

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE OAKS III ADDITION  
OKLAHOMA CITY, OKLAHOMA**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, EARL AUSTIN CONSTRUCTION CO., a corporation, hereafter referred to as the "Declarant," is the owner of certain land and improvements in Oklahoma County, Oklahoma, which property is more fully described on the attached Exhibit "A" incorporated herein and made a part hereof for all purposes; and

WHEREAS, Declarant desires to submit the land and improvements constructed thereon to Oklahoma's Real Estate Development Act (Title 60 O.S. 1971, SS 851-855, its amended).

NOW, THEREFORE, Declarant does hereby publish and declare that the land and its improvements are hereby subjected to the conditions, covenants, and restrictions herein set forth to be established upon the recording hereof. in accordance with the subject to the provisions of the Oklahoma Real Estate Development Act; and that the covenants, conditions, restrictions, use limitations, obligations, and provisions hereof shall be deemed to run with the land described on Exhibit "A" and shall be for the use end benefit to the Declarant, its successors and assigns, and to any person or entity acquiring or owning an interest in the land and improvements, or any portion there of, its grantees, successors, heirs, personal representative, deviation and assigns.

1. Definitions. Unless the context shall expressly provide otherwise:

1.1 "Association" means The Oaks III Owners' Association, Inc., and Oklahoma corporation, its successors and assigns, the By-Laws of which shall govern the administration of this real estate development, the members of which shall be all of the Owners of the Lots.

1.2 "Building" means one or more the building improvements lying within the real estate described on Exhibit "A".

1.3 "Common Elements" means all portions of the real estate development other than the Lots, any parcels withheld by or deleted from this Declaration by Declarant, and publicly dedicated real property which is designated by the Association or reflected on the Plat as a Common Element or Common Lot.

1.4 "Common Expenses" means and includes expenses for the maintenance, replacement, repair, operation, and improvements to the Common Elements; management and administration; and Expenses declared Common Expenses by the provisions of this Declaration and the By-Laws of the Association.

1.5 "Declarant" shall means and refer to Earl Austin Construction Co. and successors and assigns.

1.6 "Lot" mean a portion of the real estate development designated for separate ownership, the boundaries of which are the lot lines as shown on the recorded plat at the real estate described on Exhibit "A".

1.7 "Owner" means a person or persons, firm, corporation, partnership, trust, association or other legal entity, or any combination thereof, who owns one or more Lots.

1.8 "Person" means a natural person, corporation, partnership, association, trust, other entity, or any combination thereof.

1.9 "Plat" shall mean the recorded plat of the real property described on Exhibit "A".

1.10 "Real Estate Development" means the real estate described at Exhibit "A".

1.11 "Rules" shall mean the Rules and Regulations adopted by the Association as amended from time to time.

## 2. Property Rights.

2.1 Owner's Nonexclusive Easement of Enjoyment: Limitations. Every owner and his immediate family shall have a nonexclusive right and easement of enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to the Lot of such Owner, subject to the following rights:

2.1.1 Association Rights to Use and to Grant Easements. The Association shall have the right, power and easement where necessary.

(a) To make such use of the Real Estate Development necessary or appropriate for the performance of its duties under this Declaration;

(b) To grant one or more lot owners, including Declarant, the right to use exclusively so much of the Common Elements contiguous to lots owned by such grantees as the Association may deem inappropriate for use as Common Elements under such conditions as the Association deems satisfactory, including the duty on the part of the grantee to maintain the area so granted;

(c) To grant easements and rights-of-way to municipal corporations or utility companies providing utility services, including cable television, to the Real Estate Development.

2.1.2 Association Right To Make Rules. The right of the Association to make such reasonable Rules regarding the use of the Common Elements and facilities located thereon by members and other persons entitled to such use.

2.1.3 Borrow Money. The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Elements and, in aid thereof, to mortgage said Common Elements.

2.1.4 Protect Property. The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

2.1.5 Other Reserved Rights. The rights reserved in this Declaration to Declarant, Owners, other persons, and the Association.

