DECLARATION OF CONVENANTS,

CONDITIONS AND RESTRICTIONS

FOR THE SPRINGS AT STONE OAK

AND PROVIDNG FOR

THE SPRINGS AT STONE OAK OWNERS ASSOCIATION

[Note: this version of the Springs At Stone Oak CCRs is a verbatim reproduction of the original CCRs prepared, adopted, and approved by the Springs developers in 1997. This version reflects all of the official, recorded modifications that have made to the original document, and also includes annotated modifications generated by HOA-related laws adopted by the State Legislature. It includes footnotes at the end of the document to indicate the source of each modification, addition or deletion. **Added and changed text is highlighted in bold type**, while original text that has been deleted as a result of modifications are indicated by ~~strikethrough text~~. ***Annotations to reflect State legislature HOA-related laws are indicated by bold and italicized text.***]

[Document Manger: Gary Bushover]
Updated October 2021

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THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

THIS DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS FOR THE SPRINGS AT STONE OAK, is made on the date hereinafter set forth by LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation ("Declarant"), for the purposes herein set forth as follows:

WITNESSETH:

WHEREAS, Declarant is the owner of the below described real property commonly known as THE SPRINGS AT STONE OAK, PLANNED UNIT DEVELOPMENT, San Antonio, Bexar County, Texas (hereinafter called "the Subdivision"), to wit:

> Lots 1-88, inclusive Block 1, THE SPRINGS AT STONE OAK PLANNED UNIT DEVELOPMENT, Bexar County, Texas, according to plat thereof recorded in Volume 9538, Page 38, Deed and Plat Records, Bexar County, Texas;

WHEREAS, Declarant has created a residential community with designated "Lots" and "Common Facilities" (as those terms are defined herein) for the benefit of the present and future owners of said Lots with in the Subdivision, and desires to create and carry out a uniform plan for the improvement, development and sale of the Lots;

WHEREAS, Declarant desires to ensure the preservation of the values and amenities in said community and for the maintenance of said Common Facilities, and to this end desires to further subject the above-described real property, together with such additions as may hereafter be made thereto as herein provided, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof;

WHEREAS, THE SPRINGS AT STONE OAK OWNERS ASSOCIATION, has been or will be incorporated under the laws of the State of Texas as a non-profit corporation for the purposes of exercising the functions aforesaid as to THE SPRINGS AT STONE OAK and such other real property as may be annexed thereto and become subject to the jurisdiction of said Association, with the power and duty to maintain and administer the Common Facilities of the Subdivision and the power to administer and enforce the covenants and restrictions to collect and disburse the assessments and charges hereinafter created; and

NOW, THEREFORE, Declarant declares that the above-described property constituting THE SPRINGS AT STONE OAK is, and shall be hence forth be, held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth, and shall hereafter be subject to the jurisdiction and assessments of THE SPRINGS AT STONE OAK OWNERS ASSOCIATION, to wit:

ARTICLE I

PURPOSE

THE SPRINGS AT STONE OAK is encumbered by these Restrictive Covenants for the following reasons: to seek to achieve the best and highest use and most appropriate development of the property; to protect lot owners against improper use of surrounding lots; to preserve so far as practical the natural beauty of the property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; and to secure and maintain proper setbacks from streets and adequate free space.

ARTICLE II

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings.

(a) "Association" shall mean and refer to THE SPRINGS AT STONE OAK OWNERS ASSOCIATION, a Texas non-profit corporation, its successors and assigns as provided for herein.

(b) "Properties" shall mean and refer to the above described properties known as THE SPRINGS AT STONE OAK, and additions thereto, as are subject to this Declaration or any Amended or Supplemental Declaration.

(c) "Lot" shall mean and refer to any of the plots of land numbered Lots 1-88, inclusive, Block 1, as shown on the Subdivision Plat.

(d) "Subdivision Plat" shall mean and refer to the map or plat of THE SPRINGS AT STONE OAK filed for record in Volume 9538, Page 38 of the Deed and Plat Records of Bexar County, Texas, and any amendment thereof upon filing of same for record in the Deed and Plat Records of Bexar County, Texas.

(e) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated on a Lot.

(f) "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, within the Properties, including contract sellers but excluding those having interest merely as security for the performance of an obligation.

(h) "Declarant" shall mean and refer to LUMBERMEN'S INVESTMENT CORPORATION, its successors or assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

(i) "Architectural Review ~~Committee~~ ***Authority***[25]" or "ARC" shall mean and refer to the committee created hereinafter, subject to the provisions herein, by Declarant.

(j) "Common Area" and "Common Facilities" shall mean and refer to all property leased, owner, or maintained by the Association for the use and benefit of the Members of the Association. Common Facilities shall include all entry monuments and signage, the perimeter wall along Stone Oak Parkway, fences along the east and west boundaries of the Properties, the fence around the Recreation Area, drainage facilities and detention ponds within land owned by the Association, esplanade and right-of-way landscaping, and such other areas lying with indicated public easements or rights-of-way as deemed appropriate by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners. The initial Common Area shall include the Subdivision private streets (Lot 1) and Lot 87, Block 1, labeled "Recreation Area" on the Subdivision Plat. Declarant reserves the right to convey to the Association drainage areas bordering the Subdivision as part of the Common Area.

(k) "Member" shall mean and refer to all those owners who are members of the Association as provided within.

(l) "Board of Directors" and "Board" shall mean and refer to the Board of Directors of The Springs at Stone Oak Owners Association, the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

(m) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for THE SPRINGS AT STONE OAK and any amendments, annexations and supplements hereto made in accordance with the terms hereof.

ARTICLE III

USE

All Lots in the Subdivision shall be used for single family residential purposes only.

No owner shall occupy or use his Lot or any improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the owner, his family, guests and tenants. Permanent living quarters for domestic servants and allowing domestic servants to be domiciled with an owner or resident shall be permitted.

Residential Leases or Rental Agreements. The Association may not require a lease or rental applicant or a tenant to be submitted to approved for tenancy by the Association, or to require sensitive personal information to be submitted to the Association regarding a lease or rental applicant or current tenant, to include a consumer credit report or a lease or rental application submitted by the applicant, tenant or that person's agent to the property owner when applying for tenancy. If a copy of the lease or rental agreement is required by the Association, any sensitive personal information will be redacted or otherwise made unreadable or indecipherable.[15]

During the construction and sales period of the initial Living Units, the builder may erect and maintain such structures as are customary in connection with such construction and sale of such property, including, but not limited to, a business office, storage areas, sign, model units, sales office, and construction trailer, but the size, location, and design of any storage sheds, signs, sales office and construction trailer shall be subject to ARC approval.

No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements, and then the material shall be placed within the property lines of the Lot upon which the improvements are erected and shall not be placed on the street or between the curb and property line.

All temporary construction and sales structures shall be aesthetically compatible with the Subdivision development, as solely determined by the ARC.

ARTICLE IV

ARCHITECTURAL REVIEW ~~COMMITTEE~~ ***AUTHORITY[25]***

There is hereby created an Architectural Review ~~Committee~~ ***Authority[25]***, initially composed of Robert A. Reeh, James M. Lassiter, and Robert M. Mann, to serve until their successors are named. A majority of the ARC may act for the ARC and no notice of any of its meetings shall be required. Subject to the terms hereinafter set forth, Declarant shall have the right to remove or add members to the ARC and fill vacancies in the ARC membership and Declarant may assign such rights to the Association. The sale of the last Lot owned by Declarant within the Properties shall be deemed to be an assignment to the Association of Declarant's powers with respect to ARC membership. ARC members shall not be entitled to compensation for their services rendered in such capacity.

No building, fence, wall, outbuilding or other structure or improvement shall be erected, altered, added onto, placed or repaired on any Lot in the Subdivision until the complete plans including site plans, grading plans, floor plans depicting room size and layouts, exterior elevations, landscape plans, and any other plans or information deemed necessary by the ARC for the performance of its function ("Required Plans"), are submitted and approved in writing by the Architectural Review ~~Committee~~ ***Authority[25]*** as to the conformity and harmony of exterior design with existing structures in the Subdivision, the location with respect to topography, existing trees, and finished elevation, and apparent conformity with the requirements of this Declaration. In addition, the Owner shall submit the identity of the individual or company intended to perform the work and projected commencement and completion dates. The Architectural Review ~~Committee~~ ***Authority[25]*** shall have the power to employ professional consultants to assist it in discharging its duties and may create and impose reasonable fees for processing of applications.

Within thirty (30) days after the Owner has submitted to the ARC the Required Plans and written notice that the Owner desires to obtain ARC approval, the ARC shall notify Owner in writing whether the Required Plans are approved or disapproved. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance. In the event the plans submitted by the Owner have not been approved or disapproved within thirty (30) days after being submitted, the plans so submitted will be deemed to have been approved but a deemed approval shall not permit a violation of any of the terms of this Declaration nor extend to any deviation from or alteration to the plans actually submitted nor to any matter requiring a written variance.

The ARC shall have the express authority to perform fact finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one interpretation. The goal of the ARC is to encourage the construction of dwellings of good architectural design, quality and proper size compatible with Declarant's conceptual plan for the Subdivision. Dwellings should be planned and designed with particular attention to the design and aesthetic appearance of the exterior and the use of such materials, which, in the sole judgment of the ARC, create an attractive and harmonious blend with existing and proposed dwellings in the immediate area and the natural surroundings. The ARC may disapprove the construction or design of a home on purely aesthetic grounds where, in its sole judgment, such disapproval is required to protect the continuity of design or values of the neighborhood and of other homeowners or to preserve the serenity and natural beauty of any surroundings. Members of said ARC and their representatives shall not be liable to any person subject to or possessing or claiming the benefits of these restrictive covenants for any damage or injury to property or for damaged or loss arising out of their acts hereunder. The ARC's evaluation of Required Plans is solely to determine compliance with the terms of this Declaration and the aesthetics or the proposed improvements and the ARC disclaims any responsibility to determine compliance with any applicable building code or other standard for construction.

