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BYLAWS
BRUSHY CREEK VILLAGE HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is Brushy Creek Village Homeowners' Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at 601 Great Oaks Boulevard, Round Rock, Texas 78664, but meetings of members and directors may be held at such places within Williamson County, Texas, as may be designed by the Board of Directors.

ARTICLE II
MEMBERS

Section 1. Membership. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration of Covenants and Restrictions (the "Declaration") applicable to Brushy Creek Village, a subdivision in Williamson County, Texas, as recorded in the office of the County Clerk of Williamson County, Texas.

Section 2. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 6:00 o'clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 4. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the purpose of the meeting.

Section 5. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 6. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of that member's Lot.

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3 **ARTICLE III**
4 **BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

5 **Section 1. Number.** The affairs of this Association shall be managed by a Board of three (3) directors, who
6 need not be members of the Association.

7
8 **Section 2. Term of Office.** At the first annual meeting the members shall elect one (1) director for a term of
9 one (1) year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years; and
10 at each annual meeting thereafter the members shall elect one (1) director for a term of three (3) years.

11
12 **Section 3. Removal.** Any director may be removed from the Board, with or without cause, by majority vote
13 of the members of the Association. In the event of death, resignation or removal of a director, his successor
14 shall be selected by the remaining members of the Board and shall serve for the unexpired term of his
15 predecessor.

16
17 **Section 4. Compensation.** No director shall receive compensation for any service he may render to the
18 Association. However, any director may be reimbursed for his actual expenses incurred in the performance of
19 his duties.

20
21 **Section 5. Action Taken Without a Meeting.** The director shall have the right to take any action in the
22 absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors.
23 Any action so approved shall have the same effect as though taken at a meeting of the directors.

24
25 **ARTICLE IV**
26 **NOMINATION AND ELECTION OF DIRECTORS**

27
28 **Section 1. Nomination.** Nomination for election to the Board of Directors shall be made by Nominating
29 Committee. Nominations may also be made from the floor at the annual meeting. The Nominating
30 Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more
31 members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to
32 each annual meeting until the close of the next annual meeting and such appointment shall be announced at
33 each annual meeting. The Nominating Committee shall make as many nominations for election to the Board
34 of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be
35 filled. Such nominations may be made from among members or non-members.

36
37 **Section 2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election the
38 members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise
39 under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.
40 Cumulative voting is not permitted.

41
42 **ARTICLE V**
43 **MEETINGS OF DIRECTORS**

44
45 **Section 1. Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly without
46 notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said
47 meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is
48 not a legal holiday.

49
50 **Section 2. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the
51 president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

1 **Section 3. Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of
2 business. Every act or decision done or made by a majority of the directors present at a duly held meeting at
3 which a quorum is present shall be regarded as the act of the Board.
4

5 **ARTICLE VI**
6 **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**
7

8 **Section 1. Powers.** The Board of Directors shall have power to:
9

- 10 (a) adopt and publish rules and regulations governing the use of the Common Properties and
11 Common Facilities, and the personal conduct of the members and their quests thereon, and to
12 establish penalties for the infraction thereof;
13 (b) suspend the voting rights and right to use of the recreational facilities of a member during any
14 period in which such member shall be in default in the payment of any assessment levied by the
15 Association. Such rights may also be suspended after notice and hearing, for a period not to
16 exceed sixty (60) days for infraction of published rules and regulations;
17 (c) exercise for the Association all powers, duties and authority vested in or delegated to this
18 Association and not reserved to the membership by other provisions of these Bylaws, the Articles
19 of Incorporation, or the Declaration;
20 (d) declare the office of a member of the Board of Directors to be vacant in the event such member
21 shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
22 (e) employ a manager, an independent contractor, or such other employees as it deems necessary,
23 and prescribe their duties.
24

25 **Section 2. Duties.** It shall be the duty of the Board of Directors to:
26

- 27 (a) cause to be kept a complete record of all of its acts and corporate affairs and to present a
28 statement thereof to the members at the annual meeting of the members, or at any special
29 meeting when such a statement is requested in writing by one-fourth (1/4) of the Class A
30 members who are entitled to vote;
31 (b) supervise all officers, agents and employees of this Association, and see that their duties are
32 properly performed;
33 (c) as more fully provided in the Declaration, to:
34 (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in
35 advance of each annual assessment period;
36 (2) send written notice of each assessment to every Owner subject thereto at least thirty (30)
37 days in advance of each annual assessment period; and
38 (3) foreclose the lien against any property for which assessments are not paid within thirty
39 (30) days after their due date or bring an action at law against the owner personally
40 obligated to pay the same.
41 (d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting
42 forth whether or not any assessment has been paid. A reasonable charge may be made by the
43 Board for the issuance of a certificate. If a certificate states an assessment has been paid, such
44 certificate shall be conclusive evidence of such payment;
45 (e) procure and maintain adequate liability and hazard insurance on property owned by the
46 Association;
47 (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem
48 appropriate;
49 (g) cause the Common Properties and Common Facilities to be maintained.
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ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

- (a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign checks and promissory notes.

Vice-President

- (b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

Secretary

- (c) the secretary shall record the votes and keep the minutes of all meeting and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

1 **Treasurer**

2
3 (d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the
4 Association and shall disburse such funds as directed by resolution of the Board of Directors;
5 shall sign all checks and promissory notes of the Association; keep proper books of account;
6 cause an annual audit of the Association books to be made by a public accountant at the
7 completion of each fiscal year; and shall prepare an annual budget and a statement of income
8 and expenditures to be presented to the membership at its regular annual meeting, and deliver a
9 copy of each to the members.

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13 **ARTICLE VIII**
14 **COMMITTEES**

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16 The Association shall appoint an in Architectural Control Committee, as provided in the Declaration,
17 and a Nominating Committee, as provided these Bylaws. In addition, the Board of Directors shall appoint
18 other committees as deemed appropriate in carrying out its purposes.

19
20 **ARTICLE IX**
21 **BOOKS AND RECORDS**

22
23 The books, records and papers of the Association shall at all times, during reasonable business hours,
24 be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the
25 Association shall be available for inspection by any member at the principal office of the Association, where
26 copies may be purchased at reasonable cost.

27
28 **ARTICLE X**
29 **ASSESSMENTS**

30
31 As more fully provided in the Declaration, each member is obligated to pay to the Association annual
32 and special assessments which are secured by a continuing lien upon the property against which the
33 assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is
34 not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of
35 delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law
36 against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest,
37 costs, and reasonable attorney’s fees of any such action shall be added to the amount of such assessment. No
38 Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the
39 Common Properties or Common Facilities or abandonment of Owner’s Lot.

40
41 **ARTICLE XI**
42 **CORPORATE SEAL**

43
44 The Association shall have no seal.

45
46 **ARTICLE XII**
47 **AMENDMENTS**

48
49 **Section 1.** These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a
50 majority of a quorum of members present in person or by proxy, except that the Federal Housing
51 Administration or the Veterans Administration shall have the right to veto amendments while there is Class B
52 membership.

