

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR CRYSTAL CREEK RIDGE**



THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS:

THAT GRAHAM CAPITAL DEVELOPMENT COMPANY, L.P., a Texas limited partnership (the "Declarant"), is the owner of all that certain tract of land platted and described as Crystal Creek Ridge (the "Addition"), a subdivision of the City of Desoto (the "City"), Texas, according to the plat thereof (the "Plat") recorded on May 6, 1986, in Volume 86096 of the Plat Records of Dallas County (the "County"), Texas.

Such property is subdivided into single-family lots as shown on the Plat.

Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of establishing a general scheme for the development of all of the lots in the Addition and for the purpose of enhancing and protecting the value, attractiveness and desirability of said lots and which shall run with the land and be binding on all property or any part thereof, and shall inure to the benefit of and be binding upon each owner thereof, and his heirs, administrators, successors and assigns.

ARTICLE I

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 1.1 Residential Use. All lots shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family residence per lot, which residence may not exceed two (2) stories in height, and a private garage as provided below.

Section 1.2 Single Family Use. Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living and cooking together as a single housekeeping unit, together with any household servants.

Section 1.3 Two Car Garage Required. Each residence shall have a garage suitable for parking not less than two or more than three standard size automobiles, which garage conforms in design and materials with the main structure. Garage locations may vary, with the written approval of the Committee (as hereinafter defined).

Section 1.4 Restrictions on Resubdivision. None of the lots shall be subdivided into smaller lots without the consent of Declarant.

Section 1.5 Driveways. All driveways shall be surfaced with concrete, asphalt or similar substances approved by the Committee.

Section 1.6 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvements of a temporary character (except children's playhouses, dog houses, greenhouses,

gazebos and buildings for storage of lawn maintenance equipment, which may be placed on a lot only in places which are not visible from any street on which the lot fronts shall be permitted on any lot except that the builder or contractor may have temporary improvements (such as sales office and/or construction trailer) on a given lot during the entire time that construction activities within the Addition are underway. No building material of any kind or character shall be placed or stored upon the property until the owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the lot upon which the improvements are to be erected.

(b) No boat, marine craft, hovercraft aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the front yard of any dwelling or parked on any public street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. The restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of one ton and any vehicle with a painted advertisement shall not be permitted to park overnight within the Addition except those used by a builder during the construction of improvements.

(d) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Addition at any time.

(e) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Addition, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Addition. No derrick or other structure designed for use in quarrying for oil or natural gas shall be erected, maintained or permitted within the Addition.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Addition except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than two (2) pets will be permitted on each lot. Pets must be restrained or confined on the homeowner's back lot inside a fenced area or within the house. When away from the lot, pets must be on a leash at all times. It is the pet owner's responsibility to keep the lot clean and free of pet debris. All animals must be properly tagged for identification.

(h) No lot or other area in the Addition shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or other disposal of such material shall be kept in

clean and sanitary condition. Materials incident to construction of improvements may be stored on lots during construction so long as construction progresses without undue delay.

- (i) No individual water supply system shall be permitted in the Addition.
- (j) No individual sewage disposal systems shall be permitted in the Addition.
- (k) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any owner, tenant or other person prior to the erection of a residence.
- (l) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.
- (m) Except as may be approved by the Committee, no antennas or satellite dishes shall be permitted in this Addition except AM or FM radio reception and UHF and VHF television reception. Only one (1) antenna may be attached to the main residential house, and, in all cases except as may be approved by the Committee, no antenna of any style shall be (a) erected as a free-standing structure, (b) permitted to extend outside the roof of the main residential structure or (c) maintained on any portion of the lot forward of the front building line.
- (n) No lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. Except as may be approved by the Committee, no activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood.
- (o) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Declarant or the Homeowners' Association may direct the owner to trim any hedge, shrub planting or tree that does not comply with the foregoing provisions, and upon owner's failure to do so, Declarant or the Homeowners' Association may, at its option, perform such trimming, whereupon the owner shall be obligated, when presented with an itemized statement, to reimburse Declarant or the Homeowners' Association (as applicable) for the cost of such work.
- (p) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment (no higher than six (6) feet and not visible from street level), no building previously constructed elsewhere shall be moved onto any lot, it being the intention that only new construction be placed and erected thereon.
- (q) Within easements on each lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of

utilities, which may change the direction of flow within drainage channels, or which may obstruct or retard the flow of water through drainage channels.