The Architectural Review ~~Committee~~ ***Authority***[25] shall have the right, but not the obligation, to grant variances and waivers relative to deviations and infractions of the Declaration or to correct or avoid hardships to Owners. Upon submission of a written request for same, the ARC may, from time to time, in its sole discretion, permit an owner to construct, erect or install a dwelling which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration. In any case, however, the dwelling with such variances must, in the ARC's sole discretion, blend effectively with the general architectural style and design of the neighborhood and must not detrimentally affect the integrity of the Subdivision or be incompatible with the natural surroundings. All requests for variances shall be in writing, shall be specifically indicated to be a request for variance, and shall indicate with specificity the particular standard sought to be varied and the nature of the variance requested. All requests for variances shall be deemed to be disapproved if the ARC has not expressly and in writing approved such request within thirty (30) days of the submission of such request. No member of the ARC shall be liable to any owner for any claims, causes of action or damages arising out of the grant of any variance to an owner. No individual member of the ARC shall have any personal liability to any Owner or any other person for the acts or omissions of the ARC if such acts or omissions were committed in good faith and without malice. Each request for a variance submitted hereunder shall be reviewed independently of similar or other requests for variance and the grant of a variance to any one Owner shall not constitute a waiver of the ARC's right to deny a variance to another Owner. The decisions of the Architectural Review ~~Committee~~ ***Authority***[25] with respect to variances shall be final and binding upon the applicant.

~~All decisions of the ARC shall be final and binding and shall not be subject to revision except by procedure for injunctive relief when such action is patently arbitrary~~

~~and capricious.~~ In the event of construction of improvements or threatened construction of improvements in violation of this Declaration, any Owner, The Association, Declarant or the ARC may seek to enjoin such construction or seek other relief against the Owner or builder responsible therefore provided that each such offending party shall first be given written notice of the perceived violation and the opportunity to remedy the violation prior to the filing of suit. Neither Declarant, the Architectural Review ~~Committee~~ ***Authority***[25], nor any member of such ARC shall be liable in damages, or otherwise, to anyone submitting plans and specifications for approval or to any Owner who believes himself adversely affected by this Declaration by reason of mistake of judgment, negligence or non-feasance in connection with the approval or disapproval of plans or requests for variance. **A decision by the ARC denying an application or request by an Owner for the construction of improvements in the Subdivision may be appealed to the Board. (SEE Appendix B: ARC DENIAL HEARING PROCEDURES for additional hearing information and hearing agenda)**[20]

The Architectural Review ~~Committee~~ ***Authority***[25] shall be duly constituted and shall continue to function for the entire duration of this Declaration, including any extensions thereof. At such time as Declarant no longer owns any Lots subject to the jurisdiction and assessment of the Association, the Board of Directors shall have the right and obligation to appoint the members of the ARC. **A person may not be appointed or elected to serve on the ARC if the person is:**

1. **a current board member;**
2. **a current board member's spouse; or**
3. **a person residing in a current board member's household.**[20]

ARTICLE V

RESTRICTIONS ON LOTS

All Lots in the Subdivision except the Recreation Area and private street lots, shall be used only for residential purposes. No residential building shall remain incomplete for more than six (6) months after construction has commenced. Temporary use may be made of a house for a builder's sales office, which shall be permitted until such house is occupied as a residence, provided such use is approved in writing by Declarant. There may be no more than three (3) contiguous two-story houses on the same side of the street, except on Lots 43-49, inclusive, Block 1, and Lots 85-89, inclusive, Block 1, there may be no more than two (2) contiguous two-story houses.

Except as otherwise provided in this Article V, the term "residential purposes" as used herein shall be held and construed to exclude any commercial use, industrial, use, apartment houses, hospital, clinic and/or business use, and such excluded uses are hereby expressly prohibited. Home office use other than clinics will be permitted providing that the use conforms to zoning regulations, is not detectable by sight, sound or smell, does not include any on-site employees other than persons residing in the house, and does not materially increase or in any way obstruct vehicular or pedestrian traffic.

ARTICLE VI (A)

OUTBUILDING REQUIREMENTS

Every outbuilding, inclusive of such structures as a detached garage, storage building, gazebo, spa, greenhouse or children's' playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. All such outbuildings shall be subject to approval of the ARC. In no instance shall an outbuilding, other than a detached garage, exceed one (1) story in height nor exceed one hundred twenty (120) square feet of floor area.

ARTICLE VI (B)

STANDBY ELECTRIC GENERATORS

Upon approval by the ARC, owners may install a permanently installed standby electric generator. A standby electric generator is defined as a device that converts mechanical energy to electrical energy and is (1) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen; (2) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure; (3) connected to the main electrical panel of a residence by manual or automatic transfer switch; and (4) rated for a generating capacity of not less than seven kilowatts.

Standby electric generators are required

(1) to be installed and maintained in compliance with the manufacturer's specifications and applicable governmental health, safety, electrical, and building code;

(2) to have all electrical, plumbing, and fuel line connections installed only by licensed contractors;

(3) to have all liquefied petroleum gas fuel line connections installed in accordance with the rules and standards adopted by the Railroad Commission of Texas;

(4) to have nonintegral fuel tanks installed and maintained to comply with applicable municipal zoning ordinances;

(5) to repair, replace, or remove any deteriorated or unsafe component of a generator, including electrical or fuel lines;

(6) have the generator installed behind screening if the generator is visible from any street, located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the Association, or is located in a side or rear yard fenced by a wrought iron fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the Association;

(7) to restrict periodic testing of a standby electrical, consistent with the manufacturer's recommendations, to the hours of 9:00am – 4:00pm local time, Monday through Saturday;

(8) to be restricted for use only when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence;

(9) to be located on a lot in accordance with ARC specifications and not on Association property. The approved location of the generator may not increase the cost of installing the generator by more than 10% or increases the cost of installing and connecting the electrical and fuel lines for the generator by more than 20% when compared to licensed installation contractor recommendations for site selection.

In a hearing, action, or proceeding to determine whether a proposed or installed standby electric generator complies with the above listed requirements, the party asserting noncompliance bears the burden of proof.[15]

ARTICLE VII

BUILDING MATERIALS

The exterior walls of the first floor of all residential buildings shall be 100% masonry or masonry veneer. The rear elevations of both one story and two story residential buildings on Lots 43-49, inclusive, Block 1, and Lots 85-88, inclusive, Block 1, shall be 100% masonry so as to maximize the appearance of homes visible along Stone Oak Parkway.

On all other Lots, the front and front most ten feet (10') of the sides of all residential buildings more than one story in height shall be all masonry or masonry veneer. In addition, the entire exposed side of any residential building situated on a corner Lot will be all masonry or masonry veneer. In computing the required masonry percentage, window and door openings surrounded by masonry shall be counted as masonry and windows and door openings not surrounded by masonry shall not be counted as masonry. Notwithstanding the foregoing, the ARC is empowered to waive this restriction if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those types and colors approved by the ARC.

Masonry or masonry veneer includes stucco, ceramic tile, clay, brick, rock and all other material commonly referred to in Bexar County, Texas as masonry but shall exclude any product, regardless of composition, which is manufactured to have a wood or non-masonry appearance.

Absent the express written consent of the ARC, all siding shall be horizontal, lapped, and shall be wood, "Hardy Board," or other material approved in writing by the ARC. Aluminum siding shall not be allowed.

House Trim Paint Color Standard. The repainting of trim on houses is an option for each Lot Owner. If painted, the standards provided herein will be adhered to. All house trim will be painted with muted shades of tan, gray, green, and white similar to those colors now in use by Ryland and David Weekly homes in The Springs at Stone Oak. Vivid colors such as red, bright green, purple, chartreuse, etc., are never permitted. All changes away from these muted shades of tan, gray, green, and white for house trim paint color must be approved in advance by the ARC.[12]

~~Roofing shall be either slate, tile, factory fire treated wood, metal, or Architectural series quality dimensional composition shingles having a nominal 25-year warranty or more, as any such materials may be approved by the ARC.~~ **All buildings shall be roofed with composition shingles unless otherwise approved in writing by the Architecture Review ~~Committee~~ *Authority*[25] (ARC). Wood shingles are specifically prohibited for safety reasons. Composition shingles must weigh at least 230 pounds per square and have a stated warranty of at least 25 years. Shingles must have a laminated design. Three-tab shingles are specifically prohibited except for use as a starter and cap rows. Roof shingles must be dark brown or dark gray tones. Light brown, light gray, blue, green, red and white colors are not allowed. Roof overlays are not allowed. Prior to roofing, all existing materials must be removed down to clean decking. Any damaged or deteriorated decking must be replaced. Ridge vent are encouraged, to improve ventilation, reduce attic temperature and reduce cooling costs, but are not required. All roof protrusions, such as vents, roof jacks, must be painted to match the color of the shingles, be earth tone color, or a color as approved by the ARC.**

Subject to advance written approval from the Architecture Review ~~Committee~~ *Authority*[25], an owner may install shingles ("Alternative Shingles") which are designed primarily to be wind and hail resistant, provide heating or cooling efficiencies greater than traditional composition shingles, or provide solar energy capture capabilities. Once installed, any such Alternative Shingles must resemble the shingles used or authorized to be used on other structures within the Association, be more durable than and of equal or superior quality to the shingles used or authorized to be used on other structures within the Association, and match the aesthetics of properties surrounding the owner's property.[1]

All fireplace flues and smoke stacks shall be enclosed and concealed from public view in finished, hooded, chimneys constructed of the same masonry as the exterior walls of the dwelling or of horizontal, lapped, "Hardy Board" or other material approved in writing by the ARC. The dwellings on Lots 43-49, inclusive, Block 1, and Lots 85-89, inclusive, Block 1, must have masonry chimneys.

ARTICLE VIII(A)

FENCES

No fence or wall shall be built or maintained forward of the front wall line, nor any hedge planted or maintained forward of the front setback line of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot unless otherwise approved in writing by the ARC. With the sole exception of the perimeter wall described in Article XXIII, below, along Stone Oak Parkway (near Lot lines of Lots 43-50 and Lots 83-88), all fences or walls located on a Lot will be maintained at the expense of the Owner of such Lot. Unless otherwise approved by the ARC, all fences except those installed by Declarant shall be solid one inch by six inch (1" X 6") vertical picket wooden fences not exceed six feet (6') in height. In order to present the best appearance to public view, the "rail" side of all fences shall be exposed to the interior of the Lot.

The ARC is empowered to waive the aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept, design or material, and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood.

The staining of wood privacy fences is an option for each Lot Owner. If stained, the fence will be stained with only one color stain for continuity. The color selected by the Board will match the perimeter fence and the Park equipment/fence. That color is: Chestnut Brown Cabot Premium Wood Care Semi-transparent Stain. Oil-based or acrylic-based versions of the stain are permissible. For the location of the nearest store selling Cabot stains, see their website at http://www.cabotstain.com. All changes of color of stain for fences will be approved in advance by the ARC unless an identical stain is used.[13]

No fence, wall or hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot with in the triangular area as formed by the extension of property lines and a line connecting them at points twenty-five feet (25') from the intersection of the curb lines into the street, or in the case of a rounded property corner, from the intersection of the street line extended. No structures or landscape material over three and one-half feet (3-1/2') tall shall be allowed in this inscribed triangle. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

ARTICLE VIII(B)
SECURITY MEASURES

Security Measures. A property owner or resident may install a security camera, motion detector, perimeter fence, and/or other security measures (collectively, "Security Measures"). Approval from the Association is not required for the installation of security cameras, motion detectors, or similar security measures, providing the placement restrictions below are strictly adhered to.

