants, conditions, restrictions and other terms of this Declaration, and any failure to so enforce shall never give rise to any liability whatsoever on the part of the Declarant, Declarant's successors or assigns, the Association or the Board. The Association, the Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, by the Declarant or by any Owner to enforce any restriction, covenant, condition, reservation, lien or charge shall in no event be deemed a waiver of the right to do so thereafter.

4.02 - Additional Powers - The Association, to the extent the Board deems appropriate for Association purposes, shall have the power to own real and personal property, open bank accounts, contract for legal, accounting and other professional services, retain employees, and to otherwise do that which it believes necessary or prudent to carry out the terms of this Declaration or to conduct its business and affairs.

4.03 - Membership - Each Owner (whether one or more persons or entities) of a Lot shall, upon and by virtue of becoming such an Owner, automatically become a member of the Association and shall remain a member thereof until such ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to, shall automatically follow, and may not be separated from the legal ownership of each Lot. It shall not be necessary that any instrument provide for transfer of membership in the Association, and no certificate of membership will be issued.

4.04 - Voting Rights - The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners except Declarant. Class A Members shall be entitled to one vote for each 1/5th acre (or less) owned in the Property except those Class A Members who are Homeowners who shall be entitled to one vote for each Lot owned in a Single-Family Residential Use Area.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to five (5) votes for each 1/5th acre (or less) owned in the Property in areas other than Single-Family Residential Use Areas and shall be entitled to four (4) votes for every Lot owned in a Single-Family Residential Use Area. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (i) at such time as the Declarant conveys and/or dedicates seventy-five percent (75%) or more of the land area of the Property to an Owner or Owners (unless such conveyance expressly states that the status of Declarant is likewise thereby assigned and conveyed) or to any governmental authority for public use or (ii) on January 1, 2000.

4.05 - Notice and Quorum for Membership Action - Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. With respect to any annual or special "general" membership meeting of the Association, at the first call of such meeting, the presence at the meeting in person or by proxy of thirty-three percent (33%) of the total votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, the meeting may be adjourned to a new date not later than seven (7) days from the date of that adjourned meeting, and the required quorum at such meeting shall be one-half (1/2) of the required quorum at the immediately preceding meeting. This procedure shall be continued until a quorum has been obtained; provided, however, that such reduced quorum requirement shall not be applicable at a subsequent meeting held more than sixty (60) days following the originally scheduled meeting.

4.06 - Board of Directors - The Association shall have a Board of Directors composed of no fewer than three (3) members and no more than five (5) members. The Bylaws of the Association shall specify the procedure for nomination and election of Directors, as well as the terms to be served by the respective Board members; however, until January 1, 2000, any and all Directors may be removed from the Board at any time by the majority vote of the Members, without cause.

4.07 - Powers of the Board - The Board shall have those powers enumerated in the Bylaws of the Association so as to enable it to provide for maintenance of Common Area, support of the ARC and management of Association affairs.

4.08 - Powers and Duties of the Association - The Association shall have such rights, powers and duties as set forth in the Articles of Incorporation and Bylaws, as the same may be amended from time to time.

4.09 - Personal Liability - No member of the Board or any Committee of the Association, or any of the Officers of the Association, shall be personally liable to any Owner, or any other party including the Association for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any other representative or employees of the Association; provided, however, such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

4.10 - Insurance - The Association shall obtain the following: (1) Comprehensive General Liability Insurance with Broad Form Comprehensive General Liability Endorsement; (2) Directors and Officers Liability Insurance; (3) Hired Car, Employee Nonowner Auto Liability Insurance, with limits in amounts no less than those required as "Underlying Limits of Liability" to purchase an Umbrella Policy. Furthermore, the Association shall purchase an Umbrella Policy protecting the Association, the Board, Officers, Employees and/or Agents of such Association, in a combined single limit amount of not less than ONE MILLION DOLLARS (\$1,000,000.00), or such other comparable insurance as the Association deems desirable. Premiums for insurance shall be part of the common expense payable out of assessments provided herein. Each Owner shall be responsible for his own personal liability for areas within the exclusive use and occupancy of such Owner. The Association shall have the authority to procure whatever other forms or types of insurance as it deems advisable.

4.11 - Mergers - Upon a merger or consolidation of the Association with another association as may be provided in its Articles of Incorporation, the Association's property, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Declaration upon the Property together with the covenants, conditions and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants, conditions and restrictions established by this Declaration upon the Property except as hereinbefore provided.

4.12 - FHA/VA Approval - As long as there is a Class B membership and there is a valid letter approving the regime from Federal Housing Administration or Veterans Administration, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties within the Villages of Westcreek, dedication of Common Areas and/or Homeowners' Common Areas, and amendments of this Declaration.

**ARTICLE V**  
**COVENANTS FOR MAINTENANCE ASSESSMENTS**

5.01 - Creation of the Lien and Personal Obligation of Assessments - Excepting Owners of property exempt from Assessments as set forth in Section 5.10 hereof, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments of charges, and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. All such assessments (collectively, the "assessments"), together with any interest thereon, reasonable attorney's fees and other costs of collection, shall be a charge on the Owner's Lot and shall be a continuing lien upon the Lot until each such assessment is paid. Each assessment, together with any interest thereon, reasonable attorney's fees and other costs of collection shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for existing delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

5.02 - Purpose of Assessments - The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents and tenants in the Property and in particular for (a) the improvement and maintenance of the Common Area; (b) for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area including, but not limited to, street sweeping, garbage collection, street lighting, police service, fire protection, (c) administering the Association, (d) maintenance of privacy fences abutting a Major Street and (e) the enforcement of the Restrictions.

5.03 - Basis of Annual Assessments - The annual assessment charged to each Owner shall be based on assessment units. Each Lot in a Single-Family Residential Area shall be assessed one assessment unit. Each Lot in an area other than a Single-Family Residential Area shall be assessed one assessment unit for each 1/5th acre of area contained within such Lot. Until January 1 of the year immediately following the conveyance of any Common Area to the Association, the maximum annual assessment for each assessment unit shall be Forty-Eight Dollars (\$48.00) per year, which annual assessment shall be paid in four (4) equal quarterly installments. From and after January 1 of the year immediately following the conveyance of any Common Area to the Association, the maximum annual assessment for each assessment unit may be increased each year not more than ten percent (10%) above the maximum annual assessment for the previous year without a vote of the members of the Association and may be increased above ten percent (10%) if approved by not less than two-thirds (2/3) of the votes of each class of voting membership in the Association who are voting in person or by proxy at a meeting duly called for this purpose. The assessment charged to Declarant for the number of acres owned by Declarant in the Property shall be reduced by seventy-five percent (75%) of such assessment. The assessment charged to the Owner of a Lot on which no Improvement has been constructed other than utility connections, plantings or site preparation work, shall be reduced by seventy-five percent (75%) of such assessment. However, a full annual assessment shall immediately and permanently attach to any Lot upon completion of any Improvement on such Lot (other than utility connections, plantings or site preparation work). In consideration of such reduced assessment, Declarant shall subsidize any deficit in operating costs incurred by the Association so long as Declarant is the owner of a majority of Lots within the Property.

5.04 - Special Assessments for Capital Improvements - In addition to the annual assessments authorized by Section 5.01 hereof, the Association may levy in any calendar year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of voting membership in the Association who are voting in person or by proxy at a meeting duly called for this purpose. A capital improvement shall mean an improvement made to a long-term asset located upon or being a part of the Common Area. The special

assessments shall be levied on the same basis as the annual assessments set forth in Section 5.03, including the reduction in the assessments charged to Declarant and certain Owners.

5.05 - Date of Commencement of Annual Assessments - Due Dates - The quarterly installments provided for herein shall commence as to all Lots within the Property subject to the assessments on the first day of the month following the date on which any Common Area is conveyed to the Association. Quarterly installments shall be due and payable on the first day of January, April, July and October of each calendar year (the "Payment Dates"). The initial quarterly installment shall be made for the balance of the then applicable quarter of the calendar year and shall be due and payable on the next occurring Payment Date. The installment for each quarter, excluding the initial quarterly installment, shall be due and payable in advance on the first day of such quarter. The amount of the quarterly installment which shall be payable for the period of time remaining in the first quarter shall be an amount which bears the same relationship to the quarterly installment provided for in Section 5.03 hereof as the remaining number of days in that quarter bear to ninety. The same reduction in the amount of the initial installment shall apply to the first quarterly installment for assessments for any Properties which are hereafter added to the Property now subject to assessment at a time other than a Payment Date. The due date of any special assessment under Section 5.04 hereof shall be fixed in the resolution authorizing such assessment.

5.06 - Duties of the Board - The Board of the Association shall fix the amount of the assessment against each Lot subject to assessments annually. Written notice of the annual assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time and for a reasonable charge furnish a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

5.07 - Effect of Nonpayment of Assessments - If the assessments (including any Special Assessment or installment of an annual assessment) are not paid on the date when due (being the dates specified in Section 5.05 hereof), then such assessments shall be delinquent and the amount of the delinquent assessment shall, together with interest thereon and cost of collection thereof as hereinafter provided, be secured by a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, the Owner's successors and assigns. If the delinquent assessment is not paid within thirty (30) days after the applicable due date, it shall bear interest from the due date at the lesser of fourteen percent (14%) per annum or the maximum rate permitted by the laws of the State of Texas, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the delinquent assessment as above provided and reasonable attorneys' fees to be fixed by the court together with the costs of the action. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of the Lot.

