9234220

104 46 0187 49.00

ORIGINAL

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION IIB, AN ADDITION TO THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made and executed on the date hereinafter set forth by BEAUMONT WILLOW CREEK, INC. (the "Declarant"), a Texas corporation.

W I T N E S S E T H :

WHEREAS, Declarant is the owner of a certain 7.597 acre tract of land located in Beaumont, Jefferson County, Texas, which land is more fully and particularly described as follows:

A 7.597 acre tract of land out of the Samuel Stivers League, Abstract No. 51, in Beaumont, Jefferson County, Texas.

All the certain tract or parcel of land being out of and a part of that certain tract of land conveyed to J. H. Phelan by deed dated February 5, 1934, and recorded in Volume 384, Page 257 of the Deed Records of Jefferson County, Texas, said tract or parcel of land being more fully bounded and described as follows:

BEGINNING at a 1/2 inch iron rod found at the Southeast corner of Willow Creek Country Club Estates, Phase II, Section II, as recorded in Volume 14, Page 325 of the Map Records of Jefferson County, Texas, said iron rod being at the intersection of the southerly line of Mahogany Run, a fifty foot (50') wide street right-of-way and the westerly line of Willow Bend Drive, a sixty foot (60') wide street right-of-way in a curve to the left having a central angle of 12° 03' 05", a radius of 879.45 feet (879.45'), and a long chord of 184.64 feet which bears South 10° 12' 14" East;

THENCE along said curve to the left for an arc distance of 184.98 feet (184.98') to a point for corner;

THENCE South 74° 05' 54" West for a distance of 205.94 feet (205.94') to a 1/2" iron rod for corner;

THENCE South 35° 52' 44" West for a distance of 74.65 feet (74.65') to a 1/2" iron rod for corner;

THENCE South 29° 00' 19" East for a distance of 59.05 feet (59.05') to a 1/2" iron rod for corner;

THENCE South 49° 54' 05" East for a distance of 27.67 feet (27.67') to a 1/2" iron rod for corner;

THENCE South 26° 51' 18" West for a distance of 71.64 feet (71.64') to a 1/2" iron rod for corner;

THENCE North 63° 08' 42" West for a distance of 140.00 feet (140.00') to a 1/2" iron rod for corner;

THENCE South 26° 51' 18" West for a distance of 300.00 feet (300.00') to a 1/2" iron rod for corner;

THENCE North 63° 08' 42" West for a distance of 343.01 feet (343.01') to a 1/2" iron rod for corner;

THENCE North 23° 05' 11" East for a distance of 207.51 feet (207.51') to a 1/2" iron rod for corner;

THENCE North 03° 29' 14" East for a distance of 444.48 feet (444.48') to a iron rod found for corner, and being the southwest corner of said Willow Creek Country Club Estates, Phase II, Section II;

THENCE South 65° 43' 28" East along the southerly line of said Willow Creek Country Club Estates, Phase II, Section II, for a distance of 125.00 feet (125.00') to a 1/2 inch iron rod found for corner in the right-of-way of Mahogany Run and in a curve to the left having a central angle of 06° 52' 12", a radius of 50.00 feet (50.00') and a long chord of 5.99 feet (5.99') which bears South 32° 17' 22" East;

THENCE along said curve to the left for an arc distance of 6.00 feet (6.00') to a 1/2 inch rod found for corner;

THENCE South 65° 43' 28" East continuing with the southerly line of said Willow Creek County Club Estates, Phase II, Section II, for a distance of 50.00 feet (50.00') to a 1/2 inch iron rod found for corner in the easterly right-of-way line of Mahogany Run and being a point of curvature of a curve to the right having a central angle of 90° 00' 00", a radius of 18.30 feet (18.30') and a long chord of 25.88 feet (25.88') which bears North 69° 16' 32" East;

THENCE along said curve to the right for an arc distance of 28.75 feet (28.75') to a 1/2 inch iron rod found for corner in the southerly right-of-way line of Mahogany Run;

THENCE South 65° 43' 28" East along the southerly right-of-way line of Mahogany Run for a distance of 78.34 feet (78.34') to a 1/2 inch rod found for corner and being a point of curvature of a curve to the left having a central angle of 26° 49' 29", a radius of 654.03 feet (654.03'), and a long chord of 303.42 feet (303.42') which bears South 79° 08' 13" East;

THENCE along said curve to the left for an arc distance of 306.20 feet (306.20') to a 1/2 inch iron rod found for corner;

THENCE North 87° 27' 03" East continuing with the southerly right-of-way line of Mahogany Run for a distance of 93.47 feet (93.47') to the PLACE OF BEGINNING.

CONTAINING IN AREA 7.597 acres of land;

herein called the "Land"; and

WHEREAS, Declarant has caused the Land to be subdivided and platted into an addition to the City of Beaumont, Jefferson County, Texas, known and to be known as **"WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION IIB, an Addition to the City of Beaumont, Jefferson County, Texas"** (the "Addition"), in accordance with the Final Plat of said Addition prepared by Schaumburg & Polk, Inc. and filed for record in the office of the County Clerk of Jefferson County, Texas, contemporaneously with the filing of this Declaration; and

WHEREAS, Declarant desires to (i) dedicate the easements for streets and utilities reflected upon such Final Plat; (ii) reserve in favor of itself and/or the Association herein established certain easements on and across some or all of the Lots in the

Addition; and (iii) impose the protective and restrictive covenants set forth later herein upon the Lots in the Addition and upon the common area (if any) of the Addition:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Declarant does hereby and herewith adopt the Final Plat (the "Plat") of the Addition and does hereby dedicate the easements for street and utility purposes (including, without limitation, the "blanket" easement on each Lot in the Addition for the installation, operation and maintenance of underground electric service) as reflected upon said Plat, and does hereby impose upon the Lots in the Addition the basic restrictions set forth upon said Plat.

For the purpose of enhancing and protecting the value, attractiveness, and desirability of the Lots in the Addition, and for the purpose of providing for the orderly development, use and enjoyment of the Lots in the Addition, Declarant hereby declares that all of the Land in the Addition shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions hereinafter set forth, which shall constitute covenants running with the Land and shall be binding upon all parties having any right, title or interest in the Land, or any part thereof, and upon such parties' respective heirs, successors, legal representatives, devisees, lessees and assigns, and shall inure to the benefit of such parties and their respective heirs, successors, legal representatives, devisees, lessees and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to **WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION IIB, OWNERS ASSOCIATION**, an unincorporated Texas non-profit association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Addition, including contract sellers, but shall not include (a) those holding title merely as security for the performance of an obligation, or (b) those holding title to, or an interest in, the mineral estate only, with no title to, or interest in, the surface estate.

Section 3. "Lot" shall mean and refer to each and every platted plot or building site shown and reflected upon the final recorded plat or plats of said Addition or any composite building site meeting the requirements of ARTICLE VIII, Section 18 of this Declaration.

Section 4. "Member" shall mean and refer to each and every person or entity who holds membership in the Association, as provided herein.

Section 5. "Declarant" shall mean and refer to **BEAUMONT WILLOW CREEK, INC.**, its successors and assigns. However, as used in this paragraph, the term "assigns" shall not be construed to mean, refer to or include any person or entity which shall acquire from **BEAUMONT WILLOW CREEK, INC.** one (1) or more of the Lots in the Addition, whether improved or unimproved, for occupancy or resale, unless the said **BEAUMONT WILLOW CREEK, INC.** or its successor shall expressly assign unto such assignee all of its rights and privileges as "Declarant" under this Declaration.