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Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

(Signatures and notaries normally follow, but do not contribute to the purpose of this transcription, or cannot be duplicated in this text. The transcription of this document was undertaken for the purposes of clarity, and in no way replaces the legal documents from which it came. The actual documents are recorded in Williamson County, Texas.)

*Transcribed by:
Stacy Doughty
Treasurer, BCVHOA
Date of transcription: 9 March 1998
File: BCVHOA Bylaws and Deed Restrictions*

2
3 **DECLARATION OF COVENANTS AND RESTRICTIONS**
4 **BRUSHY CREEK VILLAGE**
5 **(A Residential Subdivision)**
6

7 THE STATE OF TEXAS

8
9 COUNTY OF WILLIAMSON

10
11 THIS DECLARATION, made on the date hereinafter set for by HY-LAND JOINT VENTURE, a Texas joint
12 venture, hereinafter referred to as "Declarant,"

13
14 **WITNESSETH:**

15
16 WHEREAS, Declarant is the owner of the real property described in Article III of this Declaration and desires
17 to create thereon a residential community with designated "Lots," "Common Properties" and "Common
18 Facilities" (as those terms are defined herein) for the benefit of the present and future owners of said Lots; and

19
20 WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community
21 and for the maintenance of said Common Properties and Common Facilities, and, to this end, desires to
22 subject the real property described in Article III to the covenants, restrictions, easements, charges and liens
23 hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;
24 and

25
26 WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in
27 said community, to create an agency to which will be delegated and assigned the powers of maintaining and
28 administering the Common Properties and Common Facilities and administering and enforcing the covenants
29 and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

30
31 WHEREAS, Declarant shall cause a nonprofit corporation to be incorporated under the laws of the State of
32 Texas, for the purpose of exercising the functions aforesaid;

33
34 NOW, THEREFORE, Declarant declares that the real property described in Article III is and shall be held,
35 transferred, sold, conveyed, occupied and enjoyed subject to the covenants, restrictions, easements, charges
36 and liens (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth.

37
38 **ARTICLE I**
39 **Definitions**

40
41 The following words, when used in this Declaration (unless the context shall prohibit) shall have the following
42 meanings:

- 43
44 (a) "Association" shall mean and refer to the nonprofit corporation which Declarant shall cause to be
45 incorporated as herein provided, its successors and assigns.
46 (b) The "Subdivision" shall mean and refer to the Brushy Creek Village.
47 (c) The "Properties" shall mean and refer to the properties described in Article III hereof which are
48 subject to this Declaration.
49 (d) "Subdivision Plat" shall mean and refer to the map or plat of BRUSHY CREEK VILLAGE, a
50 subdivision in Williamson County, Texas, recorded in Cabinet E, Pages 258-260, Plat Records,
51 Williamson County, Texas.

- (e) "Lot" and/or "Lots" shall mean and refer to each of the lots shown upon the Subdivision Plat.
- (f) "Common Properties" shall mean and refer to those areas of land within the Properties as shown on the Subdivision Plat, except the streets and the Lots, together with such other property as the Association may, at any time from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title.
- (g) "Common Facilities" shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements for the use and benefits of all owners constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and others) which is not a part of the Properties. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: sidewalks; common driveways; landscaping and other similar and appurtenant improvements.
- (h) "Owner" shall mean and refer to the record owner, or if such Lot is subject to a term purchase contract with Declarant, to the contract purchaser, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (i) "Member" and/or "Members" shall mean and refer to all those Owners who are member of the Association as provided in Article IV, Section 4 hereof.
- (j) "Development Plan" shall mean that plan to be submitted to the Architectural Control Committee pursuant to Article VII.
- (k) "Architectural Control Committee" shall mean that committee constituted under Article VII hereof for the review of Development Plans and other functions.

ARTICLE II
Easements

Section 1. Existing Easements. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Subdivision Plat further established dedications, limitations, reservations and restrictions applicable to the Properties. Further, Declarant and Declarant's predecessors in title have heretofore granted, created and dedicated by several recorded instruments certain other easements, restrictions, limitations, reservations and related rights affecting the Properties. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and heretofore made by Declarant and Declarant's predecessors in title affecting the Properties are incorporated herein by reference and made a part of the Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Properties.

Section 2. Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time

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2 or from time to time, easements for public utility purposes (including, without limitations, gas, water,
3 electricity, telephone and drainage), in favor of any person or entity furnishing or to furnish utility services to
4 the Properties, along and on either or both sides of any side Lot line.
5

6 **Section 3. Title to Easements and Appurtenances Not Conveyed.** Title to any Lot conveyed by Declarant
7 by contract, deed, or other conveyance shall not be held or construed in any event to include the title to any
8 roadways or any drainage, water, gas, sewer, electric light, electric power, telegraph or telephone way, or any
9 pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under
10 Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other
11 portion of the Properties and the right to maintain, repair, sell or lease such appurtenances to any municipality
12 or other governmental agency or to any public service corporation or to any other party is hereby expressly
13 reserved in Declarant.
14

15 **Section 4. Installation and Maintenance.** There is hereby created an easement upon, across and over and
16 under all of the Properties for ingress and egress in connection with installing, replacing, repairing, and
17 maintaining all utilities, including, but not limited to, water, sewer, telephones, cable television, electricity,
18 gas and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility
19 companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or
20 other utility facilities or appurtenances thereto, on, above, across and under the Properties within the public
21 utility easements to the point of service on or in any structure. Notwithstanding anything contained in this
22 paragraph, no sewer, electrical lines, water lines or other utilities or appurtenances thereto may be installed or
23 related on the Properties until approved by Declarant or the Association Board of Trustees. The utility
24 companies furnishing service shall have the right to remove all trees situated within the utility easements
25 shown on the Subdivision Plat, and to trim overhanging trees and shrubs located on portions of the Properties
26 abutting such easements.
27

28 **Section 5. Emergency and Service Vehicles.** An easement is hereby granted to all police, fire protection,
29 ambulance and other emergency vehicles, and to garbage and trash collection vehicles and other service
30 vehicles to enter upon the Properties in the performance of their duties. Further, an easement is hereby
31 granted to the Association, its officers, agents, employees and management personnel to enter the Properties to
32 render any service.
33

34 **Section 6. Underground Electric Service.** An underground electric distribution system will be installed
35 within the Properties. The Owner of each Lot shall, at his own cost, furnish, install, own and maintain (all in
36 accordance with the requirements of local governing authorities and the National Electrical Code) the
37 underground service cable and appurtenances from the point of the electric company's metering on the
38 customer's structure to the point of attachment at such company's installed transformers or energized
39 secondary junction boxes, such point of attachment to be made available by the electric company at a point
40 designated by such company at the property line of each Lot. The electric company furnishing service shall
41 make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each
42 Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current
43 standards and specifications of the electric company furnishing service) for the location and installation of the
44 meter of such electric company for the residence constructed on such Owner's Lot.
45