Placement of Security Measures. Security Measures may be installed only on the private property owned by the record title owner. Security Measures may not be installed on: (a) Property owned or maintained by the Association; (b) Property owned in common by members of the Association; or (c) Property effected by any valid building line, right-of-way, setback, or easement.[23]

ARTICLE IX

DRIVEWAYS AND SIDEWALKS

All sidewalks placed within the street right of way shall conform to City of San Antonio and Stone Oak Project Committee specifications and ordinances with regard to materials, location, width, and finish. All driveways and sidewalks must be constructed of concrete, stamped concrete, or brick pavers. Asphalt and gravel driveways and sidewalks are specifically prohibited. Location of driveways and sidewalks must be shown on the site plan submitted to the ARC for approval and any variations as to location, design, or surface must be approved in writing by the ARC.

ARTICLE X

TEMPORARY STRUCTURES

No structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other outbuildings) shall be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No trailer, camper, motor home, recreational vehicle, or any similar vehicles shall at any time be parked in view of any other Lot or dwelling unit or connected to utilities situated within a Lot. **This restriction on parking is not intended to prohibit temporary parking that is reasonably necessary for loading or unloading personal items. However, under no circumstances may such vehicles be "temporarily" parked in view of any other Lot or dwelling unit (a) more frequently than four (4) times during any calendar month and (b) for more than 24 consecutive hours on any one (1) occurrence.[2]** No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular or mobile home, whether or not the wheels have been removed, may be placed or maintained on any Lot. No structures of a temporary

character may be placed within the Properties unless and until approved by the Architectural Review ~~Committee~~ ***Authority[25]***.

ARTICLE XI

SIGNS**, FLAGS, AND FLAGPOLES**[3]

No signs, banners, or pennants of any kind shall be displayed to the public view on any single-family residential Lot except one (1) professional sign of not more than six (6) square feet advertising the property for sale or rent. Signs used by the Declarant or original home builder(s) to advertise the property during the construction and sales period shall be permitted, if approved as to design and location by the ARC. Signs advertising subcontractors or suppliers are specifically prohibited. The sign may state only the name and phone number of the seller and/or their agent. Signs indicating that property is distressed or referencing foreclosure or bankruptcy are specifically prohibited. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more ~~political~~[18] candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ***~~30~~ 90*** days in advance of the election date to which they pertain and are removed no later than the ***~~5th~~ 10th*** day after that election date. **The HOA may remove a sign displayed in violation of a restrictive covenant permitted by this Article.[18]** To the fullest extent allowed by law, the ARC shall have control over all verbiage on all signs. Except for signs advertising a Lot for sale and adhering to the standards of this Article, all signs within the Properties shall be subject to the prior written approval of the ARC.[16]

Flag Display and Flagpole Installation Policy. [Note: Texas statutes presently render null and void any restriction in the Covenant which restricts or prohibits the display of certain flags or the installation of certain flagpoles on a residential lot in violation of the controlling provisions of Section 202.011 of the Texas Property Code or any federal or other applicable state law. The Board and/or the architectural approval authority under the Covenant has adopted this policy in lieu of any express prohibition against certain flags and flagpoles, or any provision regulating such matters which conflict with Texas law, as set forth in the Covenant.]

Architectural Review Approval.

Approval Not Required: In accordance with the general guidelines set forth in this policy, an Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military ("Permitted Flag") and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("Permitted Flagpole"). Only two (2) Permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Architectural Review ~~Committee~~ *Authority[25]* (ARC).

Approval Required: Approval by the ARC is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any residential lot ("Freestanding Flagpole"). The ARC is not responsible for: (i) errors in or omissions in the application submitted to the ARC for approval; (ii) supervising installation or construction to confirm compliance with an approved application; or (iii) the compliance of an approved application with governmental codes and ordinances, state and federal laws.

Front yard means a yard within a lot having a front building setback line with a setback of not less than 15 feet extending the full width of the lot between the front lot line and the front building setback line*[14]*.

Procedures and Requirements. To obtain ARC approval of any Freestanding Flagpole, the Owner shall provide the ARC with the following information: (a) the location of the flagpole to be installed on the property; (b) the type of flagpole to be installed; (c) the dimensions of the flagpole: and (d) the proposed materials of the flagpole (the "Flagpole Application"). A Flagpole Application may only be submitted by an Owner UNLESS the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Flagpole Application. The decision of the ARC will be made in accordance with the timelines established in Article IV of these Covenants. A Flagpole Application submitted to install a Freestanding Flagpole on property owned by the Association or property owned in common by members of the Association will not be approved. Any proposal to install a Freestanding Flagpole on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

Each Owner is advised that if the Flagpole Application is approved by the ARC, installation of the Freestanding Flagpole must: (i) strictly comply with the Flagpole Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Freestanding Flagpole to be installed in accordance with the approved Flagpole Application, the ARC may require the Owner to: (i) modify the Flagpole Application to accurately reflect the Freestanding Flagpole installed on the property; or (ii) remove the Freestanding Flagpole and reinstall the flagpole in accordance with the approved Flagpole Application. Failure to install a Freestanding Flagpole in accordance with the approved Flagpole Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of this policy and may subject the Owner to fines and penalties. Any requirement imposed by the ARC to resubmit a Flagpole Application or remove and relocate a Freestanding Flagpole in accordance with the approved Flagpole Application shall be at the Owner's sole cost and expense.

Installation, Display and Approval Conditions. Unless otherwise approved in advance and in writing by the ARC, Permitted Flags, Permitted

Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

(a) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per residential lot, on which only Permitted Flags may be displayed;

(b) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height*, and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property or is attached to any portion of a residential structure owned by the property owner and not maintained by the Association*[14];

(c) Any Permitted Flag display on any flagpole may not be more than three feet in height by five feet in width (3'x5');

(d) With the exception of flags displayed on common area owned and/or maintained by the Association and any lot which is being used for marketing purposes by a builder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;

(e) The display of a flag, or the location and construction of the flagpole must comply with all applicable zoning ordinances, easements and setbacks of record;

(f) Any flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(g) A flag or a flagpole must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpole must be repaired, replaced or removed;

(h) Any flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring property; and

(i) Any external halyard or a flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the flagpole.[3]

ARTICLE XI (B)

GUIDELINES FOR DISPLAY OF CERTAIN RELIGIOUS ITEMS

A property owner or resident may display or affix religious items on the owner's or resident's property or dwelling. Such items may include anything related to any faith that is motivated by the resident's sincere religious belief or traditions.

To the extent allowed by the Texas state constitution and the United States constitution, any such displayed or affixed religious item may not: (a) threaten

public health or safety; or (b) violate any law other than a law prohibiting the display of religious speech; or (c) contain language, graphics or any display that is patently offensive to a passerby for reasons other than its religious content; or (d) is installed on property (1) owned or maintained by the property owners' association; or (2) owned in common by members of the property owners' association; (e) violates any applicable building line, right-of-way, setback, or easement; or (f) is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.

Approval from the Association is not required for displaying religious items in compliance with the foregoing Policy.

These guidelines will not be interpreted to apply to otherwise permitted temporary seasonal holiday decorations, religious or not, such as Christmas lighting or Christmas wreaths. The Board has the sole discretion to determine what items qualify as Seasonal Holiday Decorations and may impose time limits and other restrictions on the display of such decorations.[17, 19, 22]

ARTICLE XII

MAINTENANCE

All yards and lawns shall be kept neat and well maintained and all grass, weeds, and vegetation on each Lot shall be kept mowed at regular intervals. Trees, shrubs, vines and plants which die shall be promptly removed from each Lot and replacements of equal quality or value promptly installed. Lawns must be properly maintained (not to exceed six inches (6") in height) and fences must be repaired and maintained and no objectionable or unsightly usage of Lots will be permitted. Building materials shall not be stored on any Lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from each Lot.

Until a home or residence is built on a Lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or building refuse situated on a Lot in violation of this covenant. The Owner of any Lot shall be obligated to reimburse Declarant for the cost of such maintenance or removal upon demand.

ARTICLE XIII

LANDSCAPING

In connection with the initial construction of a residence, **or significant landscape changes/improvements made thereafter,[13]** each Owner will furnish the ARC

a detailed landscaping plan prepared by a professional landscape firm/designer. The elements proposed in the plan must be of a scope and quality consistent with the neighborhood. Any proposed departures from typical landscape schemes (i.e., xeriscapes, rock ground cover, etc.) must be approved by the ARC prior to ~~design and~~ installation. The ARC shall be the sole judge as to the adequacy and appropriateness of the landscape plan.

Installation of sod on lawn areas must be accomplished with completion of the house unless prohibited by watering restrictions or unfavorable planting conditions, in which case installation must take place immediately upon relief from those restrictions/conditions. Other elements of the landscape plan must be installed within sixty (60) days of completion of the house except as altered by the restrictions/conditions mentioned above.

Grass and other vegetation on each Lot shall be kept mowed and trimmed at regular intervals to present a neat and well maintained appearance. Trees, shrubs, vines and plants shall be properly maintained and any which die, and weeds or other unsightly vegetation or conditions, shall be promptly removed from each Lot.

Upon approval by the ARC, owners may implement measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush (compost bins), or leaving grass clippings uncollected on grass, and may use drought-resistant landscaping or water-conserving natural turf.[13]

ARTICLE XIV

VEHICLES

No trailer, motor home, tent, boat, recreational vehicle, travel trailer, any truck larger than a three-quarter (3/4) ton pick-up, or wrecked, junked or wholly inoperable vehicle of any size or type shall be kept, parked, stored or maintained on the street or on any portion of the front yard area of a Lot nor shall the same be kept, parked, stored or maintained on other portions of the Lot, unless in an enclosed structure or in a screened area which prevents the view thereof from any Lots, dwellings, or streets. No dismantling or assembling of an auto, trailer, any truck or any other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. The ARC, as designated in this Declaration, shall have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and adequately screened from public view. Upon an adverse determination by said ARC, the vehicle and/or accessory shall be removed and/or otherwise brought into compliance with this paragraph.

All matters set forth in this Article requiring approval shall require the express, advance, written approval of the ARC.

ARTICLE XV

NUISANCES

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or residents.

No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the ARC).

No exterior speakers, horns, whistles, bells or other sound devices (except security devices such as entry door and patio intercoms used exclusively to protect the Lot and improvements situated thereon) shall be placed or used upon any Lot.