5.08 - Enforcement by Lien - There is, to the full extent permitted by law, hereby authorized a claim of lien, with power of sale, on each and every Lot within the Property (including Lots added to the Property by annexation or permitted subdivision of existing Lots) to secure the payment of any and all assessments and fees allowed, charged, or levied by the provisions of this Declaration and any and all monies charged or levied against any Owner for failure to comply with the restrictions, covenants, conditions, assessments, fees, rights, and duties imposed, allowed, or granted by the provisions of this Declaration. In the event that such assessments, fees or monies remain unpaid more than thirty (30) days following the date on which the Owner receives written notice of the amount due, the Declarant or the Association may elect to file for record a claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such claim of lien shall be executed and acknowledged by either an officer of Declarant or officer of the Association, and shall contain substantially the following information:

- a) The name of the delinquent owner;
- b) The legal description and street address of the Lot against which the claim of lien is made; and

c) The total amounts claimed to be due and owing, including interest charges, collection costs and reasonable attorney's fees.

Upon filing for record of a duly executed original of such claim of lien in the office of the County Clerk of Bexar County, Texas, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot described therein. The Association shall cause to be mailed to the Owner a copy of the claim of lien as filed for record. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien excepting only tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal or governmental assessing unit, and the liens which are specifically described in Section 5.09 hereafter. Any such lien may be enforced and foreclosed by appropriate action in a court or in a manner provided by law for foreclosure of a mortgage or trust deed as set forth by the laws of the State of Texas, as the same may be changed or amended from time to time, including foreclosure sale and deficiency decree. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. In the event such foreclosure is by judicial proceedings, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner, expressly waives any objection to this method of the enforcement and foreclosure of this lien for satisfaction of delinquent assessments.

5.09 - Subordination of Lien to Mortgages - The lien as provided for in Section 5.08 above, shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect said lien; however, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any conveyance in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer; provided, however, that such foreclosure or conveyance in lieu thereof shall not extinguish or in any way affect the personal liability of the then record Owner of any such Lot. No other sale or transfer shall relieve such Lot from liability for any charges thereafter becoming due or from the lien thereof.

5.10 - Exempt Property - The following portions of the Properties subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- a. All Common Area and Homeowners' Common Area as defined herein;
- b. All of the Property exempted from taxation by the laws of the State of Texas, upon the terms and to the extent of such legal exemption; and such other property as is chosen to be exempt by the Association; and
- c. Property that is conveyed by Declarant for use for a specific purpose (but only to the extent so provided in the deed of conveyance from Declarant).

## ARTICLE VI

### HOMEOWNERS' COMMON AREA

6.01 - Description - The Homeowners' Common Area shall include and consist of portions of the Property which hereafter may be acquired by the Homeowners' Association for use as easements, parking areas, recreational areas, pedestrian paths, landscaped or other green areas, and other open areas. All other property as the Homeowners' Association may at any time acquire by purchase or otherwise shall also be part of the Homeowners' Common Area. The Homeowners' Common Area shall be subject to the provisions of this Declaration and the rights and easements of use and enjoyment for the benefit of the Homeowners.

6.02 - Homeowner's Easement of Enjoyment - Each and every Homeowner shall have and is hereby expressly granted a perpetual and non-exclusive right and easement of use and enjoyment for the purposes intended in and to the Homeowners' Common Area which shall be appurtenant to and shall pass with the title to every Lot in a Single-Family Residential Area, subject to the following provisions:

- a. The right of the Homeowners' Association to make, publish and enforce reasonable rules and regulations governing the use and enjoyment of Homeowners' Common Area or any part thereof, all of which rules and regulations shall be binding upon, complied with and observed by each Homeowner;
- b. The right of the Homeowners' Association to grant or dedicate easements in, on, under or above the Homeowners' Common Area or any part thereof to any public or governmental agency or authority or to any utility company, person, firm or corporation for any service to the Property or any part thereof;
- c. The right of the Homeowners' Association to prohibit any Homeowner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or other Improvement on the Homeowners' Common Area, from storing any personal property on the Homeowners' Common Area, from inhibiting the free flow of pedestrian traffic on the Homeowners' Common Area or any part thereof, each without the written consent of the Homeowners' Association being first obtained. The Homeowners' Association shall have the right to remove anything placed on the Homeowners' Common Area in violation of the provisions of this Section and to recover the cost of such removal from the Homeowner responsible;
- d. The right, but not the obligation, of the Declarant to construct private drives, drainage structures, landscape areas, recreation facilities and other improvements within the Homeowners' Common Area;
- e. The right of the Homeowners' Association to dedicate or transfer all or any part of the Homeowners' Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Homeowners' Association, provided that, except as to easements permitted by paragraph 6.02 (b) above, no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by two-thirds (2/3) of each class of members of the Homeowners' Association entitled to cast two-thirds (2/3) of the votes (as hereinafter set forth) has been recorded, agreeing to such dedication, transfer, purpose or condition; and
- f. The right of the Homeowners' Association, as provided in its Articles and By-Laws, to suspend the voting rights and the right to usage of the recreational facilities by a Homeowner for any period during which any assessment against the Homeowners' Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

6.03 - Delegation of Use - Any Homeowner may delegate that Homeowner's right of use and enjoyment of the Homeowners' Common Area and facilities to the members of the Homeowner's family, tenants, and contract purchasers who are residing in the Homeowner's premises. The Homeowners' Association shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation, Bylaws, and this Declaration. Neither the Articles of Incorporation nor the Bylaws shall for any reason be interpreted or changed so as to be inconsistent with this Declaration.

## ARTICLE VII

### VILLAGES OF WESTCREEK HOMEOWNERS ASSOCIATION

7.01 - The Homeowners' Association - The Declarant shall charter a corporation organized under the Texas Non-profit Corporation Act to be known as "Villages of Westcreek Homeowners Association, Inc.", which incorporation shall be prior to the conveyance of any Lot, for the purposes of assuring compliance with the terms of this Declaration. The Homeowners' Association, acting through The Homeowners' Board, shall have the authority to enforce the covenants, conditions, restrictions, obligations and all other items contained in this Declaration which concern or affect the Homeowners' Common Area.

Neither the Declarant, the Homeowners' Association nor the Homeowners' Board, shall ever be under any obligation to enforce the covenants, conditions, restrictions and other terms of this Declaration, and any failure to so enforce shall never give rise to any liability whatsoever on the part of the Declarant, Declarant's successors or assigns, the Homeowners' Association or the Homeowners' Board. The Homeowners' Association, the Declarant or any Homeowner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration on the Homeowners' Common Area. Failure by the Homeowners' Association, the Declarant or any Homeowner to enforce any such restrictions, covenant, condition, reservation, lien or charge shall in no event be deemed a waiver of the right to do so thereafter.

7.02 - Additional Powers - The Homeowners' Association, to the extent the Homeowners' Board deems appropriate for Homeowners' Association purposes, shall have the power to own real and personal property, open bank accounts, contract for legal, accounting and other professional services, retain employees, and to otherwise do that which it believes necessary or prudent to carry out the terms of this Declaration or to conduct its business and affairs.

7.03 - Membership - Each Homeowner (whether one or more persons or entities) of a Lot in a Single-Family Residential Area shall, upon and by virtue of becoming such a Homeowner, automatically become a member of the Homeowners' Association and shall remain a member thereof until such ownership ceases for any reason, at which time membership in the Homeowners' Association shall automatically cease. Membership in the Homeowners' Association shall be appurtenant to, shall automatically follow, and may not be separated from the legal ownership of each such Lot. It shall not be necessary that any instrument provide for transfer of membership in the Homeowners' Association, and no certificate of membership will be issued.

7.04 - Voting Rights - The Homeowners' Association shall have two classes of voting membership:

Class A. Class A Members shall be all Homeowners except Declarant. Class A Members shall be entitled to one vote for each Lot owned in a Single-Family Residential Area, but in no event shall then be more than one vote cast for each such Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to five (5) votes for each Lot owned in a Single-Family Residential Area. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (i) at such time as the Declarant conveys and/or dedicates seventy-five percent (75%) or more of the Property which is restricted as Single-Family Residential Area to an Owner or Owners (unless such conveyance expressly states that the status of Declarant is likewise thereby conveyed) or to any governmental authority for public use or (ii) on January 1, 2000.

7.05 - Notice and Quorum for Membership Action - Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all Homeowners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. With respect to any annual or special "general" membership meeting of the Homeowners' Association, at the first call of such meeting, the presence at the meeting in person or by proxy of thirty-three percent (33%) of the total votes of the membership



shall constitute a quorum. If the required quorum is not forthcoming at such meeting, the meeting may be adjourned to a new date not later than seven (7) days from the date of that adjourned meeting, and the required quorum at such meeting shall be one-half (1/2) of the required quorum at the immediately preceding meeting. This procedure shall be continued until a quorum has been obtained; provided, however, that such reduced quorum requirement shall not be applicable at a subsequent meeting held more than sixty (60) days following the originally scheduled meeting.

