



*The Homestead*  
*@ Turtle Creek*

FIRST AMENDED and RESTATED  
DECLARATION of COVENANTS,  
CONDITIONS, and RESTRICTIONS

2020

20-08965

**FIRST AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE HOMESTEAD @ TURTLE CREEK, KERR COUNTY, TEXAS,**

**DEVELOPED FOR THE PURPOSE OF MAINTAINING THE  
CURRENT AND FUTURE VALUE OF THE HOMESTEAD**

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HOMESTEAD @ TURTLE CREEK is made by the Lot Owners of THE HOMESTEAD @ TURTLE CREEK.

WHEREAS, by the following instruments dated and recorded in the Real Property Records of Kerr County, Texas, Crystal Land Company L.L.C. (the original Declarant) imposed Covenants, Restrictions, Conditions, Easements, Charges and Liens upon the Real Property in Kerr County, Texas known as THE HOMESTEAD @ TURTLE CREEK:

- Declaration of Covenants, Conditions and Restrictions for The Homestead @ Turtle Creek dated October 15, 1996 and recorded in Volume 0872, Pages 359-374 (the "Original Declaration").
- Amendment of Restrictions dated December 13, 1999, recorded in Volume 146, Page 459, Real Property Records of Kerr County, Texas.
- Amendments to the Declaration of Covenants, Conditions and Restrictions for the Homestead @ Turtle Creek dated October 9, 2000 and recorded in Volume 1089, Pages 0707-0708.
- Second Amendment to the Declaration of Covenants, Conditions and Restrictions for The Homestead @ Turtle Creek dated November 17, 2004 and recorded in Volume 1396, Pages 0546-0550, Real Property Records of Kerr County, Texas.
- Third Amendment to the Declaration of Covenants, Conditions and Restrictions for The Homestead @ Turtle Creek dated November 22, 2005 and recorded in Volume 1484, Pages 0405-0408, Real Property Records of Kerr County, Texas.

WHEREAS, the Original Declaration and all amendments referenced above are hereinafter referred to as the "Declaration";

WHEREAS, the capitalized terms set forth herein have the meaning assigned to them in the Declaration;



WHEREAS, Crystal Land Company L.L.C. has caused THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION to be incorporated as a non-profit corporation under the laws of the State of Texas to which have been delegated and assigned the powers of maintaining and administering the properties and facilities; administering and enforcing the Covenants, Conditions and Restrictions; and collecting and disbursing the assessments and charges as hereinafter provided;

WHEREAS, Article 7.4 of the Second Amendment provides that the Lot Owners have the right to amend the Declaration by the affirmative vote of sixty-six and two-thirds percent (66-2/3rds %) of the Lot Owners at a special or annual meeting of the Association for which the notice of meeting includes this purpose of meeting;

WHEREAS, the Lot Owners of THE HOMESTEAD @ TURTLE CREEK desire to amend, consolidate and restate the Original Declaration and the amendments referenced above into one document;

WHEREAS, the Association notified all the Lot Owners of record of a meeting of the Lot Owners to be held on November 17, 2020, and all Lot Owners of record were provided with a copy of this proposed First Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Homestead @ Turtle Creek and any explanatory comments deemed reasonable by the Directors of the Association. Such notice was sent via email or by first class mail to the last known address of record of each Lot Owner not less than ten (10) days, nor earlier than sixty (60) days prior to the date of the scheduled meeting of the Association;

WHEREAS, a meeting of the Lot Owners was held on November 17, 2020, and a quorum of Lot Owners was present in person or by proxy as provided in the Bylaws of the Homestead @ Turtle Creek Homeowners' Association and the Declaration. A vote to approve the proposed First Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Homestead @ Turtle Creek, described herein, was held by written ballot and not less than sixty-six and two-thirds percent (66-2/3rds %) of the total Lot Owners present in person or by proxy approved the amendment and authorized and instructed the President of The Homestead @ Turtle Creek Homeowners' Association to execute this First Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Homestead @ Turtle Creek;

NOW, THEREFORE, the Lot Owners hereby amend and restate the Declaration and adopts, establishes and imposes upon all of the Lots the following Covenants, Conditions, Restrictions, Easements, Charges and Liens, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Homestead @ Turtle Creek Subdivision (as shown on that certain plat recorded in Volume 6, Page 309 of the Plat Records of Kerr County, Texas) for

the benefit of present and future Owners. Such Restrictions and Covenants shall take the place of the Declaration and shall run with all land in the Homestead @ Turtle Creek subdivision and be binding upon all parties having or acquiring any right, title or interest in any of the Lots or any portion thereof and shall inure to the benefit of and be binding upon each Owner and future Owner thereof.