All matters set forth in this Article requiring approval shall be deemed to be the express written approval, in advance, of the ARC.

ARTICLE XVI

GARBAGE AND REFUSE DISPOSAL

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary containers, whether arranged for alley pickup or street pickup. No trash, ashes or other refuse may be thrown or dumped on any vacant Lot, park, street, Right of Way, or drainage area in the Properties. No cans, bags, containers or receptacles for storing or disposal of trash, garbage, refuse, rubble, or debris shall be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal but shall be removed from view before the following day.

ARTICLE XVII

PETS

No animals, livestock, poultry, exotic or dangerous pets of any type (i.e. pit bulls, boa constrictors, ferrets, etc.) that may pose a safety or health threat to the community

shall be raised, bred or kept on any Lot except for cats, dogs, or other generally recognized household pets of a reasonable number provided that they are not kept, or maintained for any commercial purposes and provided further that no more than a total of three (3) adult animals may be kept on a single Lot. Adult animals for the purpose of these covenants shall mean and refer to animals one (1) year or older.

All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws), and in accordance with all rules established by The Springs at Stone Oak Owners Association. It shall be the responsibility of the owners of such household pets to prevent the animals from running loose or becoming a nuisance to the other residents.

ARTICLE XVIII

OIL AND MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any Lots above the surface of the ground.

ARTICLE XIX

WATER, SEWAGE, **AND RAIN-HARVESTING SYSTEMS**[4]

No individual water supply system shall be permitted on any Lot, including, but not limited to water wells.

Rainwater Recovery Systems may be installed with advance written approval of the Architecture Review ~~Committee~~ *Authority*[25] subject to these guidelines. All such Systems must be installed on land owned by the property owner. No portion of the Systems may encroach on adjacent properties or common areas. Other than gutters and downspouts conventionally attached to a dwelling or appurtenant structure, all components of the Systems, such as tanks, barrels, filters, pumps, motors, pressure tanks, pipes and hoses, must be substantially screened from public view from any street or common area. Screening may be accomplished by placement behind a solid fence, a structure or vegetation, by burying the tanks or barrels, or by placing equipment in an outbuilding otherwise approved by the Architecture Review ~~Committee~~ *Authority*[25]. A rain barrel may be placed in a location visible from public view from any street or common area only if the configuration of the guttering system on the structure precludes screening as described above with the following restrictions: the barrel must not exceed 55

gallons, the barrel must be installed in close proximity to the structure on a level base with the guttering downspout leading directly to the barrel inlet at a substantially vertical angle, the barrel must be fully painted in a single color to blend with the adjacent home or vegetation, and any hose attached to the barrel discharge must be neatly coiled and stored behind or beside the rain barrel in the least visible position when not in use. Overflow lines from the Systems must not be directed onto or adversely affect adjacent properties or common areas. Inlets, ports, vents and other openings must be sealed or protected with mesh to prevent children, animals and debris from entering the barrels, tanks or other storage devices. Open top storage containers are not allowed. Harvested water must be used and not allowed to become stagnant or a threat to health. All Systems must be maintained in good repair. Unused Systems should be drained and disconnected from the gutters. Any unused Systems in public view must be removed from public view from any street or common area.[4]

ARTICLE XX

DISHES, ANTENNA, AND SOLAR ~~COLLECTORS~~ ENERGY DEVICES[6]

No microwave or satellite dishes, aerial wires, antennas or receivers of any kind shall be permitted on a Lot unless fully enclosed or screened from public view. Small (18 inch diameter or less) television satellite dishes may be erected at ~~the rear of~~ a dwelling ~~provided they are not visible from any street or right of way~~. ~~Any solar apparatus must be installed so as not to be visible from any street or right of way, and must be approved, in writing, by the ARC prior to erection.~~[5]

Solar energy devices ("Devices"). As defined in Section 171.107(a) of the Texas Tax Code, a solar energy device means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. Such Devices may only be installed with advance written approval of the Architecture Review ~~Committee~~ *Authority*[25]. Any such Device must be installed on land or structures owned by the property owner. No portion of the Devices may encroach on adjacent properties or common areas. Such Devices may only be installed on the roof of the main residential dwelling, on the roof of any other approved structure, or within a fenced yard or patio. For Devices mounted on a roof, the Device must have no portion of the Device higher that the roof section to which it is attached, have no portion of the Device extend beyond the perimeter boundary of the roof section to which it is attached, conform to the slope of the roof, be aligned so the top edge of the Device is parallel to the roof ridge line for the roof section to which it is attached, have a frame, brackets and visible piping or wiring that is a color to match the roof shingles or a silver, bronze or black tone commonly available in the marketplace, and be located in a position on the roof which is least visible from any street or common area, so long as such location does not reduce estimated annual

energy production more than 10% over alternative roof locations (as determined by a publicly available modeling tool provided by the National Renewable Energy Laboratory [http://www.nrel.gov] or equivalent entity). For Devices located in a fenced yard or patio, no portion of the Device may extend above the top of the fence. All Devices must be installed in compliance with manufacturer's instruction and in a manner which does not void material warranties. Licensed craftsmen must be used where required by law. Permits must be obtained where required by law. Installed Devices may not threaten public health or safety, violate any law, or substantially interfere with the use and enjoyment of land by causing unreasonable discomfort or annoyance to any adjoining property owner. All Devices must be maintained in good repair. Unused or inoperable Devices must be removed.[6]

ARTICLE XXI

CLOTHES HANGING DEVICES

Clothes hanging devices exterior to a dwelling shall not be permitted.

ARTICLE XXII

UTILITY EASEMENTS AND ACCESS

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

ARTICLE XXIII

FENCE SIGNAGE, LANDSCAPING, AND ACCESS EASEMENTS

Declarant hereby reserves unto itself and its assigns in writing, easements across some of the Lots, as follows:

Easement 1: A ten-foot (10') wide fence, signage, and landscaping easement along the rear of Lots 43-50, inclusive, and Lots 83-88, inclusive; and

Easement 2: A ten-foot (10') wide fence easement along the rear of Lots 50-66, inclusive, and Lots 68-84, inclusive.

The Association and Declarant shall have the right to clean, repair, maintain, and reconstruct the existing, masonry perimeter fence within Easement 1, and the required wood and masonry fence within Easement 2, and such features, signage, plants, vegetation, and landscaping as Declarant may determine to install between project masonry fence with Easement and the adjacent right-of-way of Stone Oak Parkway. Declarant and its assigns shall have a general right of access upon such Lots for the purpose of cleaning, repairing, maintaining, or replacing any fence or sign constructed within an easement and for the purpose of maintaining and replacing any landscaping or vegetation lying between the Easement 1 fence and the adjacent right-of-way.

The masonry project fence constructed within Easement 1 shall at all times be maintained by the Association in its original condition, with materials matching its original construction, and the Association shall ensure that the exterior thereof is kept clean and free of all defacing, blemishes, mars, and markings thereon. The Association shall also maintain all landscaping within the area between such fence and Stone Oak Parkway. In the event the Association shall ever fail to promptly make any needed repair, maintenance or cleaning of the fence, or shall fail to properly and neatly maintain the vegetation and landscaping between the fence and right-of-way, Declarant, its successors and assigns, shall have the right of entry onto said Lots and right to perform such function at the expense of the Association.

Each Lot Owner subject to Easement 2 shall be responsible for the maintenance of that portion of the fence constructed within such easement as is located within the Owner's Lot, including the following obligations: said fence shall at all times be maintained in its original condition, with materials matching its original construction, the exterior thereof shall be kept clean and free of all defacing, blemishes, mars, and markings thereon, and all damaged pickets and rails, shall be promptly replaced and all damaged masonry columns shall be promptly repaired.

In the event that any Owner fails to maintain the fence within Easement as required herein or in the event of emergency, Declarant and/or the Association shall have the right, but not the obligation, to enter upon the Lot to make emergency repairs and to do other work reasonably necessary. Entry upon the Lot as provided herein shall not be deemed a trespass, and there shall be no liability for any damage so created unless such damage is caused by willful misconduct or gross negligence. The Owner shall be obligated to repay the Declarant or the Association the cost of the work done upon demand. The obligation to repay such cost shall be secured by the lien provided for in Article XXXV hereof.

ARTICLE XXIV

DRAINAGE EASEMENTS

The Subdivision Plat establishes drainage easements over some of the Lots. The Owner of each Lot subject to a drainage easement shall be responsible, at his or her own expense, for maintaining such drainage easement and ensuring the free flow of water therein.

No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or resident of a Living Unit may:

(1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

(2) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the ARC and the City of San Antonio's City Engineer;

(3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;

(4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

By acceptance of a deed to any Lot, each Owner covenants and agrees to comply the forgoing and ensure such Lot is graded and maintained in accordance with any grading plan for such Lot and the Subdivision.

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the ARC and/or Declarant, and the ARC and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Article shall in no way affect any other recorded easement in the Subdivision.

ARTICLE XXV

GARAGES

A garage able to accommodate at least two (2) full-sized automobiles must be constructed and maintained as a garage, for each Living unit. No garage shall be permanently enclosed for conversion to any other use unless a substitute garage for two cars is built and maintained as a garage. Each driveway must accommodate two vehicles in front of the garage for off-street parking requirements. Rear detached garages shall be permitted provided they are constructed in compliance with the requirements of these covenants. Open car ports are not permitted, unless special design circumstances warrant their use, in which case permission must be obtained in writing from the ARC.

ARTICLE XXVI

MAXIMUM HEIGHT

No building or structure erected, altered or placed on, within or in the Properties shall exceed thirty-five feet (35') in height (measured from the top of the foundation to the topmost part of the roof) nor be more than two and one-half (2 ½) stories in height, provided however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of buildings and structures shall, at all times, be complied with.

ARTICLE XXVII

MINIMUM AREA

The main residence building of each residence constructed on a Lot shall contain the minimum, contiguous square feet of living space set forth below, such square feet being exclusive of open or screened porches, terraces, patios, driveways, carports, garages and living quarters for domestic servant separated or detached from the primary living area; to wit:

A. Single Story - Seventeen Hundred (1700) square feet
B. Two Story - Twenty-One Hundred Fifty (2150) square feet.

ARTICLE XXVIII

BUILDING SETBACKS

No building shall be located on any Lot nearer than twenty-five (25) feet from the front Lot line or nearer than ten (10) feet to any side street line, except that no "side-entry" garage shall be located nearer than twenty (20) feet to any side street line. No

building, except for a detached garage or other outbuilding permitted by these covenants, shall be located nearer than five (5) feet to any interior side Lot line. No dwelling shall be located on any Lot nearer than twenty (20) feet to the rear Lot line, except dwelling on Lots fronting on cul-de-sac streets, eyebrow, elbows, or other unusually shaped Lots which may be fifteen (15) feet from the rear Lot line when a mean horizontal distance of twenty (20) feet or more is maintained from the rear line. A detached garage or outbuilding permitted by these covenants may be erected no nearer than three (3) feet to any interior Lot line or rear Lot lines, provided that such building will not encroach upon any easement. For the purpose of this Article, eaves, steps, and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

The ARC is hereby given authority to waive or vary given setback requirements where, in the opinion of the ARC, the proposed location of the building will not detract from the appearance and value of the subject property or the adjoining properties. However, in no case will a waiver or variance be granted that would allow a structure to be constructed nearer than twenty (20) feet to a front Lot line.

