

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
MOUNTAIN LAKES
SECTION TWO**

STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF ERATH *

BLUEGREEN SOUTHWEST ONE, L.P. formerly known as PROPERTIES OF THE SOUTHWEST, L.P., a Delaware partnership, duly authorized to do business in the State of Texas, acting through its General Partner, BLUEGREEN SOUTHWEST LAND, INC. a Delaware Corporation, authorized to do business in the State of Texas, hereinafter referred to as "Developer",

WITNESSETH:

WHEREAS, Developer is the owner of that certain tract of land known as MOUNTAIN LAKES SECTION TWO consisting of 1137.92 Acres of land situated in Erath County, Texas, with the plat ("Plat") of MOUNTAIN LAKES SECTION TWO recorded in CABINET A, PAGE 317 of the Plat Records in the office of the County Clerk of Erath County, Texas on the 12TH OF JANUARY, 2001 after having been approved as provided by law, and

WHEREAS, it is the desire of Developer to place certain restrictions, easements, covenants, conditions, stipulations and reservations (herein sometimes referred to as the "Restrictions") upon and against such MOUNTAIN LAKES SECTION TWO in order to establish a uniform plan for it's development, improvement and sale, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of Tracts in MOUNTAIN LAKES SECTION TWO; and

WHEREAS, Developer reserves and retains unto itself, the right, as it, in its sole discretion, shall determine, to (i) add to or delete areas from the Subdivision (defined in Section 1.22 hereafter); and, (ii) hereafter place and impose such restrictions, easements, covenants, conditions, stipulations and reservations on any and all remaining unrestricted Properties, or portions thereof, in the Subdivision, in order to establish any plan chosen by Developer for the development, improvement and sale thereof;

NOW, THEREFORE, Developer hereby adopts, establishes and imposes upon MOUNTAIN LAKES SECTION TWO and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of said Property, which Restrictions shall run with said Property and title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof. Developer also declares that MOUNTAIN LAKES SECTION TWO shall be subject to the jurisdiction of the "Association" (as hereinafter defined).

**ARTICLE I
DEFINITIONS**

Section 1.01 "Accessory Building" shall mean and refer to a subordinate building, attached to or detached from the Dwelling (as hereinafter defined).

Section 1.02 "Annexable Area" shall mean and refer, without limitation, to any property adjacent to or in the proximity of the Subdivision.

Section 1.03 "Annexed Area" shall mean and refer to any additional property made subject to the jurisdiction of the Association pursuant to the provisions set forth herein.

Section 1.04 "Association" shall mean and refer to the Mountain Lakes Property Owners Association, and its successors and assigns.

Section 1.05 "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.06 "Builders" shall mean and refer to persons or entities that purchase tracts and build speculative or custom homes thereon for third party purchasers.

Section 1.07 "Common Area" shall mean all real property (including the improvements thereto) within the Subdivision owned by the Developer and/or the Association for the common use and enjoyment of the Owners.

Section 1.08 "Contractor" shall mean and refer to the person or entity with whom an Owner contracts to construct a residential dwelling on such Owner's Tract.

Section 1.09 "Developer" shall mean and refer to Bluegreen Southwest One, L.P. and its successors and assigns.

Section 1.10 "Dwelling" shall mean and refer to a building having accommodations for and occupied by not more than one family.

Section 1.11 "Garage" shall mean and refer to an Accessory Building or a portion of a Dwelling in which motor-driven vehicles are stored.

Section 1.12 "Height" shall mean and refer to the measurement from the building line or highest point on the lot, which ever is greater, to the highest point of the Improvement being measured.

Section 1.13 "Mountain Lakes" shall mean and refer to all sections of Mountain Lakes hereafter made subject to the jurisdiction of the Association.

Section 1.14 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Tract which is a part of the Subdivision. The term "Owner" shall include (i) contract sellers (a seller under a Contract-for-Deed), but excluding those having such interest merely a security for the performance of an obligation, (ii) Developer (except as otherwise provided herein), and (iii) Builders.

Section 1.15 "Plat" shall collectively mean and refer to: (i) the Final Plat of Mountain Lakes Section Two, an addition to Erath County, Texas, recorded in CABINET A 540237 Plat Records, Erath County, Texas.

Section 1.16 "Front Line" shall mean and refer to any boundary line of a Tract which is adjacent to a public road and the front of the proposed improvements face.

Section 1.17 "Rear Line" shall mean the opposite of Front Line.

Section 1.18 "Side Line" shall mean and refer to any boundary line of a Tract which is not a Front Line or Rear Line.

Section 1.19 "Street" shall mean and refer to the roadways dedicated by the Developer to Erath County, Texas, by the Plat and accepted by Erath County, Texas as public streets and roadways.

Section 1.20 "Tract" shall mean and refer to any plot of land identified as a tract or homesite on the Plat. For purposes of this instrument, "Tract" shall not be deemed to include any portion of the "Common Areas" or "Unrestricted Reserves" (defined herein as any Common Areas and Unrestricted Reserves shown on the Plat) in the Subdivision, regardless of the use made of such area.

Section 1.21 "Boat Dock/Pier" shall refer to an any structure extending into the lake where boats are docked.