Section 6. "Common area" shall mean and refer to and include any real property (including any and all improvements thereon) at any time hereafter acquired by the Association (whether by gift, grant, purchase, dedication or otherwise) for the common use and enjoyment of the owners.

Section 7. "Future Development Tract" shall mean and refer to all or any part of the following described 9.912 acre tract or parcel of land lying southeast of and adjacent to the Addition and shown and designated upon the Plat as "Future Development", to-wit:

A 9.912 acre tract of land out of the Samuel Stivers League, Abstract No. 51, in Beaumont, Jefferson County, Texas.

ALL THAT CERTAIN tract or parcel of land being out of and a part of that certain tract of land conveyed to J. H. Phelan by deed dated February 5, 1934, and recorded in Volume 384, Page 257 of the Deed Records of Jefferson County, Texas, said tract or parcel being more fully described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod at the southeast corner of Willow Creek Country Club Estates, Phase II, Section II, as recorded in Volume 14, Page 325 of the Map Records of Jefferson County, Texas, said iron rod being at the intersection of the southerly line of Mahogany Run, a fifty foot (50') wide street right-of-way, and the westerly line of Willow Bend Drive, a sixty foot (60') wide street right-of-way in a curve to the left having a central angle of 12° 03' 05", a radius of 879.45 feet (879.45') and a long chord of 184.64 feet (184.64') which bears South 10° 12' 49" East, said iron rod also being located North 31° 49' 35" West a distance of 734.65 feet (734.65') from the point of intersection of the easterly right-of-way line of Willow Bend Drive with the northerly right-of-way line of Colonial Drive, a fifty foot (50') wide street right-of-way dedicated as part of Willow Creek Country Club Estates, Phase II, Section VIII A, plat of which appears in Volume 14, Page 304 of the Map Records of Jefferson County, Texas;

THENCE along said curve to the left for an arc distance of 184.98 feet (184.98') to a 1/2 inch iron rod for the PLACE OF BEGINNING;

THENCE continuing along the westerly line of Willow Bend Drive, in a curve to the left having a central angle 24° 17' 39", a radius of 879.45 feet (879.45'), and a long chord of 370.11 feet (370.11') which bears South 28° 22' 36" East for an arc distance of 372.90 feet (372.90') to the point of tangency of said curve;

THENCE continuing along the westerly line of Willow Bend Drive, South 40° 31' 25" East for a distance of 230.00 feet (230.0') to a 5/8 inch iron rod found for the point of curvature of a curve to the right having a central angle of 66° 35' 45", a radius of 470.0 feet (470.0') and a long chord of 516.05 feet (516.05') which bears South 07° 13' 34" East;

THENCE along said curve to the right for an arc distance of 546.29 feet (546.29') to a point for corner;

THENCE North 55° 35' 01" West for a distance of 777.36 feet (777.36') to a 1/2 inch iron rod for corner;

THENCE North 63° 08' 42" West for a distance of 262.03 feet (262.03') to a 1/2 inch iron rod found for corner;

THENCE North 26° 51' 18" East for a distance of 300.0 feet (300.0') to a 1/2 inch iron rod for corner;

THENCE South 63° 08' 42" East for a distance of 140.0 feet (140.0') to a 1/2 inch iron rod for corner;

THENCE North 26° 51' 18" East for a distance of 71.64 feet (71.64') to a 1/2 inch iron rod for corner;

THENCE North 49° 54' 05" West for a distance of 27.67 feet (27.67') to a 1/2 inch iron rod for corner;

THENCE North 29° 00' 19" West for a distance of 59.05 feet (59.05') to a 1/2 inch iron rod for corner;

THENCE North 35° 52' 44" East for a distance of 74.65 feet (74.65') to a 1/2 inch iron rod for corner;

THENCE North 74° 05' 54" East for a distance of 205.94 feet (205.94') to the PLACE OF BEGINNING.

CONTAINING IN AREA 9.912 acres of land.

Section 8. "Supplemental Declaration" shall mean and refer to any supplemental or supplementary declaration of covenants, conditions and restrictions bringing additional property within the scheme of this Declaration and within the jurisdiction of the Association, as provided later herein.

Section 9. "Mortgage", "deed of trust" or "trust deed" shall mean and refer to a pledge of a security interest in or the creation of a lien upon a Lot (or Lots), together with any improvements thereon, to secure repayment of a loan made to the owner(s) of such Lot or Lots (or made to another, but secured by such Lot or Lots).

Section 10. "Mortgagee" shall mean and refer to the beneficiary of, or secured party in, a mortgage on a Lot or Lots.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION; ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the terms, covenants, conditions, restrictions, easements and reservations contained in this Declaration is **WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION II, an Addition to the City of Beaumont, Jefferson County, Texas**, as shown and reflected upon the above referenced Plat of the Addition, which property may be sometimes referred to herein as the "Existing Property".

Section 2. Additions of Property. Declarant, at its sole election, may bring within the scheme of this Declaration and within the jurisdiction of the Association all or any part of the Future Development Tract (as hereinabove defined) by Declarant's filing of record in the office of the County Clerk of Jefferson County, Texas, a Supplemental Declaration describing such additional property and expressly subjecting such additional property to the scheme of this Declaration and to the jurisdiction of the Association, together with a plat of such additional property. Such Supplemental Declaration may contain complementary and supplementary provisions, conditions, covenants, restrictions and reservations, and may amend and modify the provisions, conditions, covenants, restrictions and reservations contained herein as they relate to or affect such additional property, but such Supplemental Declaration shall not in any manner revoke, modify or add to the covenants established by this Declaration as to the Existing Property. After any additional part or parts of the Future Development Tract are brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of this paragraph or section, the term "Addition", as used herein, shall be deemed to mean, refer to and include **WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION IIB**, together with such additional part or parts of the Future Development Tract so

brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to this paragraph or section.

Section 3. Waiver of Right to Add Property to the Addition. At any time, Declarant, in its sole discretion, may waive and relinquish its right to bring any additional part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of Section 2 above. Such waiver or relinquishment shall be effected by Declarant's execution and filing for record in the office of the County Clerk of Jefferson County, Texas, a written instrument stating (in essence) that Declarant waives and relinquishes its right to bring any further part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association. Subsequent to the execution and recordation of such waiver, Declarant shall have no right to bring any additional part or parts of the Future Development Tract within the scheme of this Declaration or within the jurisdiction of the Association.

ARTICLE III

PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners' Easements of Enjoyment. Each and every owner shall have a right and easement of use and enjoyment in and to the common area (if any) of the Addition, which right and easement shall be appurtenant to and pass with the title to every Lot, subject to the provisions, limitations and restrictions contained in this Declaration or in the Bylaws of the Association and to any reasonable rules and regulations adopted by the Association, from time to time, relating to the use of the common area.

Section 2. Platted Utility Easements. Easements for installation and maintenance of utilities are shown and designated as such upon the Plat of the Addition. Within these easements, no building or structure of a permanent nature may be erected, nor shall any structure, planting or other material be placed or permitted to remain in any such easement which may damage or interfere with the installation and maintenance of utilities in the easement. The utility easement area of any Lot, together with the street easement or right-of-way abutting such Lot, shall be continuously maintained by the owner of such Lot, except for the Willow Bend Drive right-of-way abutting the Addition and the Mahogany Run right-of-way abutting Lots 1, 3 and 4, in Block 12, of the Addition, which rights-of-way shall be maintained by the Association as hereinafter provided.

Section 3. Blanket Utility Easement. There is hereby reserved upon each Lot in the Addition a ten foot (10') wide "blanket" utility easement in favor of any franchised public electric utility company for the purpose of installing, operating and maintaining electric utility service to the residence constructed on that Lot.