ARTICLE XXIX

LOT CONSOLIDATION

Any owner owning two (2) or more adjoining Lots or portions of two or more such Lots may, with the prior approval of the ARC, consolidate such Lots or portions thereof into a single building site for the purpose of constructing one (1) residence and such other improvement as are permitted herein, provided, however, that no such building site shall contain less than seven thousand two hundred (7200) square feet of land and that the Lot resulting from such consolidation shall bear, and the Owner thereof shall be responsible for, all assessments theretofore applicable to the Lots which are consolidated and each such building site shall meet all lawful requirements of any applicable statue, ordinance or regulation.

ARTICLE XXX

ENFORCEMENT

If the Owner of any Lot, or its heirs, executors, administrators, successors, assigns or tenants, shall violate or attempt to violate any of the restrictions and covenants set forth in this Declaration, it shall be lawful for the Association, Declarant, or any Owner subject to this Declaration, to prosecute any proceedings against the person or persons violating or attempting to violate any such restrictions and covenants. The failure of any Owner or tenant to comply with any restriction or covenant will result in irreparable damage to Declarant and other Owners of Lots in the Subdivision; thus the breach of any provision of this Declaration may not only give rise to an action for damages at law, but

also may be enjoined or may be subject to an action for specific performance in equity in any court of competent jurisdiction. In the event an action is instituted to enforce the terms hereof or prohibit violations hereof, and the party bringing such action prevails, then in addition to any other remedy herein provided or provided by law, such party shall be entitled to recover court costs and reasonable attorney's fees. The Architectural Review ~~Committee~~ ***Authority***[25], Association, and/or Declarant shall not be charged with any affirmative duty to police, control or enforce the terms of this Declaration and these duties shall be borne by and be the responsibility of Lot Owners.

Notice Required Before Enforcement Action. ***The Association is required to give written notice to an owner before filing suit against an owner, charge an owner for property damage, or levy a fine for a violation of the restrictions or bylaws or rules of the Association. The notice must***

(1) describe the violation or property damage that is the basis for the charge or fine and state any amount due the Association from the owner;

(2) inform the owner that he is entitled to a reasonable period to cure the violation and avoid the fine if the violation is of a curable nature and does not pose a threat to public health or safety, he may request a hearing within 30 days of the notice being mailed to the owner, and may have special rights or relief related the enforcement action under federal law, including the Service members Civil Relief Act;

(3) specify the date by which the owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety;

(4) be sent by certified mail to the owner.

The above notice is not required for a violation for which the owner has been previously given notice in the preceding six months.

If the owner cures the violation before the expiration of the period for cure, a fine may not be assessed for the violation. A violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident.

A violation is considered uncurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. The nonrepetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy.

Examples of acts considered uncurable include:

- ***(1) shooting fireworks***
- ***(2) an act constituting a threat to health or safety***
- ***(3) a noise violation that is not ongoing***
- ***(4) property damage, including the removal or alteration of landscape***
- ***(5) holding a garage sale or other event prohibited by a governing document***

Examples of acts considered curable include:

- ***(1) a parking violation***

(2) a maintenance violation
(3) the failure to construct improvements or modifications in accordance with approved plans and specifications
(4) an ongoing noise violation, such as barking dogs[15]

Covenant Violation Hearing. A homeowner may request a hearing before the Board of Directors to discuss and verify facts in an attempt to resolve a curable covenant violation.

(1) To request a hearing before the Board, the Owner must submit a written request to the Association's property manager (or to the Board of Directors, if there is no manager) within thirty (30) days after the date of the covenant violation notice.
(2) The Board shall hold the hearing not later than the thirtieth (30th) day after the Association receives an Owner's request for hearing.
(3) The Association shall give the Owner at least ten (10) days advance notice of the date, time, and place of the hearing, and provide a packet to the Owner containing all documents, photographs, and communications related to the matter the Association intends to introduce at the hearing.
(4) Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine [if applicable].
(SEE Appendix C: COVENANT VIOLATION HEARING PROCEDURES for additional hearing information, evidence packet checklist, and hearing agenda)[24]

ARTICLE XXXI

SECURITY AND ENTRY GATE

Streets within the Subdivision shall be private and shall be owned and maintained by the Association. Access to the Subdivision will be via a controlled entry gate. Except as herein provided, the Association may make rules governing access to the Subdivision and the use (including parking) of Subdivision streets, but no such rule shall deny any Owner access to his Lot.

Absent Declarant's written consent to the contrary, the Subdivision entry gate, when constructed, shall be kept open to the public during daylight hours (or from 6:30 a.m. to 7:00 p.m., whichever is longer) until three months following the conveyance of the last Lot owned by Declarant within the Subdivision and future phases of development annexed to the jurisdiction of the Association. This right of entry is to ensure access to Lots by prospective new home purchasers and builders to complete construction of homes.

Security may be provided by the Association, from time to time; however, the Association is not now a provider of security, and the Owners must provide their own security for their home and property.

ARTICLE XXXII

ATHLETIC FACILITIES

Tennis-court lighting and fencing shall be allowed only with the written approval of the ARC. Basketball goals, or backboards, or any other similar sporting equipment of either a permanent or temporary nature shall not be placed within twenty-five feet (25') from the front property line of any Lot or the side Lot lines of corner Lots in the Subdivision without the prior written consent of the ARC.

ARTICLE XXXIII

MEMBERSHIP IN THE ASSOCIATION

Every person or entity who is a record Owner of a free or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a member of the Association, provided, however, that any person or entity holding an interest in any such Lot or Lots merely as security for the performance of an obligation, shall not be a member.

ARTICLE XXXIV

VOTING RIGHTS

The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those owners as defined in Article XXXIII above with the exception of Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article XXIII. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to two votes for each Lot in which it holds the interest required by Article XXXIII above, provided that the Class B membership shall cease and become converted to Class A membership on the happening of the following events, whichever occurs earlier:

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

(b) January 1, 2020.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which it holds the interest required for membership.

~~All voting rights of an Owner may be suspended by the Board of Directors during any period in which such Owner is delinquent in the payment of any assessment duly established pursuant to Article XXXVI hereof or is otherwise in default thereunder or under the Bylaws or Rules and Regulations of the Association.~~[7]

ARTICLE XXXV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of a Lot, by acceptance of a deed thereto, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

The assessments levied by the Association shall be use for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, for the improvement, maintenance and operation of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the properties by the members.

The annual assessments for both improved and unimproved Lots shall be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made. The annual assessments for unimproved Lots owned by Declarant shall be one-half (½) the annual assessments for improved Lots. A Lot shall be deemed to be an "improved Lot" when conveyed by Declarant, whether or not a Living Unit thereon has been completed. All Lots owned by Declarant shall be "unimproved Lots." Until January 1, 1998, the annual assessment for improved Lots shall not exceed $240.00. From and after January 1, 1998, the maximum

annual assessment which may be imposed by the Board of Directors, without membership vote, shall be an amount equal to ten percent (10%) above the prior year's annual assessment.

In addition to the annual assessments provided for above, the Association may levy, in any assessment year, a Special Assessment on improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Facilities, or for such other lawful purpose related to the use of the Properties as the Board of Directors or the Owners may determine, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the improved Lot owners who are voting in person or by proxy at a meeting called for this purpose, written notice of which shall be sent to all improved Lot owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Subject to the limitations stated above, the annual assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent (10%) above that of a previous year without vote of the membership. Any increase in the annual assessment of more than ten percent (10%) above that of the previous year shall require approval of two-thirds (2/3) vote of each class of Members voting at a meeting duly called for that purpose.

The quorum required for any action authorized herein above shall be as follows: Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all members, or delivered to their residences, not less than thirty (30) days in advance of the meeting. At the first meeting called as provided above, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth above, and the required quorum at any such subsequent meeting shall be one-half (½) of 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. The Association may call as many subsequent meetings as may be required to achieve a quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

The annual assessments provided for herein shall commence on the first day of the month following the first Lot conveyance by Declarant, or such other date as the Board of Directors shall direct. The assessments for each calendar year shall become due and payable and shall be collected as the Board of Directors of the Association shall determine. The amount of the annual assessment shall be an amount which bears the same relationship to the annual assessment provided for above as the remaining number of months in that year bear to twelve. When a Lot becomes an improved Lot, there shall be payable as of the first day of the month following the month when it becomes an improved Lot a sum equal to the difference between the annual assessment of

unimproved Lots and the annual assessment for improved Lots, prorated over the balance of the year then remaining. The due date of any special assessment under the provisions hereof shall be fixed in the resolution authorizing such assessment.

In December of each year, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for the following year and shall at that time prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner on reasonable notice. 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 certificate shall be conclusive evidence of payment of any assessment there in stated to have been paid.

Effect of Non-Payment of Assessments: The Lien: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of twelve (12) percent per annum. Upon written notice to an Owner, and the expiration of thirty (30) days, the Association may bring an action at law against the Owner personally obligated to pay the same, and to foreclose the Association's lien against the Owner's Lot. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens. Including ~~non-judicial or~~[8] judicial foreclosure by an action brought in the name of the Association, the power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. No Owner shall be freed of liability for any assessments provided for herein by virtue of non-use of any Common Area or the non-existence of any Common Area.

In addition to the foregoing charges for delinquent accounts, each owner shall be obligated to pay to the Association all actual costs of collection incurred by the Association and such reasonable late charges and collection charges as the Board of Directors may establish, all of which shall also be subject to the liens of the Association.

Collections Policy. Regular maintenance assessments are assessed annually, payable in two (2) equal payments, due and payable on January 1 and July 1. Written notice of the amount of the assessment and due date will be mailed to every Owner at least ten (10) days prior to each due date. Homeowners may pay the entire annual assessment at the January billing, as desired.