46 **Section 7. Surface Areas.** The surface of easement areas for underground utility services may be used for
47 planting of shrubbery, trees, lawns, or flowers. However, neither the Declarant nor any supplier of any utility
48 or service using any easement area shall be liable to any Owner or to the Association for any damage done by
49 them or either of them, or the respective agents, employees, servants or assigns, to any of the aforesaid
50 vegetation as
51

4 a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such
5 easement area.
6

7 **ARTICLE III**
8 **Property Subject to this Declaration**
9

10 **Section 1. Description.** The real property which is, and shall be, held, transferred, sold, conveyed and
11 occupied subject to this Declaration consists of the following:
12

13 All of BRUSHY CREEK VILLAGE, a subdivision in Williamson County, Texas, according
14 to the map or plat thereof recorded in Cabinet E, Slides 258 through 260, Plat Records,
15 Williamson County, Texas (or any subsequently recorded plat thereof).
16

17 **Section 2. Additions to Existing Property.** Declarant, in its sole discretion, its successors and assigns, or the
18 Association, shall have the right to bring within the scheme of the Declaration additional properties in future
19 stages of the Development (including, without limitation, any property within the service area of Williamson
20 County Municipal Utility District No. 2). Any additions authorized under the section shall be made by filing
21 of record a Supplemental Declaration of covenants and Restrictions with respect to the additional property
22 which shall extend the scheme of the covenants and restrictions of the Declaration to such property. Such
23 Supplemental Declaration must impose an annual maintenance charge assessment on the property covered
24 thereby, on a uniform, per lot basis, substantially equivalent to the maintenance charge and assessment
25 imposed by this Declaration, if any, at that time, and may contain such complementary additions and/or
26 modifications of the covenants and restrictions contained in this Declaration as may be applicable to the
27 additional property.
28

29 **ARTICLE IV**
30 **The Association**
31

32 **Section 1. Organization.** The Declarant shall cause the Association to be organized and formed as a
33 nonprofit corporation under the laws of the Statue of Texas.
34

35 **Section 2. Purpose.** The purpose of the Association, in general, shall be to provide for and promote the
36 health, safety and welfare of the Members, to collect the annual maintenance charges, and to administer the
37 maintenance Fund to provide for the maintenance, repair, preservation, upkeep and protection of the Common
38 Properties and Facilities in the Subdivision and such other purposes as are stated in the Articles of
39 Incorporation consistent with the provisions of this Declaration.
40

41 **Section 3. Trustees.** The Association shall act through a five-member Board of Trustees, which shall
42 manage the affairs of the Association. The initial Trustees of the Association shall be selected by Declarant.
43 Two of the initial Trustees shall serve for a term of one (1) year, two of the initial Trustees shall serve for a
44 term of two (2) years, and one of the initial Trustees shall serve for a term of three (3) years and each initial
45 Trustee shall continue to serve after the end of such Trustee's term until a successor is duly elected and
46 qualified by the members as provided for in the Bylaws of the Association. The Trustees shall have the power
47 to select on or more advisory trustees from the residents of the Subdivision to serve for such periods of time as
48 the Board of Trustees shall deem appropriate, for the purpose of providing advice and counsel to the Board of
49 Trustees, provided that such advisory trustees shall have no right to act on behalf of the Association.
50

2
3 **Section 4. Members.** Each Owner (whether one or more persons or entities) of a Lot shall, upon and by
4 virtue of becoming such Owner, automatically become a member of the Association and shall remain a
5 Member thereof until his ownership ceases for any reason, at which time his membership in the Association
6 shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically
7 follow the legal ownership of each Lot and may not be separated from such ownership. Whenever the legal
8 ownership of any Lot passes from one person to another, by whatever means, it shall not be necessary that any
9 instrument provide for transfer of membership in the Association, and no certificate of membership will be
10 issued.

11
12 **Section 5. Voting Rights.** The Association shall have two classes of voting membership:

13
14 **Class A.** Class A Members shall be all the Members of the Association, with the exception of the
15 Declarant. Class A members shall be entitled to one vote for each Lot in the Subdivision in which they hold
16 the interest required for membership by this Declaration. When more than one person holds such interest or
17 interests in any such Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as
18 they among themselves determine, but in no event shall more than one vote be cast with respect to any such
19 Lot.

20
21 **Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to three
22 (3) votes for each Lot in the Subdivision in which it holds the interest required for membership by this
23 Declaration; provided that the Class B membership shall cease and become converted to Class A membership
24 on the happening of the following events,

- 25
- 26 (a) when the total votes outstanding in the Class A Membership equal the total votes outstanding in
27 the Class B Membership; or
- 28 (b) on January 1, 1990.
- 29

30 From and after the happening of whichever of these events occurs earlier, the Class B Member shall be
31 deemed to be a Class A Member entitled to one (1) vote for each Lot in the Subdivision in which it holds the
32 interest required for membership by this Declaration.

33
34 **Section 6. Title to Common Properties.** The Declarant may retain the legal title to the Common Properties
35 and Common Facilities in the Subdivision until such time as it has completed improvements thereon and until
36 such time as, in the sole discretion of Declarant, the Association is able to operate and maintain the same.
37 Until title to such Common Properties and Facilities has been conveyed to the Association by Declarant,
38 Declarant shall be entitled to exercise all rights and privileges relating to such Common Properties and
39 Facilities granted to the Association in this Declaration.

40
41 **ARTICLE V**
42 **Property Rights in the Common Properties and Common Facilities**
43

44 **Section 1. Members' Easements of Enjoyment.** Subject to the provisions of Section 2 of this Article V,
45 every Member shall have a common right and easement of enjoyment in and to the Common Properties and
46 Common Facilities in the Subdivision, and such right and easement shall be appurtenant to and shall pass with
47 the title to each Lot in the Subdivision.

48
49 **Section 2. Extent of Members' Easements.** The rights and easements of enjoyment created hereby shall be
50 subject to the following:
51

- 1 (a) the right of the Association to grant or dedicate easements in, on, under or above such Common
2 Properties or any part thereof to any
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- 8 (a) (continued) public or governmental agency or authority or to any utility company for any service to
9 the Subdivision or any part thereof; and
10 (b) the right of the Association to transfer title to any storm sewer line, sanitary sewer line, water
11 line or other utility facility or equipment situated in any part of such Common Properties and
12 owned by the Association to any public or political authority or agency or to any utility company
13 rendering or to render service to the Subdivision or any part thereof; and
14 (c) the right of the Association to convey or dedicate such portions of such Common Properties as its
15 Board of Trustees may deem appropriate to governmental authorities, political subdivisions or
16 other persons or entities for use as the location of schools, churches and hospitals, or for other
17 similar purposes related to the health, safety, and welfare of the Members; and
18 (d) the right of the Association to enter into management and or operating contracts or agreements
19 relative to the maintenance and operation of such Common Properties and Facilities in such
20 instances and on such terms as its Board of Trustees may deem appropriate; the right of the
21 Association to operate recreational facilities and related concessions located on such Common
22 Properties; the right of the Association to enter into lease agreements or concession agreements
23 granting leasehold, concession or other operating rights relative to Common Facilities in such
24 instances and on such terms as the Board of Trustees may deem appropriate; and
25 (e) the right of the Association to suspend the voting rights of a Member of his right to use any
26 Common Facility during the period he is in default in excess of thirty (30) days in the payment of
27 any maintenance charge assessment against his Lot; and to suspend such rights for a period not
28 to exceed thirty (30) days for any infractions of its published rules and regulations; and the
29 aforesaid rights of the Association shall not be exclusive, but shall be cumulative of and in
30 addition to all other rights and remedies which the Association may have in this Declaration or
31 in its Bylaws or at law or in equity on account of any such default or infraction; and
32 (f) the rights and easements existing, herein created or hereafter created in favor of others, as
33 provided for in Article II of this Declaration; and
34 (g) the restrictions as to use of the Common Properties provided for in Article VIII hereof.
35