Section 4. Fence Easement. An easement on and over the northerly five feet (5') of Lots 1, 3 and 4, in Block 12, and on and over the easterly five feet (5') of Lot 4, in Block 12, of the Addition (collectively the "Perimeter Lots") is reserved in favor of Declarant and the Association for the purpose of constructing, installing, maintaining, repairing and replacing a subdivision fence, together with landscaping and a sprinkler system outside of the subdivision fence constructed on the Perimeter Lots. Declarant and the Association, their respective representatives, agents, employees and contractors, shall at any and all times have the right to enter into and upon said fence easement for the purpose of constructing, maintaining, repairing and replacing said fence and sprinkler system (if any) and planting, removing and maintaining

any landscaping outside of said fence. The owners of said Perimeter Lots shall not plant or permit within said fence easement (or elsewhere on such Perimeter Lots) any tree, shrub or vine which will attach to or overhang the fence, and the owners of said Perimeter Lots shall continuously maintain the fence easement area of such Perimeter Lots inside of the subdivision fence.

Section 5. Drainage Easement. In addition to the platted easements shown and reflected upon the Plat, there is hereby reserved in favor of Declarant and the Association a perpetual easement for drainage purposes on and over the rear (west) three feet (3') of Lots 1 through 7, inclusive, in Block 11, of the Addition. There shall be no fence or other improvement constructed or permitted within this drainage easement, nor shall any shrubs, bushes or trees be planted within such drainage easement. Further, there shall be no filling, grading or other work done in such drainage easement as will obstruct the flow of water in, along and through the drainage easement. The owner of each Lot encumbered with the drainage easement shall have the duty and responsibility for maintaining the segment or portion of the drainage ditch located within the drainage easement on such owner's Lot, including, without limitation, the duty to keep the ditch mowed and clear of obstructions. Declarant and the Association, and their respective representatives, agents, employees and contractors, shall have at any and all times the right to enter into and upon such drainage easement for the purpose of maintaining the drainage ditch located therein; however, the reservation of such right of entry shall in no manner affect or diminish the duty of each Lot owner to maintain that segment or portion of the drainage ditch located within the drainage easement on such owner's Lot.

Section 6. Blanket Easement. An easement over and upon every Lot in the Addition is hereby reserved by Declarant in favor of the Association, its representatives, agents, employees and contractors, to enter in and upon any Lot for the purpose of exercising any rights herein granted to the Association.

ARTICLE IV

ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS

Section 1. Incorporation of Association. At any time, either Declarant or the members of the Association may cause the Association to be incorporated as a Texas non-profit corporation under and pursuant to the provisions of the Texas Non-Profit Corporation Act. Upon such incorporation (if any), a certified copy of the Articles of Incorporation shall be recorded in the office of the County Clerk of Jefferson County, Texas, and upon the recordation of such Articles of Incorporation, the incorporated Association shall succeed to all rights, titles, duties and obligations of the unincorporated Association. After incorporation (if any), the administration of the affairs of the incorporated Association shall be governed by the same Bylaws as governed the affairs of the unincorporated Association.

Section 2. Members. Every owner of a Lot shall be a member of the Association (whether incorporated or unincorporated). Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.

Section 3. Classes of Members. The Association shall have two (2) classes of members, as follows:

> Class A. Class "A" members shall be all owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in a given Lot, all of such persons shall be members, and the vote for such Lot shall be exercised as they may determine among themselves; but in no event shall more than one (1) vote be cast with respect to any Lot owned by Class "A" members.

Class B. The Class "B" member shall be the Declarant, which shall be entitled to three (3) votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership upon the happening of either of the following events, whichever shall first occur:

(a) When the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or

(b) January 1, 1998.

Section 4. Voting by Class. Excepting those instances where voting (or agreement) by class is specifically required in this Declaration or in the Bylaws of the Association, voting shall be by the members as a whole, and not by class.

ARTICLE V

ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it in the Addition, hereby covenants, and each owner of a Lot in the Addition is hereby deemed to covenant by acceptance of a deed to such Lot (whether or not it shall be so expressed in such deed), to pay to the Association (a) regular annual assessments, (b) special assessments for capital improvements, and (c) additional Lot assessments. Such assessments shall be established and collected in the manner hereinafter provided. The regular annual assessments, special assessments for capital improvements, and additional Lot assessments, together with interest, costs and reasonable attorney's fees thereon, shall be a charge upon the land and a continuing lien on each Lot against which an assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees thereon, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title unless expressly assumed by them. Declarant hereby reserves and assigns to the Association, without recourse, a vendor's lien on each Lot (including all improvements thereon) to secure the payment of all assessments levied on such Lot, together with interest, costs and reasonable attorney's fees thereon.

Section 2. Purpose of Regular Annual Assessments. The regular annual assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Addition and for the performance of the Association's maintenance obligations hereunder. Regular annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from the regular annual assessments, the following:

(a) Costs of landscaping, mowing, trimming and care of (i) the common area (if any) of the Addition, (ii) the Willow Bend Drive right-of-way abutting the Addition, (iii) the Mahogany Run right-of-way abutting Lots 1, 3 and 4, in Block 12, of the Addition, and (iv) the portion of the fence easement on the Perimeter Lots lying outside of the subdivision fence (if any) constructed within the fence easement located on such Perimeter Lots, together with any landscaping therein.

(b) Costs of maintenance, repair and (if and when required) replacement of (i) any improvements or other properties of the Association located upon the common area (if any) of the Addition, (ii) the subdivision fence (if any) constructed within the fence easement on the Perimeter Lots, together with the sprinkler system (if

any) installed outside of such subdivision fence on the Perimeter Lots, and (iii) any mail kiosk serving the Addition (wherever located).

(c) Taxes and insurance (including fire and extended coverage and liability coverage) upon the common area (if any) of the Addition (including any improvements or other properties of the Association thereon).

(d) Cost of water and electrical utility services for the common area (if any) of the Addition and for the operation of the sprinkler systems (if any) located outside the subdivision fence (if any) constructed in the fence easement on the Perimeter Lots.

(e) Any expenses which the Association is required to incur or pay pursuant to the terms of this Declaration or Bylaws, or which shall be necessary or proper in the opinion of the Board of Directors of the Association, for (i) the administration of the affairs of the Association, (ii) the performance of the duties of the Association, or (iii) the enforcement of the provisions of this Declaration or the Bylaws of the Association.

(f) Any other expenses which shall be determined by a vote of the members, from time to time, to be common expenses of the Association.

Section 3. Power to Fix Regular Annual Assessments. The power and authority to fix and levy the regular annual assessments shall rest exclusively with the Board of Directors of the Association, and when the same are determined and fixed by the Board of Directors, as herein provided, same shall be final, conclusive and binding upon each owner, his heirs, successors and assigns, including contract purchasers.

Section 4. Special Assessments for Capital Improvements. In addition to the regular annual assessments authorized and provided for above, the Association may fix and levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying the costs of construction, reconstruction, repair or replacement of any capital improvement on the common area (if any) of the Addition. Any such special assessment, before becoming effective and a binding obligation of the owners, must be approved by a two-thirds (2/3rds) vote of each class of members who are voting, either in person or by proxy, at a meeting duly called for that purpose.

Section 5. Notice and Quorum for Action Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 above shall be sent to all members not less than ten (10) days, nor more than fifty (50) days, in advance of such meeting. Such notice shall state that the purpose (or one of the purposes) of the meeting is to vote upon a special assessment, specifying the purpose of the proposed special assessment. At the first such meeting called, the presence of members, either in person or by proxy, entitled to cast fifty percent (50%) or more of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum for the first meeting. No such second meeting shall be held more than thirty (30) days after the first called meeting.