2.2 Delegation of Use; Nonresident Owner. Any Owner may delegate his right of enjoyment of the Common Elements to the members of his family, to his tenants, to guests or to contract purchasers who may reside upon the Lot. All such persons shall be subject to the Rules concerning such use. Any Owner not residing upon his Lot may not have a right of enjoyment of any Common Elements except as provided otherwise by the Rules.

## 3. Easements.

3.1 Lot Access Easement. Each Owner shall have a non-exclusive easement in, on and through the Common Elements for access to said Owner's Lot, subject to the rights and acts of the Association as set out in Article 2.1.1 herein.

3.2 Blanket Easements for Utilities; For Police, Fire, Etc.; For Maintenance and Repair to Common Elements. There is hereby created a blanket easement in, on, through, upon, across, over, and under all of the Common Elements for ingress and egress, installation, replacement, repair, and maintenance of all utilities including, but not limited to, water, sewers, gas, telephones, and electricity. By virtue of this easement, it shall be expressly permissible for the electrical and/or telephone company providing service to erect and maintain the necessary poles, underground lines, and other necessary equipment on said Common Elements and to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across, and under the Common Elements. An easement is further granted to all police, fire protection and ambulance personnel, and all similar persons to enter upon the Common Elements in the performance of their duties. Further, an easement is hereby granted to the Association to enter in, onto, above, across or under the Common Elements and any Lot to perform the duties of maintenance and repair to the Common Elements. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Common Elements except as approved by Declarant or the Association. Should any utility furnishing a service covered by the general easement herein provided request a specific easement, Declarant or the Association may grant such an easement to the Common Elements by a separately recorded instrument without conflicting with the terms hereof and without consent of the Owners being required. The easements provided for in this paragraph shall in no way affect any other recorded easement to said Common Elements.

3.3 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be appurtenant to the Lot of that Owner, and all conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights as provided herein, as though set forth in said document in full, even though no specific reference to such easements or restrictions appears.

4. Use and Occupancy; Rights to Rent; Mortgagee Right to Rent. After the initial sale or transfer of a Lot or Lots by Declarant, all such Lots shall thereafter be used and occupied only for single family residence purposes by the owner, by the owner's family, the owner's tenants, or the owner's guests.

4.1 Declarant Business Office; Models. Declarant and its employees, representatives, and agents may maintain a business and sales office, models, and other sales facilities necessary or required until all of the Lots are sold.

4.2 Offensive or Noxious Use. The Owner of any Lot shall not use or allow the use of such Lot for any purpose which will be noxious, offensive, or detrimental to the use of the other Lots or which will create or emit any objectionable, offensive or noxious odors, dust, gases, fumes or other such material or which will in any manner violate any applicable zoning ordinance or other regulations enacted by any duly constituted governmental authority.

4.3 Mineral Drilling. No drilling or puncturing of the surface for oil, gas or other minerals or hydrocarbons within the Real Estate Development shall be permitted.

4.4 Livestock. The keeping of any poultry, cattle, horses or other livestock of any kind of character is prohibited within the Real Estate Development.

4.5 Refuse Storage; Growth. The storage of trash, ashes, or other refuse, except in normal receptacles, is prohibited. Further, no trash, garbage-cans or receptacles of any kind shall be left in sight, except on days so designated by the City of Oklahoma City for collection thereof. Weeds, underbrush or other unsightly growths shall not be permitted to grow or remain on Common Elements. In addition, no trash, ashes or other refuse may be thrown in any other Owner's Lot or in or on the Common Elements.

4.6 Signs and Billboards; Declarants Right. No signs or billboards exceeding six (6) square feet in area shall be permitted on any Lot or Common Element without the prior consent of the Association; however, this prohibition shall not apply to the Declarant in the initial sale of such Lot. Notwithstanding anything herein contained to the contrary, Declarant shall have the right to erect, and the Association shall be responsible for the maintenance of any entry identification.