7.06 - Board of Directors - The Homeowners' Association shall have a Board of Directors composed of no fewer than three (3) members and no more than five (5) members. The Bylaws of the Homeowners' Association shall specify the procedure for nomination and election of Directors, as well as the terms to be served by the respective Homeowners' Board members; however, until January 1, 2000, any and all Directors may be removed from the Homeowners' Board at any time by the majority vote of the Members, without cause.

7.07 - Powers of the Homeowners' Board - The Homeowners' Board shall have those powers enumerated in the Bylaws of the Homeowners' Association so as to enable it to provide for maintenance of Homeowners' Common Area, and reasonable management of Homeowners' Association affairs.

7.08 - Powers and Duties of the Homeowners' Association - The Homeowners' Association shall have such rights, powers and duties as set forth in the Articles of Incorporation and Bylaws, as the same may be amended from time to time.

7.09 - Personal Liability - No member of the Homeowners' Board or any Committee of the Homeowners' Association, or any of the Officers of the Homeowners' Association, shall be personally liable to any Homeowner, or any other party including the Homeowners' Association for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Homeowners' Association, the Homeowners' Board or any other representative or employees of the Association; provided, however, such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

7.10 - Insurance - The Homeowners' Association shall obtain the following: (1) Comprehensive General Liability Insurance with Broad Form Comprehensive General Liability Endorsement; (2) Directors and Officers Liability Insurance; (3) Hired Car, Employee Nonowner Auto Liability Insurance, with limits in amounts no less than those required as "Underlying Limits of Liability" to purchase an Umbrella Policy. Furthermore, the Homeowners' Association shall purchase an Umbrella Policy protecting the Homeowners' Association, the Board, Officers, Employees and/or Agents of such Homeowners' Association, in a combined single limit amount of not less than ONE MILLION DOLLARS (\$1,000,000.00), or such other comparable insurance as the Homeowners' Association deems desirable. Premiums for insurance shall be part of the common expense payable out of Homeowner's assessments provided herein. Each Homeowner shall be responsible for his own personal liability for areas within the exclusive use and occupancy of such Homeowner. The Homeowners' Association shall have the authority to procure whatever other forms or types of insurance as it deems advisable, including fire insurance covering the full insurable replacement value of the Homeowners' Common Area with extended coverage.

7.11 - Mergers - Upon a merger or consolidation of the Homeowners' Association with another association as may be provided in its Articles of Incorporation, the Homeowners' Association's property, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights and obligations of another association may, by operation of law, be added to the rights and obligations of the Homeowners' Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Declaration within the Homeowners' Common Area together with the covenants, conditions and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants, conditions and restrictions established by this Declaration with respect to the Homeowners' Common Area except as hereinbefore provided.

**ARTICLE VIII**  
**COVENANTS FOR MAINTENANCE ASSESSMENTS FOR HOMEOWNERS'**  
**COMMON AREA**

8.01 – Creation of the Lien and Personal Obligation of Assessments – Each Homeowner by acceptance of a deed for a Lot in a Single-Family Residential Area, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowners' Association: (a) annual assessments of charges; and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. All such assessments (collectively, the "Homeowner assessments"), together with any interest thereon, reasonable attorney's fees and other costs of collection, shall be a charge on the Homeowner's Lot and shall be a continuing lien thereon. Each such Homeowner assessment, together with any interest thereon, reasonable attorney's fees and other costs of collection shall also be the personal obligation of the person who was the Homeowner of such Lot at the time when the Homeowner assessment fell due. The personal obligation for delinquent Homeowner assessments shall not pass to the Homeowner' successors in title unless expressly assumed by them.

8.02 – Purpose of Assessments – The Homeowner assessments levied by the Homeowners' Association shall be used exclusively for the purpose of the improvement and maintenance of the Homeowners' Common Area, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Homeowners' Common Area, including support of the Homeowners' Association.

8.03 – Basis of Annual Assessments – Until January 1 of the year immediately following the conveyance of any Homeowners' Common Area to the Homeowners' Association, the maximum annual assessment for each Single-Family Residential Area Lot shall be One Hundred Eighty Dollars (\$180.00) per year, which annual assessment shall be paid in four (4) equal quarterly installments. From and after January 1 of the year immediately following the 1988 conveyance of any Homeowners' Common Area to the Homeowners' Association, the maximum annual assessment for each Single-Family Residential Area Lot may be increased each year not more than ten percent (10%) above the maximum annual assessment for the previous year without a vote of the members of the Homeowners' Association and may be increased above ten percent (10%) if approved by not less than two-thirds (2/3) of the votes of each class of voting membership in the Homeowners' Association who are voting in person or by proxy at a meeting duly called for this purpose. Such assessment shall be fixed at a uniform rate for all such Single-Family Residential Area Lots, but the annual assessment charged to Declarant for the number of Single-Family Residential Area Lots owned by Declarant shall be reduced by seventy-five percent (75%). The assessment applicable to a Homeowner of a Lot on which no Improvement has been constructed (other than utility connections, plantings or site preparation) shall be reduced by seventy-five percent (75%) of such assessment. However, a full annual assessment shall immediately and permanently attach to any Lot upon completion of any other Improvement on such Lot. In consideration of such reduced assessment, Declarant shall subsidize any deficit in operating costs incurred by the Homeowners' Association so long as Declarant is the owner of a majority of Lots within Single-Family Residential Area. The Homeowners' Common Area shall be exempt from all assessments.

8.04. – Special Assessments for Capital Improvements – In addition to the annual assessments authorized by Section 8.01 hereof, the Homeowners' Association may levy in any calendar year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the Homeowners' Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of voting membership in the Homeowners' Association who are voting in person or by proxy at a meeting duly called for this purpose. A capital improvement shall mean an improvement made to a long-term asset located upon or being a part of the Homeowners' Common Area. The special assessments shall be levied on the same basis as the assessments set forth in Section 8.03, including the reduction in the Homeowner assessments charged to Declarant and certain Homeowners.

8.05 – Date of Commencement of Annual Assessments – Due Dates – The quarterly installments provided for in Section 8.03 shall commence as to all Lots within the Single-Family Residential Area subject to the Homeowner assessments on the first day of the month following the date on which any Homeowners' Common Area is conveyed to the Homeowners' Association. Quarterly installments shall be due and payable on the first day of January, April, July and October of each calendar year (the "Payment Dates"). The initial quarterly installment shall be made for the balance of the then applicable quarter of the calendar year and shall be due and payable on the next succeeding Payment Date. The quarterly installment for each quarter, excluding the initial quarterly installment, shall be due and payable in advance on the first day of such quarter. The amount of the quarterly installment which shall be payable for the period of time remaining in the first quarter shall be an amount which bears the same relationship to the quarterly installment provided for in Section 8.03 hereof as the remaining number of days in that quarter bear to ninety. The same reduction in the amount of the initial installment shall apply to the first assessment installment for any Lots which are hereafter added to the Single-Family Residential Area now subject to Homeowner assessments at a time other than a Payment Date. The due date of any special assessment under Section 8.04 hereof shall be fixed in the resolution authorizing such assessment.

8.06 – Duties of the Homeowners' Board – The Homeowners' Board shall fix the amount of the annual assessment against each Lot subject to such assessments annually. Written notice of the annual assessment shall thereupon be sent to every Homeowner subject thereto. The Homeowners' Association shall upon demand at any time and for a reasonable charge furnish a certificate in writing signed by an officer of the Homeowners' Association, setting forth whether the Homeowner assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

8.07 – Effect of Nonpayment of Assessments – If the Homeowner assessments (including any special assessment or installment of an annual assessment) are not paid on the date when due (being the dates specified in Section 8.05 hereof), then such assessment shall be delinquent and the amount of the delinquent assessment shall, together with interest thereon and costs of collection thereof as hereinafter provided, be secured by a continuing lien on the Homeowners' Lot which shall bind such Lot in the hands of the then Homeowner, the Homeowners' successors and assigns. If the assessment is not paid within thirty (30) days after the applicable due date, it shall bear interest from the due date at the lesser of fourteen percent (14%) per annum or the maximum rate permitted by the laws of the State of Texas, and the Homeowners Association may bring an action at law against the Homeowner personally obligated to pay the same or foreclose lien against the Lot, and there shall be added to such delinquent assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the delinquent assessment as above provided and reasonable attorneys' fees to be fixed by the court together with the costs of the action. No Homeowner may waive or otherwise escape liability for the Homeowner assessment provided for herein by non-use of the Homeowners' Common Areas or abandonment of the Homeowners' Lot.