THIS IS A COMPREHENSIVE LEGAL DOCUMENT WHICH PROVIDES FOR THE IMPOSITION OF MANDATORY HOMEOWNER ASSESSMENTS AND A LIEN FOR NON-PAYMENT OF ASSESSMENTS. THIS DECLARATION IS BINDING UPON ALL FUTURE OWNERS IN THIS SUBDIVISION.



## TABLE OF CONTENTS

Article 1 Recitals

Article 2 Definitions

Article 3 Homeowners Association and Assessments

Article 4 Architectural Control Committee

Article 5 Land Use Regulations

Article 6 Easements

Article 7 Annexation and Amendment

Article 8 Enforcement

Article 9 Miscellaneous

# Article 1

## RECITALS

- 1.1 The Lot Owners desire to maintain a residential community with designated "Lots" and "Common Facilities" (those terms are defined herein) for the benefit of the present and future Owners of said Lots on the following described real property (the "Subdivision"), to wit:

THE HOMESTEAD @ TURTLE CREEK, A Kerr County Subdivision, as shown on plat thereof, recorded in Volume 6, Page 309, of the Plat Records of Kerr County, Texas

- 1.2 The original Subdivision developer and former declarant, Crystal Land Company L.L.C. (Crystal Land) subdivided the Subdivision as shown by the map and plat of such Subdivision, which map and plat has heretofore been filed as the true and correct survey, map, and plat thereof.
- 1.3 Crystal Land deemed it desirable for the efficient preservation of the values and amenities in the Subdivision to create a homeowners' association (THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION) to which shall be delegated and assigned the powers of maintaining and administering the Common Facilities; administering and enforcing the Covenants and Restrictions set forth within, collecting and disbursing the assessments and charges hereinafter created; and
- 1.4 The Lot Owners desire to ensure the preservation of the values and amenities in the Subdivision for the benefit of said Subdivision and each of the Owners thereof. To this end, the above described Subdivision, together with such additions as may hereafter be made, shall be subject to the Covenants, Restrictions, Charges and Liens as hereinafter set forth; and
- 1.5 THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION has been created under the laws of the State of Texas for the purposes of exercising the functions aforesaid as to the Subdivision and such other property as may be annexed thereto and become subject to the jurisdiction of said Association; and the Lot Owners desire to conform the restriction on use of the Subdivision as necessary for the purpose of subjecting the Subdivision and the Owners thereof to the jurisdictions of said THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION.
- 1.6 The Lots in the Subdivision shall be hereafter held, transferred, sold, conveyed, occupied, and enjoyed subject to the following Covenants, Conditions, Restrictions, Easements,



Charges, and Liens hereinafter set forth, and shall hereafter be subject to the jurisdiction and assessments of THE HOMESTEAD @ TURTLE CREEK Homeowners' Association.

- 1.7 The Subdivision Plat creates for use as such, subject to the limitations set forth herein, certain private or public streets and easements shown thereon, and such Subdivision Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Lots. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Lot Owners, conveying Lot or Lots, or any part thereof.

## Article 2

### DEFINITIONS

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

- (a) "ACC," or "Architectural Control Committee" shall mean the Architectural Control Committee established pursuant to this Declaration.
- (b) "Articles" shall mean the Articles of Incorporation of THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION, as it may, from time to time, be amended.
- (c) "Association" shall mean and refer to THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION, a Texas non-profit corporation, its successors and assigns as provided for herein.
- (d) "Board of Directors" or "Board" shall mean and refer to the governing body of the Association, the election and procedures of which shall be as set forth in the Bylaws of the Association.
- (e) "Bylaws" shall mean the Bylaws of THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION, as they may, from time to time, be amended.
- (f) "Common Facilities" shall mean and refer to all property leased, owned, or maintained by the Association for the use and benefit of the Members of the Association. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: private streets, parkways, medians, islands, common entry gates, landscaping, walls, exterior boundary fences, safety lanes, trails, drainage easements, and other similar or appurtenant improvements.
- (g) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated upon a Lot.



- (h) "Lot" shall mean and refer to any of the plots of land numbered Lots 1 through 67, as reflected on the Subdivision Plat, with additions as needed.
- (i) "Member" shall mean and refer to all those Owners who are Members of the Association as provided herein.
- (j) "Owner" shall mean and refer to the Owner of Record, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot within the properties, including contract sellers, but excluding those having interest merely as security for the performance of an obligation.
- (k) "Existing Property" shall mean and refer to the above described properties known as THE HOMESTEAD @ TURTLE CREEK.
- (l) "Additional Property" shall mean and refer to property which is added to the Existing Property pursuant to Article 7 of this Declaration or any Amended or Supplemental Declaration.
- (m) "Subdivision Plat" shall mean and refer to the map or plat of THE HOMESTEAD @ TURTLE CREEK, filed for record in Volume 6, Page 309, Plat Records of Kerr County, Texas, and any amendment thereof upon filing of same for record in the Plat Records of Kerr County, Texas.