Section 1.22 "Guest House" shall mean and refer to detached living quarters.

Section 1.23 "Lakes" shall mean and refer to the proposed body of water covering approximately 100 acres designed as Restricted Reserve 2 and approximately 40 acres designed as Restricted Reserve 7 in the Subdivision. All owners of Tracts within any Section of Mountain Lakes may use said water area of the Lake as a Common Area, subject to the rules and regulations imposed for such use.

Section 1.24 "Lakefront Tract" shall mean an refer to Tracts adjoining any portion of Restricted Reserve 2 and Restricted Reserve 7 of the Subdivision.

Section 1.25 "Recreational Vehicle/Motor Home" vehicle designed for recreational use, professionally made, (not including converted school buses or homemade trailers).

**ARTICLE II
RESERVATIONS, EXCEPTION AND DEDICATIONS**

Section 2.01 Recorded Subdivision Map of the Property. The plat ("Plat") of Mountain Lakes dedicates for use as such, subject to the limitations as set forth therein, the roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to Mountain Lakes. All dedications, restrictions and reservations created herein or shown on the Plat, replats or amendments of the Plat of Mountain Lakes recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Developer, whether specifically referred to therein or not.

Section 2.02 Utility Easements. Developer reserves for public use the utility easements shown on the Plat or that have been or hereafter may be created by separate instrument recorded in the Real Property Records of Erath County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, cable television, or any other utility the Developer sees fit to install in, across and/or under such utility easements. Should any utility company furnishing a service covered by any easement in these restrictions provided for, request a specific easement by separate recordable document, Developer, without the joinder of any other Owner, shall have the right to grant such easement along and within the setback line of any Tract without conflicting with the terms hereof. Any utility company serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither Developer nor any utility company, political subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants, to fences, shrubbery, trees and lawns or any other property of the Owner on the property covered by said easements.

(a) Utility ground and aerial easements have been dedicated in accordance with the Plat and by separate recorded easement documents.

(b) No building shall be located over, under, upon or across any portion of any utility easement. The Owner of each Tract shall have the right to construct, keep and maintain concrete drives, fences, and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Tracts, provided, however, any concrete drive, fence or similar improvement placed upon such Utility Easement by the Owner shall be constructed, maintained and used at Owner's risk and, as such, the Owner of each Tract subject to said Utility Easements shall be responsible for (i) any and all repairs to the concrete drives, fences and similar improvements which cross or are located upon such Utility Easements and (ii) repairing any damage to said improvements caused by any public utility in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Utility Easements.

Section 2.03 Drainage Easements. Developer reserves for public use, drainage easement shown on the plat or that have been or hereafter may be created by separate instrument recorded in Real Property Records of Erath County, Texas, for the purpose of constructing, maintaining or repairing to insure proper storm drainage for the benefit of Mountain Lakes. All dedicated utility easements may be used for the construction of drainage swales in order to provide for improved surface drainage of the Reserves, Common Area, Tracts and roadways. 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, including the construction of ponds and dams.

Section 2.04 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by developer to any of the Tracts by contract for deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, electric lighting, electric power, telegraph or telephone purposes and other easements hereafter granted affecting the Tracts. The Owners of the respective Tracts shall not be deemed to own pipes, wires, conduits or other service lines running through their Tracts which are utilized for or service other Tracts. The Developer may convey title to said easements to the public, a public utility company or the Association.

Section 2.05 Flowage Easement. A flowage easement on, over and across that portion of the Lakefront Tracts adjacent to Restricted Reserve 2 in the Subdivision situated below the elevation of 940 feet mean sea level (msl) and Tracts adjacent to Restricted Reserve 7 situated below the elevation of 985 feet mean sea level (msl) are hereby reserved for the Developer and, upon the Transfer Control Date, the Association, for the following purposes:

- a) The right to overflow, flood or cover such portion of the Lakefront Tracts in the Subdivision lying in the flowage easement, with flood water, slack water or back water caused by the construction, maintenance and operation of the dam for the Lake and the reservoir for the storage of water created by the construction of the Lake.
- b) The right to enter upon said Lakefront Tracts at anytime or times hereafter and do whatever is reasonably necessary in the sole discretion of the Developer and/or the Association to maintain and operate such Lake and to prevent the draining or dumping of refuse, sewage or other material into such reservoir.

Section 2.06 Restricted Reserves. The areas designated as Restricted Reserves on the Plat are Common Areas to be used by all Owners in any Section of Mountain Lakes Subdivision, together with their invitees and guests for recreational and outdoor activities. Provided, however, the use of Restricted Reserves 2 and 7 shall be subject to the exclusive and perpetual easement granted to owners of tracts adjoining said Restrictive Reserves as provided in Section 3.03. The use of all Restricted Reserves shall be regulated by the Developer, its successors or assigns through written rules and regulations.