8.08 – Enforcement by Lien – There is, to the full extent permitted by law, hereby authorized a claim of lien, with power of sale, on each and every Lot within the Single-Family Residential Area (including Lots added to such area by annexation or permitted subdivision of existing Lots) to secure payment of any and all Homeowner assessments and fees allowed, charged, or levied by the provisions of this Declaration and any and all monies charged or levied against any Homeowner for failure to comply herewith. In the event that such assessments, fees or monies remain unpaid more than thirty (30) days following the date on which the Homeowner receives written notice of the amount due, the Declarant or Homeowners' Association may elect to file for record a claim of lien on behalf of the Homeowners' Association against the Lot of the defaulting Homeowner. Such claim of lien shall be executed and acknowledged by either an officer of Declarant or officer of the Association, and shall contain substantially the following information:

a) The name of the delinquent Homeowner;

- b) The legal description and street address of the Lot against which the claim of lien is made; and
- c) The total amounts claimed to be due and owing, interest charges, collection costs and reasonable attorney's fees.

Upon filing for record of a duly executed original of such claim of lien in the office of the County Clerk of Bexar County, Texas, the lien claimed therein shall immediately attach and become effective in favor of the Homeowners' Association as a lien upon the Lot therein described. The Homeowners' Association shall cause to be mailed to the Owner a copy of the claim of lien as filed for record. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien excepting only tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal or governmental assessing unit, and the liens which are specifically described in Section 8.09 hereof. Any such lien may be enforced and foreclosed by appropriate action in a court or in a manner provided by law for foreclosure of a mortgage or trust deed as set forth by the laws of the State of Texas, as the same may be changed or amended from time to time, including foreclosure sale and deficiency decree. The Homeowners' Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. In the event such foreclosure is by judicial proceedings, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Homeowner, by becoming a Homeowner, hereby expressly waives any objection to this method of the enforcement and foreclosure of this lien for satisfaction of unpaid Homeowner assessments.

8.09 – Subordination of Lien to Mortgages – The lien as provided for in this Article VIII shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect said lien; however, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any conveyance in lieu thereof, shall extinguish the lien of such Homeowner assessments as to payments which became due prior to such sale or transfer; provided, however, that such foreclosure or conveyance in lieu thereof shall not extinguish or in any way affect the personal liability of the then record Homeowner of any such Lot. No other sale or transfer shall relieve such Lot from liability for any charges thereafter becoming due or from the lien thereof.

## ARTICLE IX

### ARCHITECTURAL REVIEW COMMITTEE

9.01 – Establishment and Composition – There is hereby established an Architectural Review Committee (ARC), which shall consist of three (3) regular members (the "Regular Members") and two (2) alternate members (the "Alternate Members"). The initial members shall be appointed by the Board not later than the conveyance to the Association of the Common Area. Members of the ARC shall serve without salary or pay and none of the members shall be required to be an architect or to meet any other particular qualifications for membership.

9.02 – Function of the ARC – No improvement shall be commenced, erected, placed, maintained or permitted to remain on any portion of the Property until plans and specifications in such form and detail as the ARC may deem necessary shall be submitted and approved in writing by the ARC. The ARC shall have the power to employ professional consultants to assist it in discharging its duties and shall have the right to charge any applicant a reasonable fee to defray its actual cost of reviewing such plans and specifications. The decision of the ARC shall be final, conclusive and binding upon the applicant.

9.03 – Voting and Status of Alternate Members – Except as otherwise provided herein, a vote or written consent of a majority of the Regular Members of the ARC at a meeting or otherwise shall constitute the act of the ARC. Except as hereinafter provided, Alternate members shall not be entitled to vote. In the event of absence or disability of one (1) or more Regular Members, the remaining Regular Members, even though less than a quorum, may designate an Alternate Member to act or substitute for the absent or disabled Regular Member for the duration of such absence or disability. The Alternate Member so designated shall be entitled to vote in place of the Regular Member for whom the Alternate Member so substitutes. Notwithstanding the foregoing provisions, the ARC is not authorized to act unless at least one (1) Regular Member is present, or in the event action is taken without a meeting, unless at least one (1) Regular Member consents in writing thereto.

9.04 – Terms of Office – The term of each ARC member shall be for a period of six (6) years and thereafter until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned or whose terms have expired may be reappointed.

9.05 – Appointment and Removal – Except as provided below, the right to appoint and remove all Regular Members and Alternate Members of the ARC at any time, with or without cause, shall be, and hereby is, vested solely in the Declarant. At such time as Declarant no longer owns any portion of the Property or at such time that the Declarant records a waiver of the right herein retained, whichever event occurs first, then the Association shall appoint all Regular Members and Alternate Members of the ARC in accordance with the By-laws of the Association.

9.06 – Vacancy – Any Regular Member or Alternate Member of the ARC may resign at any time from the ARC by giving written notice thereof to the Declarant or the Association as the situation requires. Vacancies on the ARC, however caused, shall be, except as provided in Section 9.05 of this Article, filled by the Declarant. A vacancy shall be deemed to exist in the case of death, resignation or removal of any Regular Member or Alternate Member.

9.07 – Transfer of Authority to the Association – The duties, rights, powers and authority of the ARC constituted hereby may be assigned at any time, at the sole election of a majority of the Regular Members of the ARC, to the Association, and from and after the date of such assignment, and the acceptance thereof by the Association, the Association shall have full right, authority and powers, and shall be obligated to perform the functions of the ARC as provided herein (and in the By-Laws of the Association).

9.08 – Address – The address of the ARC shall be 601 N.W. Loop 410, San Antonio, Texas 78216, Attention: The Real Estate Group, or such other place as may be designated (from time to time) by the

ARC by written instrument filed for record in the office of the County Clerk of Bexar County, Texas, and the last instrument so recorded shall be deemed the ARC's proper address.

9.09 – Duties – It shall be the duty of the ARC to receive, consider and act upon all proposals, plans, specifications, complaints, requests for determination, or other matters submitted pursuant to the terms of this Declaration, and to carry out all other duties imposed on it by this Declaration. The ARC, may, but need not, hire specialized consultants and incur reasonable expenses to aid it in reviewing plans and their incidents.

9.10 – Meetings – The ARC shall meet from time to time as necessary to perform its duties hereunder. Subject to provisions of Section 9.03 above, and except as otherwise provided herein, the vote or written consent of a majority of the Regular Members at a meeting or otherwise, shall constitute the act of the ARC. The ARC shall keep and maintain written records of all actions taken by it as such meetings or otherwise.

9.11 – Action Without Formal Meeting – The ARC may take action without formal meeting by unanimously consenting in writing on any matter which they might consider at a formal meeting. Such unanimous written consent shall constitute the act of the ARC. For the purpose thereof, unanimous written consent shall mean a writing by the three (3) Regular Members of the ARC except as the provisions of Section 9.03 may apply.

9.12 – Procedure for Submission and Approval by ARC – Submission to and approval by the ARC of proposed Improvements shall be in accordance with the Rules promulgated by the ARC, as authorized by Section 9.14 hereof. If the ARC fails to approve or disapprove any material submitted to it hereunder within thirty (30) days after the date of its receipt or to give notice of its decision as above required, it shall be conclusively presumed that the ARC has approved such materials as submitted, provided, however, that approval or disapproval of materials by the ARC concerning Improvements upon a Single-Family Residential Area Lot shall be acted upon by the ARC within fifteen (15) days of the date of its receipt. If the ARC requests additional or amended materials during the initial thirty (30) day period or initial fifteen (15) day period, as applicable, or approves such materials subject to the condition that certain additional or amended materials be submitted, such period shall automatically be extended to fifteen (15) days following the date upon which such additional or amended materials are delivered to the ARC. Additional fifteen (15) day extensions shall occur if further additional or amended materials are requested or required during any subsequent extension period. If the additional or amended materials are not received on or before the required date, then the request for approval shall be automatically disapproved.

9.13 – Waiver and Estoppel – The approval of the ARC of any plan, specifications or drawings or any materials accompanying same for matters requiring approval of the ARC shall not be deemed a waiver of, or create any right of estoppel against, the ARC's right to withhold approval of any similar plan, drawing, specification or materials subsequently submitted for approval.

9.14 – ARC Rules –

- a) The ARC shall have the authority to adopt, amend, add to, replace and rescind, from time to time, procedural or substantive rules to make more definite and certain, and to implement the purpose of and intent of the provisions of this Declaration. Any conflict between such rule and any provision of this Declaration shall be resolved in favor of the provision of this Declaration. A copy of such rules, as in effect from time to time, shall be provided to any Owner requesting the same in writing.
- b) Approval of plans and specifications shall be based, among other things, on adequacy of site dimensions, conformity and harmony of external design and of location with neighboring structures and sites, relation of finish grades and elevation to neighboring sites, and conformity to both the specific and general intent of the Declaration. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ARC may reject them totally or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

9.15 – Content of Plans and Specifications for Areas Other Than Single Family Residential Areas – Two sets of plans and specifications prepared by a licensed architect or landscape architect shall be submitted and approved prior to commencement of construction. Plans and specifications to be submitted and approved shall include, as a minimum, the following:

- a. A topographical survey showing two foot contour grades and showing the location of all improvements, structures, walks, patios, driveways, fences and walls. Existing and finished grades shall be shown at Lot corners and at corners of proposed Improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the Lot contour is contemplated;
- b. Exterior elevations, exterior materials, colors, textures and shapes, such drawings and all other architectural drawings to be of a scale of not less than 1/8" equals 1 foot;
- c. Landscaping Plan, including walkways, fences and walls, elevation changes, watering systems, vegetation and ground cover (by type, planting size and location);
- d. Parking area and driveway sizes;
- e. Screening, including size, location and method;
- f. Utility connections;
- g. Exterior illumination, including location and method;
- h. Signs, including size, shape, color, location and materials;
- i. Trash container storage locations and related screening;
- j. Proposed use of Lot and improvements thereon, and estimated building occupancy and parking load; and
- k. Such other matters as may be required by the ARC.