## Article 3

### HOMEOWNER ASSOCIATION AND ASSESSMENTS

- 3.1 MEMBERSHIP IN THE ASSOCIATION. Every person or entity who is an Owner of record of a fee or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a Member of the Association. However, no person or entity holding an interest in any such Lot or Lots merely as security for the performance of an obligation, shall be a Member. Membership and voting rights are appurtenant to, and inseparable from, ownership of the Lots.
- 3.3 VOTING RIGHTS. Each Member shall be entitled to one (1) vote for each Lot in which such Member holds the interest required for Membership. When more than one (1) person holds such interest or interests in any Lot, all such persons shall be Members, and the one (1) vote for such Lot shall be exercised as they, among themselves, determine.
- 3.4 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements. Such assessments shall be fixed, established, and collected from time



to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall be the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

- 3.5 PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, for the improvement, maintenance and operation of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the streets and other Common Area property by the Members.
- 3.6 BASIS OF ANNUAL ASSESSMENTS. The annual assessment for both improved and unimproved Lots shall be determined by the Board of Directors of the Association in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made. As provided in this document, the Board of Directors shall have the power to adjust assessments on consolidated Lots.
- 3.7 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments provided for above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement. The funds from any such Special Assessment may be usable in the year of the Special Assessment or in future years. Any such assessment shall have the consent of at least sixty-seven (67) percent of the total votes allocated to the Membership who are voting in person or by proxy at a meeting duly called for this purpose and at which a quorum is present. The purpose of the meeting shall be set forth in the notice of the meeting. For an election or vote taken at a meeting of the Owners, not later than the 10<sup>th</sup> day or earlier than the 60<sup>th</sup> day before the date of the election or vote, the Association shall give written notice of the election or vote to each Owner.
- 3.8 CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS. Subject to the limitations stated above, the annual assessment may be adjusted by a majority vote of the Board of Directors, but shall not be increased by more than ten (10) percent above that of the previous year without a majority vote of the Members.
- 3.9 QUORUM FOR ANY ACTION AUTHORIZED. The quorum required for any action authorized hereinabove shall be as follows: At the first meeting called as provided above,



the presence at the meeting of Members or proxies entitled to cast sixty percent (60%) of the total votes allocated to the Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth above, and the required quorum at any such subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. Such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

3.10 COMMENCEMENT OF ANNUAL ASSESSMENTS. The annual assessments provided for herein shall be presented (and approved if required) at the annual meeting. Such assessment shall be due on January 1st, payable on February 1st, and shall be delinquent on March 1st.

3.11 ASSESSMENT RESPONSIBILITIES OF THE BOARD OF DIRECTORS. Prior to the annual meeting of each year, but no earlier than October 1<sup>st</sup>, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for the following year. The Board shall at that time prepare a roster of the Lots and assessments applicable thereto which shall be kept by the Association and shall be open to inspection by any Owner upon reasonable notice. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall, upon demand at any time, furnish to any Owner liable for said assessment, a certificate in writing, signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

3.12 EFFECT OF NON-PAYMENT OF ASSESSMENTS: THE LIEN; REMEDIES OF THE ASSOCIATION. All past due and unpaid assessments shall bear interest at the rate of eighteen (18) percent per annum or the maximum interest allowed by law from the date due until the date paid. The Association shall be entitled to record a Notice of Lien or notice of unpaid assessment in the real property records for any assessment remaining unpaid more than thirty (30) days after the due date thereof. An Owner may request an alternative payment schedule by which an Owner may make partial payments to the Association for delinquent regular or special assessments or any other amount owed to the Association. The Association shall be entitled to collect from each Owner the costs to the Association for the collection of any past due assessments or charges, including a reasonable fee for the preparation, recordation or release of any notice. If the Association retains an attorney to assist in the collection of an unpaid assessment, then that Member's inspection of the attorney's books and records shall not be a "proper purpose" pursuant to the Texas Non-Profit Corporation Act.



3.13 SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any valid purchase money or construction mortgage. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot, pursuant to such valid mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

3.14 TITLE TO COMMON FACILITIES. The Association shall retain legal title to the Common Facilities.

3.15 MEMBERS' EASEMENTS OF ENJOYMENTS. Subject to the provisions of Section 3.16 of this Article, every Member shall have a common right and easement of enjoyment in and to the Common Facilities and such right and easement shall be appurtenant to and shall pass with the title to every Lot.

3.16 EXTENT OF MEMBERS' EASEMENTS. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The rights and easements existing or hereafter created in favor of others as provided for in the Subdivision Plat.