36 **Section 3. Delegation of Use.** Any Member may delegate his rights of use and enjoyment of the Common
37 Properties and Facilities in the Subdivision, together with all easement rights granted to members in this
38 Declaration, to the members of his family, his tenants or contract purchasers who reside on his Lot. The term
39 "Member" is further defined to include and refer to the executors, personal representatives and administrators
40 of any Member and all other persons, firms, or corporations acquiring or succeeding to the title of the Member
41 by sale, grant, will, foreclosure, execution or by any legal process, or by operation of law, or in any other legal
42 manner.
43

44 **ARTICLE VI** 45 **Annual Assessments** 46

47 **Section 1. The Maintenance Fund.** All funds collected by the Association from the regular maintenance
48 charges provided for in this Article, shall constitute and be known as the "Maintenance Fund." The
49 Maintenance Fund shall be held, used, and expended by the Association for the common benefit of all
50 Members for the following purposes, to wit: to promote the health, safety, recreation and welfare of the
51 Members, including, without limitation, the installation, construction, erection and relocation of
52 improvements related to

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the enhancement and beautification of the Common Properties and Facilities in the Subdivision, and any other areas provided by this Declaration to be developed or maintained by the Association, such as shrubbery, trees, walkways and street lights, and the construction, repair, maintenance and replacement of properties, services, improvements and facilities devoted to such purposes and related to the use and enjoyment of the Subdivision by the Members.

The Association may, in its sole discretion, give one or more of the purposes set forth in this Section 1 preference over other purposes, and it is agreed that all expenses incurred and expenditures and decision made by the Association in good faith shall be binding and conclusive on all Members.

Section 2. Covenant for Assessments. Each and every Lot in the Properties is hereby severally subjected to and imposed with a regular annual maintenance charge or assessment in the amount of One Hundred Twenty and No/100 dollars (\$120.00) per annum per Lot (herein sometimes referred to as the “full maintenance charge”) which shall run with the land, subject to increase and decrease payable as provided in Section 3 below.

Each Owner of a Lot, by his claim or assertion of ownership or by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the charges and assessments against his Lot and/or become due and payable, without demand. The charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all improvements thereon, as hereinafter more particularly stated. Each assessment, together with interest, costs and reasonable attorney’s fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such assessment accrued, but no Member shall be personally liable for the payment of any assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Properties or Facilities, or any part thereof, or by abandonment of his Lot or his interest therein.

Section 3. The Annual Maintenance Charge. The annual assessments provided for herein shall commence on the first day of the month following the conveyance of the Common Properties to the Homeowner’s Association. The first annual assessment shall be made for the balance of the calendar year in which it is made and shall be payable on the day fixed for commencement, or in equal monthly installments over the balance of the year, at the election of the Association. The assessments for each calendar year after the first year shall be due and payable to the Association in advance on January 1st each year. Provided, however, that upon the purchase of a Lot (as evidenced by the date of the Contract of Sale, of the Deed or of occupancy, which ever is earlier), each Member shall be obligated to pay to the Association a pro rata part (as determined pursuant to the terms hereof) of the regular annual maintenance charge assessed on such Lot, which shall bear the same ratio to the full calendar months remaining in the year of purchase bear to twelve (12), and which shall be payable in full upon such purchase or in equal monthly installments over the balance of the year of purchase, as the Association may elect. Until such time a residence is completed upon his Lot, a Member shall pay only one-half (1/2) of the regular annual maintenance charge imposed hereunder.

The Board of Trustees of the Association may decrease or increase the amount of the regular annual maintenance charge or assessment provided for herein at any time and from time to time by the adoption of a resolution for such purpose, but no resolution increasing the annual maintenance charge assessment shall become effective prior to the expiration of ninety (90) days from the date of its adoption, and the Owner of each Lot shall, within thirty (30) days from such effective date, pay to the Association

the proportionate part of such increase for the balance of the year in which such resolution is adopted; provided, however, that no resolution of the Board of Trustees which increases the amount of the regular annual maintenance charge or assessment by more than five percent (5%) of the rate for the previous year, or in excess of the annual maintenance charge or assessment last ratified by the Members of the Association in accordance with the provisions of this paragraph, whichever is greater, shall become effective unless and until such resolution is ratified either (a) by the written assent of the Members of the Association who in the aggregate then own at least sixty-seven percent (67%) of each class of voting membership if no meeting of the membership is held for ratification, or (b) by the assent of sixty-seven percent (67%) of the votes of each class of voting membership present and voting in person at a special meeting of the membership of the Association called for this purpose and at which a quorum is present. The written assent or the vote of the Members must be given prior to the effective date of the resolution of the Board of Trustees. No increase in the annual maintenance charge or assessment shall take effect retroactively.

If any resolution of the Board of Trustees which requires ratification by the assent of the Members of the Association as above provided shall fail to receive such assent, then the amount of the regular annual maintenance charge or assessment last in effect shall continue in effect until duly changed in accordance with the above provisions. The Board of Trustees may decrease the amount of the annual maintenance charge or assessment without ratification by or assent of the Members of the Association.

Section 4. Quorum for any Action Authorized under Section 3. The Quorum required for any action authorized by Section 3 hereof shall be as follows:

At the first meeting called, as provided in Section 3 hereof, the presence at the meeting of Members, or of proxies, entitled to cast seventy percent (70%) of all the votes of the membership shall constitute a quorum. If the required Quorum is not forthcoming at any meeting, another meeting may be called and the required quorum at any such subsequent meeting shall be one-half (1/2) the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 5. Duties of the Board of Trustees. The Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Owner for each assessment period at least thirty (30) days in advance for such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certification shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(SECTION 6 AMENDED IN VOL 1108 PAGES 853-855)

Section 6. Liens to Secure Assessments. The regular annual maintenance charges or assessments, as hereinabove provided for, shall constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, and which shall exist upon and against each Lot and all improvements thereon, for the benefit of the Association and all Members. The lien hereby created shall be subordinate and inferior to:

- 1 (a) all liens for taxes or special assessments levied by the city, country and state governments, or any
2 political subdivision or special district thereof; and
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6 *VOL 934 PAGE 894 (and later amendments)*
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- 8 (b) all liens securing amounts due or to become due under any term Contract of Sale dated, or any
9 mortgage, vendor's lien or deed of trust filed for record prior to the date payment of any such
10 charges or assessments become due and payable; and
11 (c) all liens, including, but not limited to, vendor's liens, deeds of trust and other security
12 instruments which secure any loan made by any lender to an Owner for any part of the purchase
13 price of any Lot when the same is purchased from a builder or for any part of the cost of
14 constructing, repairing, adding to or remodeling the residence and appurtenances situated on any
15 Lot to be utilized for residential purposes.
16

17 Any foreclosure of any such superior lien under the power of sale of any mortgage, deed of trust or other
18 security instrument, or through court proceedings in which the Association has been made a party, shall cut off
19 and extinguish the liens securing maintenance charges or assessments which become due and payable prior to
20 such foreclosure date, but no such foreclosures shall free any Lot from the liens securing assessments
21 thereafter becoming due and payable, nor shall the liability of any member personally obligated to pay
22 maintenance charges or assessments which become due prior to such foreclosure be extinguished by any
23 foreclosure.
24

25 **Section 7. Effect of Nonpayment of Assessment.** If any annual charge or assessment is not paid within
26 thirty (30) days from the due date thereof, the same shall bear interest from the due date until paid at the
27 highest interest rate allowed under the laws of the State of Texas, and, if placed in the hands of an attorney for
28 collection or if suit is brought thereof or if collected through probate or other judicial proceedings, there shall
29 be paid to the Association an additional reasonable amount, but not less than ten percent (10%) of the amount
30 owing, as attorney's fees. The Association, as a common expense of all Members, may institute and maintain
31 an action at law or in equity against any defaulting Member to enforce collection and/or for foreclosure of the
32 liens against the Lot. All such actions may be instituted and brought in the name of the Association and may
33 be maintained and prosecuted by the Association in a like manner as an action to foreclose the lien of a
34 mortgage or deed of trust on real property.
35

36 **Section 8. Collection and Enforcement** Each Member, by his assertion of title or claim of ownership or by
37 his acceptance of a deed on a Lot, whether or not it shall be so recited in such deed, shall be conclusively
38 deemed to have expressly vested in the Association, and in its officers and agents, the right, power and
39 authority to take all actions which the Association shall deem proper for the collection of assessments and/or
40 for the enforcement and foreclosure of the liens securing the same.
41

42 **ARTICLE VII**

43 **Architectural Control Committee**

44

45 **Section 1. Approval of Development Plan.** No building, structure, fence, wall or other improvement
46 (including landscaping) shall be commenced, erected, constructed, placed or maintained upon any lot, nor
47 shall any exterior addition to or change or alteration therein be made until a Development Plan shall have
48 been submitted in accordance herewith to and approved by the Architectural Control Committee (the
49 "Committee").
50

51 **Section 2. Committee Membership.** The Committee shall be initially composed of Reynold C. Dorman,
52 Robert A. Fritsch and C. Dwight Lamb, who by a majority vote may designate a representative or

1 representatives to act for them. The term "Architectural Control Committee" as used herein shall refer to the
2 individuals name above, their assignees as permitted herein, or the Committee's designated representatives.
3 In the event of death or resignation of any member or members of the Committee, the remaining member or
4 members shall appoint a successor member or members, and until such successor member or members shall
5 have been so appointed, the remaining member or members shall

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11 have full right, authority and power to carry out the functions of the Committee as provided herein, or to
12 designate a representative with like right, authority and power.
13

14 **Section 3. Transfer of Authority to Association.** The duties, rights, powers and authority of the Committee
15 constituted hereby may be assigned at any time, at the sole election of a majority of the members of the
16 Committee, to the Board of Trustees of the Association, and from and after the date of such assignment, and
17 the acceptance thereof by such Trustees, the board of Trustees of the Association shall have full right,
18 authority and power, and shall be obligated to perform the functions of the Committee as provided herein,
19 including the right to designate a representative or representatives to act for it.
20

21 **Section 4. Development Plan.** The Development Plan to be submitted in accordance herewith shall be
22 submitted in duplicate to the Committee and shall consist of the following:
23

24 (a) a plat or map drawn to scale of one inch (1") equal twenty feet (20') depicting the following:
25

26 (1) existing property lines, rights-of-way and easements on the Lot and all adjacent Lots
27 (including drainage easements), public and private streets abutting the Lot, creeks,
28 existing vegetation (with existing trees and shrubs of diameter in excess of six (6) inches
29 spotted), proposed solar equipment and equipment on adjacent Lots, and other existing
30 natural features and improvements;

31 (2) the location on the Lot and the dimensions and shape of any and all proposed structures
32 and other improvements, including buildings, mail boxes, garbage facilities, signs,
33 exterior lights, bridges, culverts, pools, cabanas, walkways, patios, fences and wall;

34 (b) a complete set of plans and specifications for all improvements to be constructed, including any
35 private waste disposal system;

36 (c) such other information and detail as the Committee shall reasonably require.
37

38 **Section 5. Procedure for Submission and Approval of Development Plan.** The Development Plan to be
39 submitted hereunder shall be submitted in duplicate to the Committee at 601 Great Oaks, Round Rock, Texas,
40 or at such other address as the Committee may hereafter designate. The approval or disapproval by the
41 Committee of any Development Plan submitted shall be communicated in writing to the Owner submitting
42 such Plan at the address indicated in the Plan, provided that in the event the Committee fails to notify any
43 Owner of approval or disapproval within twenty (20) days of the submission of any Development Plan, such
44 Plan shall be deemed approved. The Committee, or its representative, shall review each Development Plan
45 submitted, and in considering such Plan shall be free to take into account any number of factors, including, but
46 not limited to:
47

48 (a) compliance with minimum building and construction standards; and,

49 (b) the appearance and aesthetics of the contemplated improvements, including, but not limited to,
50 color scheme, shape, location on the Lot, and similarity to other structures in the Subdivision;
51 and,

- 1 (c) the impact of the contemplated improvements upon the environment and neighboring Lots,
2 including, but not limited to, considerations of view, drainage, and solar exposure.
3

4 The decision of the Committee with respect to any Development Plan shall be final, and the Committee shall
5 have broad discretion in approving or disapproving any Development Plan submitted. Meetings of the
6 Committee need not

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12 be regularly scheduled, and need not be open to the public or to the Owner submitting any Development Plan.
13 The vote or written consent of a majority of the members of the Committee shall constitute the act of the
14 Committee. The Committee may, from time to time, promulgate procedural rules pursuant to which it
15 conducts its business. Any conflict between such rules and this Declaration shall be resolved in favor of this
16 Declaration.
17

18 **Section 6. Liability of Members of the Committee.** Neither the Committee nor any member thereof shall
19 ever be liable to any Owner or other person, firm or entity for any damage, loss or injury suffered or claimed
20 on account of:

- 21
22 (a) the approval or disapproval of any Development Plan;
23 (b) the construction or performance of any work on the Property, whether or not pursuant to an
24 approved Development Plan; or
25 (c) the development of the Properties.
26