(r) No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than one (1) square foot, one (1) of not more than five (5) square feet advertising the property for rent or sale, or signs used by a builder to advertise the property during the construction and sales period. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above; and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

(s) The drying of clothes in full public view is prohibited. The owners and occupants of any lots at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen from public view the equipment which is incident to normal residences, such as clothes drying equipment, yard equipment and storage piles.

(t) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no person shall be permitted to burn anything within the Addition.

(u) Removal of live native trees is not permitted without the approval of the Architectural Control Committee.

(v) Above ground-level swimming pools shall not be installed on any Lot.

Section 1.7 Minimum Floor Area. The total air-conditioned living area of the main structural structure, as measured to the outside of exterior walls but exclusive of open porches, garages, and detached accessory buildings, shall be no less than one thousand five hundred (1,500) square feet plus or minus ten percent (10%), as approved by the Committee.

Section 1.8 Building Materials. The total exterior wall area of each building constructed or added on a lot shall be no less than seventy-five percent (75%) (or such higher percentage as may be required by the City) brick, brick veneer, stone, stone veneer, masonry or other material approved by the Committee. Windows, doors, openings, gables or other areas above the height of the top of the standard first-floor windows are excluded from the calculation of the total exterior wall area. Roofing shall be a substance acceptable to the City and the Committee.

Section 1.9 Side Line and Front Line Setback Restrictions. No dwelling shall be located on a lot nearer to the front lot line or nearer to the side street line than the minimum set back lines shown on a Plat or required by the City.

Section 1.10 Fences and Walls. Any fence or wall must be constructed of masonry, brick, or other material approved by the Committee. No chain link fence shall be allowed. No fence or wall shall be permitted to extend nearer to any street than the front building line of any residence. Fences and walls erected by Declarant shall become the property of the owner of the lot on which the same are located and, as such, shall be maintained and repaired by such owner except as provided in Article III.

Section 1.11 Sidewalks. All sidewalks shall conform to the applicable governmental specifications and regulations and must be approved in advance by the Committee.

Section 1.12 Mailboxes. Mailboxes shall be constructed of a material and design approved by the Committee.

ARTICLE II

ARCHITECTURAL CONTROL

Section 2.1 Appointment. The Board and/or Declarant shall designate and appoint an Architectural Control Committee (herein called the "Committee") composed of three (3) individuals or less or combination thereof. The Committee shall attempt to promote and ensure a high level of taste, quality, harmony and conformity throughout the Addition consistent with this Declaration.

Section 2.2 Successors. In the event of the death, resignation or removal by Declarant (or during any period when Declarant does not own any lots within the Addition, the Homeowners' Association) of any member of the Committee, the Declarant (or during any period when Declarant does not own any lots in the Addition, the Homeowners' Association) shall appoint a successor member. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of, services performed pursuant to this Declaration.

Section 2.3 Authority. No building, fence, wall or other structure or improvement shall be erected, placed, maintained or altered on any lot, nor shall any exterior painting of, exterior landscaping or alteration of, such items be made until all plans and specifications and a plot plan have been submitted to and approved in writing, by a majority of the members of the Committee as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the various parts of the proposed improvements and in relation to improvements on other lots in the Addition;
- (c) location with respect to topography and finished grade elevation and effect of location and use on neighboring lots, improvements and drainage arrangements; and
- (d) the other standards set forth within this Declaration (and any amendments hereto) or matters in which the Committee had been vested with the authority to render a final interpretation and decision.

The Committee is authorized and empowered to consider and review any and all aspects of construction that may, in the sole and absolute discretion of the Committee, adversely affect the living enjoyment of one or more lot owners or the general value of lots in the Addition. In considering the harmony of external design between existing structures and the proposed building being erected, placed or altered, the Committee shall consider only the general appearance of the proposed building as that can be determined from front, rear and side elevations on submitted plans.

Section 2.4 Procedure for Approval. Final plans and specifications shall be submitted in duplicate by certified mail to the Committee. The plans and specifications shall show the nature, kind, size, height, materials and location of all landscaping and improvements. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this Declaration. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete

Plans and specifications will be retained by the Committee and the other complete set of plans shall be marked "Approved", signed by a majority of the Committee and returned to the lot owner or his designated representative. If disapproved by the Committee, one set of such plans and specifications shall be returned marked "Disapproved" and shall be accompanied by a statement of the reasons for disapproval, which statement shall be signed by a majority of the Committee. Any modification of the approved set of plans and specifications must again be submitted to the Committee for its approval. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, an approval of the matters submitted shall not be required and compliance with this Article shall be deemed to have been completed. In case of a dispute about whether the Committee responded within the time period, the person submitting the plan shall have the burden of establishing that the Committee approved the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt. The Committee may approve plans and specifications for all the houses proposed to be built by a builder at one time ("Master Plans") and that builder may submit changes to the Master Plans for specific approval from time to time.