(b) The rights of the Association to do the following:

- 1) To borrow money for the purpose of constructing or improving the Common Facilities and, in aid thereof, to mortgage said properties and facilities, in accordance with the Articles of Incorporation and Bylaws of the Association;
- 2) To take such steps as are reasonably necessary to protect the above-described properties and facilities against foreclosures;
- 3) To enter into one or more contracts or agreements for the maintenance or improvement of the Common Facilities;
- 4) To suspend the enjoyment rights of any Member for any period not to exceed thirty (30) days for any infraction of the published rules and regulations of the Association or of this Declaration;
- 5) To assess and collect the assessments provided for herein or elsewhere and to charge reasonable admission and other fees for the use of the Common Facilities; and
- 6) To dedicate or transfer all or any part of the Common Facilities to any public agency, authority, or utility for such purposes and subject to such conditions as may be approved by a vote of at least sixty-seven (67) percent of the total votes allocated to the Membership.

3.17 USE RESTRICTIONS AFFECTING COMMON FACILITIES AND ADJUNCT PROPERTIES. The right of use of the Common Facilities shall be strictly subject to the following:

- (a) No motorcycles, motorbikes or other motorized vehicles (except those used for maintenance, repairs and upkeep of the Common Facilities) shall be operated in a reckless or unsafe manner or by any person not issued a valid driver's license on any part of the drainage easements, streets, sidewalks or other Common Facilities owned by the Association. The drainage easements shall be utilized only for walking, jogging, bicycle riding and such other uses as may be approved by the Board of Directors of the Association. The Board may prohibit or limit the use of any portion of the Common Facilities.
- (b) No planting or gardening by Owners shall be permitted within the Common Facilities and no fences, hedges, walls or other obstructions shall be erected or maintained upon or over the Common Facilities, except as are subsequently approved by the Board of Directors of the Association.
- (c) No building or other structure of any type, including recreational structures, shall be built, placed or maintained on the Common Facilities, except those constructed or placed, or permitted to be constructed or placed, by the Board of Directors of the Association.
- (d) The Association is empowered to establish additional use regulations relating to the Common Facilities, as it may from time to time deem necessary, to ensure the preservation and appearance of the Subdivision as a residential neighborhood. Such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional rules or regulations shall in any manner revoke or relax any of the restrictions of use set forth in this section.

## Article 4

### ARCHITECTURAL CONTROL COMMITTEE

4.1 COMPOSITION. The Board of Directors of the Association, by a majority vote, shall designate three (3) or more Members to serve, at the pleasure of the Board of Directors, on the Architectural Control Committee (ACC). No more than one (1) person shall be a concurrent member of both the Board of Directors and the Architectural Control Committee. The Board of Directors shall have the authority to replace, remove or add committee members, as it shall deem advisable.

4.2 POWER AND AUTHORITY. The ACC shall have the express authority to perform fact finding functions hereunder and shall have the power to construe and interpret any land use



regulation in Article 5 of this Declaration. Members of said ACC and their representatives shall not be liable to any person subject to or possessing or claiming the benefits of these restrictive Covenants for any claim, loss or damage whatsoever, including, without limitation, any claims for damage or injury to property or for damage or loss arising out of their acts or omissions hereunder. In the event of non-compliance with this Declaration, the ACC shall have the power to halt such work through legal means. The ACC shall, no later than one week after confirmation of non-compliance, send a written notice to the Owner defining the issues of non-compliance in detail, the required methods to resolve the non-compliance, and a stop work order until such time as the ACC accepts the project as being in compliance. The Board and the ACC shall comply with Texas Code 209.007 in all cases of non-compliance. The ACC shall not be entitled to any compensation for services rendered pursuant to this Covenant, but shall be entitled to be fully reimbursed for all amounts reasonably expended in the performance of their responsibilities. The ACC shall have the power to employ professional consultants to assist it in discharging its duties at the expense of the Association.

4.3 PROCEDURES. No building, fence or other structure or improvement shall be erected, placed or altered on any Lot in the Subdivision until the plans and specifications have been approved in writing by the ACC. These plans and specifications shall conform to the most current Board-approved Architectural Guidelines, Notice to Owners and Builders, Improvement Plan Checklist and Report, and Pre-Construction Agreement filed with the County Clerk and shall, among other things, include exterior elevations, exterior colors and all exterior materials for such building, fence or other structure, showing the location of such building, fence or other structure. In approving any structure or improvement, the ACC shall consider the quality of workmanship, materials, and conformity and harmony of exterior design with existing structures in the Subdivision, as well as the location with respect to topography, existing trees and finished elevation.

The plans and specifications required shall be determined by the ACC in accordance with the type of improvement proposed, as outlined in the Architectural Submittal Guidelines, the Notice to Owners and Builders, and the Pre-construction Agreement recorded with the Kerr County Clerk. For lesser improvements such as fences, gates, walls, landscaping, etc., the Lot Owner shall contact the ACC for guidance during the planning stage of the project.