4.7 Vehicle Parking and Storage. Except where adequate screening has been previously provided and an Owner has received prior written approval from the Architectural Control Committee, no unsightly vehicles, trucks, campers, recreational vehicles, motor homes or large commercial vehicles, and no vehicle in the process of being repaired or otherwise presently inoperable, shall be stored or parked on common elements, on Lots, or on the publicly dedicated streets within the Real Estate Development; the operation and parking of all vehicles on the Real Estate Development are subject to the By-Laws, and the rules and regulations of the Association.

4.8 View From Common Elements or Lot. All clotheslines, or drying yards, garbage-cans, equipment, coolers, or storage piles shall be located as not be visible from the Common Elements or any other Lot within the Real Estate Development.

4.9 Tanks. No elevated tanks of any kind shall be erected, placed or permitted on any Lot or Common Element.

4.10 Radio or Television Transmitting or Receiving Device; Wind Powered Generators. No radio or television transmitting or receiving device or antenna, pole or similar item which extends five (5) feet above the peak of a roof shall be allowed. Further, no television satellite dishes, or wind power generators shall be erected or maintained unless approved in writing by the Architectural Control Committee.

4.11 Waste. No waste shall be committed on the Common Elements.

4.12 Temporary Structure. No house, outbuilding, trailer, tent or shack shall be erected, placed or permitted nor shall any structure of a temporary character be used at anytime as a temporary or permanent residence without the prior written consent of the Architectural Control Committee.

4.13 Nuisance Activity. No noxious or offensive activity shall be carried on nor shall anything be done therein which may be or may become an annoyance or nuisance.

4.14 Improvements and Alterations; Plans and Specifications. Except for construction by the Declarant, no building, fence, dwelling, wall or other improvement or structure shall be commenced, erected, placed, moved or maintained upon the Real Estate Development, nor shall any exterior addition to or change in any improvement located on the Oaks III Real Estate Development be made until the complete plans and specifications showing this precise and exact nature, kind, shape, height, sat-back, materials color, and location of the name shall have been submitted in duplicate to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the Real Estate Development by the Architecture! Control Committee of the Association, as more fully described in the By-Laws.

4.15 Household Pets, Care and Restraint; Limit on Number; Indemnification by owners. No animal shall be kept except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No savage or dangerous animal shall be kept. No more than three (3) household pets may be kept without written permission of the Association. No pets may be permitted to run loose within the Real Estate Development and

any Owner who causes any animal to be brought or kept within the Real Estate Development shall indemnify and hold harmless the Association for any loss, damage or liability which the Association may sustain as a result of the presence of such animal on the premises, whether or not the Association has given its permission therefor.

4.16 Subdivision of Lots. No Lots, as designated on the Plat, may be subdivided except with the express written permission of the Board of Directors of the Association.

5. Easements for Encroachments. If any portion of the Common Elements encroaches upon a Lot or Lots, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist, regardless of whether such easement is shown on the Plat. If any portion of a Lot encroaches upon the Common Elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be an encumbrance either on the Common Elements or on the Lots.

6. Administration and Management; Mandatory Membership. The administration and management of this Real Estate Development shall be governed by these Conditions, Covenants, and Restrictions and by the By-Laws of the Association.

An Owner of a lot, upon becoming an Owner, shall mandatorily be a member of the Association and shall remain a member for the period of his ownership. The Association shall be governed by a Board of Directors as is provided in the By-Laws of the Association. The Association may employ agents, servants, and employees and any person or firm to act as Managing Agent at any agreed compensation.

7. Records; Inspection by Owners and Mortgagees.

7.1 Retention. The Board of Directors shall keep or cause to be kept current certified copies of the recorded Declaration, the executed By-Laws and the books and records with detailed accounts of the receipts and expenditures affecting the Real Estate Development and its administration. The records so kept shall be available for inspection, upon written request, by all Owners, lenders, and the holders, insurers, and guarantors of first mortgages at convenient hours on working days or under other reasonable circumstances.