Section 2.5 Standards. The Committee shall have sole discretion with respect to taste, design and all standards specified herein. One objective of the Committee is to prevent unusual, radical, curious, bizarre, peculiar or irregular designs or appearances from being built in the Addition. The Committee shall also have the authority to require a minimum 6-12 foot roof slope, to specify that chimney flues be covered with brick or masonry or wood, to prohibit the use of light-weight composition roofing material, to require that the colors of roofing materials be earth tones, to require the use of painted or anodized aluminum divided light windows, and generally to require that any plans meet the standards established by the Committee. The Committee may from time to time publish and promulgate bulletins regarding architectural standards.

ARTICLE III

SPECIAL FENCING AND LANDSCAPING

Section 3.1 Fences, Walls and Sprinkler System. For a period of ten (10) years after the recording of this document, Declarant shall have the right, but not the obligation, to and may, if it chooses to do so in its sole discretion, erect, install, maintain, repair and/or replace fences, walls and/or sprinkler systems located within that portion of the property specified on Exhibit "A" attached hereto and incorporated herein (the "20 Foot Landscape plus Wall Perimeter Area"), which area to the extent so defined is located outside the building lines as shown on the Plat. Any fence, wall or sprinkler system shall be subject to the easements and rights of Declarant set forth below. No fence, wall or sprinkler system shall be erected or installed in the 20 Foot Landscape plus Wall Perimeter Area by the owner thereof without the prior written consent of the Committee.

Section 3.2 Landscaping. Declarant shall have the right, but not the obligation, to grade, excavate and/or landscape and maintain, repair, replace and/or change such grading, planting and landscaping on any portion of the 20 Foot Landscape plus Wall Perimeter Area. In the event Declarant does not landscape such area, the owner thereof may plant grass and, with the prior written consent of Declarant, may landscape and plant trees and shrubs in such area.

Section 3.3 Easement. Declarant shall have, and hereby reserves, the right and easement to encroach upon the 20 Foot Landscape plus Wall Perimeter Area for the purpose of exercising the retentionary rights set forth above.

Section 3.4 Maintenance. In the event Declarant installs any such fence, wall, landscaping or sprinkler system in the 20 Foot Landscape plus Wall Perimeter Area, Declarant shall cause such improvements to be maintained or repaired until such time as the Homeowners' Association assumes such obligations, following which the Homeowners' Association shall have the sole responsibility for the maintenance or repair of such improvements. In the event that Declarant or the Homeowners' Association fails to do so, such maintenance and repair obligations shall be that of the owner of the lot on which such fence, wall, landscaping and/or sprinkler system is located.

Section 3.5 Declarant's Discretion. Notwithstanding any provisions herein to the contrary, Declarant shall never be obligated to erect, install, maintain, repair or replace any fences, walls, sprinkler systems, grading, planting or landscaping on any lots.

ARTICLE IV

HOMEOWNERS' ASSOCIATION

Section 4.1 Creation. The Crystal Creek Ridge Homeowners' Association (the "Homeowners' Association") shall be incorporated as a non-profit corporation. The owners shall constitute members of the Homeowners' Association. Each owner of a lot, including Declarant, shall automatically be a member of the Homeowners' Association. Homeowners' Association membership shall be appurtenant to ownership of a lot. Ownership of a lot is the sole criterion for membership in the Homeowners' Association.

Section 4.2 Transfer of Membership. Homeowners' Association membership can be transferred to the grantee of a conveyance of a lot in fee. Membership shall not be assigned, pledged or transferred in any other way. Any attempt to make a prohibited transfer shall be void.

Section 4.3 Management of the Homeowners' Association. The Homeowners' Association shall be managed by its Board of Directors (the "Board") pursuant to the procedure set forth in the Homeowners' Association's Articles of Incorporation and Bylaws, subject to this Declaration.

Section 4.4 Membership Voting, Elections and Meetings. Each owner of a lot shall have one vote provided, however, that Declarant shall have five (5) votes for each lot owned by Declarant at the time of such vote. There shall be at least one meeting of the membership each year. At that meeting, the members shall elect a Board consisting of at least three directors, vote on any other matters the Board may bring before the membership and discuss any matter of Homeowners' Association business which the Board wishes to bring before the entire membership.

Section 4.5 Duties and Powers of the Board. Through the Board, the Homeowners' Association shall have the following powers and duties:

(a) To adopt rules and regulations to implement this Declaration and the bylaws of the Homeowners' Association. All owners shall be bound by such rules and regulations, provided same are consistent with this Declaration, once written notice of such rules and regulations have been mailed to each owner.