Within thirty (30) days after the Owner has submitted to the ACC all plans that the ACC may require ("Submitted Plans"), the ACC shall notify the Owner in writing whether the Submitted Plans are approved or disapproved. Any disapproval shall set forth the specific reason or reasons for such disapproval. In the event the Submitted Plans have not been approved or disapproved within thirty (30) days after being submitted, the Submitted Plans



will be deemed to have been approved. Such deemed approval, however, shall not permit a violation of any of the terms of these Covenants.

4.4 DISCRETION. It is the express intention of this Declaration that the ACC shall have broad discretion to permit, consent to, or approve a variance from the specific requirements or effect of a particular Covenant. The discretion afforded the ACC in this instrument shall be subject to, but not incompatible with, the purpose of this Declaration as set forth in Article 1.

4.5 DURATION. The ACC shall be duly constituted for the entire period of duration of this Declaration.

## Article 5

### LAND USE REGULATIONS

5.1 RESIDENTIAL PURPOSES ONLY. All land included within the Existing Property shall be used for "residential purposes" only, and for the construction of private single-family residences or as part of the Common Facilities. The term "residential purposes" as used herein shall be held and construed to exclude any business, commercial, industrial, hospital, clinic and/or professional uses, and such excluded uses are hereby expressly prohibited. This restriction shall not, however, prevent the inclusion of permanent living quarters for domestic servants or to allow domestic servants to be domiciled with an owner or resident. Time-share or rental of single-family residences in this Subdivision is not permissible.

5.2 RESTRICTIONS ON LOTS. All Lots in the Subdivision shall be used for residential purposes or as part of the Common Area. No structure or improvement shall have incomplete exterior, brickwork, painting, or landscaping for more than six (6) months after construction has commenced.

5.3 BUILDING SETBACKS. Unless otherwise approved by the ACC, the minimum front setback measured from the street right of way line shall be seventy-five (75) feet, no closer than fifty (50) feet from the back property line of the Lot and no closer than twenty (20) feet from each side Lot line for all structures. No corner Lot shall have two front Lot lines but the Owner may face his residence in either direction as approved by the ACC. All non-resident buildings built on the Lot must be erected at the rear of the residence and in no event closer than eighty (80) feet of the front property line, or closer than thirty (30) feet to the side or back property line. Placement of any animal shelters shall be to the rear of the residence and no nearer than seventy-five (75) feet from any side or rear property line. Each Lot is subject to utility easements for water, electricity, cable television, telephone, garbage



pickup or any other general purpose for services to the Subdivision as a whole, set out on the Subdivision Plat.

- 5.4 **MINIMUM AREA.** The living area of each residence constructed on a Lot shall contain the minimum, contiguous square feet of living space of two thousand four hundred (2,400) square feet or as determined by the ACC. Such square footage shall be exclusive of open or screened porches, terraces, patios, driveways, carports, garages and living quarters for domestic servants separated or detached from the primary living area.
- 5.5 **MAXIMUM HEIGHT.** No building or structure erected, altered or placed on the properties shall exceed forty-five (45) feet in height (measured from the top of the foundation to the topmost part of the roof). No building or structure shall be more than two (2) stories in height. This maximum height restriction may be waived by the ACC upon proper application and justification.
- 5.6 **BUILDING TYPES AND MATERIALS.** The exterior walls of all residential buildings, and the lower story of all two-story residential buildings, shall be constructed of new materials and with masonry, rock, stucco, brick, or brick or masonry veneer so as to comprise fifty (50) percent or more of the total exterior wall area or as is determined by the ACC. Window and door openings shall be included as masonry. No residence shall be moved onto any Lot. The relocation or reconstruction of a structure of historic quality and integrity may be used as an accessory building. Trailers, trailer houses, mobile, modular, pre-manufactured and/or industrial built homes shall not be used as a dwelling, nor shall they be placed on or stored on any tract. Notwithstanding the foregoing, the ACC is empowered to waive this restriction if such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those materials, types and colors approved by the ACC.
- 5.7 **GARAGE.** No home is to be constructed in the Subdivision without either an attached or detached completely enclosed two-car (or larger, if approved by the ACC) garage. Garage shall be located so that the vehicular entrance shall not face the street upon which the front entrance to the main home is located.
- 5.8 **OUTBUILDING REQUIREMENTS.** Outbuildings shall include structures such as, but not limited to, detached garages, storage buildings, gazebos, spas, greenhouses and children's playhouses and shall be ACC approved in size and structure prior to construction. Such outbuildings shall be compatible with the dwellings to which they are appurtenant in terms of design and material composition. The ACC shall have the right to allow a barn or animal shelter structure so long as it complies with the general nature of the structures



located on the Lot and in the Subdivision. All outbuildings shall be located on a Lot such that vehicular entrance doors and other entrances larger than a personnel door three (3) feet in width shall not face the street upon which the front entrance to the main house is located.