8. Owner's Maintenance and Insurance Responsibility of Lot and Improvements. For purposes of maintenance, repair, alteration, remodeling and insurance (hazard and liability), an Owner shall be deemed to be responsible for all portions of the Lot (whether developed or not). In furtherance thereof, the Owner of any Lot shall have the duty of and responsibility for keeping the premises (whether improved or not), Building (both interior and exterior), improvements, appurtenances, and landscaping on his Lot in a well maintained, safe, clean, and attractive condition at all times. If, in the opinion of the Board of Directors of the Association, the Owner fails to fulfill his duty and obligation, the Association shall have the right and power to perform such care and maintenance ("Default Maintenance"), and the Owner shall be liable for the costs thereof. If such Owner fails to reimburse the Association for the cost of such care and maintenance upon receipt of an invoice therefore, the amount of such charge shall constitute a lien upon the lot enforceable as any other mortgage lien, but subordinate to any mortgage lien and any lien securing a construction loan to the Owner.

9. Association's Maintenance and Insurance Responsibility. The Association shall be responsible for the maintenance, repair, alteration, remodeling, and insurance (hazard and liability) of the Common Elements and, as contemplated at Paragraph 8, Default Maintenance.

10. Compliance with Provisions of Declaration, By-Laws and Rules and Regulations. Each

Owner shall comply strictly with the provisions of this Declaration, the By-Laws of the Association and the rules, regulations, decisions, and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure and refusal after written notice to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all attorney's fees incurred in connection therewith and interest on all of such amounts at the highest lawful rate, which action shall be maintainable by the Managing Agent or board of Directors in the name of the Association on behalf of the owners or, in a proper case, by an aggrieved Owner.

11. Interim Control of Association. Until one hundred twenty (120) days after sale of the last unsold lot, Declarant has the option to appoint or elect the board of Directors.

12. Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the owners unanimously consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the Owners representing an aggregate ownership interest of eighty percent (80%), or more, of the Common Elements consent and agree to such amendment by instrument(s) duly recorded.

13. Assessment for Common Expenses.

13.1 Obligation to Pay Pro-Rate Share. All owners shall be obligated to equally pay the assessments, either estimated or actual, imposed by the board of Directors of the Association to meet the Common expenses.

13.2 Assessment Due Date. Beginning with the conveyance of each Lot from the Declarant, assessments for the estimated Common Expenses shall be due yearly in advance on the date specified by written notice from the Board of Directors. In the event the ownership of a Lot commences on a day other than the first day of a year, the assessment for that year shall be prorated.

13.3 Fixing Assessments; Adjustments. For the purpose of fixing and determining the annual assessments or charges, the Board of Directors of the Association shall determine in advance for each calendar year the estimated aggregate amount of such assessments and charges as may be necessary for such year. The board of Directors may from time to time during each year make reasonable adjustments in said estimated aggregate amount.

13.4 Special Assessments for Capital Improvements. In addition to the annual assessments hereof, the Board of Directors may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying 'in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital' improvement, including the necessary fixtures and personal property related thereto.

13.5 Basis of Common Expenses, Increases. The assessments made for Common Expenses shall be based upon estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations, and improvement responsibility of the Association. In the event the cash requirement for Common Expenses exceeds the aggregate assessments made pursuant to this paragraph, the Board of Directors for the Association may from time to time and at any time increase, pro rata, the yearly assessment set forth in this paragraph.

13.6 Benefit of Assessment or Association Earnings. No part of the assessments or net earnings of the association shall inure to the benefit of any Lot Owner or individual, except to the extent that Lot Owners receive the benefits from the maintenance, repair, operations, additions, alterations, improvement, and insurance responsibility of the Association.

14. Owner's Personal Obligation for Payment of Assessments.

14.1 Non-Exemption from Payment; Board Responsibility to Collect; Interest, Costs, and Attorney Fees; Suit; Notice to Mortgagee. The amount of Common Expenses assessed against each Lot shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Elements or by abandonment of his Lot. The Board of Directors shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid more than fifteen (15) days from the due date for payment thereof. In the event of a default by an Owner in the payment of the assessment, such Owner shall be obligated to pay interest at the rate of fifteen percent (15%), or such higher rate (provided the same shall not be usurious) as the Board of Directors may from time to time determine, per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees, incurred to collect such assessment together with late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid Common Expenses may be instigated in Oklahoma County, Oklahoma, and may be maintainable without foreclosing or waiving the lien securing same. Additionally, in the event that the mortgage on a Lot should so provided default in the payment of an assessment shall be a default in such mortgage and, if required by the mortgagee by written notice to the Associations the Board of Directors shall give notice of any default in payment of an assessment to the mortgagee.