Second 6. Uniform Rate of Assessment. Regular annual assessments and special assessments for capital improvements (but not the additional lot assessments provided for later herein) must be fixed at a uniform rate for all Lots in the Addition.

Section 7. Collection of Regular Annual Assessments and Special Assessments. The regular annual assessment shall be collected by the Association on a monthly, quarter-annual or semi-annual basis, as determined by the Board of Directors from time to time. Special assessments for capital improvements shall be collected on such basis as shall be determined by the vote of the membership in approving the establishment and levy of such special assessments.

Section 8. Establishment and Notice of Regular Annual Assessment. At the organizational meeting of the initial Board of Directors of the Association, the regular annual assessment for the first calendar year shall be fixed and established by the Board of Directors, and written notice thereof (including the basis upon which such regular annual assessment is to be collected) shall be forthwith given to each owner subject thereto. The first such regular annual assessment shall be adjusted according to the number of months remaining in the annual (calendar year) assessment period. Thereafter, not less than thirty (30) days prior to the commencement of each calendar-year assessment period, the Board of Directors of the Association shall fix and establish the regular annual assessment for such ensuing assessment year and shall give written notice thereof (including the basis upon which such regular annual assessment is to be collected) to every owner subject to such regular annual assessment. Upon a person or entity becoming the owner of a Lot in the Addition (and upon notification of such fact given to the Board of Directors of the Association), it shall be the duty of the Board of Directors to notify such new owner of the regular annual assessment charged upon his Lot (in the same manner as notice is given to those owners owning Lots as of the commencement of any annual assessment period). The failure of the Board of Directors to give written notice to any owner, as herein required, shall not in any manner exempt or relieve such owner from his obligation to pay the regular annual assessment on his Lot or Lots, but such owner shall not be in default for failure to pay his regular annual assessment (on the due date or dates thereof) until notice of such regular annual assessment is given to such owner in the manner herein provided. Each owner (including Declarant) covenants and agrees to give written notice to the Board of Directors of the Association upon the sale or transfer by such owner of his Lot, including the name and mailing address of the Lot purchaser(s) and the date upon which the sale or transfer was or will be effected.

Section 9. Limited Exemption from Regular Annual Assessments. Notwithstanding anything herein to the contrary, Declarant shall not be liable for or obligated to pay regular annual assessments on any unimproved Lot, nor on any improved Lot until thirty (30) days after improvements have been substantially completed thereon. Further, notwithstanding anything herein to the contrary, a "builder" (as that term is hereinafter defined) shall not be liable for or obligated to pay regular annual assessments on any Lot owned by such builder until the earliest of (i) the substantial completion of improvements thereon, (ii) the conveyance by such builder of the Lot (except a reconveyance to Declarant), or (iii) one hundred eighty (180) days after such builder has acquired record title to such Lot. For the purposes of this paragraph, the term "builder" shall be construed to mean a person or entity who shall purchase or acquire from Declarant one (1) or more unimproved Lots for the purpose of construction of improvements thereon for sale to the public.

Section 10. Date of Commencement of Regular Annual Assessments. The regular annual assessments provided for above in this Article shall commence as to each Lot on the first (1st) day of the calendar month next following:

(a) The conveyance of a Lot by Declarant to an owner (other than a builder);

(b) Thirty (30) days following the substantial completion of improvements upon a Lot owned by Declarant; or

(c) With respect to a Lot conveyed by Declarant to a builder, the earlier of (i) the substantial completion improvements thereon, (ii) the conveyance by builder of such Lot (except for a reconveyance to Declarant), or (iii) one hundred eighty (180) days after builder has acquired record title to such Lot.

Section 11. Certification of Payment of Assessments. The Association shall, upon demand, furnish a certificate signed by an officer of the Association setting forth whether the assessments on any specified Lot have been paid. A properly executed certificate as to the status of assessments on a particular Lot shall be conclusive and binding upon the Association as of the date thereof as to any and all persons or entities relying thereon (other than the owner of such Lot). The Association may establish and collect a reasonable charge for the issuance of such certificates.

Section 12. Effect of Nonpayment of Assessments; Remedies of Association.

(a) Any assessment (of whatever kind or character, whether a regular annual assessment, special assessment for capital improvements, or additional lot assessment) not paid within ten (10) days of the due date thereof shall be delinquent. Any delinquent assessment shall bear interest from the due date thereof at the rate of eighteen percent (18%) per annum. All unpaid assessments, together with interest thereon, costs and reasonable attorney's fees, as provided above, shall constitute a lien upon the Lot (together with all improvements thereon) against which the unpaid assessments were levied by the Association. To evidence such lien, the Association may, but shall not be required to, prepare and file for record in the office of the County Clerk of Jefferson County, Texas, a written notice, signed by an officer of the Association, setting forth the amount of the unpaid assessments, the name of the Lot owner, and a description of the Lot upon which such assessments are unpaid.

(b) The Association may bring an action at law against the Lot owner personally obligated to pay the same or foreclose the lien upon such Lot in the manner hereinafter provided. No owner may exempt himself or otherwise escape liability for the assessments herein provided by abandoning his Lot or in any other manner. Suit to recover a money judgment against a defaulting owner shall be maintainable without foreclosing or waiving the lien securing the assessments owing by such defaulting owner.

(c) The assessment lien may be enforced by the Association by judicial proceedings or non-judicial proceedings (pursuant to the provisions of Section 13 below) to foreclose the lien on the defaulting owner's Lot (including all improvements thereon) in like manner as a mortgage (with a power of sale) on real property upon the recording of a notice of lien, as provided in Subsec. (a) above. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, including (in the case of a non-judicial foreclosure) a trustee's fee equal to five percent (5%) of the gross sales proceeds, the costs of preparing and filing the notice of lien, and all other expenses of foreclosure, including reasonable attorney's fees. The Association shall have the power to bid on the Lot at foreclosure sale (whether judicial or non-judicial) and to acquire and hold, lease, mortgage or convey the same.

Section 13. Nonjudicial Foreclosure of Lien. To secure and enforce the payment of all assessments provided for in this Declaration, together with all interest accrued or accruing thereon and attorney's fees and other costs reasonably incurred by the Association in collecting the same, and for the auxiliary and cumulative enforcement of said lien, and in consideration of the sum of $1.00 to Declarant in hand paid by the Trustee hereinafter named, and for the further consideration of the uses, purposes and trusts hereinafter set forth, Declarant has granted, sold, and conveyed, and by these presents does grant, sell, and convey unto Michael A. Phelan, Trustee, of Jefferson County, Texas, whose mailing address is P. O. Box 1951, Beaumont, Texas 77704, and any substitute or successor trustee appointed hereunder, each of the Lots in the Addition, to have and to hold the said Lots unto the said Trustee, and to his substitutes or successors forever. Declarant does hereby bind itself, its successors and assigns, to warrant and forever defend the Lots unto the said Trustee, his substitutes, successors and assigns forever, against the claim or claims of all persons claiming or to claim the same, or any part thereof, subject to any superior liens, for and upon the following trusts, terms, covenants, and agreements, to-wit:

(a) This conveyance, however, is made in trust to secure the payment of all assessments provided for in this Declaration (whether now owed or hereafter ever accruing to the Association). Should Declarant, its successors and assigns, make full payment of the assessments hereby secured as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect.