ARTICLE III USE RESTRICTIONS

Section 3.01 Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on any Tract other than one dwelling unit per each Tract to be used for residential purposes. Detached garages, work shops and other accessory buildings may be constructed on the property prior to the time the main dwelling is being built so long as they are of good construction, kept in good repair and are not used for residential purposes. All dwellings, detached garages, work shops and accessory buildings must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. The term "dwelling" does not include single or double wide or other manufactured homes, and said manufactured homes are not permitted within the Subdivision. All dwellings must have at least 1400 square feet of living area, excluding porches, and a minimum of a one car garage. Carports are allowed so long as the carport is attached to and connected with the dwelling with its roof being an extension of the roof of the Dwelling. All improvements, with the exception of workshops on lots three (3) acres or larger, must be built with new construction materials with exterior walls being eighty percent (80%) masonry, glass or natural wood (i.e. no aluminum, asbestos siding, vinyl siding, plywood siding, or masonite siding). Cement fiber siding is considered masonry. Storage buildings may also be built to placed on the tract as long as they are at least 150 feet from the front property line and are approved by the Architectural Control Committee. Storage buildings placed on water front tracts (Tracts 303-324, 345-358, 375-397, 427-438 inclusive) must also be 50 feet from the 985 foot elevation. Storage buildings placed on water front tracts (Tracts 593-614 inclusive) must also be 50 feet from the 940 elevation. Guest Houses, with a minimum square footage of 500 feet, must be approved in writing by the Architectural Control Committee prior to construction. Guest Houses must be built simultaneously as the main dwelling or after construction of the main dwelling, kept in good condition and must be of similar exterior construction of the main dwelling. Any building, structure or improvement commenced on any tract shall be completed as to exterior finish and appearance within six (6) months from the commencement date. As used herein, the term "residential purposes" shall be construed to prohibit manufactured housing, mobile homes or trailers being placed on said Tracts, or the use of said Tracts for duplex houses, condominiums, townhouses, or apartment houses. All tracts shall be for residential purposes and all homes must be site constructed.

Section 3.02 Composite Building Site. Any Owner of one or more adjoining Tracts (or portions thereof) may, with the prior written approval of the Architectural Control Committee and Erath County consolidate such Tracts or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back lines shall be measured from the resulting side property lines rather than from the Tract lines as indicated to the Plat.

Section 3.03 Boat Docks/Piers. Tracts adjacent to the proposed lakes may construct a boat dock into the water from the owners Tract. All plans for the construction of boat docks must be approved in writing by the Architectural Control Committee prior to construction. Boat docks are limited to 8 square feet per linear foot of shoreline owned, not including the walkway if less than four feet in width. Maximum height is restricted to 15 feet and shall not extend, further than 1/3 the width of the waterway, but in no event farther than 50 feet into the waterway. Owners of tracts adjoining the proposed lakes are hereby granted a perpetual exclusive easement from that owner's lot line to the water line, as the same shall ebb and flow at any given time. The Association reserves the right of ingress and egress over and across this easement for the sole

purpose of maintaining and/or repairing the lake or lakebed, including the easement area.

Section 3.04 Easements and Building Setbacks. A 30 foot set back exists from all front lot lines except that Tracts (257-284, 512-529 inclusive), have a 100 foot front building setback. A 5 foot set back requirement for all buildings exists inside the side lot lines. A 20 foot set back exists inside the rear lot line except that Tracts abutting Texas FM Hwy. 2481 on Tracts less than 3 acres otherwise, a 10 foot set back exists (257-282 inclusive,) have a 200 foot rear building setback. Tracts fronting Restrictive Reserve 2 (593-614) shall have a 50 foot rear set back from the natural shoreline of the lake or the 940 elevation and Tracts fronting Restricted Reserve 7 (303-324, 345-358, 375-397, 429-438, inclusive) shall have a 50 foot rear set back from the natural shoreline of the lake or the 985 elevation. A significant area at the rear or other portion of each of the following Tracts adjacent to the proposed lake are affected by possible water coverage. Finished floor elevations for permanent structures on Tracts (593-614 inclusive) may not be constructed below the 940 foot elevation and Tracts (303-324, 345-358, 375-397, 429-438) may not be constructed below the 985 foot elevation.

Section 3.05 Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other accessory building shall be maintained or used on any Tract at any time as a residence, either temporarily or permanently; provided, however, that Developer reserves the exclusive right to erect, place and maintain such facilities in or upon any property in the Subdivision that it owns as in its sole discretion may be necessary or convenient while selling Tracts, selling or constructing residences and constructing other improvements within the Subdivision. However, owners may locate motor homes, travel trailers, and tents on their tracts within set back lines temporarily, not to exceed seven (7) consecutive days in any calendar month or up to 6 months while residence is being constructed. Motor Homes and travel trailers remaining on the Tract beyond the set time restriction are subject to removal by the Property Owners Association. On water front Tracts, (593-614 inclusive) boats, RV's and travel trailers must be 50 feet from the natural shore line or the 940 elevation and on waterfront tracts (303-324, 345-358, 375-397, 429-438) boats, RV's and travel trailers must be 50 feet from the natural shore line or the 985 elevation. Developer, or any member of such Committee shall have the right, which Owners hereby gives Developer or such committee member(s), to enter upon Owner(s) Tract and to remove any such temporary structure which is placed on any Tract in violation of these restrictions, and in doing so, Owner agrees neither Developer nor such member(s) shall be liable, and each is hereby expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal. No trash shall be left on Tract. No clothes lines, hanging of clothing, towels, etc. will be permitted. During a non "burn ban", camp fires are allowed but must be contained within a steel camp fire ring and not left unattended.