9.16 – Content of Plans and Specifications For Single-Family Residential Areas – Two sets of plans and specifications prepared by a licensed architect or qualified planner shall be submitted and approved prior to commencement of construction. Plans and specifications to be submitted and approved shall include, as a minimum, the following:

- a. A site plan showing five-foot contour grades and showing the location of all proposed Improvements, structures, walks, patios, driveways, fences and walls or a lot grading plan. Existing and finished grades shall be shown at Lot corners and at corners of proposed Improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the Lot contour is contemplated;
- b. Exterior elevations, exterior materials, colors, textures and shapes;
- c. Landscaping plans; and
- d. Driveways sizes.

9.17 – Decisions Conclusive – All decisions of the ARC shall be final and conclusive, and no Owner or any other person, association or entity shall have any recourse against the ARC, or any member thereof, for its or such member's approval or refusal to approve all or any portion of any submitted materials, or for any other decision rendered under the authority of this Declaration.

9.18 – Liability – Neither the ARC nor any member thereof shall be liable to any Owner or any other person, association or entity, for any damage, loss or prejudice suffered or claimed on account of: (i) the approval or disapproval of any submitted materials, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved materials; (iii) the development of the Property; (iv) the structural capacity or safety features of any proposed improvement; (v) whether or not the location of the proposed improvement on the building site is free from possible hazards from flooding or from any other possible hazards whether caused by conditions occurring either upon or off the Property; (vi) soil erosion causing sliding conditions; (viii) any decision made or action taken or omitted to be taken under the authority of this Declaration; or (ix) the issuance of any estoppel

certificate, whether or not the facts therein set forth are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by such member. Without in any way limiting the generality of any of the foregoing provisions of this Section, the ARC, or any member thereof, may, but is not required to, consult with or determine the view of any other Owner with respect to any materials submitted to the ARC.

9.19 – Modifications and Waivers – Upon such terms and conditions, upon the payment of such fees or expenses, and for such procedures as it may prescribe, the ARC may, but is not required to, adopt, review and approve or disapprove, in whole or in part, with or without conditions, applications for the modification or waiver of any requirement of Article X of this Declaration, or of the ARC rules applicable to any Improvement or use of, in, on or abutting any Lot. Such applications shall contain such information as the ARC may prescribe and shall affirmatively show that the application of such requirements, under the circumstances, creates unnecessary and undue hardship, and that its modification or waiver will not be detrimental (aesthetically, economically, or otherwise) to the Owner of any other Lot. The ARC may decide the matter upon the application and any materials or written statements accompanying it, or may allow oral presentations in support of, or in opposition to the application prior to the decision, at its discretion. The ARC shall render a decision in writing, which decision need not contain any reasons, findings, or conclusions for the decision and shall forward one (1) copy to the applicant, and retain one (1) copy in its records.

9.20 – Governmental Agency Approval – Nothing in the Declaration shall relieve, or be interpreted as purporting to relieve, any Owner from also securing such approval(s), certificate(s), or permit(s) of any governmental agency or entity with jurisdiction as may be required by law as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the ARC may require that a copy of such approval(s), certificate(s) or permit(s) be provided to the ARC as a final condition to any approval, or as additional insurance to the ARC that the proposed Improvements and uses meet governmental requirements, or for both such purposes.



**ARTICLE X**  
**GENERAL LAND USE RESTRICTIONS**

**10.01 - Designation of Permitted and Prohibited Uses -**

a. The Declarant has designated certain uses which shall be permitted for the various Lots which now or hereafter comprise the Property. This designation of uses by the Declarant is expressly subject to change at any time and from time to time by the Board as the Board shall determine in its sole discretion; provided, however, that at such time as a Lot is conveyed, the designation of use for that particular Lot shall be binding upon the Owner and the Lot and cannot be revised or amended except by the Board with the consent of the Owner. No use may be made of any Lot which does not conform to the definition of the use permitted for that Lot without the express written consent of the Board; provided, however, that any Lot may be used for a more restrictive use when the restrictive use is imposed upon a Lot by zoning authority over such Lot, but in no event shall any use be made of any Lot which shall require water and sewer service in excess of the capacities allocated to the Lot by Declarant.

b. Notwithstanding any other provision contained herein to the contrary, including the right of the Association to amend this Declaration, the following uses shall not be permitted on any Lot or on any portion of the Property:

(1) Any use which involves the raising, breeding, keeping of any animals or poultry, except for (i) domestic pets in reasonable numbers, and for non-commercial purposes; and (ii) veterinary clinics for small animals and retail stores offering domestic pets for sale within Commercial/Business Use Areas with the written consent of the Association or the Board.

(2) Any dangerous or unsafe uses.

(3) Any industrial uses, including, without limitation, any smelting, rendering, brewing, refining, chemical manufacturing or processing.

(4) Any mining or mineral exploration or development of any kind.

(5) Any use which may require water and sewer in excess of the capacities allocated to the Lot by Declarant.

(6) Any noxious or offensive activity which the Association deems objectionable and adverse to the preservation of property values within the Property.

(7) Any Religious Use, except within Special Use Areas with the written consent of the Association or the Board.

(8) Any use which violates any statute, rule, regulation, ordinance or other law of any governmental entity, including but not limited to, all rules and orders of the Texas Water Development Board, Texas Water Commission and Edwards Underground Water District, and all flood plain, industrial waste and other ordinances of the City of San Antonio and Bexar County.

**10.02 – Land Coverage** – Building and parking area coverage shall not exceed eighty (80) percent of the total Lot area, unless such requirement is waived by the ARC.

**10.03 – Landscape Easements** – No building or paving shall encroach upon any landscaped easement which may be set forth in the Master Plan Schematic, the Plat or in any deeds or other appropriate documents.

**10.04 – Outside Storage or Operations** – Except for temporary outside storage of trash in containers for collection from Lots in Single-Family Residential Areas, no outside storage or operations of any kind shall be permitted unless such activity is visually screened from public view from adjacent streets, Lots, and buildings in a manner which is architecturally compatible and which has been approved in writing by the ARC. No boats, trailers, campers, horse trailers, buses, inoperative vehicles of any kind, other recreational vehicles or commercial vehicles of one (1) ton or greater load capacity shall be kept, parked or stored on any Lot (or parked on any street abutting any Lot), unless properly screened from public

view in a manner approved in writing by the ARC or unless such vehicle is temporarily parked in connection with services being performed on the Lot. All retail sales equipment or merchandise shall be displayed only in the interior of a building. Water towers, cooling towers, communication towers, storage tanks, and other structures or equipment (including microwave or satellite dishes) shall be architecturally compatible or effectively shielded from public view. No outside storage components or equipment shall extend above the top of such screening.

10.05 – Mechanical Equipment – All rooftop mechanical equipment shall be screened from the view of adjacent streets and buildings with a parapet or other screening devices which are integral to the architecture of the building. Upon final completion of Improvements on each Lot, ground-mounted equipment, such as power transformers and air handling equipment, shall be screened from public view by either materials integral with the building, a fence of western cedar or an equivalent or better material, or landscaping, any of which shall be at the Owner's expense and must be approved by the ARC in writing prior to its construction.

10.06 – Grading and Drainage – Surface drainage shall conform as much as possible to San Antonio Subdivision Regulations. Care shall be taken so as not to cause damage to adjacent Lots as a result of development either during construction or after completion of the project. No downspout water shall be permitted to be deposited directly into landscaped areas or into open ditches without adequate erosion and siltation control as approved by the ARC. All grading and surface drainage, including roof drainage of buildings, shall be designed to conform to the overall drainage and topography of the Property. No uncontrolled surface drainage onto adjacent property shall be allowed. Grading of the site shall be done in such a way so as to protect and retain existing trees.

10.07 – Underground Utilities – No pipe, conduit, cable, line or the like for water, gas, sewage, drainage, steam, electricity or any other energy or service shall be installed or maintained upon any Lot (outside of any building) above the surface of the ground, except for "project-level" utilities to be constructed and installed either by Declarant or by a Utility Service Entity. Upon final completion of Improvements on each Lot, all auxiliary machinery, transformers, meters and other equipment or facilities used on any site or outside of any building in connection with any such energies or services shall be located and screened, landscaped or concealed in a manner approved in writing by the ARC at the Owner's expense.