(b) In the event, however, of default in the payment of any assessment hereby secured, in accordance with the terms of this Declaration, it shall thereupon, or at any time thereafter, be the duty of the Trustee or his successor or substitute, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust against the Lot against which the assessment is due and owing in the manner provided in § 51.002 of the Texas Property Code, as then amended; and after giving notice and advertising the sale as provided in said § 51.002 (but without any other action than is required by said § 51.002 as then amended) and otherwise complying with that statute, the Trustee shall sell the Lot (including any improvements thereon) at public sale as provided in said § 51.002 and make due conveyance to the purchaser or purchasers thereof, with covenants of general warranty binding upon the then owner of such Lot and such owner's heirs, executors, administrators and successors.

(c) Out of the money arising from such sale, the Trustee acting shall first pay all expenses of advertising said sale and making the conveyance (including a Trustee's fee of 5% of the gross sales proceeds), and then to the Association the full amount of assessments owing, together with interest thereon, and reasonable attorney's fees, rendering the balance of the sale price, if any, to the owner of said unit prior to such sale, his heirs or assigns, or to such other person as may be legally entitled thereto. The recitals in the conveyance to the purchaser or purchasers of such Lot shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the owner of such Lot prior to such sale, his heirs, executors, administrators, successors and assigns.

(d) It is agreed that in the event foreclosure should be commenced by the Trustee, or his substitute or successor, the Association, as beneficiary hereunder, may at any time before the sale of the Lot direct the abandonment of the sale and may then institute suit for the collection of the assessments, interest and collection costs then owing to the Association, and, at the election of the Association, for judicial foreclosure of the assessment lien. It is further agreed that if the Association should institute suit for collection and for judicial foreclosure of the assessment lien, the Association may, at any time prior to the entry of a final judgment in said suit, dismiss the same and require the Trustee, or his substitute or successor, to sell the Lot against which the assessment is then owing in accordance with the provisions of this Section 13.

(e) In case of the absence, resignation, death, inability, failure or refusal of the Trustee herein named or of any substitute trustee appointed hereunder to act, or in the event that the Association shall deem it desirable to remove without cause the Trustee or any substitute trustee and appoint another to execute this trust, then in any of such events, the Association shall have the right and is hereby authorized and empowered to appoint a successor and substitute without any formality other than an appointment and designation in writing; and this appointment shall vest in him, as substitute or successor trustee, the estate and title in and to all said Lots, and he shall thereupon hold, possess, and execute all the rights, title, powers and duties herein conferred upon the Trustee named herein. The right to appoint a successor or substitute trustee shall exist as often and whenever from any of said causes any trustee, original or substitute, cannot or will not act, resigns, or has been removed without cause.

(f) The exercise or attempted exercise of the power of sale herein contained shall not exhaust the power of sale and shall not prevent and subsequent exercise thereof.

(g) The Association, as beneficiary hereunder, if it is the highest bidder, shall have the right to purchase at any sale of a Lot pursuant hereto and to have the amount for which such Lot is sold credited against the indebtedness then owing on such Lot to the Association.

(h) It is especially agreed that in the event of a foreclosure under the powers granted herein, the person in possession of the Lot sold shall thereupon become a tenant at will of the purchaser or purchasers at the foreclosure sale. Should such tenant then refuse to surrender possession of the Lot upon demand, the purchaser or purchasers shall be entitled to institute and maintain a statutory action for forcible detainer of said Lot in the justice of the peace court for the justice precinct in which the Lot is situated. The bringing of an action for forcible detainer shall not preclude the bringing of any other action for the possession of said Lot, and the bringing of one character of action shall not preclude the other and same may be exercised separately or simultaneously.

Section 14. Subordination of Assessment Lien to Mortgages. The assessment lien herein provided shall be and remain subordinate to the lien of any perfected first mortgage. A "first mortgage" is defined as a mortgage which has first and paramount priority under applicable law. A sale or transfer of a Lot shall not affect the

assessment lien thereon. However, the sale of a Lot pursuant to the foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to unpaid charges which accrued prior to such foreclosure sale or transfer in lieu thereof. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due and payable or from the lien thereof. The holder of any first mortgage shall be entitled, upon written request made to the Association, to written notification from the Association of any default by such holder's mortgagor (or grantor under a deed of trust or trust deed) in any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days from the date upon which such default occurred. Any mortgagee holding a first mortgage on a Lot may pay any unpaid assessment payable with respect to such Lot, and upon such payment such mortgagee shall have a lien on such Lot for the amounts paid to the Association of the same rank as the lien of its mortgage.

Section 15. Additional Lot Assessments. Separately and apart from the regular annual assessments and special assessments provided for above in this Article, the Board of Directors shall have the right to make a special assessment against any Lot owner and his Lot for the costs incurred by the Association in making any repairs or replacements or performing any maintenance which an owner, although otherwise obligated to make or perform under this Declaration or the Bylaws, shall fail to make or perform within thirty (30) days after the Association shall have given such owner written notice specifying the repairs or replacements to be made or maintenance to be performed.

Section 16. Levy and Collection of Additional Lot Assessments. Any additional Lot assessment shall be fixed and levied by the Board of Directors of the Association, and written notice thereof shall be given to the owner of the Lot against which assessment is made. Such notice shall specify the nature and amount of the additional Lot assessment and the date upon which the same shall be due and payable (which due date shall be not less than 15 days from the date of such notice). Collection of any such additional Lot assessment shall be made in the same manner as the regular annual assessments provided for herein, and a lien therefor shall exist in favor of the Association upon the Lot (together with the improvements thereon) of the owner against whom the assessment is made.

Section 17. Acceptance of Lot Subject to Lien. Each owner, by acceptance of a deed to a Lot, (a) accepts such Lot subject to and encumbered with the assessment lien (with power of sale) set forth above herein, (b) grants and confirms to the Association a contractual lien upon his Lot (together with all improvements thereon) to secure all assessments then or thereafter made against such Lot, and (c) expressly vests in the Association or its agents the right and power to bring all actions against such defaulting owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for foreclosure and enforcement of such lien, including, without limitation, non-judicial foreclosure pursuant to the provisions of Section 13 above.

Section 18. Books and Records. Proper books and records shall be kept by the Association with respect to all assessments made by the Association, and each owner shall at all reasonable times have access to such books and records. The books and records shall be kept in such a manner as to separately identify the assessments and payments thereof on each Lot in the Addition. No payment made on any individual assessment account shall be transferred or credited to another account without the express written consent of the party making such payment.

ARTICLE VI

OBLIGATION TO MAINTAIN, REPAIR AND REBUILD

Section 1. Owner's Obligation to Maintain and Repair. Each owner shall, at his sole cost and expense, perform such maintenance and make such repairs and replacements to his residence, together all other structures, installations and appurtenances located upon the Lot of such owner (except as otherwise specifically provided herein), as shall be required to keep his residence in substantially the same condition as at the completion of the original construction thereof, excepting only ordinary wear and tear. Additionally, each owner shall maintain his yard area and the street right-of-way or easement abutting his Lot (except as specifically where otherwise provided to the contrary herein), together with all sidewalks and driveways on his Lot or abutting street right-of-way or easement. If any owner shall fail to perform the maintenance or make the repairs required of such owner hereunder, the Association, after giving such owner written notice specifying the required maintenance or repairs, may perform such maintenance or make such repairs if such owner shall not, within thirty (30) days after such notice is given by the Association, perform the maintenance or make the repairs or replacements specified in such notice. The costs incurred by the Association in performing such maintenance or making such repairs or replacements shall, at the election of the Board of Directors of the Association, be the basis for levying an additional Lot assessment against such owner and his Lot pursuant to the provisions of ARTICLE V above.