- 5.9 TEMPORARY STRUCTURES. No structure of a temporary character (sales structure, trailer, travel trailer, tent, shack, garage, barn or other outbuildings) shall be placed or used on any Lot at any time as a residence, either temporarily or permanently. Construction offices are permitted, but are subject to ACC approval as to number, type, location and ultimate use.
- 5.10 MANUFACTURED STRUCTURES. No dwelling previously constructed elsewhere may be moved onto any Lot in the Subdivision. This Covenant specifically includes modular homes, mobile homes and/or the use of a mobile home in which the axle and wheels have been removed and placed upon a concrete slab, which said mobile home is hereby specifically prohibited as a residence, either temporarily or permanently, and further, specifically includes a mobile home upon which wheels have been left attached.
- 5.11 ROOFING MATERIALS. The main roof surfaces of all structures shall be a minimum of six (6) to twelve (12) pitch. The use of asphalt rolled roofing or corrugated metal roofing is prohibited. A minimum of roof weight for composition shingles shall be two hundred forty (240) pounds or more per one hundred (100) square feet and must be architecturally dimensional. Shingles that are designed primarily to be wind and hail resistant, provide heating and cooling efficiencies greater than those provided by customary composite shingles, or provide solar generation capabilities, are permitted if, when installed, they resemble the shingles used or are otherwise authorized for use in the Subdivision, are more durable than and are of equal or superior quality to the shingles used in the Subdivision, and match the aesthetics of the properties surrounding the Owner's property. A standing seam metal roof is acceptable with the approval of the ACC providing (1) the material is supplied with a factory coating in a color acceptable to the ACC and (2) the installation uses concealed fasteners to insure a more aesthetic look for the community. All roofing material types and colors must be approved by the ACC in order to assure compatibility with existing structures.
- 5.12 STORAGE OF BUILDING MATERIALS. Building materials placed on Lots prior to commencement of improvements must be kept in a neat, clean and orderly condition. No materials may be placed within the right of way of, or on the street or between the street and the property line of the Lot.
- 5.13 DRIVEWAYS AND SIDEWALKS. Driveways, entry walks and sidewalks on each residential Lot must be paved with all-weather materials approved by the ACC. Any finish



or material for driveways and sidewalks must be shown on the site plan submitted for approval by the ACC.

5.14 FENCES. No fence, wall or hedge shall be built or maintained forward of the front wall line of the main living unit. This does not include decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained on the building setback line of any Lot, unless otherwise approved in writing by the ACC. Proposed metal fences utilizing vertical steel "T" posts, or metal post/rails less than 16 gauge wall thickness, and any fencing wire less than 4 gauge welded, agricultural, or pipe rail fences are not allowed in the Subdivision. Hurricane fence construction is not acceptable. No Lot Owner shall remove, alter, gate or modify any exterior boundary fence that borders the Subdivision as the exterior boundary fence is the property of the Homeowners' Association. No exterior boundary fence may be modified to grant access from or to adjacent easements or properties other than through dedicated streets and roads as set out in the Plat.

- (a) Fences constructed on any Lot in the Subdivision shall be composed of new material. Previously used stone and brick may also be used in fence construction. No fence shall exceed eight (8) feet in height.
- (b) The ACC is empowered to waive the aforesaid composition requirements for fences and height or setback limitations in connection with retaining walls and decorative walls if such waiver is advisable in order to accommodate a unique, attractive or advanced building concept, design or material, and the resulting fence, decorative wall and/or retaining wall will not detract from the general appearance of the neighborhood.
- (c) No fence, wall, hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot within the triangular areas formed by the extension of Lot lines and a line connecting them at points twenty-five (25) feet from the intersection of the extended Lot lines into the street. No structures or landscape material over three and one-half (3 ½) feet tall shall be allowed in this inscribed triangle. See Article 6.2 for additional information.

5.15 SIGNS. No signs, banners, or pennants of any kind shall be displayed to the public view on any single-family residential Lot, except:

- (a) One (1) professional FOR SALE sign of not more than nine (9) square feet stating only the name and phone number of the seller and/or the seller's agent.
- (b) One (1) general contractor's sign to identify the Lot or home address during construction. Signs advertising subcontractors or suppliers are specifically prohibited.



(c) Political candidate and ballot items signs are permissible on a residential Lot. Signs can be displayed for ninety (90) days before an election and must be removed before the tenth (10<sup>th</sup>) day after an election. Only one sign for each candidate or ballot item may be displayed on any Lot. The sign must be ground mounted and constructed of a flat surface that is no larger than three (3) feet by four (4) feet. Political signs cannot be placed in Common Facilities.