(b) To enforce this Declaration, the bylaws, its rules and regulations.

(c) To elect officers of the Board and select members of the Committee when that power devolves to the Homeowners' Association.

- (d) To delegate its powers to committees, officers, or employees.
- (e) To prepare a balance sheet and operating income statement for the Homeowners' Association and deliver a report to the membership at its annual meeting.
- (f) To establish and collect annual assessments to defray expenses attributable to Homeowners Association's duties, to be levied against each owner.
- (g) To establish and collect special assessments for capital improvements or other purposes.
- (h) To file and enforce liens against owners because of non-payment of assessments duly levied and to foreclose on those liens (provided, however, that such liens shall be subject and subordinate to the liens of any mortgage or deed of trust held by an institutional lender on any lot).
- (i) To receive complaints regarding violations of this Declaration, the bylaws or the rules and regulations.
- (j) To hold hearings to determine whether to discipline owners who violate this Declaration, the bylaws or the rules and regulations.
- (k) To give notice to all owners of all annual meetings of the Membership and all discipline hearings.
- (l) To the extent that there are any common improvements placed in the Addition by the Declarant for the benefit of the owners of the Addition, to manage and maintain all such improvements in a state acceptable to the Board, to pay taxes and assessments that are or could become a lien on such improvements and to pay the costs of any liability or other insurance for the Homeowners' Association, the Committee and/or members of the Board, and casualty insurance on such improvements, as the Board may determine.
- (m) To take any other action consistent with this Declaration.

Section 4.6 Annual Assessments. The annual assessment per lot from the date hereof through January 1, 2001, shall be One Hundred and No/100 Dollars (\$100.00). The annual assessment shall be increased or decreased by the Homeowners' Association acting through the Board, without necessity of a vote; provided however, that the annual assessment for any given year following the first year in which there is an annual assessment shall not be more than one hundred and ten percent (110%) of the annual assessment for the prior year.

Section 4.7 Remedies of Association. Any assessment not paid within 30 days after the due date shall be delinquent and shall bear interest from the due date at the maximum non-usurious rate provided by applicable law. Such assessment and all interest and costs of collection, including reasonable attorneys' fees, is secured by a lien hereby created upon the owner's lot to which such assessment and costs relate, which lien (i) is superior to all other liens and charges against such property, except only for ad valorem tax liens and all sums unpaid on a mortgage lien or deed of trust lien of record, and (ii) is coupled with a power of sale in favor of the Homeowners' Association and the City entitling the Homeowners' Association and the City to exercise the right of nonjudicial foreclosure sale and the other rights and remedies afforded under Chapter 51 of the Texas Property Code or other applicable provisions. It is expressly intended that by acceptance of a deed to a lot within the Addition, each owner

acknowledges that title is accepted subject to the assessment lien provided for herein, which is deemed to be an express contractual lien and shall be superior to any defense of homestead or other exemption, the assessment lien having been created prior to the creation or attachment of any homestead right with respect to any lot. To evidence further the assessment lien, the Homeowners' Association and/or the City shall file an additional written notice of such lien in the real property records of the County setting forth the amount of the unpaid indebtedness, the name of the owner of the lot covered by such lien and a description of the lot. Subsequent to the recording of a notice of assessment lien as provided above, the Homeowners' Association and/or the City may bring an action at law against the owner personally obligated to pay the same, and in addition, conduct a nonjudicial foreclosure sale of the owner's lot under the Texas Property Code or judicially foreclose the lien against the owner's lot, all such remedies being cumulative. In any suit or proceeding against the owner or the owner's lot, the owner shall be required to defend and shall be liable for all costs, expenses and reasonable attorneys' fees incurred by the Association or the City. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of the assessed lot by the owner.

Section 4.8 Exempt Property. All common areas designated by the Homeowners' Association and all property dedicated to and accepted by the City or another governmental authority shall be exempt from the assessments created herein.

ARTICLE V

GENERAL PROVISIONS

Section 5.1 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. Declarant reserves the right to make reasonable changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. By acceptance of a deed to any lot, the owner thereof covenants and agrees to regularly mow weeds and grass on and to keep and maintain in a neat and clean condition any easement which may traverse a portion of the lot.

Section 5.2 Recorded Plat. All dedications, limitations, restrictions and reservations shown on the Plat are incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Declarant, conveying lots in the Addition, whether specifically referred to therein or not.