Delinquent. Any assessment not fully paid within thirty (30) days of its due date is considered delinquent. When an Owner's account becomes delinquent, it remains delinquent until paid in full. Partial payments on delinquent accounts will not be accepted outside a fully executed payment plan in accordance with the Association's Payment Plan Policy.

Interest, Late Fees and Administrative Fees: **All delinquent assessments shall bear interest from the due date at twelve percent (12%) per annum until paid in full. All delinquent assessments shall be assessed a twenty-five dollar ($25.00) one-time late fee on the date of the delinquency until paid in full. Reasonable administrative fees incurred by the Association shall be added to each Owner's account.**

Insufficient Funds. **Any payment returned to the Association or its Agent marked "insufficient funds" or the equivalent shall be subject to a return check fee. Said fee shall be determined by the terms of the Association's agreement with its Agent, or as determined by the financial institution utilized by the Board or its Agent.**

Waiver. **Properly levied interest, administrative fees, and collection costs (including those of a third-party collection agent), and related fees may be waived by a majority vote of the Board.**

Credit Reporting. **The Association or the Association's third-party collection agent may not report any delinquent fines, fees, or assessments to a credit reporting service that are the subject of a pending dispute between the Owner and the Association.**

The Association may report the delinquent payment history of assessments, fines, and fees of Owners within its jurisdiction to a credit reporting service only if:

(1) at least 30 business days before reporting to a credit reporting service, the Association sends, via certified mail, hand delivery, electronic delivery, or by other delivery means acceptable between the parties, a detailed report of all delinquent charges owed; and

(2) the Owner has been given the opportunity to enter into a payment plan.

The Association may not charge a fee to an individual property owner for credit reporting services of the delinquent payment history of assessments, fines, and fees of property owners within the Association's jurisdiction.

Collection of Delinquent Accounts. **All delinquent accounts shall bear interest at the rate contemplated above and be subject to late fees and administrative fees;**

If an account remains delinquent for a period of thirty (30) days, the Association and/or its Agent shall send a "courtesy notice" to the Owner via regular mail advising them of the delinquency and requesting that they make payment within thirty (30) days;

If an account remains delinquent for period of sixty (60) days and the balance of the account exceeds the total sum of five hundred dollars ($500.00), then the Association

or its Agent shall send demand for payment via certified mail pursuant to Texas Property Code Section 209.0064. If the Owner fails to pay in full or enter into a written payment plan agreement within forty-five (45) days of the date of said demand for payment, then an administrative fee may be added to the Owner's account and the Association or its Agent may turn the delinquent account over to a third-party collection agent, including the Association's attorney for formal collection action. Formal collection action includes, but is not limited to, reporting to a credit reporting service, sending a thirty (30) day formal demand letter, filing a Notice of Lien or similar instrument in the official public records, and the filing of a lawsuit seeking judgment against the Owner for all unpaid amounts, including costs of collection, and foreclosure of the Association's lien; and

Costs of Third-Party Collection Agents. Any reasonable costs or fees incurred by the Association from a third-party collection agent, including the Association's attorney, shall be added to the delinquent Owner's account balance.

Priority of Payments. All payments received from any Owner will be applied to the Owner's delinquency in accordance with the order of priority contemplated by Texas Property Code Section 209.0063.[21]

Payment Plan. Except as indicated below, owners are entitled to make partial payments for delinquent amounts owed to the Association under a Payment Plan in compliance with this Policy.

Late fees, penalties and delinquent collection related fees will not be added to the owner's account while the Payment Plan is active. The Association may impose a fee for administering a Payment Plan. Such fee, if any, will be listed on the Payment Plan form and may change from time-to-time. Interest will continue to accrue during a Payment Plan as allowed under the Declarations. The Association can provide an estimate of the amount of interest that will accrue under any proposed plan.

All Payment Plans must be in writing on the form provided by the Association and signed by the owner.

The Payment Plan becomes effective and is designated as "active" upon receipt of a fully completed and signed Payment Plan form, receipt of the first payment under the plan, and acceptance by the Association as compliant with this Policy.

A Payment Plan may be no shorter than three (3) months and as long ~~*as eighteen (18) months*~~ *of a period as the Association approves*[15] based on the guidelines below. The durations listed below are provided as guidelines to assist owners in submitting a Payment Plan.

a. Total balance up to 2 times annual assessment … up to 6 months

b. Total balance up to 3 times annual assessment … up to 12 months

c. Total balance greater than 3 times annual assessment … *~~up to 18 months~~ 12+ months*[15]

On a case-by-case basis and upon request of the owner, the Board may approve more than one Payment Plan to be executed in sequence to assist the owner in paying the amount owed. The individual Payment Plans may not exceed eighteen (18) months.

A Payment Plan must include sequential monthly payments. The total of all proposed payments must equal the current balance plus Payment Plan administrative fees, if any, plus the estimated accrued interest and late charge(s). If an owner requests a Payment Plan that will extend into the next assessment cycle, the owner will be required to pay future assessments by the due date in addition to the payments specified in the Payment Plan.

If an owner defaults on the terms of the Payment Plan, the Payment Plan will be voided. The Association will provide written notice to the owner that the Payment Plan has been voided. It is considered a default of the Payment Plan, if the owner fails to return a signed Payment Plan form with the initial payment, misses a payment due in a calendar month, makes a payment for less than the agreed upon amount, <u>or</u> fails to pay a future assessment by the due date in a Payment Plan which spans additional assessment cycles.

In the absolute discretion of the Association, the Association may waive default above if the owner makes up the missed or short payment on the immediate next calendar month payment. The Association may, but has no obligation to, provide a courtesy notice to the owner of the missed or short payment.

On a case-by-case basis, the Association may agree, but has no obligation, to reinstate a voided Payment Plan once during the original duration of the Payment Plan if all missed payments are made up at the time the owner submits a written request for reinstatement.

If a Payment Plan is voided, the full amount due by the owner shall immediately become due. The Association will resume the process for collecting amounts owed using all remedies available under the Declarations and the law. The Association has no obligation to accept a Payment Plan from any owner defaulted on the terms of a Payment Plan within the last two (2) years,[10] *from an owner more than once in any 12-month period, or from an owner requesting a payment plan exceeding 18 months.*[15]

<u>Subordination of the Lien to Mortgages.</u> The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, ~~non-judicial foreclosur~~[8] or conveyance in lieu of foreclosure or in satisfaction of mortgage debt. Such sale or

transfer shall not relieve such Lot from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

Exempt Property. The charges and liens created herein shall apply only to the Lots, and the remainder of the Properties shall not be subject thereto.

ARTICLE XXXVI

MAINTENANCE FUND AND GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Maintenance Fund: The Board, for the benefit of the Owners, shall establish and maintain a maintenance fund into which shall be deposited the annual assessments collected for Owners and which maintenance fund shall be used, without limitation, for the payment of the following:

(a) Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners, if any.

(b) Care and preservation of the Common Area and Common Facilities.

(c) the services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board of Directors, (provided that any contract for management of the Association shall be terminable by the Association, with no penalty upon ninety (90) days prior written notice to the managing party) and the services of such other personnel as the Board of Directors or by the manager.

(d) Legal and accounting services.

(e) A policy or policies of insurance insuring the Association, its Directors, and Officers against any liability to the public or to the Owners (and/or invites or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors.

(f) Workers compensation insurance to the extent necessary to comply with any applicable laws.

(g) Such fidelity bonds as may be required by the Bylaws or as the Board of Directors may determine to be advisable.

(h) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed against an individual Owner) which the board of Directors is

required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the enforcement of this Declaration.

(i) Perpetual maintenance and enhancement of all Common Facilities, including perimeter wall, entry monuments and signage, landscaping, lights, and irrigation of Common Facilities.

Powers and Duties of Board: The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association:

(a) To execute all declarations of ownership for tax assessment purposes and with regard to the Common Areas, if any, on behalf of all Owners.

(b) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.

(c) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.

(d) To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.

(e) To make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument signed by a majority of the Owners, or with respect to a rule applicable to less than all of the Common Areas, by the Owners in the portions affected.

(f) To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.

(g) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.

(h) To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

(i) To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.

The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

ARTICLE XXXVII

TITLE TO COMMON AREAS

All Common Area, if any, within the Properties shall be conveyed to the Association free of lien on or before December 31, 1997. The Association shall own all Common Ares in fee simple and assume all maintenance obligations with respect to any Common Areas which may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any Common Area.

From and after the date on which title to any Common Area vests in the Association, the Association shall purchase and carry a general comprehensive public liability insurance policy for the benefit of the Association and its members, covering occurrences on the Common Areas. The policy limits shall be determined by the Board of Directors of the Association. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of members, Directors and the management company retained by the Association (if any), insuring each other against liability to each other insured as well as third parties. Any proceeds of insurance policies owned by the Association shall be received, held in a segregated account and distributed to the Association's general operating account, members, Directors, the management company and other insureds, as their interest may be determined.

The Association shall not convey or mortgage any Common Area without the consent of the Owners of two-thirds (2/3rds) or more of the Lots.

ARTICLE XXXVIII

AMENDMENT

This Declaration shall remain in force and effect until January 1, 2020, at which time, and each tenth anniversary thereafter, this Declaration shall be renewed for a period

of ten years unless the Owners of two-thirds (2/3rds) or more of the Lots shall file a written agreement to abandon same. This Declaration may be amended by written instrument executed by the Owners of two-thirds (2/3rds) or more of the Lots and filed of record in the Official Public Records of Real Property of Bexar County, Texas, provided that if Declarant is a Member, no amendment prior to January 1, 2020, shall be effective until approved and executed by Declarant. Notwithstanding the foregoing, Declarant shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein, for the limited purposes of correcting a clerical error, clarifying an ambiguity, removing any contradiction in the terms hereof, or for the purpose of making such additions or amendments hereto as may be required by FHA, HUD or VA to qualify the Properties for mortgage guaranties issued by FHA and/or VA.

ARTICLE XXXIX

GOVERNMENTAL REQUIREMENTS

Section 1. Owner's Acknowledgment. The Properties and Lots lie within the area classified as the Edwards Aquifer Recharge Zone and as such are subject to the rules and regulations of agencies of the State of Texas, including the Texas Natural Resources Conservation Commission (TNRCC), governing the use of said land, in addition to the ordinances of the City of San Antonio and statutes, or regulations affecting the properties enacted by other governmental authorities. Owners are advised that such requirements and prohibitions may relate to the types of pesticides and fertilizers which may be used, minimum topsoil requirements, inspection of sewer laterals prior to covering, and criteria standards for sewer pipe, among other matters. Each Owner is responsible for ascertaining all such requirements and prohibitions with respect to his Lot and, by acceptance of a deed to a Lot, agrees to abide by the same. No statement herein, nor action by the Declarant, the ARC, or Association shall act to relieve an Owner from such duty of compliance. Lot Owners are advised to obtain, read and use What's Bugging You? A Practical Guide to Pest Control, available from the Edwards Underground Water District (210/222-2204), or equivalent information produced by recognized authorities such as the Soil Conservation Service, Texas Department of Agriculture, U.S. Dept. of Agriculture, etc.