14.2 Unsold Lot Assessments. Declarant shall not be responsible for payment of assessments for any unsold Lots. However, Declarant shall, if deemed necessary in the Declarant's sole discretion, perform the obligations of the Association, at Declarant's expense, pertaining to said Lots during the period of time for which Declarant retains title to such unsold Lots.

14.3 Reserves and Working Capital. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance repair and replacement of improvements to the Common Elements which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for Common Expenses.

15. Assessment Lien; Priority; Notice of Lien; Recording; Enforcement; Receiver; Mortgagee May Pay Assessment. All sums assessed but unpaid for the share of common Expenses chargeable to any Lot, including any fees, late charges, fines or interest, shall constitute a lien on such Lot prior to all other liens except the following: (1) assessments, liens and charges for taxes past due and unpaid on the Lot, (2) judgments entered in a Court of Record prior to the date of Common Expense assessment, (3) mortgage instruments of encumbrance duly recorded prior to the date of such assessment, (4) mechanic's and materialmen's liens arising from labor performed or material furnished upon a Lot prior to the date of such assessment, and (5) mechanic's and materialmen's liens for labor performed or materials furnished upon the Common Elements to the extent of the proportionate part chargeable to the Lot Owners which constitute a part of an assessable charge for Common Expenses, satisfaction of which shall discharge the assessment to the extent of the payment made. To evidence such lien the Board of Directors shall prepare a written notice of assessment lien setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and the legal description of the Lot. Such a notice shall be signed by one of the Board of Directors or by one of the officers of the Association and shall be recorded in the office of the County Clerk of Oklahoma County Oklahoma. Such lien for the Common Expenses shall attach from the due date thereof and impart notice to third parties from the date of the recording thereof. Such lien may be enforced by the foreclosure of the defaulting Owner's Lot subsequent to the recording of a notice or claim thereof by the Association in like manner as a mortgage on real property. In any such proceedings the Owner shall be required to pay the costs, expenses, and attorney's fees incurred for filing the lien and, in the event of foreclosure proceedings, the additional costs, all expenses and attorney's fees incurred. The Owner of the lot being foreclosed shall be required to pay to the Association the yearly assessment for the Lot during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same. The Association shall have the power to purchase a lot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the

votes appurtenant to, convey or otherwise deal with the same. Any mortgagee holding a lien on a Lot may pay, but shall not be required to pay, any unpaid Common Expenses payable with respect to such Lot, and such payment shall not be deemed a waiver by the Association of default by the Lot Owner.

16. Assessments Collectible Upon Sale. Upon the sale or conveyance of a Lot, all unpaid assessments against the seller for his pro rate share of the Common Expenses, including interest and costs and reasonable attorney's fees incurred in collection, shall be first paid out of the sales price or by the purchaser in preference of any other assessments or charges of whatever nature, except the following

16.1 Assessment, liens and charges for taxes past due and unpaid on the Lots;

16.2 Judgments entered in a Court of Record prior to the date of Common Expense assessment;

16.3 Mortgage instruments of encumbrance duly recorded prior to the date of such assessments;

16.4 Mechanic's and materialmen's liens arising from labor performed or material furnished upon a Lot prior to the date of such assessments and

16.5 Mechanic's and materialmen's liens for labor performed or material furnished upon the Common Elements to the extent of the proportionate part chargeable to the Lot Owners which constitute a part of an assessable charge for Common Expenses, the satisfaction of which shall discharge the assessment to the extent of the payment made.

In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessment by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Managing Agent or Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments made by the Association, against the grantor in excess of the amount therein set forth.