27 Any person, firm or entity bringing any action against the Committee, or any member thereof, as a result of
28 the Committee's actions taken in connection with the foregoing shall be liable for all attorney's fees and court
29 costs incurred by the Committee in defending such action if the Committee should prevail in such action.
30

31 The approval by the Committee or the Development Plan shall not operate as an adoption, representation or
32 determination by the Committee, or any member thereof, as to the safety of the materials to be used.
33

34 **Section 7. Governmental Approvals.** The approval of an Owner's Development Plan by the Committee
35 shall in no way supersede or substitute for any approvals or permits required by any governmental agency or
36 authority having jurisdiction.
37

38 **Section 8. Fees.** The Committee may charge a reasonable fee to all persons submitting Development Plans,
39 in order to defray expenses incurred in the processing of such Plans, and may condition approval of any
40 Development Plan upon the payment of such fee. The Committee may also hire architects and other experts as
41 are reasonably required and the costs so incurred shall be paid by the Association.
42

43 **Section 9. Variance of Requirements Contained in Article VIII.** The Committee shall have the authority
44 to grant allowances from time to time with respect to the requirements and restrictions contained in Article
45 VIII hereof (but not Article IX) upon written application of the Owner of any Lot. The granting of any
46 variance hereunder shall in no way constitute a waiver of such requirements with respect to other Owners of
47 Lots and shall in no way operate to stop the Committee from enforcing such requirements.
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ARTICLE VIII
Building Requirements and Restrictions

Section 1. Compliance with Approved Development Plans. No building, structure or other improvement shall be constructed, erected or placed upon any Lot unless in accordance with the Development Plan approved by the Committee pursuant to Article VII hereof.

Section 2. New Materials. Only new materials shall be used in the constructing any structures situated upon a Lot, unless approved by the Committee pursuant to Article VII hereof.

Section 3. Time for Construction. All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character on any Lot and all interior construction shall be completed not later than one (1) year following the commencement

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of construction. For the purposes hereof, the term “commencement of construction” shall be deemed to mean the date on which the foundation forms are set.

Section 4. No Window Units. No window air conditioners shall be permitted to be used, placed or maintained on or in any building in any part of the Properties. Wall type air conditioners may be installed on the Properties provided they are not visible from any street in the Subdivision.

Section 5. Minimum Floor Area. The ground floor of the main structure of a single-family dwelling constructed on any Lot, excluding all open and covered porches, decks and garages, shall not be less than 900 square feet for a one-story or split-level dwelling and not less than 600 square feet for a two-story dwelling (which shall not have less than 1,200 square feet for the combined area of the first and second floors).

Section 6. Roofing Materials. The external roofing material of any dwelling shall meet or exceed all Federal Housing Administration (“FHA”) standards and shall be of a color approved by the Architectural Control Committee prior to its installation.

Section 7. Elevated Tanks. No portion of any exterior tank or other receptacle shall be above ground.

Section 8. Fences, Wall, Hedges. No hedge, fence or wall may be erected, placed or altered on any Lot nearer to any street than the building setback line on that Lot, unless approved by the Architectural Control Committee. Fencing will be permitted on the side property line of corner Lots. Any fence facing the front street of any residential Lot shall be constructed of wood or masonry and shall be six (6) feet in height. Neither chainlink nor wrought iron fencing may be placed on lots except as enclosures of swimming pools where not visible from public thoroughfares. If approved by the Architectural Control Committee, chainlink or wrought iron fencing may be used to enclose Common Facilities. Any swimming pool or other attractive nuisance shall be adequately fenced.

Section 9. Wires and Lines. No lines, wires or devices for the communication or transmission of electric current, cable television or telephone shall be erected, placed or maintained upon any Lot unless the same shall be contained in conduit or cable installed and maintained underground or concealed in, under or on buildings; provided, however, that this section shall not forbid the erection or use of temporary power or telephone lines incidental to the construction of buildings upon a Lot or utility company feeder lines into the Subdivision.

1 **Section 10. Masonry.** All exterior walls (of all dwellings constructed on residential lots) which face the front
2 street (or any side street, for corner lots) shall be of stone or masonry construction, to a height of seven feet,
3 exclusive of gables, windows, doors, or any other openings.
4

5 **Section 11. Temporary and Other Structures.** No structure of a temporary character, trailer, mobile,
6 modular or prefabricated home, recreational vehicle, boat, bus, derelict, junk, racing vehicle, vehicle without a
7 current license plate, tent, shack, shed, barn or any other structure or building, other than the residence to be
8 built thereon, shall be placed on any Lot, either temporarily or permanently, and no residence house, garage or
9 other structure appurtenant thereto shall be moved upon any Lot from another location; except, however, (i)
10 that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place
11 and maintain, such facilities in and upon the Properties as in its sole discretion may be necessary or convenient
12 during the period of and in connection with the sale of Lots, construction and selling of residences and
13 constructing other improvements on the Properties, (ii) that an outside tool or storage shed designed to
14 preclude visible and objectionable sighting form the frontal streetside elevation may be placed on any Lot and
15 (iii) a doghouse or other pet domicile of reasonable size placed so as not to be visible from any street in the
16 Subdivision may be placed on any Lot. Facilities allowed under
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22 exception (i) may include, but shall not necessarily be limited to, a temporary office building, storage area,
23 signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to
24 use a residence situated on a Lot as a temporary office or model home during the period of and in connection
25 with construction and sales operations on the Properties, but in no event shall a builder have such right for a
26 period in excess of one (1) year from the date of substantial completion of his last residence on the Properties.
27

28 **Section 12. Signs and Sales Programs.** No signs, flags or other advertising devices of any kind shall be
29 displayed for public view on any Lot. All merchandising, advertising and sales programming for the sales of
30 new home or Lots shall be subject to approval by Declarant and shall be in conformity with the general
31 marketing plan for Brushy Creek.
32

33 **Section 13. Access.** No driveways or roadways may be constructed on any Lot to provide access to any
34 adjoining Lot or other portion of the Properties unless the express written consent of the Architectural Control
35 Committee first shall have been obtained.
36

37 **ARTICLE IX** 38 **Building and Use Restrictions** 39

40 **Section 1. Residence Buildings and Garages.** No building or other structure shall be built, placed,
41 constructed, reconstructed or altered on any Lot other than a single family residence not to exceed two stories
42 in height with an attached enclosed garage for one automobile, and no structure shall be occupied or used until
43 the exterior construction thereof is completed.
44

45 **Section 2. Single Family Residential Use.** Each Lot (including land and improvements) shall be used and
46 occupied for single family residential purposes only. No Owner or other occupant shall use or occupy his Lot,
47 or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single
48 family residence for the Owner or his tenant and their families. As used herein the term "single family
49 residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of Lots for duplex
50 apartments, garage apartments or other apartment use. No Lot shall be used or occupied for any business,
51 commercial, trade or professional purpose either apart from or in connection with the use thereof as a private
52 residence, whether for profit or not.