Section 2. Additional Obligations of Builders and Contractors. By acceptance of a deed to a Lot, or initiating construction of a residence or improvements to a Lot, each builder and contractor assumes responsibility for complying with all certifications, permitting, reporting, construction, and procedures required under all applicable governmental rules, regulations, and permits, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 56, No. 175, Pages 41176 et. seq.), and with the responsibility of ascertaining and complying with all regulations, rules, rulings, and determinations of the Texas Natural Resources Conservation Commission (TNRCC), related to each Lot, including, without limitation,

the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the benefit of builders and contractors and do not in any way limit the terms and requirements of this covenant and the requirement that all builders and contractors comply with all governmental regulations, and any plan required by such regulations such as a Storm Water Pollution Plan, affecting each Lot and construction site with which they are associated, including delivery to Declarant of a certification of understanding relating to any applicable NPDES permit prior to the start of construction. EACH BUILDER AND CONTRACTOR, BY ACCEPTANCE OF A DEED TO A LOT OR UNDERTAKING CONSTRUCION OF IMPROVEMENTS TO A LOT, HOLDS HARMLESS AND INDEMNIFIES DECLARANT AND THE ASSOCIATION FOR ALL COSTS, LOSS, OR DAMAGE OCCASIONED BY THE FAILURE TO ABIDE BY ANY APPLICABLE GOVERNMENTAL STATUTE, REGULATION OR PERMIT RELATED TO THE SUBDIVISION.

Section 3. Remedies of Declarant and the Association. By acceptance of a deed to a Lot, each Owner agrees that Declarant and the Association shall have the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority, for the purpose of curing any such violation, provided that the Owner has been given five days prior written notice and has failed to remedy the complained of violation with such time, and each such Owner indemnifies and holds harmless Declarant and the Association from all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Owner's contractors with respect to his Lot or the Properties. The foregoing remedy shall be cumulative of all other remedies for violations of provisions of these covenants.

ARTICLE XL

GOVERNING LAW

THIS AGREEMENT SHALL BE GOVERNMED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. ALL ACTS REQUIRED OR PERMITTED TO BE PERFORMED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS AND IT IS AGREED THAT ANY ACTION BROUGHT TO ENFORCE OR CONSTRUE THE TERMS OF PROVISIONS HEREOF OR TO ENJOIN OR REQUIRE THE PERFORMANCE OF ANY ACT IN CONNECTION HEREWITH SHALL BE BROUGHT IN A COURT OF COMPETENT JURISDICTION SITTING IN BEXAR COUNTY, TEXAS.

ARTICLE XL I

INTERPRETATION

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

ARTICLE XL II

OMISSIONS

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted here from, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

ARTICLE XL III

GENDER AND GRAMMAR

The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

The headings contained in this Declaration are for reference purpose only and shall not in any way affect the meaning or interpretation of this Declaration.

In the event of conflict between the terms of this Declaration and any Bylaws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

ARTICLE XL IV

ADDITIONAL INFORMATION

Each Member of the Association shall also be a member of Stone Oak Property Owner's Association, Inc. ("the Master Association") and subject to all of its assessments, rules and regulations, including, without limitation, the terms of the instrument recorded at Volume 4361, Page 0617 of the Real Property Records of Bexar County, Texas ("the

Master Declaration"), and any amendments or supplements thereto. Owners are advised that the Master Declaration provides for the review and approval of construction plans by the Architectural Review ~~Committee~~ ***Authority***[25] for the Master Association, which submittal, review, and approval requirements are in addition to all requirements for plan submittal set forth above in this instrument.

EXECUTED effective the 10th day of October, 1997.

DECLARANT

LUMBERMEN'S INVESTMENT CORPORATION,
a Delaware corporation

By *James M. Lassister*
James M. Lassiter, Senior Vice President

AFFADAVIT
SUBDIVISION COMMON AREAS AND FACILITIES

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared ROBERT A. REEH, who, being duly sworn by me, deposes and says:

(1) That my name is Robert A. Reeh and that I am an agent of Lumbermen's Investment Corporation with respect to the Stone Oak project in Bexar Country, Texas, the entity that owns the real property described below, hereinafter referred to as the "Property".

(2) That Lumbermen's Investment Corporation will be the "Declarant" of a Declaration of Restrictive Covenants for the property which will declare that the Property shall be held, sold and conveyed subject to restrictions, covenants, and conditions which shall be deemed to be covenants running with the land and imposed to benefit and burden each lot and other portions of the Property in order to maintain within the property a planned community of high standards. Such covenants will be binding on all parties having right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

(3) That the Declarant and every Owner of a lot by virtue of ownership of such lots shall be a member of The Springs at Stone Oak Homeowners Association, Inc., hereinafter referred to as the "Association".

(4) That the Association shall establish a maintenance fund and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the common areas/facilities for the use and benefit of all members of the Association. The Association shall, in addition, establish and maintain an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the common maintenance areas/facilities. The fund shall be established and maintained out of regular annual assessments.

(5) That Declarant hereby assigns a nonexclusive right to ingress and egress across and over the streets, roads, sidewalks and other common areas from time to time built within the Property, to the City of San Antonio for purposes of conducting official City business, which may include removal of obstructions during emergency situations in which case the City shall not be held liable for its repair or replacement.

LUMBERMEN'S INVESTMENT CORPORATION

By: *Robert A. Reeh*
Robert A. Reeh, Agent

APPENDIX A

FOOTNOTES

[1]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.011, dealing with the regulation of roofing materials, and effective on June 17, 2011. The guidelines were recorded on December 30, 2011.

[2]Guidelines adopted by the Declarant and incorporated in the First Amendment to Declaration of Covenants, Conditions and Restrictions for The Springs At Stone Oak. The amendment clarifies that the original Declarations did not intend to prohibit temporary parking for the purpose of loading and unloading, while adding specific time and frequency limits on those loading and unloading events. The amendment was executed to be effective December 21, 1998. The amendment was recorded on December 23, 1998.

[3]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.011, regarding the display of flags, and effective on June 17, 2011. The guidelines were approved by the Board of Directors on August 3, 2012, and recorded on September 13, 2012.

[4]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.007, dealing with rain barrels and rainwater harvesting systems, and effective on June 17, 2011. The guidelines were recorded on December 30, 2011.

[5]The Springs CCR on satellite TV antenna placement has been amended by the over-riding, revised guidance from the Stone Oak Property Owners' Association specific to the installation of small satellite TV antenna. This amended guidance, coupled with our existing CCR article on antenna placement, eliminates the need to request and receive from the ARC approval prior to the dish's installation. The Stone Oak antenna policy interprets the FCC ruling stating that a resident cannot be restricted from receiving a signal by telling them that they cannot place their antenna in the appropriate location just because it violates the local CCRs. However, residents of The Springs are strongly encouraged to accommodate as closely as possible our CCRs when placing the satellite dish, using this Springs CCR Article XX and the dish location that provides adequate signal reception as the determining location factors. The Stone Oak POA amendment was recorded on September 1, 2000.

[6]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.010, dealing with the regulation of solar energy devices, and effective on June 17, 2011. The guidelines were recorded on December 30, 2011.

[7]Reflects the elimination of any disqualification for owners from voting for any reason, as included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0059(a), dealing with owner voting rights, and effective September 1, 2011. The guidelines were recorded on December 30, 2011.

[8]Reflects the prohibition of non-judicial foreclosures, as included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0092, dealing with judicial foreclosures, and effective January 1, 2012. The guidelines were recorded on December 30, 2011.

[9]~~Assessment collections procedure and schedule adopted by The Springs At Stone Oak Board of Directors by Resolution, effective October 16, 2007. The resolution was recorded on December 26, 2007.~~ *Board Resolution was never recorded and became void on January 1, 2012.*

[10]Delinquent Assessment Payment Plan adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.0062, dealing with alternative payment schedules, and effective on January 1, 2012. The guidelines were recorded on December 30, 2011.

[11]~~Reasonable Late Fees procedure and schedule adopted by The Springs At Stone Oak Board of Directors by Resolution at a Special Board Meeting conducted on March 7, 2012. The Resolution was recorded on March 9, 2012.~~*Revoked by Collections Policy, recorded on August 31, 2021.*

[12]Standard House Trim Paint Color Standard adopted by The Springs At Stone Oak Board of Directors by Resolution at a Quarterly Board Meeting conducted on February 8, 2012. The Resolution was recorded on April 11, 2012.

[13]Standard Privacy Fence Stain Color adopted by The Springs at Stone Oak Board of Directors by Resolution on October 3, 2014. The Resolution re-adopts the same standard approved in 2002 and updated in 2007 by the Board of Directors, but neither was recorded at the County Clerk's office by January 1, 2012. The 2014 Resolution was recorded on May 15, 2015.

[14]Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature in 2013. The State amendment was approved and effective in 2013.

[15]Statutory requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature in 2015. The State amendment was approved and effective in 2015.

[16]Statutory requirements included in the amendment to chapter 209.009 of the Texas Property Code by the Texas State Legislature in 2005. The State amendment was approved and effective June 18, 2005.

[17]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.018, regarding the display of certain religious items, and effective on June 17, 2011. The guidelines were approved by the Board of Directors on December 13, 2011 and recorded on December 30, 2011.

[18]Statutory requirements included in the amendment to Section 259.002 of the Texas Election Code by the Texas State Legislature in 2019. The State amendment was approved and effective September 1, 2019.

[19]Statutory requirements included in the amendment to chapter 202.018 of the Texas Property Code by The Texas State Legislature in 2021 (SB 581). The State amendment was approved and effective on May 31, 2021.

[20]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which added Section 209.00505, regarding the Architectural Review Authority, and effective on September 1, 2021. The guidelines were approved by the Board of Directors on August 25, 2021 and recorded on August 31, 2021.

[21]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in chapter 209 of the Texas Property Code by the Texas State Legislature, regarding the collection of due and unpaid regular and special maintenance assessments. The guidelines were approved by the Board of Directors on August 25, 2021 and recorded on August 31, 2021.

[22]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which amended Section 202.018, regarding the display of certain religious items, and effective on May 31, 2021. The guidelines were approved by the Board of Directors on August 25, 2021 and recorded on August 31, 2021.