17. Mortgaging a Lot; Priority; Mortgage Subject to Declaration; Mortgage in Title-Unpaid Assessments. An owner shall have the right from time to time to mortgage or encumber his Lot and the interest appurtenant thereto by deed of trust, mortgage or other instrument, but the lien created thereby shall be subject to the terms and provisions of this Declaration, and any mortgagee or other lienholder who acquires a Lot through judicial foreclosure, public sale or other means shall be subject to terms and conditions of this Declaration except as specifically excepted herefrom. Where the holder of a first mortgage of record or other purchaser obtains title to this Lot as a result of foreclosure of the first mortgage or deed in lieu of foreclosure, such acquirer of title shall not be liable for the share of the Common Expenses or assessments chargeable to such Lot which became due prior to acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such acquirer, his successors and assigns.

18. Insurance. At such time as the budget permits and funds are available, the Association may but shall not be obligated to carry and maintain, for the Common Elements, casualty and comprehensive general liability insurance as well as fidelity, worker's compensation, directors' and officers' liability, and, as applicable, flood insurance meeting all of the statutes of the state of Oklahoma and meeting all this regulations and requirements, whether present or future, of the

Federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veterans Administration as long as any loan in the Real Estate Development is, as applicable, owned, insured, or guaranteed by any of such entities, i.e., the regulations and requirements of any such entity need be lost only if such entity owns, insures, or guarantees one or more loans in the items of insurance named herein shall be that of the Board of Directors, in keeping with applicable statutory and regulatory requirements to which the Association may be subject

18.1 Insurance for Lot Owners. Each Owner shall be required to obtain insurance, at his own expense, on his Lot, including any portion of Common Element's granted for his exclusive use by the Association, and on all improvements, furnishings, decorations, and other items of personal property belonging to an owner. Casualty and public liability insurance coverage within each Lot are specifically made the responsibility of the owner thereof.

19. Eminent Domain.

19.1 Acquisition of all or Substantially All of Lot. If a Lot is acquired by eminent domain, or if part of a Lot is acquired by eminent domain leaving the Lot Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Lot Owner and mortgagees, if any, as their interest may appear, for the Lot and its Common Element interest, whether or not any Common Element interest is acquired. Upon acquisition, unless the decree otherwise provides, that Lot's entire Common Element interest, votes in the Association, and Common Expense liability are automatically reallocated to the remaining Lots in proportion to the respective interests, votes, and liabilities of these Lots before the taking, and the Association shall promptly prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Any remnant of a Lot remaining after part of a Lot is taken under this subsection is thereafter a Common Element.

19.2 Acquisition of Part of a Lot. Except as provided in paragraph 19.1, if part of a lot is acquired by eminent domain, the award must compensate the Lot Owner and mortgagees, if any, as their interest may appear, for the reduction in value of the Lot and its Common Element Interest. Upon acquisition, (1) that Lot's Common Element interest, votes in the Association, and Common Expense liability are reduced in proportion to the reduction in the size of the Lot, or on any other basis specified in this Declaration, and (2) the portion of Common Element interest, votes, and Common Expense liability divested from the partially acquired lot are automatically reallocated to that Lot and the remaining Lots in proportion to the respective interest, votes, and liability of those Lots before the taking with the partially acquired Lot participating in the reallocation on the basis of its reduced interests, votes, and liabilities.

19.3 Acquisition of Part of Common Element. If part of the Common Elements is acquired by eminent domain, the award must be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Elements among the Lot Owners in proportion to their respective Common Element interests before the taking.

19.4 Association to Represent Owners. The Association shall represent the Lot owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements or part thereof. Each Lot Owner appoints the Association as attorney-in-fact for such purposes.

20. Registration of Mailing Address of Lot owners; Association Address; Service Agent. Each Owner shall register his mailing address with the Association, and notices or demands intended to be served upon an Owner shall be sent by mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or to the Association shall be sent certified mail, postage prepaid, to 1800 East Memorial Road,

Oklahoma City, Oklahoma 73131, Attention: Earl Austin, or at such other address of which the Board may be furnished from time to time.

21. Period of Ownership. The Real Estate Development created by this Declaration shall continue until this Declaration is revoked in the manner as is provided for in this Declaration.