Section 2. Owner's Obligation to Rebuild. If any residence on any Lot in the Addition is damaged or destroyed by fire or other casualty, it shall be the duty and obligation of the owner thereof to repair, restore or reconstruct such residence to substantially the same condition as before such damage or destruction. Architectural Control Committee approval of the plans and specifications for making such repairs, restoration or reconstruction must be obtained prior to commencement thereof, as more fully provided later in this Declaration. The owner of such residence shall commence such repairs, restoration or reconstruction within a reasonable period of time after the occurrence of such damage or destruction and thereafter prosecute the work of repair, restoration or reconstruction of such residence with due diligence and shall complete such repairs, restoration or reconstruction within six (6) months from the occurrence of such damage or destruction, subject only to delays occasioned by matters beyond the reasonable control of such owner.

Section 3. Maintenance by Association. It shall be the duty and obligation of the Association to:

(a) Provide landscaping, mowing, trimming and care of (i) the common area (if any) of the Addition, (ii) the Willow Bend Drive right-of-way abutting the Addition, (iii) the Mahogany Run right-of-way abutting Lots 1, 3 and 4, in Block 12, of the Addition, and (iv) the portion of the fence easement on the Perimeter Lots lying outside of the subdivision fence (if any) constructed within the fence easement located on such Perimeter Lots, together with any landscaping therein.

(b) Maintain, repair and (if and when required) replace (i) any improvements or other properties of the Association located upon the common area (if any) of the Addition, (ii) the subdivision fence (if any) constructed within the fence easement on the Perimeter Lots, together with the sprinkler system (if any) installed outside of such subdivision fence on the Perimeter Lots, and (iii) any mail kiosk serving the Addition (wherever located).

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. General Authority of Architectural Control Committee. No building, fence, wall, screening device, patio, patio enclosure, swimming pool, spa, tennis court, driveway or other improvements (of whatever kind or description) shall be commenced, constructed, erected, placed or reconstructed on any Lot in the Addition, nor shall any exterior addition to or change or alteration of any structure or improvement on any Lot in the Addition, be made until two (2) complete sets of plans and specifications therefor, showing (i) the kind, shape, size, height and exterior color scheme thereof; (ii) the location of all improvements, including driveways, sidewalks and off-street parking; (iii) utility installations; (iv) the kind, nature and quality of materials; (v) finished grade, topography and elevation; and (vi) site landscaping; have been submitted to and approved by the Architectural Control Committee (herein called the "Committee") as to (w) the type and quality of materials; (x) the conformity of the planned improvements with the covenants contained in this Declaration; (y) the harmony of external design (including type, quality and color of roof, exterior materials and color scheme); and (z) location of the planned improvements with respect to topography and in relation to other existing or planned structures in the Addition. The plans and specifications shall also reflect all driveways and sidewalks serving the Lot, even though same may, in part, extend beyond the perimeter boundaries of the Lot. Approval or disapproval shall be as provided in Section 5 below. The Committee may, in its discretion, provide developmental guidelines for site planning, architecture and landscaping and may establish a requirement for sidewalks on designated Lots; and, if and when such guidelines are provided, they shall be used as the basis for review and approval (or disapproval) of plans and specifications.

Section 2. Composition of Committee. The Committee shall be composed of four (4)) members. The initial members of the Committee shall be Michael A. Phelan and Patrick H. Phelan (the "Declarant Representatives") and Rolland J. Anderson and Tom O. Bailey (the "Builder Representatives"). The Declarant Representatives and Builder Representatives shall have the power of designate a representative (who may or may not be a member of the Committee) to act for the Committee; and upon the designation of such representative by the Committee, such representative shall have the power and authority to do any act or make any decision which the Committee itself could do or make under this Declaration. Neither the Committee nor its authorized representative shall have the right to demand, charge or receive any fee or other compensation as a condition to the examination of any plans or specifications submitted hereunder or for granting approval (or disapproval) thereof.

Section 3. Vacancies and Filing of Vacancies. In the event that either of the Declarant Representatives shall die, resign or fail or cease to serve as a member of the Committee, the remaining Declarant Representative shall have full authority to designate a successor Declarant Representative to serve on the Committee. If both of the Declarant Representatives shall die, resign or fail or cease to serve as members of the Committee, Declarant or its successor may designate successor Declarant Representatives to serve on the Committee. If either of the Builder Representatives shall die, resign or fail or cease to serve as a member of the Committee, the remaining Builder Representative shall have full authority to designate a successor Builder Representative to serve on the Committee. If both of the Builder Representatives shall die, resign or fail or cease to serve as members of the Committee, the Declarant or its successor may designate successor Builder Representatives to serve on the Committee. If all the members of the Committee shall die or resign, of if they shall for any reason fail or cease to serve, and no successors are designated in the

manner provided above, then the Association, through its Board of Directors, shall exercise the authorities herein granted to the Committee. Furthermore, at any time after ten (10) years from the date of this Declaration, the Association, upon the vote of a majority of the members of the Association (based on one vote per Lot) may (i) change the membership of the Committee; or (ii) withdraw powers and duties from, or restore powers and duties to, the Committee. All designations and other actions permitted by this Section 3 shall be evidenced by written instrument filed for record in the office of the County Clerk of Jefferson County, Texas.

Section 4. Term of Committee; Surrender of Authority. The herein granted powers and duties of the Committee shall cease and terminate twenty (20) years after the date of this Declaration, and the approval of the Committee shall not be thereafter required, unless, prior to the expiration of said twenty (20) year period, a majority of the members of the Association (based on one vote per Lot) shall exercise their right to restore to the Committee its powers and duties under this Declaration in the manner provided in Section 3 above.

Section 5. Manner of Approval. The approval or disapproval of the Committee, or its designated representative, as required in this Declaration, shall be in writing and signed by at least one (1) Declarant Representative and at least one (1) Builder Representative then serving as members of the Committee or by the Committee's designated representative (if a representative has been appointed to act for the Committee). If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after plans and specifications meeting the requirements of Section 1 above have been submitted to it, approval will not be required, and the covenants contained in Section 1 above shall be deemed to have been fully satisfied. However, the approval or disapproval of plans and specifications by the Committee, or the failure of the Committee to approve or disapprove the plans and specifications within thirty (30) days after the submission thereof, shall in no way authorize any use or improvement of any Lot in violation of any of the other covenants contained in this Declaration, except where the Committee had express authority to grant a waiver or variance from such covenant. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall the Committee, any member of the Committee, or the representative of the Committee be subject to any suit by anyone for damages for any actions, or failures to act, on the part of the Committee, any member of the Committee, or the Committee's representative.

Section 6. No Liability for Plan Approval. Neither the Committee, nor any member or representative thereof, shall be liable to any person or entity under any theory or under any circumstances in connection with the Committee's approval (whether actual or deemed) of any plans and specifications submitted to the Committee for approval, including, without limitation, any liability based upon the soundness of construction or adequacy of plans and specifications, mistake of judgment, negligence or nonfeasance. Neither the Committee, nor any member or representative thereof, shall have any liability to any person or entity by reason of the construction of buildings or the making of other improvements which shall depart from or be at variance with the approved plans and specifications.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Single Family Residential Use. No Lot in the Addition shall be used for any purpose except for a single family residential purposes. However, temporary construction and sales

offices may be placed or constructed on specific Lots in the Addition with the prior written approval of the Committee, and provided further that any such office shall be removed not later than the date specified in the Committee's written approval.