Section 3.06 Walls and Fences. Walls and fences, if any, must be approved prior to construction by the Architectural Control Committee and shall be no closer to the front property line than the front line of the house on Tracts of four (4) acres or less. Tracts greater than four (4) acres are permitted to fence along the front property line, however fences fronting roadways must be approved by the Architectural Control Committee, no barbed wired is allowed. Tracts backing Texas FM Hwy 2481 (257-282 inclusive) are permitted to fence along the roadway provided that the fencing is white vinyl fence of good construction kept in good repair. A maximum Height of any fence shall not exceed ten (10) feet.

Section 3.07 Prohibition of Offensive Activities. No Activity, whether for profit or not, shall be conducted on any tract which is not related to single family residential purposes, unless said activity meets the following criteria: (a) no additional exterior sign of activity is present, (b) it is the type of action that usually happens in a home, (c) no additional traffic, that would not be there normally, is created, (d) the entity or activity maintains an office or place of business elsewhere, and (e) no hazardous or dangerous materials may be stored in bulk on the Tract. This restriction is waived in regard to the customary sales activities required to sell Tracts or homes in the Subdivision. The discharge or use of firearms is expressly prohibited. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.

Section 3.08 Garbage and Trash Disposal. Garbage and trash or other debris accumulated in this Subdivision shall not be permitted to be dumped at any place within this Subdivision or that may be created. No Tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 3.09 Junked Motor Vehicles Prohibited. No Tract shall be used as a depository for abandoned or junked motor vehicles. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept on any Tract. Boats, RV's and travel trailers may be stored on Tracts after the residence is constructed, however, they must be stored in the side or

back yard and must be parked no closer than the front line of the house to the street and must be within all building set back lines.

Section 3.10 Signs. No signs, advertisement, billboards or advertising structure of any kind may be erected or maintained on any Tract without the consent in writing of the Architectural Control Committee and/or Developer except one (1) standard sign adopted by the Developer and Association not more than twenty-four inches by thirty-six inches, advertising an Owner's Tract for sale or rent. During construction of the home or accessory building, Contractors or Builders are permitted to have one (1) professionally made sign, not more than thirty-six inches wide by thirty-six inches long for advertising purposes, but shall be required to remove said sign upon completion of contracted construction. All other signs are prohibited. Developer, or any member of such Committee shall have the right, which Owners hereby gives Developer or such committee member(s), to enter upon Owner(s) Tract and to remove any such sign, advertisement or billboard or structure which is placed on any Tract in violation of these restrictions, and in doing so, Owner agrees neither Developer nor such member(s) shall be liable, and each is hereby expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 3.11 Animal Husbandry. No hogs, pigs or poultry of any kind shall be raised, bred or kept on any Tracts. On Tracts five (5) acres or greater, Property Owners shall be limited to one (1) horse, cow, goat or other large animal per acre, only if property is fenced with fencing capable of containing such animals. Dogs, cats, or other common household pets may be kept on a Tract. There shall be no more than four (4) adult dogs per household. Dogs must be kept in a kennel, dog run, or fenced in area that confines said dog(s) to that area. Dogs will not be permitted to run loose in the subdivision and must be vaccinated for rabies according to State law once a year and registered with Erath County once a year.

Section 3.12 Mineral Development. No commercial oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted. No derrick or other structures designed for the use of boring for oil or natural gas shall be erected, maintained or permitted upon any Tract.

Section 3.13 Drainage. Natural established drainage patterns of streets, Tracts or roadway ditches will not be impaired by any person or persons. Driveway culverts must be installed and will be of sufficient size to afford proper drainage of ditches without backing water up into ditch or diverting flow. Drainage culvert installation is subject to the inspection and approval of Erath County and must be installed prior to any construction on the Tract. All natural drain patterns must remain opened and must not be blocked by ponds or dams.

Section 3.14 Duty of Maintenance. Owners and occupants (including lessees) of any Tract shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Tract so owned or occupied, including improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following:

- a. Prompt removal of all litter, trash, refuse and wastes
- b. Keeping lawn and garden areas alive, free of weeds and attractive
- c. Keeping driveways in good repair
- d. Complying with all government health and policy requirements
- e. Repair of exterior damage to improvements

Section 3.15 Approved Watercraft. All watercraft must meet Texas Registration requirements and be registered with the Property Owners Association

Section 3.16 Enforcement. If, in the opinion of the Board of Directors or the Architectural Control Committee any such Owner or occupant (including lessees) has failed to comply with any of the foregoing restrictions or has failed in any of the foregoing duties or responsibilities, then the Committee or the Directors shall deliver to such Owner or occupant (including lessees) written notice of such failure and such Owner or occupant (including lessees) must within ten (10) days from and after delivery of such notice, comply with the restrictions and/or perform the care and maintenance required. Should any such Owner or occupant (including lessees) fail to fulfill this duty and responsibility within such period, then the Committee, or the Directors, or their designated agents are hereby authorized to enter onto the premises and correct such violations and perform such care and maintenance as necessary, at the expense of the Owner, without any liability for damages or for wrongful entry, trespass or otherwise, to the Owner,

contractor, Builder, occupant or any other person found on the Tract. The Owners and occupants (including lessees) of any Tract on which such work is performed shall promptly reimburse the Committee or the Association for such cost. If such Owner or occupant (including lessees) shall fail to reimburse the Developer, Committee or the Association within 30 Days from and after delivery by the Association of an invoice setting forth the costs incurred by the association for such work, then said indebtedness shall be a debt of the Owner and occupant (including lessees) jointly and severally.

ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

Section 4.01 Basic Control.

(a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereof (excluding, without limitation, painting, staining or siding), or any addition or exterior alteration made thereto after original construction, or demolition or destruction by voluntary action made thereto after original construction, on any Tract in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Developer, until the establishment of the Architectural Control Committee (hereafter "Committee") as hereafter provided, and thereafter the Committee, and Erath County (if required by law, rule or other regulation) of the construction plans and specifications for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action.

(b) Each application made to the Committee, or to the Developer under Section 4.02 below accompanied by three sets of plans and specifications for all proposed construction (initial or alteration) to be done on such Tract, including plot plans showing location on the tract. Upon receipt, the Architectural Control Committee shall forward one set of the plans and specifications to the Developer.

Section 4.02 Architectural Control Committee.

(a) The authority to grant or withhold architectural control approval as referred to above is initially vested in the Developer; provided, however, the authority of the Developer shall cease and terminate upon establishment of the Architectural Control Committee of the Association in which event such authority shall be vested in and exercised by the Committee (as provided in (c) below), hereinafter referred to, except as to plans and specifications and plot plans theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plot plans. The term "Committee", as used in this Declaration, shall mean or refer to the Developer or to the Mountain Lakes Architectural Control Committee composed of members of the Association, as applicable.

(b) Developer shall select and appoint three Mountain Lakes property owners to serve as the Architectural Control Committee. These three shall also serve as the initial Board of Directors. These three owners shall serve in both positions until a new Architectural Control Committee and a new Board of Directors are elected at the next succeeding annual meeting following the control transfer date. Only the initial Board of Directors must be the same people who serve as the Architectural Control Committee.

(c) At such time as Ninety-Five percent (95%) of all of the Tracts of the Subdivision are conveyed by Developer (from time to time hereafter referred to as the "Control Transfer Date") the Developer shall cause an instrument transferring control to the Association to be placed of record in the Real Property Records of Erath County, Texas (which instrument shall include the Control Transfer Date). From and after the Control Transfer Date, each member of the Committee must be an Owner of property in Mountain Lakes Subdivision. The Developer shall have the right to discontinue the exercise of architectural control privileges and arrange for the transfer to the Association at any time prior to the Control Transfer Date by filing a statement and instrument to such effect in the Real Property Records of Erath County, Texas.

Section 4.03 Effect of Inaction. Approval or disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plot plans received by it in compliance with the preceding provisions within thirty (30) days following such submissions, such plans and specifications and plot plan shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof.

Section 4.04 Effect of Approval. The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Committee that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reasons of the good faith exercise thereof.

Section 4.05 Variance. The Developer or, if applicable, the Committee, may, on a case by case basis, authorize variances from compliance with any of the provisions of either (i) this Declaration, or (ii) the minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer or the Committee. Notwithstanding, after the Control Transfer Date, both the Developer and the Architectural Control Committee shall have the right to grant a variance from the Building set-back line restrictions. Either party may grant this variance, as it determines in its sole discretion is needed, without the consent of the other. Such variance must be evidenced in writing and shall become effective when signed by the Developer or by at least a majority of the members of the Committee. If any such variances are granted, no violation of the provisions of this declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provision of the Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance effect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned and the Plat.

**ARTICLE V
MOUNTAIN LAKES
PROPERTY OWNERS ASSOCIATION**

Section 5.01 Membership. Every person or entity who is a record owner of any Tract which is subject to the Maintenance charge (or could be following the withdrawal of an exemption therefrom) and other assessments provided herein, including contract sellers, shall be a "Member" of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. Owners shall have one membership for each Tract including consolidated Tracts under article 3.02, owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the Tract. Regardless of the number of persons who may own a Tract (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Tract. Additionally, the Directors of the Association shall also be Members of the Association (as more particularly described in the By-laws). Ownership of the Tracts shall be the sole qualification for membership. The voting rights of the Members are set forth in the Bylaws of the Association. However, the Restrictive covenants will not be construed as to assess the Veterans Land Board or the State of Texas. Any assessments are the personal obligation of the Veteran purchaser, his heirs and assigns. Any lien imposed by the restrictive covenants does not affect the Veterans Land Board's interest in the property.

Section 5.02 Non-Profit Corporation. Mountain Lakes Property Owners Association, Inc., a non-profit corporation, has been (or will be) organized and it shall be governed by the Articles of Incorporation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 5.03 Bylaws. The Association has adopted or may adopt whatever Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Tracts and Common Areas, provided that the same are not in conflict with the terms and provisions hereof.