[23]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 202 of the Texas Property Code by the Texas State Legislature, which added Section 202.023, regarding the regulation of security measures and perimeter fencing, and effective on September 1, 2021. The guidelines were approved by the Board of Directors on August 25, 2021 and recorded on August 31, 2021.

[24]Guidelines adopted by The Springs At Stone Oak Board of Directors to incorporate the requirements included in the amendment to chapter 209 of the Texas Property Code by the Texas State Legislature, which amended Section 209.007, regarding covenant violation hearing procedures, and effective on September 1, 2021. The guidelines were approved by the Board of Directors on August 25, 2021 and recorded on August 31, 2021.

[25]Statutory requirements included in the amendment to chapter 209.015 of the Texas Property Code by The Texas State Legislature in 2021. The State amendment was approved and effective on September 1, 2021, changing "Architectural Review Committee" to "Architectural Review Authority."

APPENDIX B

ARCHITECTURL REVIEW COMMITTEE DENIAL HEARING PROCEDURES
for the Springs at Stone Oak Owners Association

Effective September 1, 2021, Texas Property Code Section 209.00505 was added to include requirements related to the denial by the Architectural Review Committee ("ARC") of an Owner's application or the request for the construction of improvements and to require an appeal hearing with the Board of such denials to discuss and verify facts in an attempt to reach a resolution.

A person may not be appointed or elected to serve on the ARC if the person is:

4. a current board member;
5. a current board member's spouse; or
6. a person residing in a current board member's household.

A decision by the ARC denying an application or request by an Owner for the construction of improvements in the Subdivision may be appealed to the Board. A written notice of the denial must be provided to the Owner by certified mail, hand delivery, or electronic delivery. The notice must:

1. Describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and

2. Inform the Owner that the owner may request a hearing with the Board on **or before the 30th day** after the date the notice was sent to the Owner.

To request a hearing before the Board, the Owner must submit a written request to the Association's property manager (or the Board if there is no manager) **within 30 days** after the date the notice of ARC denial was sent to the Owner. The Board shall hold the hearing **not later than the 30th day** after date the Association receives an Owner's request for hearing. An Owner is only entitled to **1** hearing.

The Association shall give the Owner **at least 10 days** advance notice of the date, time, and place of the hearing.

The Association or the Owner may request **1** postponement of the hearing, and, if requested, shall be granted for a period of **not more than 10 days**. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. If the Owner or the Owner's designated representative fails to appear for a scheduled appeal hearing, the Board shall proceed with the hearing and consider all documentary evidence provided by the Owner, if any. An Owner is only entitled to **1** hearing.

Pending the hearing, the Association may continue to exercise its other rights and remedies for the denial, if any, as if the declared denial was valid.

The hearing will be held in a closed or executive session of the Board. During the hearing, a member of the Board or the Association's designated representative and the Owner or the Owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the Owner's application or request for the construction of improvements, and the changes, if any, requested by the ARC as a condition of approval. [Exhibit A – Hearing Checklist]

The Association or the Owner may make an audio recording of the hearing. If either party intends to make an audio recording of the hearing, such party shall so advise the other party prior to the commencement of the audio recording.

The Board may affirm, modify, or reverse, in whole or in part, any decision of the ARC as consistent with the terms of the Declaration.

Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the attached hearing agenda. [Exhibit B – Hearing Agenda].

EXHIBIT A

HEARING CHECKLIST

Documents:

- ☐ Declaration (relevant excerpts)
- ☐ Bylaws (relevant excerpts)
- ☐ Rules and Regulations (relevant excerpts)
- ☐ Policies (relevant policies)
- ☐ ARC Design Guidelines (relevant excerpts)
- ☐ ARC Design Review Procedures (relevant excerpts)

Photographs or Videos:

- ☐ Material photos and/or samples
- ☐ Proposed designs
- ☐ Preapproved designs

Communications (including letters, e-mails, facsimiles, text messages, and voice recordings):

- ☐ Management Company to Owner
- ☐ Owner to Management Company
- ☐ Board Member to Owner
- ☐ Owner to Board Member
- ☐ Neighbor to Management Company, as applicable [Redacted]
- ☐ Neighbor to Board Member, as applicable [Redacted]

EXHIBIT B

HEARING AGENDA

Note: A member of the board or the Association's designated representative shall act as the Hearing Officer and preside over the hearing. The Hearing Officer will provide introductory remarks and administer the hearing agenda.

I. Introduction.

Hearing Officer: The Association or the Owner may make an audio recording of the hearing. If either party intends to make an audio recording of the hearing, such party shall so advise the other party at this time. The Board has convened for the purpose of holding a hearing requested by [insert Owner name] application or request for the constructions of improvements concerning the property located at [Owner' Property Address].

The hearing is being conducted as required by Section 209.00505 of the Texas Property Code, and is an opportunity for the Owner to discuss, verify facts, and resolve the matter at issue. However, after both sides are given a reasonable opportunity to present their case, the Board may elect to take the matter under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within 5 business days.

II. Presentation of Facts.

Hearing Officer: This portion of the hearing is to permit a member of the Board or the Association's designated representative to present the matters contained in the ARC's written notice of denial that was provided to the Owner and the opportunity to describe relevant documents, photographs, and/or communications. After the Association has finished its presentation, the Owner or the Owner's designated representative will be entitled to present the Owner's information and issues relevant to the dispute. The Board may ask questions during either party's presentation. It is requested that questions by the Owner be held until completion of the presentation by the Association.

[Presentations begin accordingly]

III. <u>Discussion</u>.

Hearing Officer: This portion of the hearing is to permit the Board and the Owner to discuss factual disputes relevant to the ARC denial and the owners application or request for the construction of improvements. Discussion should be productive and designed to seek, if possible, an acceptable resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.

IV. <u>Resolution</u>.

Hearing Officer: This portion of the hearing is to permit discussion between the Board and the Owner regarding the final terms of settlement if a resolution was reached during the discussion phase of the hearing.

<u>If no settlement is agreed upon, the Hearing Officer may: (i) request that the Board enter into executive session to discuss the matter; or (ii) request that the Board take the matter under advisement and adjourn the hearing.</u>

APPENDIX C

COVENANT VIOLATION HEARING PROCEDURES
for the Springs at Stone Oak Owners Association

Effective September 1, 2021, Texas Property Code Section 209.007 was amended to include additional requirements related to an Owner's request for hearing to discuss and verify facts in an attempt to resolve a curable covenant violation.

To request a hearing before the Board, the Owner must submit a written request to the Association's property manager (or to the Board of Directors, if there is no manager) **within 30 days** after the date of the covenant violation notice. The Board shall hold the hearing **not later than the 30th day** after date the Association receives an Owner's request for hearing.

The Association shall give the Owner **at least 10 days** advance notice of the date, time, and place of the hearing, and provide a packet to the Owner containing all documents, photographs, and communications related to the matter the Association intends to introduce at the hearing.
[Exhibit A – Evidence Packet Checklist].

The Association or the Owner may request **1 postponement** of the hearing, and, if requested, shall be granted for a period of not more than **10 days**. If the Association fails to provide the Owner the evidence packet **at least 10 days** in advance of the hearing, the Owner is entitled to an automatic **15-day postponement** of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. If the Owner or the Owner's designated representative fails to appear for a scheduled hearing, the Board shall proceed with the hearing and consider all documentary evidence provided by the Owner, if any.

Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine [if applicable].

The hearing will be held in a closed or executive session of the Board. During the hearing, a member of the Board or the Association's designated representative shall first present the Association's case against the owner. An Owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the dispute. At the hearing, the Board should consider the facts and circumstances surrounding the covenant violation.

The Association or the Owner may make an audio recording of the hearing. If either party intends to make an audio recording of the hearing, such party shall so advise the other party prior to the commencement of the audio recording.

Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the attached hearing agenda. [Exhibit B – Hearing Agenda].

EXHIBIT A

EVIDENCE PACKET CHECKLIST

Documents:

- ☐ Declaration (relevant excerpts)
- ☐ Bylaws (relevant excerpts)
- ☐ Rules and Regulations (relevant excerpts)
- ☐ Policies (relevant policies)
- ☐ ACC Design Guidelines (relevant excerpts)
- ☐ ACC Design Review Procedures (relevant excerpts)
- ☐ Board Meeting Minutes wherein violation at issue was discussed

Photographs or Videos:

- ☐ Covenant Violation
- ☐ Damage to Common Area
- ☐ Damage to Neighboring Property
- ☐ Other relevant photos or videos

Communications (including letters, e-mails, facsimiles, text messages, and voice recordings):

- ☐ Management Company to Owner
- ☐ Owner to Management Company
- ☐ Board Member to Owner
- ☐ Owner to Board Member
- ☐ Neighbor to Management Company re: violation [Redacted]
- ☐ Neighbor to Board Member re: violation [Redacted]

EXHIBIT B

HEARING AGENDA

Note: A member of the board or the Association's designated representative shall act as the Hearing Officer and preside over the hearing. The Hearing Officer will provide introductory remarks and administer the hearing agenda.

I. Introduction.

Hearing Officer: The Association or the Owner may make an audio recording of the hearing. If either party intends to make an audio recording of the hearing, such party shall so advise the other party at this time. The Board has convened for the purpose of holding a hearing requested by [insert Owner name] related to a covenant violation concerning the property located at [Owner' Property Address].

The hearing is being conducted as required by Section 209.007 of the Texas Property Code, and is an opportunity for the Owner to discuss, verify facts, and resolve the matter at issue. However, after both sides are given a reasonable opportunity to present their case, the Board may elect to take the matter under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within 5 business days.

II. Presentation of Facts.

Hearing Officer: This portion of the hearing is to permit a member of the Board or the Association's designated representative to present the Association's case against the Owner and the opportunity to describe the documents, photographs, and communications contained in the packet provided to the Owner. After the Association has finished its presentation, the Owner or the Owner's designated representative will be entitled to present the Owner's information and issues relevant to the dispute. The Board may ask questions during either party's presentation. It is requested that questions by the Owner be held until completion of the presentation by the Association.

[Presentations begin accordingly]

III. <u>Discussion</u>.

Hearing Officer: This portion of the hearing is to permit the Board and the Owner to discuss factual disputes relevant to the violation. Discussion regarding any
Discussion should be productive and designed to seek, if possible, an acceptable resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.

IV. <u>Resolution</u>.

Hearing Officer: This portion of the hearing is to permit discussion between the Board and the Owner regarding the final terms of settlement if a resolution was reached during the discussion phase of the hearing.

<u>If no settlement is agreed upon, the Hearing Officer may: (i) request that the Board enter into executive session to discuss the matter; or (ii) request that the Board take the matter under advisement and adjourn the hearing.</u>