Section 2. Permitted Structures. No structure shall be erected on any Lot other than one (1) detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than three (3) cars, and such other accessory buildings as are incidental to single-family residential use, not inconsistent with the other restrictive covenants set forth and contained in this Declaration, if the plans for such accessory buildings are submitted to and approved by the Committee in the manner provided above herein.

Section 3. Construction in Accordance with Plans. All buildings and other improvements shall be constructed or made strictly in accordance with the plans and specifications submitted to and approved by the Committee or its representative, or in strict accordance with plans and specifications submitted to the Committee, but for which no approval is required by reason of the failure of the Committee or its representative to approve or disapprove the same within thirty (30) days after the submission thereof, as provided in Section 5 of ARTICLE VII above.

Section 4. Use of Common Area. Nothing shall be done in the common area (if any) of the Addition which will increase the rate of insurance (whether of fire and casualty insurance or liability insurance), without the prior approval of the Board of Directors.

Section 5. Prohibited Acts. No owner shall do, or permit to be done by any members of his family or his guests or tenants, any act on any Lot or on the common area (if any) of the Addition which shall be in violation of (i) any applicable ordinance, statute, rule or regulation of any municipal or other governmental authority, (ii) the provisions of this Declaration, (iii) the Bylaws of the Association, or (iv) the rules and regulations of the Association relating to the use of the common area (if any) of the Addition; nor shall any noxious or offensive activity be carried on or anything be done on any Lot or on the common area (if any) of the Addition which may become an annoyance or nuisance to the other owners or their tenants.

Section 6. Time for Completion of Construction. Any dwelling, structures or other improvements commenced on any Lot shall be completed within two hundred ten (210) days after commencement of construction (subject to delays from causes beyond the reasonable control of the Lot owner or such owner's building contractor), and no partially completed dwelling, structure or other improvement of any type shall be permitted to remain on such Lot beyond the expiration of the time period specified above.

Section 7. Chimney Screening. If any metal chimney is used in the construction or remodeling of any residence in the Addition, it shall be encased in wood, brick or other material approved by the Committee in the same manner as any other exterior building materials.

Section 8. Parking or Storage of Boats, Etc.. No boats, trailers, campers, buses, mobile homes, recreational vehicles, trucks (except for pickup trucks or vans having a manufacturer's rated carrying capacity of not more than three-quarter [3/4] ton), or similar vehicles shall be parked or stored upon any Lot in the Addition on a permanent basis in such manner as to extend beyond the front of a dwelling, nor shall same extend beyond the side of a dwelling constructed on a corner Lot, nor shall same be parked or allowed to remain on a permanent basis in any street within or abutting the Addition or in any utility easement or street easement or right-of-way on or adjacent to any Lot in the Addition. A "permanent basis", as that term is used herein, shall mean any

period or periods in excess of forty-eight (48) consecutive hours, or periods in excess of eight (8) consecutive hours on three (3) or more successive days. Furthermore, no trailers, boats, campers, mobile homes or recreational vehicles shall be parked upon the common area (if any) of the Addition, and motor vehicles shall only be parked and permitted on the common area while the owners thereon are using the common area for its intended purpose.

Section 9. No Gateway or Driveway Access to Willow Bend Drive or Mahogany Run. There shall be no gateway or driveway opening from any Lot onto Willow Bend Drive, nor shall there be any gateway or driveway opening from Lots 1, 3 or 4, in Block 12, of the Addition onto Mahogany Run.

Section 10. Temporary Structures. No structures of a temporary character, mobile home, manufactured home, trailer, tent, garage or other outbuilding or accessory building shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 11. New Construction Only. No existing or used dwelling or other structure shall be moved onto or placed on any Lot in the Addition from another location, and all dwellings and other structures must be of new construction. No modular or mobile homes shall be located on any Lot in the Addition. The term "modular home" shall, for the purposes hereof, mean and refer to a prefabricated home which is constructed in a number of parts or sections off the Lot and then brought upon the Lot to be assembled.

Section 12. Signs. No sign of any kind shall be displayed to public view on any Lot in the Addition, except one (1) sign of not more than five feet (5') square advertising a property for sale or rent or used by Declarant or a builder to advertise the property during the construction phase or sales period.

Section 13. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining or storage, quarrying or mining operations, or like activities of any kind shall be permitted upon or in any Lot; nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot; nor shall any derrick or other structure or machinery designed for use in boring or drilling for gas or oil be erected, maintained or permitted on any Lot.

Section 14. Antennas. No antenna or other device for the transmission or reception of "ham radio", citizen's band or short wave radio signals be permitted on any Lot. No antenna of any type, including, but not limited to, a dish-type satellite signal receiver, shall be erected on any Lot until plans for the construction and location of such antenna have been submitted to and approved by the Committee in the same manner as for the construction of a residence and other improvements on a Lot. Notwithstanding anything contained herein to the contrary, the Committee, in its absolute discretion, shall have the right to absolutely refuse the approval of the placement of any such dish-type receiver on any Lot in the Addition.

Section 15. Livestock, Poultry and Household Pets. No animals, livestock or poultry of any kind shall ~~be raised,~~ bred or kept on any Lot in the Addition, except that dogs, cats and other household pets, not to exceed two (2) in number for any residence, may be kept provided (i) they are not kept, bred or maintained for any commercial or breeding purposes, (ii) they do not become a nuisance, and (iii) they are not allowed to roam or wander unattended in the Addition.

Section 16. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, refuse or other waste materials. Trash, garbage and other waste shall be kept in sanitary closed containers pending collection thereof; and

garbage cans and other receptacles shall (except when placed on the street or drive for regular collection purposes) be hidden or screened from public view. No Lot shall be used for the open storage of any materials whatsoever, except for materials used or to be used in the construction of improvements upon any Lot, and then only for so long as such construction progresses. Upon completion of the improvements, any remaining materials, together with all rubble, rubbish, trash and debris shall be promptly removed from such Lot.

Section 17. Yard Landscaping. The front yard, side yards and rear yard of a Lot must be planted with grass and landscaped in a manner acceptable to the Committee before any dwelling constructed on the Lot may be occupied as a residence.

Section 18. No Construction on Less Than a Platted Lot. No dwelling shall be constructed on a building site consisting of less than one (1) platted Lot. Nothing contained herein shall prohibit the construction of a dwelling on a building site consisting of more than one (1) full platted Lot, such as a building site consisting of two (2) platted Lots or one (1) platted Lot and a portion of an adjacent platted Lot. Any such composite building site, if same meets all of the foregoing requirements, shall be deemed to constitute a "Lot" under the terms and provisions of this Declaration.

Section 19. Exterior Christmas Lights. No exterior Christmas lights or Christmas decorations shall be erected, placed, installed or displayed on any Lot in the Addition between February 1 and October 31 of any calendar year. Whether exterior lights or decorations constitute "Christmas lights" or "Christmas decorations" shall be determined by the Committee in its sole discretion.

Section 20. Garage Door Openers. Any garage located on any Lot in the Addition having an entrance facing a street must be equipped with an electronic automatic garage door opener. Each owner required to install such a garage door opener shall maintain, repair and (as needed) replace same so that the garage door opener is at all times in good working order and repair.

Section 21. Minimum Set Back Lines. No dwelling structure, including attached or detached garage or other accessory building, but excluding open porches, courtyards, privacy fences and like screening devices, shall be located nearer to the front lot line or nearer to a side street line than the building set back line shown upon the Plat. Further, no open porch, courtyard, privacy fence or like screening device shall be located nearer to the front Lot line than the front of the dwelling, nor nearer to the side street line (if any) than the side of the dwelling, except as may be constructed or placed as part of the original construction of such residential improvements pursuant to plans and specifications approved by the Committee. Further, except as provided below, no dwelling structure, including any attached or detached garage or other accessory building, shall be located nearer than twenty-five feet (25') to the rear line of any Lot. The Committee, in its sole discretion, may reduce the twenty-five foot (25') rear yard set back to a minimum of fifteen feet (15'), provided that no accessory buildings of any type (including, without limitation, detached garages) shall be permitted in the reduced rear yard. The Committee shall determine in which direction a dwelling or other building shall face on a Lot.