Section 5.04 Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every assessed Tract, subject to the following provisions:

(a) the right of the Association, with respect to the Common Areas, to limit the number of guests of Owners;

(b) the right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Areas;

(c) the right of the Association, in accordance with its Articles and Bylaws (and until 95% of all tracts in the Subdivision are sold, subject to the prior written approval of the Developer), to (i) borrow money for the purpose of improving and maintaining the Common Areas and facilities (including borrowing from the Developer or any entity affiliated with the Developer) and (ii) mortgage said property, however, the rights of such mortgagee of said property shall be subordinate to the rights of the Owners hereunder;

(d) the right of the Association to suspend the Member's voting rights and the Member's and "Related Users" (as hereinafter defined) right to use any recreational facilities within the Common Areas during any period in which the Maintenance Charge or any assessment against his Tract remains unpaid;

(e) the right of the Association to suspend the Member's voting rights and the Member's and Related Users' right to use any recreational facilities within the Common Area, after notice and hearing by the Board of Directors, for the infraction or violation by such Member or Related Users of this Declaration or the "Rules and Regulations", as hereinafter defined, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation.

ARTICLE VI MAINTENANCE FUND

Section 6.01 Maintenance Fund Obligation. Each Owner of a tract by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association a monthly maintenance charge (the "Maintenance Charge"), and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Tracts and shall be a continuing lien upon the property against which each such Maintenance Charge and other charges and assessments are made.

Section 6.02 Basis of the Maintenance Charge.

(a) The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund", which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Tract (or residential building site) to the Association. The Maintenance Charge for the year of purchase shall be prorated at closing and then shall be paid annually, in advance, on or before the first day of the first month of each calendar year. Provided, however, that if an Owner owns more than one Tract in the Subdivision, such Owner shall pay only twice the assessment of one (1) Tract no matter how many Tracts are owned. In the event an Owner obtains consent from the Committee for a Composite Building site pursuant to Section 3.02 hereof, such Composite Building Site shall, for this purpose, be considered one Tract beginning upon the completion of the improvements thereon.

(b) Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owner's Tract. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Areas or recreational facilities available for use by Owners of the Subdivision or by the abandonment of his Tract.

(c) The exact amount of the Maintenance Charge applicable to each Tract will be initially determined by the Developer. All other matters relating to the Maintenance Charge and the collection, expenditures and administration of the Maintenance Fund shall be determined by the Developer until control transfer date and thereafter be the Board of Directors of the Association, subject to the provisions hereof.

(d) The Association, from and after the Control Transfer Date, shall have the further right at any time, with a majority vote of all association members, to adjust or alter said Maintenance Charge from year to year as it deems proper to meet the reasonable operation expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder.

Section 6.03 Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge, and other charges and assessments hereby levied, each Owner of a Tract in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a

contractual lien on such Tract which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute); and each such owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of written instrument executed by the President or any Vice-President of the Association and file for record in the Official Public Records of Erath County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by the Texas Property Code as then amended. Upon request by Association, Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as amended, and shall convey such Tract to highest bidder for cash by the General Warranty Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.03 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Erath County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

Section 6.04 Notice of Lien. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim or lien against the Tract of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of amount of the claim of delinquency, (c) the interest and costs of collection which have accrued thereon, (d) the legal description and street address of the Tract against which the lien is claimed and (e) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association acting through its duly authorized officer or agent shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

Section 6.05 Liens Subordinate to Mortgages. The lien described in this Article VI shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or any other third party lender, including Developer, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Tract and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Tract who obtains title to such Tract pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the Tract free and clear of any claims for unpaid Maintenance Charges or other charges of assessments against such Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such holder acquiring title to a Tract from liability for any Maintenance Charge or other charges or assessments thereafter becoming due or form the lien thereof. Any other sale or transfer of a Tract shall not affect the Association's lien for Maintenance Charges or other charges or assessments. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of the lien described in Section 6.01

hereof, which notice shall be sent to the nearest office of such mortgagee by prepaid United States registered or Certified mail, return receipt requested, and shall contain a statement of delinquent Maintenance Charges or other charges or assessments upon which the proposed action is based provided, however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

Section 6.06 Purpose of the Maintenance Charge. The Maintenance Charge levied by the Developer or the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners of the Subdivision and other portions of the Annexable Area which hereafter may become subject to the jurisdiction of the Association. In particular, the Maintenance Charge shall be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties described in Article VIII, including the maintenance of any Common Areas, any Drainage Easements and the establishment and maintenance of a reserve fund for maintenance of any Common Areas. The Maintenance Fund may be expended by the Developer or the Association for any purposes which, in the judgment of the Developer or the Association, will tend to maintain the property values in the Subdivision, including, but not limited to, providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Area as may from time to time be authorized by the Association. Except for the Developer or the Association's use of the Maintenance Charge to perform its duties described in this Declaration and in the Bylaws, the use of the Maintenance Charge for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Developer or the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 6.07 Exempt Property. The following property subject to this Declaration shall be exempt from the Maintenance Charge and all other charges and assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area and; (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas; however, no land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge.

Section 6.08 Handling of Maintenance Charges. The collection and management of the Maintenance Charge or other charge or assessment levied hereunder, shall be performed by the Developer until the control Transfer Date, at which time the Developer shall deliver to the Association all funds on hand together with all books and records of receipt and disbursements. The Developer and, upon transfer, the Association, shall maintain separate special accounts for these funds, and Owners shall be provided at least annually information on the Maintenance Fund.