10.08 – Utility Easements – Easements for installation and maintenance of utilities are to be reserved as shown on the Plats of the Property and as provided for in the deed of conveyance to a particular Lot. No structure shall be erected on any of said easements, and no Improvement may be placed within said easements without the written approval of the ARC and any Utility Service Entity using such easements. Easements may be crossed by driveways, walkways and fences provided the Owner makes prior arrangements with the Utility Service Entity furnishing services and provides and installs any necessary conduit of approved type and size under such driveways and walkways prior to construction thereof. Neither Declarant nor any Utility Service Entity using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or contractors to shrubbery, trees, flowers or other Improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Owner located on the land covered by said easements.

10.09 – Exterior Illumination – Exterior illumination, if such is to be provided, shall be designated to light only buildings, parking areas and walkways and glare should not be produced on adjacent street or Property. All ground level floodlighting fixtures shall be depressed or screened from public view in a manner approved by the ARC.

10.10 – Temporary Structures – No temporary building or structure for use other than as construction offices or temporary sales buildings and for other related purposes during the construction period shall be installed or maintained on any Lot without the specific written approval of the ARC. All temporary structures used for construction purposes are subject to approval by the ARC with regard to location and appearance, and shall be removed at completion of construction.

10.11 – Lot Consolidation – If the Owner of any Lot becomes the Owner of one or more contiguous and adjoining Lots, side Lot line building and parking setbacks common to the contiguous Lots may be waived at the discretion of the ARC.

10.12 – Maintenance – The Owner and lessee of any lot shall have the duty of and responsibility for keeping the premises, Improvements and appurtenances and landscaping in a well maintained, safe, clean and attractive condition at all times. If, in the opinion of the Declarant or its assigns or successors, or the Association, any such owner or lessee is failing in this duty and responsibility, then the Declarant, its successors or assigns or the Association may give notice of such fact and such Owner or lessee shall within ten (10) days of such notice, undertake the care and maintenance required to restore said Owner's or lessee's Lot to a safe, clean and attractive condition. Should any such Owner or lessee fail to fulfill this duty and responsibility after such notice, the Declarant or its successors or assigns or the Association shall have the right and power to perform such care and maintenance, and the Owner or lessee shall be liable for the cost thereof. If such Owner or lessee shall fail to reimburse the entity performing the work after written demand upon such Owner for payment, the amount of such charge shall constitute a lien upon the Lot and shall be enforceable and collectible in the manner set forth in Sections 5.08 and 5.09 of this Declaration.

10.13 – Initial Construction Period – Unless otherwise approved by the ARC, the Owner shall commence construction on the Lot on or before twelve (12) months from the date of conveyance and diligently thereafter prosecute to final completion the buildings and improvements, the plans and specifications of which have been approved by the ARC. Commencement of construction shall mean the first on-site work for construction of a foundation for an Improvement. The Declarant may reserve the right, but not the obligation, in the Deed of Conveyance to repurchase the land and improvements (if any) should the Owner fail to perform the Owner's construction obligation.

10.14 – Setback Exclusions – The following Improvements are expressly excluded from the building and pavement setback requirements:

- a. Structures below and covered by the ground where such structures will not interfere with the provisions for underground utilities or landscaping.
- b. Steps, walks and driveways connected directly to a street without parking spaces.
- c. Except as restricted by Section 11.02 (g) hereof, planters, walls, fences or hedges less than four (4) feet in height unless, in the sole judgement of the ARC, same would interfere with visual safety at site access points or street intersections.
- d. Landscaping, including landscaped earth and berms (subject to the other requirements set forth herein).
- e. Signs or other forms of graphic identification (subject to other requirements set forth herein).

**ARTICLE XI**  
**SPECIFIC USE RESTRICTIONS – COMMERCIAL/BUSINESS USE AREA AND**  
**SPECIAL USE AREA**

11.01 - Building Design: The following criteria shall be applied to all building design:

- (1) All commercial and business building elevations must be faced with brick, stone or other comparable masonry material as approved in writing by the ARC. Front and side elevations of the building may be constructed of tilt wall or precast panels provided that such shall be of exposed aggregate concrete construction or finished and covered with brick, stone or equivalent facing as approved by the ARC.
- (2) Building roofs shall be designed and constructed so as to prevent water from ponding.
- (3) Trash and waste disposal, during and after construction, including sorting, handling, moving, storing, removing and disposing of all waste material must be housed or screened in a manner and location approved in writing by the ARC.
- (4) All facilities and plans for disposal of waste, during and after construction (such as shredding, compacting, incineration, reclamation, or chemical dissolution), other than by public sewage methods, must be approved in writing by the ARC.
- (5) No excavation shall be made except in conjunction with construction of any Improvement. When such Improvement is completed, all exposed openings shall be back filled, compacted and graded.
- (6) Once commenced, all construction shall be diligently pursued to completion and no construction may be left in a partially finished condition longer than sixty (60) days, excepting adverse weather or some other unusual circumstance.

11.02 - Landscaping - All sites shall be landscaped in accordance with landscaping designs submitted to and approved by the ARC. Primary emphasis should be placed on preservation of the natural forested environment. All plant material shall be installed within ninety (90) days following the occupancy of a building. This period may be extended in writing by the ARC in the event of delays caused by adverse weather conditions or other causes beyond the reasonable control of the Owner. All landscaping designs shall:

- a. Be designed by a registered landscape architect, unless otherwise approved by the ARC.
- b. Be submitted to the ARC for prior written approval. Such landscape plan shall address plant material, landscape construction method, and irrigation systems. The plans must also include a survey of existing vegetation on a contour map with a minimum of two foot intervals identifying all oak trees and any other tree with a trunk diameter of greater than six inches.
- c. Wherever possible, save and incorporate into the development landscape plans existing trees with trunk diameters of six inches or greater. To insure viability of these trees, the compacting of soil, trenching and/or cut and fill shall be avoided around the trees to the greatest extent possible in that area defined by the trees dripline.
- d. Be required in all areas forward of the building and pavement areas lying between the street right-of-way line and the minimum building setback line.
- e. Maintain or enhance, wherever possible, existing vegetation within drainage easements to prevent erosion, siltation, or impediment of runoff as a result of urbanization.
- f. Minimize excessive irrigation, but be sufficiently irrigated to assure viability of all vegetation.
- g. Not interfere with site line requirements at street or driveway intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the

intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections.

11.03 - Parking Areas - Plans and specifications for all parking areas shall be submitted to the ARC for approval in writing prior to commencement of construction. Approval will be based upon review of construction materials, construction methods, as well as number, type and configuration of required parking spaces. Additionally, all parking areas shall:

- a. Be paved with either asphalt, concrete or other approved permanent surfacing and shall be curbed and guttered with concrete.
- b. Not be located between any street rights-of-way and parking setback lines.
- c. Be adequately screened by use of berm, trees, landscaping or other means acceptable to the ARC.
- d. Be sufficient to accommodate all parking needs for employees, company vehicles, residents and visitors without the use of on-street parking. If parking needs increase, additional off-street parking shall be provided by the Owner. Parking ratios shall not be less than provided below or be less than that required by City of San Antonio Zoning Ordinances:
  - (1) One parking space for every two hundred fifty gross square feet of office space.
  - (2) One parking space for every one hundred gross square feet of restaurant space.
  - (3) One parking space for every three hundred gross square feet of commercial retail space.
  - (4) One and three-quarters parking spaces per unit of multi-family housing.
- e. Conform with all other minimum guidelines set forth by the City of San Antonio, Texas.

11.04 - Driveways - Driveways shall:

- a. Have a minimum width of fifteen (15) feet and a maximum width of thirty (30) feet with a maximum return radius of twenty (20) feet.
- b. Include integral curbs and gutters and be paved with concrete or other approved paving material to the street right-of-way line and be compatible with street drainage.
- c. Have curb cuts in compliance with City of San Antonio requirements and be approved by the ARC. On any Major Street or Minor Street, one curb cut shall be allowed for each one hundred fifty (150) feet of site width. No angled entry aprons will be permitted.

11.05 - Loading/Unloading - Delivery vehicle loading and unloading shall occur on-site only. On-street delivery vehicle loading and unloading shall not be permitted. Loading/unloading facilities shall be separated from employee, customer and visitor circulation and parking areas wherever feasible. All loading/unloading docks shall be screened from public view in a manner approved in writing by the ARC prior to construction.

11.06 - Signing - All signs and their locations must be approved by the ARC in writing prior to installation. Generally, sign materials should be compatible with the building architecture and/or natural environment. No sign of a flashing or moving character shall be installed and no sign shall project above the roofline of a building unless, otherwise approved in writing by the ARC. No sign advertising goods or services not available on the Lot shall be allotted.

11.07 - Minimum Setbacks - Minimum buildings and parking setbacks from the Lot lines shall be as follows:

	<u>Building</u>
	<u>Parking</u>
Major Street	30'
	10'
Minor Street	15'
	5'
Common Area	10'
	10'
Side Lot Line	
	Height of Building
	5'
Rear Lot Line	
	10'
	5'

Multi-level parking shall not be located forward of any building. Any rear property line located within a designated drainage easement shall have the rear building and parking line setback measured from such easement line. The ARC reserves the right during its review of construction plans to place more stringent setback requirements or to relax setback requirements on the Lots according to the particular land use under consideration.