No sign shall contain language, graphics, or any display that would be offensive to the ordinary person. Signs cannot be accompanied by music, sounds, lights or streamers and must not be otherwise distracting to motorists.

The ACC shall have control over all the wording, design, appearance, size, quantity, and location of all signs. Except for signs adhering to the standards set forth above, all signs within the properties shall be subject to the prior written approval of the ACC.

5.16 LANDSCAPING. Lots must be maintained with grass or landscaping in a neat and well mown condition, free of unsightly weeds and overgrowth. Decorative ground cover rock may be used in lieu of grass. The rock shall be of at least two (2) different sizes and natural earth tone colors. Painted rock is not acceptable. Drought resistant plants must also be incorporated in 20% of the rock area. No live trees larger than eighteen (18) inches in diameter may be removed without written ACC approval, unless an Owner believes that the tree poses a risk of fire to a structure on the Owner's Lot or an adjacent Lot. Each Owner is advised that there are no expressed or implied warranties as to the life expectancy, vitality or fitness for intended purpose of any trees or shrubs located on the properties. Landscaping plans that do not include any type of structure do not require ACC approval.

5.17 LOT MAINTENANCE. Grass, weeds and vegetation on each Lot shall be kept mowed at regular intervals. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot. Lawns must be properly maintained and fences must be repaired and maintained and no objectionable or unsightly usage of Lots will be permitted which is might be visible to the public view. Building materials shall not be stored on any Lot except when being employed in construction upon such Lot. Any excess materials not needed for construction and any building refuse shall promptly be removed from such Lot. In the event of default on the part of the Owner or occupant of any Lot in observing any of the above requirements, such default continuing after ten (10) days written notice thereof, the Association may, without liability to Owner or any occupants, but without being under any duty to do so, in trespass or otherwise, enter upon said Lot, cut or cause to be cut, such weeds and grass and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition. The Association may charge the



Owner or occupant of such Lot for the cost of such work, plus a reasonable administrative charge and for reasonable attorney's fees. The Owner or occupant agrees, by the purchase or occupancy of the Lot, to any such statement immediately upon receipt thereof. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot, and may be enforced as fully as if it were an unpaid annual or special assessment.

- 5.18 SEWAGE SYSTEMS. All sewage disposal systems shall comply with all applicable rules, regulations, county, state and federal laws. Each Owner shall be required to obtain all permits on any Lot, including, but not limited to state approved septic systems.
- 5.19 GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary containers, whether arranged for alley pickup or street pickup. No trash, ashes or other refuse may be thrown or dumped on any vacant Lot, park, street, right-of-way or drainage area in the properties.
- 5.20 EXTERIOR LIGHTING. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to a neighboring Lot (except reasonable security or landscape lighting that has approval of the ACC).
- 5.21 ANIMALS. No animals of any kind shall ever be raised, kept, bred or harbored on any portion of the properties for commercial purposes. Common household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. Such common household pets shall at all times, except when they are confined within the boundaries of a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage, or other container. No swine of any kind are permitted. No horse may be kept on the Lot if the Lot is less than three (3) acres in size. No animal of any kind may be kept on any Lot, if in the sole discretion of the Board of Directors of the Association, such animal or animals become a nuisance, threat or otherwise objectionable to other Owners. Any animals not mentioned must be approved by the Board of Directors of the Association. See Article 5.3 for animal shelter building setbacks, and Article 5.6 for structure compliance guidelines.
- 5.22 VEHICLES. No trailer, motor home, tent, boat, recreational vehicle, travel trailer, or any truck larger than a three-quarter (3/4) ton pick-up shall be kept, parked, stored or maintained on any portion of the Lot in front of the permanent residence; nor shall a wrecked, junked or wholly inoperable vehicle be kept, parked, stored or maintained on any portion of the Lot in front of the permanent structure; nor shall they be kept, parked, stored or maintained on other portions of the Lot for a period more than twenty-four (24) hours, unless they are in an enclosed structure, or in a screened area which prevents the view thereof from adjacent Lots



and streets. No dismantling or assembling of an auto, trailer, motor home, tent, boat, recreational vehicle, travel trailer, any truck or other machinery or equipment shall be permitted in any driveway or yard adjacent to a street. No buses, vans or trucks having a carrying capacity in excess of one (1) ton or signed for commercial purposes shall be parked on any Lot except within an enclosed structure or a screened area which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked for the purpose of serving such Lot.

5.23 SOLAR PANELS. The installation of solar panels is permissible. Solar panels must be located on the side and/or rear-facing roof or in the Owner's fenced backyard. Solar panels installed in the backyard at grade level cannot be visible above the fence line. The solar panels, if mounted on the roof, cannot extend higher or beyond the roofline. They must have a top edge that is parallel to the roofline and conforms to the slope of the roof. The panels must have a frame, support bracket, piping and wiring that is silver, bronze or black tone commonly available in the marketplace. Written plans and specifications for solar panels must be approved by the ACC.