Section 22. Minimum Interior Line Setback. No one (1) story dwelling shall be located nearer than five feet (5') to any interior Lot line, nor shall any one and one-half (1-1/2) story, two (2) story, or two and one-half (2-1/2) story dwelling be located nearer than seven and one-half feet (7.5') to any interior Lot line.

Section 23. Minimum Square-footages. On Lots 3, 4, 5 and 6, in Block 12, of the Addition, no dwelling shall be permitted in which the living floor area (inclusive of enclosed utility and storage rooms, but exclusive of garages and open porches, patios or courtyards) shall be less than two thousand three hundred (2,300) square feet. On the remainder of the Lots in the Addition, no dwelling shall be permitted in which the living floor area (inclusive of enclosed utility and storage rooms, but exclusive of garages and open porches, patios or courtyards) shall be less than one thousand eight hundred (1,800) square feet.

Section 24. Fences, Walls, Etc.. No fence, wall, hedge, structure or other improvements (including, without limitation, a swimming pool, tennis court or other recreational facility) shall be constructed, erected, placed, altered or permitted on any Lot in the Addition nearer to any street than the building set-back line shown on the Plat. No fence, wall, hedge, tree or other planting shall be permitted on any corner Lot which obstructs lines of sight at elevations of between two feet (2') and six feet (6') above the adjacent streets within the triangular area formed by the street-side property lines of the Lot and a line connecting them at points twenty-five feet (25') from the intersection of the street-side property lines. No tree shall be permitted to remain within such triangular area unless the foliage line is maintained at sufficient height to prevent obstruction of such lines of sight.

Section 25. Utility Service and Meters. All utility service lines between meter points and dedicated utility easements shall be underground. Meters for utilities shall not be visible from any street. Air-conditioning compressors, condensing units and other mechanical equipment and any playground equipment (such as swings, playhouses and the like) shall not be visible from the streets in the Addition, from the golf course abutting certain of the Lots in the Addition, or from the common area (if any) of the Addition; and, if necessary, same shall be screened by adequate shrubbery, plantings or fencing.

Section 26. Fence Requirements on Certain Lots. No fences shall be built, erected or permitted on any Lot in the Addition which borders or abuts any portion of the golf course immediately adjacent to the Addition, except a fence which is constructed from wrought iron (or other material which has the same appearance and is approved by the Committee) and which is painted or treated so that it is black in color. Any such fence may have brick posts at any intervals approved by the Committee. The entire design, materials and construction must be approved by the Committee, in the manner provided in ARTICLE VII hereof, prior to the construction, erection or installation thereof. Additionally, any fencing of the rear yards of Lots 4 and 5, in Block 12, of the Addition shall meet the same requirements as set forth above in this Section for Lots abutting the golf course. For the purposes of this Section, the "rear yards" of said Lots 4 and 5 shall be deemed to mean and include all parts or portions of such Lots abutting the Future Development Tract, as shown on the Plat of the Addition.

Section 27. No Removal of Existing Trees. No living tree or shrub with a trunk diameter of two inches (2") or more located on any Lot within twenty feet (20') of the Lot line bordering or abutting the golf course adjacent to the Addition may be removed without the express written consent of the Committee; and if any such tree or shrub is destroyed or killed by any construction activities or the placement of improvements on any Lot, the owner of such Lot shall promptly replace any such tree or shrub.

Section 28. Conflict Between Ordinances and Restrictions. In the event of any conflict between the restrictions contained in this Declaration and any ordinances, laws, rules or regulations of municipal or other governmental authorities having jurisdiction over the Addition or the construction of improvements therein, then such ordinances, laws, rules and regulations shall control; except,

however, that if the restrictions contained herein are in any respect more restrictive than such ordinances, laws, rules or regulations, then the restrictions contained herein shall control.

ARTICLE IX

ENFORCEMENT OF COVENANTS

Section 1. Enforcement. In the event of any violation or breach, or attempted violation or breach, of any of the terms or provisions of this Declaration, Declarant, the Association or any Lot owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s) violating or breaching, or attempting to violate or breach, the same, including actions for prohibitive or mandatory injunctive relief; and it shall not be a prerequisite to the granting of any such injunctive relief that there be any showing that irreparable damage or harm will result if such injunctive relief is not granted. Additionally, any person or entity entitled to enforce the terms, covenants or restrictions of this Declaration may recover such damages, both actual and punitive, as such party may show that he or it is entitled to by reason of any such violation or breach. In any action for enforcement of the terms, covenants or restrictions hereof, whether for injunctive relief or damages, if the party prosecuting such action is successful, he or it shall be entitled to recover, in addition to any damages awarded, reasonable attorney's fees and all costs of court.

Section 2. Forbearance Not a Waiver. The forbearance of enforcement of any restriction herein contained for any violation or proposed or attempted violation of any restriction herein contained shall not constitute a waiver of the right of Declarant, the Association or any owner to thereafter enforce such restriction as to any subsequent violation or proposed or attempted violation.

Section 3. Time for Enforcement. Any action for enforcement of the restrictions or other covenants contained herein shall be commenced within one (1) year after such violation, or attempted violation, began or first occurred, and not thereafter.

ARTICLE X

TERM AND AMENDMENT OF COVENANTS

Section 1. Term of Covenants. The covenants and restrictions contained in this Declaration shall be binding for a period of twenty (20) years from the date of this Declaration. Upon the expiration of such twenty (20) year period, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

Section 2. Amendment or Termination of Covenants. This Declaration may be amended, or the covenants and restrictions herein contained may be terminated, in whole or in part as follows:

(a) During the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the owners of not less than eighty percent (80%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

(b) At any time after the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the owners of not less than seventy-five percent (75%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

For the purposes of calculating the foregoing respective percentages of Lots in the Addition, there shall be taken into account not only the Lots in **WILLOW CREEK COUNTRY CLUB ESTATES, PHASE II, SECTION IIB**, but also any additional Lots brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of ARTICLE II of this Declaration.

ARTICLE XI

SEVERABILITY

Section 1. Severability. In the event that any provision of this Declaration, or any portion thereof, shall be held to be invalid, illegal or unenforceable by judgment or decree of a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect, invalidate or impair any other provision, or parts of a provision, hereof, and all remaining provisions, or parts of provisions, shall remain valid and in full force and effect in accordance herewith.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by a duly authorized officer on this the 28 day of September 1992.

DECLARANT: **BEAUMONT WILLOW CREEK, INC.**

By: _____
Michael A. Phelan, President

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

This instrument was acknowledged before me on September 28, 1992, by **MICHAEL A. PHELAN**, President of **BEAUMONT WILLOW CREEK, INC.**, a Texas corporation, on behalf of said Corporation.

_____
Notary Public, State of Texas

FILED FOR RECORD

'92 OCT -1 P1:20

_____
COUNTY CLERK
JEFFERSON COUNTY, TEXAS

MARSHA JONES
COMMISSION EXPIRES
DECEMBER 14, 1992

AFTER RECORDING RETURN TO:

Mr. Don DeCordova
Crutchfield, DeCordova & Chauveaux
210 Stedman Bldg., 490 Park Street
Beaumont, Texas 77701