ARTICLE VII DEVELOPER'S RIGHTS AND RESERVATIONS

Section 7.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Common Area from the date hereof, until the earlier to occur of (i) the Control Transfer date or (ii) Developer's written notice to the Association of Developer's termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance of a Tract by Developer to an Owner whether or not specifically stated therein and in each deed or other instrument by which any property within the Common Area is conveyed by Developer. The rights, reservations and easements hereafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Developer's consent to any one such amendment shall not be construed as a consent to any other or subsequent amendment.

Section 7.02 Right to Construct Additional Improvements in Common Area. Developer shall have and hereby reserves the right until the control transfer date without the consent of any other Owner, but shall not be obligated, to construct additional improvements within the Common Area at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners, so long as such construction does not directly result in the increase of such Maintenance Charge. Developer shall, upon the Control Transfer Date, convey or transfer such improvements to the Association and the Association shall be obligated to accept title to, care for and maintain the same as elsewhere provided in this Declaration.

Section 7.03 Developer's Rights to Use Common Areas in Promotion and Marketing of the Property. Developer shall have and hereby reserves the right to reasonable use of the Common

Area and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property. Without limiting the generality of the foregoing, Developer may erect and maintain on any part of the Common Area such signs, temporary buildings and other structures as Developer may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Property; may use vehicles and equipment within the Common Area for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Property, who are not Owners or Members of the Association, to use the Common Area at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Property.

Section 7.04 Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any other Owner or the Association, to grant or create temporary or permanent easements, for access, utilities, pipeline easement, cable television systems, communication and security systems, drainage, water and other purposes incidental to development, sale, operation and maintenance of the Subdivision, located in, on, under over and across (i) the Lots or other property owned by Developer, (ii) the Common Area, and (iii) existing utility easements. Developer also reserves the right, without the consent of any other Owner or the Association, to (i) grant or create temporary or permanent easements for access over and across the streets and roads within the Subdivision.

Section 7.05 Developer's Rights to Convey Additional Common Area to the Association. Developer shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and improvements thereon, if any, to the Association as Common Area at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or the Association.

Section 7.06 Annexation of Annexable Area. Additional residential property and common areas outside of the Subdivision including, without limitation, the Annexable Area, may, at any time and from time to time, be annexed by the Developer and the same shall there upon become subject to the jurisdiction of and enjoy the benefits of the Association, without the consent of the Owners or any other party. Such additional residential property is hereby impressed with and made subject to the Maintenance Charge imposed here in and the Association, shall be entitled to the use and benefit of all Common Areas that are or may become subject to the jurisdiction of the Association.

ARTICLE VIII DUTIES AND POWERS OF THE PROPERTY OWNERS ASSOCIATION

Section 8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Common Areas and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the association as set forth in this Declaration.

Section 8.02 Duty to Accept the Property and Facilities Transferred by Developer. The Association shall accept title to any property, including any improvements thereon and personal property transferred to the Association by Developer, and equipment related thereto, together with the responsibility to perform any and all administrative functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Developer may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by Developer shall be within the boundaries of the Property. Any property or interest in property transferred to the Association by Developer shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens and mortgages (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of any declaration of covenants, conditions and restrictions annexing such property to the Common Area, and all easements, covenants, conditions, restrictions and equitable servitude or other encumbrances which do not materially affect the Owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board of Directors, no property or interest in property transferred to the Association by the Developer shall impose upon the Association any

obligation to make monetary payments to Developer or any affiliate of Developer including, but not limited to, for any purchase price, rent, charge or fee. The property or interest in property transferred to the Association by Developer shall not impose any unreasonable or special burdens of ownership of property, including the management maintenance, replacement and operation thereof.

Section 8.03 Duty to Manage and Care for the Common Area. The Association shall manage, operate, care for, maintain and repair all Common Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Areas shall include, but not be limited to the following: establishment, operation and maintenance of a security system, if any, for the Subdivision; management, maintenance, repair and upkeep of the subdivision entrances and other common areas.

Section 8.04 Other Insurance Bonds. The Association shall obtain such insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Section 8.05 Duty to Prepare Budgets. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all Common Areas.

Section 8.06 Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

Section 8.07 Duty to Provide Annual Review. The Association shall provide for an annual unaudited independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same.

Section 8.08 Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Committee as elsewhere provided in Article IV of this Declaration.

Section 8.09 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on the Property and may demolish existing improvements.

Section 8.10 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations ("Rules and Regulations"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association.

Section 8.11 Power to Enforce Restrictions and Rules and Regulations. The Developer until the transfer of control to the Association (and any Owner with respect only to the remedies described in (ii) or (iii), below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Member and each Related User. Without limiting the generality of the foregoing such Developer and or the Association shall have the power to enforce the provisions of this Declaration and of Rules and Regulations of the Association by any one or more of the following means: (i) By entry upon any property within the Subdivision after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice (written or oral) to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the Owner or any other person), without liability by the Developer or the Association to the Owner thereof, for the purpose of enforcement of this Declaration or the Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations; (iii) by exclusion, after notice and hearing, of any Member of Related User from use of any recreational facilities within the Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case exclusion shall continue for so long as such breach continues; (iv) by suspension, after notice and hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of a provision of this Declaration or such Rules and Regulations,

unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (v) by levying and collecting, after notice and hearing, an assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User which assessment reimbursed the Association for the costs incurred by the Association in connection with such breach; (vi) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or a Related User; and (vii) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney's fees incurred by the Association with respect to exercising such remedy.