1
2 **Section 3. Nuisance.** No noxious or offensive activity shall be carried on or permitted upon any Lot or upon
3 the Common Properties, nor shall anything be done thereon which may be or become an annoyance or
4 nuisance to the neighborhood or to other Owners. The Board of Trustees of the Association shall have the sole
5 and exclusive discretion to determine what constitutes a nuisance or annoyance.
6

7 **Section 4. Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or
8 on any portion of the Common Properties, except that dogs, cats or other common household pets (not to
9 exceed two (2) adult animals) may be kept, but they shall not be bred or kept for commercial purposes.
10

11 **Section 5. Garbage and Refuse Storage and Disposal.** All Lots and the Common Properties shall at all
12 times be kept in a healthful, sanitary and attractive condition. No Lot or any part of the Common Properties
13 shall be used or maintained as a dumping grounds for garbage, trash, junk or other waste matter. All trash,
14 garbage or waste matter shall be kept in adequate containers constructed of metal, plastic or masonry
15 materials, with tightly-fitting lids, which shall be maintained in a clean and sanitary condition and screened
16 from public view. No Lot shall be used for open storage of any materials whatsoever, which storage is visible
17 from the street, except that new building materials used in the construction of improvements erected on any
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23 Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a
24 reasonable time, so long as the construction progresses without unreasonable delay, until completion of the
25 improvements, after which these materials shall either be removed from the Lot, or stored in a suitable
26 enclosure on the Lot. There is hereby reserved in favor of the Association the determination of the method of
27 garbage disposal (that is, whether it shall be through public authority or through private garbage disposal
28 service). No garbage, trash, debris or other waste matter of any kind shall be burned on any Lot.
29

30 **Section 6. Oil and Mining Operations.** No oil drilling or development operations, oil refining, quarrying or
31 mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels,
32 mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use
33 in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.
34

35 **Section 7. Water Supply.** No individual water supply system shall be permitted on any Lot.
36

37 **Section 8. Sewage Disposal.** No individual sewage disposal system shall be permitted on any Lot.
38

39 **Section 9. Sight Distance at Intersection.** No fence, wall, hedge, shrub plantings, or the foliage of any tree
40 which obstructs sight lines at elevations between two feet and six feet above street level shall be placed or
41 permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line
42 connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a
43 rounded property corner, from the intersection of the street property lines extended.
44

45 **Section 10. Sidewalk and Driveway Requirements.** All Lots shall have installed thereon reinforced
46 concrete sidewalks, four feet wide and four inches thick set back three (3) feet from the curb line: provided,
47 however, that if trees exist within such prescribed sidewalk location, the sidewalk location shall be determined
48 by the Architectural Control Committee and shall be located so as not to require the cutting of any trees. All
49 driveways constructed on residential lots shall be constructed of reinforced concrete at least four inches thick.
50 No curb cuts or driveways from a residential lot shall be permitted on Great Oaks Drive. Each garage shall
51 face the front of the lot on which it is situated and will be provided with driveway access from the front of the

1 lot only. With the written approval of the Architectural Control Committee, garages on the corner lots may be
2 allowed to face the side street.

3
4 **Section 11. Garbage Disposal.** Each kitchen in each dwelling or living quarters situated on any lot shall be
5 equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in a serviceable
6 condition.

7
8 **Section 12. Building Location.** No dwelling shall be located on Lots 1 through 24 of Block B nearer than
9 twenty-five (25) feet from the front Lot line. No dwelling shall be located on any other Lot nearer than twenty
10 (20) feet from the front Lot line. No front loading garage shall be located on any Lot nearer than twenty-five
11 (25) feet from the front Lot line. For purposes of determining the front and street side Lot lines on a corner
12 Lot, a Lot shall be considered to front on the street where it has the most depth. Except for Lots 32 and 33 in
13 Block A and Lots 19 and 20 in Block D on which no dwelling shall be located nearer than twenty-five (25)
14 feet from the rear Lot line. No dwelling shall be located on any other Lot nearer than ten (10) feet from the
15 rear Lot line. No dwelling shall be located on any Lot nearer than five (5) feet from either side property line
16 except that on all corner Lots no dwelling shall be located nearer than ten (10) feet from the side property line
17 abutting the street.

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23 For purposes of this section 12, eaves, steps and gutters shall not be considered to be part of a dwelling;
24 provided, however, that this shall not be construed to permit any portion of a building on any Lot to encroach
25 upon another Lot.

26
27 **Section 13. Lot Area and Width.** No dwelling shall be erected or placed on any Lot having a width or area
28 of less than that specified on the recorded subdivision plat covering the Property. No resubdivision of the
29 Subdivision shall be permitted that would increase the total number of Lots within the Subdivision.
30 Residential structures may be placed upon the lots pursuant to one of the two methods set forth hereinbelow, to
31 wit:

- 32
33 (a) Standard Residence Option
34 (b) Side Yard Concept Option
35

36 At no place within the Subdivision shall more than one of the two above mentioned residence placement
37 methods be used between two corner Lots on the same side of a street or within a cul-de-sac without prior
38 written consent of the Architectural Control Committee.

- 39
40 (a) **Standard Residence Option.** Residential structures shall be placed upon the Lots in accordance
41 with the setback requirements set forth herein and the Lots shall not be subject to any Side Yard
42 Land Maintenance Easement as hereinafter set forth.
43 (b) **Side Yard Concept Option.** (Amended VOL 1004 PAGES 846-847)

- 44 (1) Each dwelling shall be designed to have either (a) at least fifty percent (50%) of the
45 length of one (1) of its walls constructed adjacent to and between five (5) and six (6) feet
46 of a side Lot line, or (b) an open court or patio enclosed by a wall at least eight (8) feet
47 high constructed adjacent to and between five (5) and six (6) feet from a side Lot line
48 built to appear to be an extension of the residence building in both materials and style.
49 Such dwelling or wall shall be referred to as the "Side Yard Wall." The Side Yard
50 Wall, exclusive of roof overhang and gutters, shall be free of exterior objects or
51 appurtenances such as, for example, electric panels, vents, plumbing cleanouts, windows
52 or openings of any kind, unless such side Yard Wall is on the street side of a corner Lot.

1 Notwithstanding the foregoing sentence, the Side Yard Wall may be penetrated by a gas
2 service line and the gas meter for the residence may be placed adjacent to or attached to
3 the Side Yard Wall. There shall be at least ten (10) feet between the Side Yard Wall and
4 any dwelling situated upon an adjoining Lot for the entire length of such dwelling. This
5 ten (10) foot distance shall be referred to as the "side yard distance." Either the Side
6 Yard Wall or the nearest wall of the dwelling on the Lot adjacent to the Side Yard Wall
7 shall be limited to one story in height.

8 (2) **Side Yard Land Maintenance Easement.** Each Lot with a Side Yard Wall ("Side
9 Yard Wall Lot") shall be burdened with a perpetual five (5) foot maintenance easement
10 for the benefit of the adjacent Lot extending along the entire length of the Side Yard
11 Wall Lot line for the purpose of maintaining the lawn and/or other landscaping located
12 within the easement (the "Side Yard Land Maintenance Easement").