22. General Reservations. Declarant reserves the right to establish within the Common Elements future easements, reservations, exceptions, and exclusions consistent with the ownership of the Real Estate Development and for the best interests of the Lot owners and the Association in order to serve the entire Real Estate Development.

23. Wavier Clause. Except as to the payment of assessments, the Association shall have the power to grant to any owner a wavier, variance, or exception of and from any of the provisions of this Declaration, upon approval of a three-fourths (  $\frac{3}{4}$  ) majority of the votes entitled to be cast by the members of the Association at the annual meeting of the Association or at any special meeting called for this purpose. This shall not affect the rights and powers of the Association granted in Article 2.1.1 herein.

24. General.

24.1 Severance. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

24.2 Failure to Enforce Not Wavier. No provision contained in this Declaration or the By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or branches which may occur.

24.3 Captions. The captions herein are inserted only as a matter of convenience, and for reference, and in no way define, limit or describe the scope of this Declaration or exhibits or the intent of any provision hereof.

24.4 Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine or neuter gander and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

24.5 Covenants to Run with the Land. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Real Estate Development and shall insure to the benefit of and be enforceable by the Association or any member, their respective legal representatives, heirs, successors, and assigns.

24.6 Declarant Easement. Declarant has an easement through the Common Elements as may be reasonable necessary for the purpose of discharging Declarants obligations or exercising Declarants rights reserved herein.

24.7 Enforcement at Law or In Equity. The Association, or any Owner or Declarant, so long as Declarant has a record interest in the Real Estate Development, shall have the right to enforce, by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions or this Declaration or any amendment hereto, including the right to prevent the violation or any such restrictions, conditions, covenants, or reservations end the right to recover damages or other dues for such violations however, with respect to assessments liens and Association Rules, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association or by any Owner to enforce

any covenant, condition, or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of this Declaration or the By-Laws and any amendments thereto.

24.8 Attorney Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys fees and costs shall be a special assessment with respect to the Lot involved in the action.

24.9 Special Amendment. Declarant hereby reserves and is granted the right and power to record a Special Amendment to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of housing and Urban Development, the Federal Housing Administration, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, insure, or guarantee Best mortgages covering lots, and/or (iii) to comply with the requirements of any permanent lender or title insurance company. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to make, execute, and record special amendments. No special amendment made by Declarant shall affect or impair the lien of any first mortgage upon a Lot or any warranties made by an Owner or first mortgages in order to induce any of the above agencies or entities to make, purchase, insure, or guarantee the first mortgage on such owner's Lot.

24.10 City of Oklahoma City a Beneficiary. In order that the public interest may be protected, the City of Oklahoma City shall be a beneficiary of any of the covenants herein pertaining to location of uses, maintenance of Common Elements, and success. The City of Oklahoma City may enforce compliance therewith.

24.11 Mergers. This association may be merged with one or more other associations upon the approval of such plan of Merger by owners representing an aggregate ownership interest of eighty percent (80%), or more, of the Common Elements.

NOTE TO READER – THIS DOCUMENT HAS BEEN RETYPED FROM THE RECORDED COPY BY EMPLOYEES OF NEIGHBORHOOD SERVICES CORPORATION. ALTHOUGH DUE CARE WAS TAKEN TO INSURE ACCURACY MISTAKES AND OMISSIONS MAY HAVE OCCURRED IN THE RETYPING. YOU SHOULD NOT RELY ON THIS DOCUMENT AS THE BASIS FOR IMPORTANT DECISIONS WITH REGARD TO THE PURCHASE OR USE OF ANY PROPERTY, AND NO LIABILITY OR RESPONSIBILITY IS ACCEPTED BY NEIGHBORHOOD SERVICES CORPORATION FOR ERRORS CONTAINED HEREIN. YOU MAY OBTAIN COPIES OF ANY RECORDED DOCUMENTS FROM THE COUNTY CLERKS OFFICE, OR YOU MAY OBTAIN COPIES OF UNRECORDED DOCUMENTS FROM THE HOMEOWNERS ASSOCIATION.