Before the Board may invoke the remedies provided above, it shall give registered notice of such alleged violation to Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Developer, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

Section 8.12 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, and other such easements in, on, over or under the Common Area.

ARTICLE IX GENERAL PROVISIONS

Section 9.01 Term. The provisions hereof shall run with all property in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by not less than two-thirds (2/3rds) of the Owners (including the Developer) of the Tracts has been recorded agreeing to amend or change, in whole or in part, this Declaration.

Section 9.02 Amendments. This Declaration may be amended or changed, in whole or in part, at any time by the written agreement or signed ballot of two-thirds (2/3rds) of the Owners (including the Developer) entitled to vote. If the Declaration amendment is signed by less than (2/3rds) of all of the Owners entitled to cast votes such amendment may be adopted if it is subsequently be approved by two-thirds (2/3rds) of such Owners within three hundred sixty-five (365) days after the date the first Owner executed such amendment. The date an Owner's signature is acknowledged shall constitute prima facia evidence of the date of execution of said amendment by such Owner. Those Members (Owners, including the Developer) entitled to cast not less than two-thirds (2/3rds) of all of the votes of the Members of the Association may also vote to amend this Declaration, in person, or by proxy, at a meeting of the Members (Owners, including the Declarant) duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the Bylaws to the Contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the Members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Real Property Records of Erath County, Texas, accompanied by a certificate, signed by a majority of the Board of Trustees, stating that the required number of Members (Owners, including the Developer) executed the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of the written ballots pertaining to such amendment shall be retained by the Association for a period of not less than three (3) years after the date of filing of the amendment or termination.

Section 9.03 Amendments by the Developer. The Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee. Additionally, Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of permitting the Owners

to enjoy the benefits from technological advances, such as security, communications or energy-related devices or equipment which did not exist or were not in common use in residential subdivisions at the time this Declaration was adopted. Likewise, the Developer shall have and reserves the right at any time and from time to time prior to the control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of prohibiting the use of any device or apparatus developed and/or available for residential use following the date of this Declaration if the use of such device or apparatus will adversely affect the Association or will adversely affect the property values within the Subdivision.

Section 9.04 Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or un-enforceability or partial invalidity or partial un-enforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 9.05 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 9.06 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and the Association, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 9.07 Effect of Violations on Mortgages. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

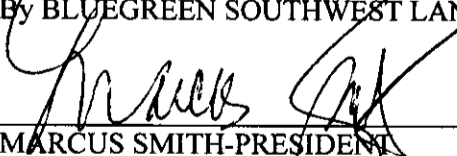
Section 9.08 Terminology. All personal pronouns used in this Declaration and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear. All references in this Declaration to Exhibits shall refer to the Exhibits attached hereto.

VETERAN PURCHASER PARTIAL RELEASE

Notwithstanding anything contained in the Restrictions to the contrary, a Veteran Purchaser shall be entitled to have a one (1.00) acre Tract released from the Veterans Land Board for a homesite and same shall not be construed as a violation of the above Restrictive Covenants.

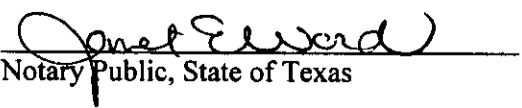
IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand of this 9 day of January, 2001.

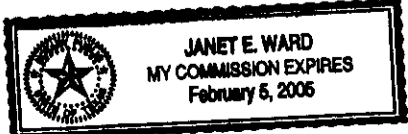
BLUEGREEN SOUTHWEST ONE, L.P.
Formerly known as PROPERTIES OF THE SOUTHWEST, L.P.
By BLUEGREEN SOUTHWEST LAND, INC. General Partner


MARCUS SMITH-PRESIDENT

STATE OF TEXAS *
COUNTY OF ERATH *

This instrument was acknowledged before me on the 9 day of January, 2001, by MARCUS SMITH, President of BLUEGREEN SOUTHWEST ONE, L.P. formerly known as PROPERTIES OF THE SOUTHWEST, L.P. by BLUEGREEN SOUTHWEST LAND, INC., GENERAL PARTNER, a Delaware corporation, on behalf of said corporation.


Notary Public, State of Texas



010227 JAN 012

CLERK'S NOTICE ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE, IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

FILED
AT 11:00 O'CLOCK A.M
ON THE 12 DAY OF Jan.
A.D., 2001

STATE OF TEXAS
COUNTY OF ERATH
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Volume and Page of the Official Public Records of Erath County, Texas.

Gwinda Jones
COUNTY CLERK, ERATH CO., TEXAS
BY ga DEPUTY



Gwinda Jones
County Clerk, Erath County, Texas
VOL. PAGE
RECORDED 1-16-2001

37.00 pd. + Rt: Oscar W. Rohme
4538 Forrest Gate
Arlington, Tx 76017