13 (3) **Use of Easement.** The use of the Side Yard Land Maintenance Easement shall be
14 subject to the following provisions:

- 15 (i) The Side Yard Maintenance Easement may be used by either the Side Yard
16 Wall Lot owner or the owner of the adjacent Lot for the purpose of changing,
17 correcting or otherwise modifying the grade or drainage channels of either Lot
18 so as to improve the drainage of water from the Lots.
19 (ii) The owner of the adjacent Lot, except as otherwise provided in this Section,
20 shall have the exclusive use of the surface of the Side Yard Land Maintenance
21 Easement for the purposes of maintaining the lawn and/or other landscaping
22 located within it. Such

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28 (ii) *(continued)* maintenance shall be the obligation of the adjacent Lot owner except
29 as expressly limited or prohibited by other applicable provisions of this
30 Declaration.
31 (iii) The Side Yard Wall Lot owner, upon twenty-four (24) hours' notice to the
32 adjacent Lot owner shall have the right of entry between the hours of 8:00 a.m.
33 and 5:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. Saturday for
34 the sole purposes of maintenance, painting, repairing and rebuilding of the Side
35 Yard Wall or foundation and fencing which is situated adjacent to and abutting
36 the Side Yard Land Maintenance Easement.
37 (iv) The Side Yard Wall Lot owner shall replace any fencing, landscaping or other
38 items on the Side Yard Land Maintenance Easement that such owner may
39 disturb during maintenance or use of the Side Yard Land Maintenance
40 Easement.
41 (v) Neither the Side Yard Wall Lot owner or the adjacent Lot owner shall attach
42 any object to the Side Yard Wall. The adjacent Lot owner shall not use the
43 Side Yard Wall as a playing surface for any sport. No structure shall be
44 constructed or placed upon the Side Yard Land Maintenance Easement by
45 either the Side Yard Wall Lot owner or the adjacent Lot owner, except that the
46 adjacent Lot owner may construct a fence which allows drainage.
47 (vi) The adjacent Lot owner shall indemnify and hold harmless the Side Yard Wall
48 Lot owner against any and all claims, demands, actions and causes of action of
49 any nature arising out of the general use of the Side Yard Land Maintenance
50 Easement by the adjacent Lot owner, his licensees or invitees.
51 (vii) Declarant reserves the right to distribute the Side Yard Land Maintenance
52 Easement, in the event of irregular shaped lots, such as cul-de-sacs, or street

1 curve lots, in a manner, which in its opinion, is most equitable to both Lot
2 owners. Both Lot owners shall indemnify and hold Declarant harmless against
3 any and all claims, demands, actions and courses of action of any nature arising
4 out of the distribution by Declarant or of general use of the Side Yard Land
5 Maintenance Easement by the Side Yard Wall Lot owner or the adjacent Lot
6 owner, their licensees or invitees.
7

8 **ARTICLE X**
9 **General Provisions**

10
11 **Section 1. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, and
12 shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this
13 Declaration, their respective legal representatives, heirs, successors and assigns, for an initial term
14 commencing on the effective date hereof and ending December 31, 2009. During such initial term the
15 covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by
16 the then owners of not less than sixty-seven percent (67%) of all Lots in the Subdivision and properly recorded
17 in the appropriate records of Williamson County, Texas. Upon the expiration of such initial term, said
18 covenants and restrictions (as changed, if changed), and the enforcement right relative thereto, shall be
19 automatically extended for successive period of ten (10) years. During such ten-year periods, the covenants
20 and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then
21 Owners of not less than fifty-one percent (51%) of all the Lots in the Subdivision and properly recorded in the
22 appropriate records of Williamson County, Texas.
23

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28 **Section 2. Enforcement.** The Association, as a common expense to be paid out of the Maintenance Fund, or
29 any Owner as his own expense, shall have the right to enforce, by proceedings at law or in equity, all
30 restrictions, covenants, conditions, reservations, liens, charges, assessments and all other provisions set out in
31 this Declaration. Failure of the Association or of any Owner to take any action upon any breach or default of
32 or in respect to any of the foregoing shall not be deemed a waiver of their right to take enforcement action
33 upon any subsequent breach or default.
34

35 **Section 3. Amendments by Declarant.** The Declarant shall have and reserves the right at any time and from
36 time to time, without the joinder or consent of any other party, to amend this Declaration by any instrument in
37 writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or
38 grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be
39 consistent with and in furtherance of the general plan and scheme of development as evidenced by this
40 Declaration and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.
41

42 **Section 4. Assignment.** Declarant may by appropriate instrument assign or convey to any person,
43 organization or corporation any or all of the rights, reservations, easements and privileges herein reserved by
44 it, and, upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise,
45 transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or
46 times in the same way and manner as those directly reserved by them or it in the instrument.
47

48 **Section 5. Interpretation.** If this Declaration or any word, clause, sentence, paragraph or other part thereof
49 shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most
50 nearly in accordance with the general purposes and objectives of this Declaration shall govern.
51

1 **Section 6. Omissions.** If any punctuation, word, clause, sentence or provision necessary to give meaning,
2 validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be
3 omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted
4 punctuation, word, clause, sentence or provision shall be supplied by inference.
5

6 **Section 7. Notices.** Any notice required to be sent to any member or Owner under the provisions of this
7 Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known
8 address of the person who appears as Member or Owner on the records of the Association at the time of such
9 mailing.
10

11 **Section 8. Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the
12 plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply
13 either to corporations or individuals, males or females, shall in all cases be assumed as though in each case
14 fully expressed.
15

16 **Section 9. Severability.** Invalidation of any one or more of the covenants, restrictions, conditions or
17 provisions contained in this Declaration, or any part hereof, shall in no manner affect any of the other
18 covenants, restrictions, conditions or provisions hereof, which shall remain in full force and effect.
19

20 **Section 10. FHA/VA Approval.** Association long as there is a Class B membership in the Association the
21 prior approval of the FHA and the Veterans Administration will be required for annexation of additional
22 property into the Association, mergers, consolidations, mortgaging of Common Properties, dedication of
23 Common Property, dissolution and amendment of this Declaration.
24

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29 **ARTICLE XI**
30 **Ratification: Lienholder**
31

32
33 Morgan Guaranty Trust Company of New York, a New York corporation, the owner and holder of a lien
34 covering all of the Properties, has executed this Declaration to evidence its joinder in, consent and ratification
35 of the imposition of the foregoing covenants, conditions and restrictions.
36

37 IN WITNESS WHEREOF, the undersigned have executed this Declaration to be effective this 12th day of
38 August 1983.
39

40 *(Signatures and notaries normally follow, but do not contribute to the*
41 *purpose of this transcription, or cannot be duplicated in this text. The*
42 *transcription of this document was undertaken for the purposes of clarity,*
43 *and in no way replaces the legal documents from which it came. The actual*
44 *documents are recorded in Williamson County, Texas.)*
45

46 *Transcribed by:*
47 *Joseph M. Collins*
48 *Member at Large, BCVHOA*
49 *Architectural Committee Member*
50 *Date of transcription: 18 April 1998*
51 *File: BCVHOA Bylaws and Deed Restrictions*