11.08 - Land Coverage - Minimum non-vehicular open space shall be twenty (20) percent of the total Lot area unless otherwise approved in writing by the ARC. This open space is required to be landscape in a manner approved by the ARC.

**ARTICLE XII**

**SPECIFIC USE RESTRICTIONS MULTI-FAMILY RESIDENTIAL AREA**

12.01 - Minimum Setbacks - Minimum building and parking setbacks shall be as follows:

	<u>Building</u>
	<u>Parking</u>
Major Street	25'
	10'
Minor Street	25'
	10'
Common Area	10'
	10'
Side Lot Line	Height of Building
	5'
Rear Lot Line	10'
	5'

12.02 - Site Coverage - Minimum non-vehicular open space shall be twenty (20) percent of the total site area unless otherwise approved in writing by the ARC. This open space is required to be landscaped in a manner approved by the ARC.

12.03 - Building Height - Maximum building height shall be forty (40) feet in Building Height or three (3) stories, whichever is the greater figure, unless otherwise approved in writing by the ARC.

12.04 - Building Design - The exterior of every primary residential Improvement shall be composed of not less than fifty percent (50%) stone, brick or comparable quality masonry material facing, as may be approved in writing by the ARC, exclusive of all doorways, windows, balconies and other openings. Residential Improvements on corner lots shall have stone, brick or comparable masonry on all sides facing a street.

**ARTICLE XIII**

**SPECIFIC USE RESTRICTIONS - SINGLE FAMILY RESIDENTIAL AREA**

13.01 - Single Family Residential Use - All property situated within a Single-Family Residential Area shall be used, improved and devoted exclusively to single family resident use. No business or commercial activity to which the general public is invited shall be conducted within a Single-Family Residential Area except sales and marketing activities of residential dwellings. Nothing contained herein shall be deemed to prevent the leasing of all of a Lot to a single person, family or family sized unit from time to time by the Owner thereof, subject to all the provisions of this Declaration.

13.02 - Time for Construction - Construction of an Improvement shall be continuous and proceed in an orderly fashion without interruption and any Improvement on a Lot shall be completed in a reasonable time, not to exceed eighteen (18) months from the commencement of construction.

13.03 - Requirements - All Single-Family Residential Areas shall be subject to the following requirements, and each enumerated item must be included in the materials submitted and approved in writing by the ARC prior to the commencement of any construction. Once approved, no Improvement may vary from the terms of such approval without further approval of the ARC.

a. Minimum Setbacks - Minimum building setbacks shall be as follows:

	Lots greater than 5000 sq. <u>ft. in area</u>	Lots 5000 sq. ft. In area (or <u>less</u> )
Major Street - front setback	25'	25'
Minor Street - front setback	20'	20'
Common Area	10'	10'
Side Lot Line (except where line abuts Minor or Major Street)	5'	0'
Side Lot Line (abutting Major or Minor Street)	10'	10'
Rear Lot Line (except where line abuts Major Street)	10'	10'
Rear Lot Line (where line abuts Major Street)	15'	10'

The ARC shall have the right to impose additional setback requirements from all lot lines to preserve lines of sight of neighboring properties.

b. Minimum Floor Areas - All Improvements, whether one or more stories or levels, shall have a minimum floor area, exclusive of porches (open and closed), patios, garages, carports, balconies or decks as follows:

(i) If situated on a Lot with an area greater than 5,000 square feet, floor area shall be not less than 1,200 square feet, provided that any Improvement having more than one story or level shall have not less than 800 square feet of said floor area on the first story or level; and



(ii) If situated on a Lot with area equal to, or less than, 5,000 square feet, floor area shall be not less than 900 square feet.

c. Height Limitations - The ARC shall have the right to impose limitations on the height of any Improvement to preserve lines of sight and views enjoyed by neighboring Lots. Unless otherwise approved in writing by the ARC, Building Height shall not exceed forty-feet (40').

d. Exterior Material - The exterior of every Improvement shall be composed of a percentage of stone, brick or comparable quality masonry material facing, as may be approved in writing by the ARC, exclusive of all doorways, windows, balconies and other openings, as follows:

(i) The exterior of every Improvement erected on a Lot with area equal to, or less than, 5,000 square feet shall be composed of not less than twenty-five percent (25%) of masonry material facing; and

(ii) The exterior of the first level of every Improvement erected on a Lot with area of greater than 5,000 square feet shall be composed of not less than seventy-five percent (75%) of masonry material facing.

All side walls of each Improvement situated on a corner Lot which faces or fronts on a street shall be composed of masonry from the ground to the top of the first floor window height, exclusive of openings and trim.

The ARC shall have the right to impose limitations on the exterior color and materials to be used in all Improvements.

e. Roofing Materials - No reflective roofing materials are permitted on any Improvements unless approved in writing by the ARC. Roofs shall be designed and constructed so as to prevent water from ponding. Shingles, if utilized, shall be either fiberglass or composition shingles. If composition, 240 pound shingles, or better, shall be used. If fiberglass, 225 pound shingles, or better, shall be used.

f. Driveway - The ARC shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveways. All driveways shall be of concrete material unless otherwise approved in writing by the ARC.

g. Exterior Lighting - The ARC shall have the right to approve the location, number, size and design of all proposed exterior lighting.

h. Fences, Walls and Hedges - In order to ensure a general uniformity of appearance of those fence sections that can be viewed from a street, any and all fences erected on areas readily apparent and visible from a street (between dwellings, separating front and rear yards, or along side or rear yards abutting a street) shall be six-foot vertical privacy fences composed of cedar and/or masonry. Each Owner shall be required to erect and maintain a fenced enclosure, or other ARC approved method, for the keeping and maintaining of any permitted domestic pets. Said enclosure shall be of reasonable design and construction to adequately contain such animals. No barbed wire fencing shall be permitted on any Lot. Any fence, wall, hedge or other similar Improvement shall be sufficiently described in the materials submitted to the ARC with respect to location, height and type of material and must be approved in writing by the ARC.

i. Towers and Antennas - No visible antenna or other service for the transmission or reception of television signals, radio signals or any other form of electromagnetic radiation, including without limitation satellite dishes, shall be erected, used or maintained on any Lot, whether attached to an Improvement or otherwise, without prior approval of the ARC. No radio signals, television signals, or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of any television or radio signal on any other Lot.

j. "For Sale" Signs and "Model Home" Signs - Notwithstanding anything herein contained to the contrary, a "for sale" sign to advertise that the Lot or Property of the Owner is being offered for sale is permitted, but such sign shall not exceed a total of five (5) square feet. Further, signs erected by homebuilders designating an Improvement as a Model Home shall be permitted.

k. Solar Equipment - Installation of any type of solar equipment shall require approval in writing by the ARC.

l. Garages - Single-Family Residential structures shall have sufficient enclosed garage space to house at least two (2) vehicles if erected on a Lot with area greater than 5,000 square feet. Such structures shall have sufficient enclosed garage space to house at least one (1) vehicle if erected on a Lot with area of 5,000 square feet or less. No garage may be altered or converted into living space if such alteration or conversion would be apparent from the exterior of the structure or would in any way disturb or alter the exterior appearance of the structure.

m. Laundry Drying Facilities - Outside clothes lines or other facilities for drying or airing laundry shall not be erected, placed or maintained on any Lot unless they are concealed in a manner approved by the ARC.

n. Hunting/Trapping/Firearms - Hunting, trapping and discharge of firearms are expressly prohibited.

o. Dumping and Excavation - Dumping of ashes, trash, rubbish, sawdust, garbage, landfill, solid waste and any type of refuse and other unsightly or offensive material is expressly prohibited unless approved by the ARC in connection with construction of Improvements on any Lot.

p. Business Activities - No business or commercial activity to which the general public is invited shall be conducted.

q. Garbage - No garbage or trash shall be placed or kept on any Lot except in covered containers of standard type. All rubbish, trash and garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No incinerator shall be kept or maintained on any Lot. No garbage or trash shall be permitted to be buried on any Lot at any time. The ARC shall have the right to require each owner to use a specific location for garbage pick-up.

r. Motorcycles - The use of motorcycles and all-terrain vehicles (ATVs) shall be limited to those which have been approved as legal for street use by the Department of Public Safety of the State of Texas. Such use shall be limited to the public streets. No off-road use of any motorcycles or ATVs shall be permitted and all motorcycles and ATVs shall have mufflers installed in good condition which limits the exhaust noise to no more than 80 decibels measured ten (10) feet from the end of the exhaust pipe. All operators of motorcycles and ATVs must be licensed by the Department of Public Safety of the State of Texas or other agency authorized to issue such licenses.

s. Continuing Adequacy of Repair or Maintenance - No Improvement shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. Such duty to repair shall include the maintenance of any exterior finish which was included in the materials approved by the ARC.

## **ARTICLE XIV**

### **EASEMENTS**

14.01 - Existing Easements - The Plat will dedicate for use as such, subject to the limitations set forth therein, certain streets, rights-of-way and easements shown thereon, and such Plat will establish dedications, limitations, reservations and restrictions applicable to the Property.