Section 5.3 Lot Maintenance. The owner and occupant of each lot shall maintain the yards in a neat and attractive manner and shall edge the street curbs that run along the property line. Grass, weeds and vegetation on each lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street. No owners shall permit weeds or grass to grow to a height of greater than six inches (6") upon his property. Upon the request of any owner to maintain any lot, Declarant or the Homeowners' Association may, at its option, cause the grass, weeds and vegetation cut as often as necessary in its judgment, and the owner of such property shall be obligated, when presented with an itemized statement, to reimburse Declarant or the Homeowners' Association (as applicable) for the cost of such work. This provision, however, shall in no event be construed to create a lien in favor of any party on any piece of property for the cost or charge of such work or the reimbursement for such work.

Section 5.4 Maintenance of Improvements. Subject to the provisions of Article III, each lot owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot in good

tion and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, ways, parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.

Section 5.5 Mortgages. No breach of the covenants, conditions and restrictions contained herein shall in any way defeat or render invalid the lien of any mortgage or deed of trust. These covenants, conditions and restrictions shall survive any foreclosure, trustee's sale or otherwise, and be binding upon any person acquiring any lot in the Addition by reason of any foreclosure, trustee's sale or otherwise. With respect to any mortgagee or any holder of any note secured by the deed of trust lien of which the Committee has notice, the Committee shall, in the event of any breach hereof by the owner of property covered by such lien, give such mortgagee or holder written notice of the breach and thirty days time to cure. In no event shall any foreclosing lender be liable for any sum due under this Declaration attributable to periods prior to such foreclosure, but such foreclosure shall not relieve such lot owner from sums thereafter becoming due or from the lien securing such sums.

Section 5.6 Term/Amendment. The foregoing covenants and restrictions shall run with and bind the land and shall remain in full force and effect for a term of ten (10) years after this Declaration is recorded. They shall be automatically extended for successive periods of ten (10) years unless terminated by an instrument approved by a majority of the lot owners in the Addition in writing and recorded in the property records of the County. Notwithstanding anything to the contrary, the majority of lot owners in the Addition may amend this instrument by filing of record in the real property records of the County an instrument approved by a majority of the lot owners in the Addition. For a period of five years from the date hereof, no such amendment shall be effective without the written consent of Declarant. In addition, Declarant may make unilateral changes to this instrument by filing such unilateral changes in the property records of the County provided that such changes are made to conform this instrument with applicable requirements of the City or other applicable governmental authorities.

Section 5.7 Severability. If any condition, covenant or restriction herein contained shall be held invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

Section 5.8 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Addition, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except land in the Addition. This instrument, when executed, shall be filed of record in the deed records of the County so that each and every owner or purchaser of any portion of the Addition is on notice of the conditions, covenants, restrictions and agreements herein contained.

Section 5.9 Enforcement. The Declarant, the Homeowners' Association, the Committee or any lot owner shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, any restriction, condition and reservation imposed by this Declaration. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

Section 5.10 Definition of "Owner". As used herein, the term "owner" shall refer to the record owner, whether one or more persons or entities (including contract sellers), of the fee simple title to a lot which there is or will be built a single-family residence, but not including those having an interest

rely as security for the performance of an obligation until such time as such a security holder becomes record owner of a lot (whether by foreclosure or otherwise).

Section 5.11 Other Authority. If other authorities, such as the City or County, impose more demanding, expensive or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

Section 5.12 Addresses. Any notices or correspondence to an owner of a lot shall be addressed to the street address of the lot. Any notice or correspondence to the Committee shall be addressed to the address shown opposite the signature of Declarant below or to such other address as is specified by the Committee pursuant to an instrument recorded in the real property records of the County.

Section 5.13 Liens. Any liens created or arising hereunder shall be subordinate to any valid first mortgage covering a lot and improvements and any valid liens securing the cost of construction of improvements.

Section 5.14 Transfer of Declarant's Rights and Obligations. Declarant may, by written assignment filed of record in the Real Property Records of the County, assign its rights and obligations as set forth in this Declaration to any transferee designated by Declarant hereunder; provided, however, no such assignment shall be effective unless it includes an express assignment of Declarant's rights and obligations hereunder. In the event of such recorded assignment, the rights and obligations of Declarant hereunder shall be transferred to such transferee (including the right to make further such transfers). During any period in which Declarant (or any such transferee) owns ten percent (10%) or less of the lots in the Addition, the rights and obligations of Declarant hereunder shall (during such period) automatically be deemed transferred (for the duration of such period) to the Homeowners' Association. If Declarant expressly or automatically assigns its rights and obligations hereunder, such assignor shall have no further obligations hereunder.