14.02 - Changes and Additions - Declarant reserves the right to make changes in and additions to the above easements and rights-of-way on portions of the Property owned by Declarant for the purpose of most efficiently and economically installing the Improvements.

14.03 - Installation and Maintenance - There is hereby created an easement upon, across, over and under all of the Property for installing, replacing, repairing, and maintaining all utilities (including, but not limited to, water, gas, telephones, electricity and appurtenances thereto), on, above, across and under the Property. The utility companies furnishing service shall have the right to remove trees situated within the utility easements shown on the Plat necessary to provide the service, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

14.04 - Drainage Easements - Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of the Improvements approved by the ARC 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 development, Improvement, temporary or permanent, in any drainage easement, except as approved in writing by the ARC.

14.05 - Easements for Access by Declarant/or ARC - The Declarant, the ARC and the Association shall have the right and permanent easement to enter upon any and all Lots in the Property for the purpose of maintenance, repair, removal of drainage obstructions or for the inspections as to compliance of these covenants. The Declarant, the ARC and the Association shall have the right to enter any Lot for the purpose of correcting any violation of any covenant herein.

14.06 - 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 vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

15.01 - Duration - This Declaration shall remain in full force and effect until January 1, 2007 (the "Initial Term"), and thereafter shall, as then in force, be extended automatically and without further notice, and without limitation, for successive periods of ten (10) years each, unless modified or terminated in the manner set forth in Section 15.02 hereof.

15.02 - Modification or Termination - The covenants, conditions and all provisions of this Declaration may be amended during the Initial Term by an instrument signed by those Owners representing (personally or by proxy) not less than ninety percent (90%) of the votes of the membership in the Association, and thereafter by an instrument signed by those Owners representing (personally or by proxy) not less than seventy-five percent (75%) of the votes of the membership in the Association. The propriety of such execution shall be conclusively evidenced by a certificate to such fact executed by a majority of the Directors of the Association. Such certificate (a) shall be attached to such instrument amending this Declaration, (b) shall state that the requirements of this Section have been met and (c) may be relied upon by third parties as to the validity of such instrument. Until such time as Declarant has sold one hundred percent (100%) of Declarant's ownership interest in the Property, any amendment of the uses, restrictions, terms, covenants and conditions of this Declaration shall also require the prior, written approval of Declarant.

15.03 - Notices - Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when deposited into the care and custody of the U.S. Postal Service, postpaid, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

15.04 - Violation of Restrictions - Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitive or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the Owner of any Lot or by Declarant or its successors or assigns, or by the Association. The failure of any person entitled to enforce any of these Restrictions or to enforce the same shall in no event be deemed a waiver of the right to enforce these Restrictions thereafter.

15.05 - Notice Before Enforcement - Except where damage or injury to persons or property is imminent as a result of the performance, or a failure to perform, or the defective performance of any obligation imposed or restricted by this Declaration, or where animals are involved, no proceeding for the enforcement of the restrictions, covenants, conditions, rights and duties imposed, allowed or granted by this Declaration shall be commenced until thirty (30) days written notice of wrongful performance, defective performance or failure of performance is given to the person, association, or entity responsible for such performance, and such wrongful or defective performance or failure to perform has not been cured within such time.

15.06 - Validity of Declaration - Invalidation of one or more of these covenants, conditions and restrictions by judgment or court order or otherwise, shall in nowise affect any other covenant, condition or restriction, but all of such other covenants, conditions and restrictions shall continue and remain in full force and effect.

15.07 - Joint and Several Obligations - Except as otherwise herein set forth, the terms of this Declaration in effect on the date of any lease or recording of a sheriff's deed, trustee's deed, deed in lieu of foreclosure, other deed, other order or decree declaring, settling or conforming title, pursuant to which one or more persons, associations or entities becomes a Lessee or an Owner as hereinbefore defined, shall be binding upon such Lessee or new Owner, and such Lessee or new Owner shall be jointly and severally liable with his Lessor or the immediate prior Owner for any continuing performance, failure of performance or defective performance of any act or obligation restricted or imposed hereunder.

15.08 - No Dedication - Nothing contained in this Declaration shall be deemed or interpreted to intend a gift or dedication of any portion of the Property to the general public or for any public purpose whatsoever, such intent being hereby expressly disavowed.

15.09 - Successors - Deeds of conveyance of any Lot may contain the provisions, restrictions, covenants and conditions contained herein by reference to this Declaration; however, whether or not such reference is made in any or all said deeds, by becoming an Owner, as herein defined, of any of the Property, each such Owner, for himself or itself, his or its heirs, personal representatives, successors, transferees and assigns, binds himself or itself, and such heirs, personal representatives, successors, transferees and assigns, to all the provisions, restrictions, covenants and conditions now or hereafter imposed by or under the authority of this Declaration and any amendments thereof.

15.10 - Assignment of Rights and Obligations of Declarant - The rights of Declarant hereunder are fully assignable to any person, association or entity and any and all obligations and duties of Declarant are fully delegable and assignable to any person, association or entity.

15.11 - Good Faith Lenders Clause - A violation of these covenants, conditions and restrictions, or any one or more of them, shall not affect the lien of any mortgage or deed of trust now of record, or which hereafter may be placed of record, or other lien acquired or held in good faith upon any Lot or any part thereof, but such liens may be enforced as against any and all property covered thereby, subject nevertheless to the covenants, conditions and restrictions contained herein.

15.12 - Availability of Documents - This Declaration, the Articles of Incorporation and the By-Laws of the Association and the Articles of Incorporation and the By-Laws of the Homeowners' Association (and all amendments thereto) shall be available for inspection by any Owner at the principal office of the Association, where copies may be purchased at reasonable cost.

15.13 - Reservation of Minerals - There is hereby excepted from the property, and Declarant will hereafter except from all its sales and conveyances of said land, or any part thereof, including Lots and the Common Areas, all oil, gas and other minerals in, on and under said land, but Declarant hereby waives, and will waive in each such conveyance, its right to use the surface of the land for development of oil, gas and other minerals, provided that Declarant hereby retains and reserves and in each conveyance will retain and reserve the right to pool the land with other lands, together with the right to drill under and through surface of the land for development of oil, gas and other minerals. Such exceptions and such retained rights and reservations shall inure to the benefit of Declarant and its successors and assigns.

15.14 - Limitation of Restrictions - Nothing contained in or inferable from this Declaration shall ever be deemed to impose upon any other land owned or to be owned by the Declarant, or any related entity, any covenants, restrictions, easements or liens or to create any servitudes, reciprocal negative easements or other interests in any such land in favor of Declarant or any other party.

15.15 - Resubdivision - No Lot in a Single-Family Residential Area shall be further subdivided or separated into smaller Lots or parcels by any Homeowner, other than Declarant, without the prior written approval of Declarant, or at such time as a Class B membership no longer exists in the Homeowners' Association, without the prior, written approval of the Homeowners' Association, and no portion of any such Lot, or any easement or any other interest (other than a security interest or a rental or lease) therein, shall be conveyed or transferred by any Homeowner. Declarant reserves the right to change Lot lines and resubdivide the Property at any time and from time to time prior to sale by Declarant.

15.16 - Combining of Lots - An Owner of two (2) or more contiguous Lots may, with prior written approval of the ARC, combine said Lots into one Lot. Such combination shall be at the sole expense of said Owner. All voting rights and assessment obligations shall be unchanged by virtue of any such Lot consolidation unless and until such Lots are replatted as a single Lot. Thereafter, such Lot shall have the voting rights and assessment obligations of a single Lot.

15.17 - Word Meanings - The words such as "herein", "hereafter", "hereof", "hereunder" and "hereinabove" refer to this Declaration as whole and not merely to a section or paragraph or article in which such words appear unless the context otherwise requires. Singular shall include the plural, and the masculine gender shall include the feminine and neuter and vice versa unless the context otherwise requires.

15.18 - Captions and Section Headings - The captions and headings of various articles, sections, paragraphs or subparagraphs of this Declaration are for convenience only, and are not to be considered as defining or limiting in any way the intent of the provisions hereof or thereof.

15.19 - Declarant's Exemption - Nothing contained in this Declaration shall be construed to prevent the erection and maintenance by Declarant of Improvements or signs necessary or convenient to the development, sale, operation or other disposition of the Property or any part thereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 23rd day of January, 1987.

SAN ANTONIO SAVINGS ASSOCIATION,  
a Texas Chartered Mutual Savings  
and Loan Association

By:            /signed by **Robert D. Duffin**/           

Name: Robert D. Duffin

Title: Senior Vice President

STATE OF TEXAS

COUNTY OF BEXAR

BEFORE ME, the undersigned authority, on this day personally appeared Robert D. Duffin, known to me to be the person whose name is subscribed to the foregoing instrument as Senior Vice President of SAN ANTONIO SAVINGS ASSOCIATION, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 23rd day of January, 1987.

My Commission Expires:

2-18-89

           /signed by **Beth White**/           

Notary Public, State of Texas

           /signed by **Beth White**/           

(Print, type, or stamp name of Notary)