5.24 RAIN WATER HARVESTING. The use of rain water harvesting devices, such as rain barrels is permissible. Individual barrels should not exceed one hundred (100) gallons in capacity and must be of material and color that match the aesthetics of the home. Rain water harvesting systems cannot be installed between the front building line and the street. Rain water harvesting tanks are permissible. The tanks can be no higher than eight (8) feet and hold no more than thirty thousand (30,000) gallons of water. The tanks must be installed behind the home and shielded from view with an eight (8) foot fence. Written plans and specifications must be approved by the ACC.

5.25 SOLID-WASTE COMPOSTING. Solid-waste composting of vegetation is permissible. A composting pile must be behind the house and set back at least twenty (20) feet from property lines. The compost bed must be no greater than eight (8) feet by eight (8) feet and shielded from view from the street and neighbors.

5.26 STANDBY ELECTRIC GENERATORS. Permanently installed standby electric generators are permitted. A standby electric generator is defined as a device that converts mechanical energy to electrical energy and is:

- (a) Powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel or hydrogen;
- (b) Fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- (c) Connected to the main electrical panel of a residence by a manual or automatic transfer switch; and



(d) Rated for a generating capacity of not less than seven (7) kilowatts.

The Association may adopt or enforce provisions to regulate the operation and installation of standby electric generators.

- 5.27 **FLAG POLES.** Flag poles displaying the USA, Texas, or a military branch flag are permissible. Flags must be displayed in accordance with U.S.C. Sections 5-10 (for American Flags) or Chapter 3100, Government Code (for Texas Flags). One flagpole, no more than twenty (20) feet in height, is permitted per Lot. The flag and flagpole must be maintained in good condition and any deteriorated flag or structurally unsafe flagpole must be repaired, replaced or removed. Flagpole installations, including illumination lights, must be approved by the ACC.
- 5.28 **RELIGIOUS ITEMS.** Religious items can be displayed on the front door or doorframe. The religious display cannot contain language or graphics patently offensive to a passerby. Displays cannot be larger than twenty-five (25) cumulative square inches in size or use a material or color that is not pre-approved by the ACC.
- 5.29 **ATHLETIC FACILITIES.** Tennis court lighting and fencing shall be allowed only with the approval of the ACC. The ACC shall have the authority to establish guidelines for the placement and design of athletic facilities or equipment not otherwise located within the residence.
- 5.30 **COMMUNICATIONS ANTENNAE.** No aerial wires or antennae shall be maintained on any portion of any Lot, except those which are fully enclosed within the structure of the Living Unit. Satellite dishes that are one (1) meter (39.37 inches) or less in diameter that are attached to the Living Unit are permitted. No other microwave or satellite dishes, antennae, aerial wires, receivers or transmitters shall be placed on any Lot without the prior written approval of the ACC.
- 5.31 **NUISANCES.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- 5.32 **ADVERSE CONDITIONS.** No Owner or occupant shall perform any work that will impair the structural soundness or integrity of another residence or structure located on an adjacent Lot. No Owner or occupant shall impair any easement or hereditament, nor perform any act or allow any condition to exist which will adversely affect other residences or their Owners.



5.33 LOT CONSOLIDATION. Any Owner owning two (2) or more adjoining Lots or portions of two (2) or more such Lots may, with the prior approval of the ACC, consolidate such Lots or portions thereof into a single building site. Upon consolidation, the Lot shall be considered as one Lot for voting purposes. Any consolidated Lot shall comply with all lawful requirements of any applicable statute, ordinance or regulation. On application by an Owner, the Board of Directors may adjust the assessments on a consolidated Lot to an amount not less than the full assessment rate for a single Lot. Absent such adjustment, a consolidated Lot shall bear the full assessment rate theretofore applicable to all Lots which are not consolidated. Per Section 209.015 Texas Property Code, any Owner owning two (2) or more adjacent Lots that has a residence located on one of the Lots is permitted to use the adjacent Lot(s) for residential purposes. "Residential purposes" with respect to the use of the Lot mean the location on the Lot of any building, structure or other improvement appurtenant to a residence, as opposed to use for a business or commercial purpose. This includes the location on the Lot of a garage, sidewalk, driveway, parking area, children's swing or playscape, fence, septic system, swimming pool or utility line. The Owner must obtain approval of the ACC before beginning construction or placement of the improvement on the Lot.

5.34 OIL AND MINING OPERATIONS. No petroleum or natural gas product drilling, development operations, refining, storage; nor any quarrying or mining operations of any kind shall be permitted upon or in any Lot. No oil wells, tanks, tunnels, mineral excavations, or shafts shall be permitted upon any Lot.

5.35 GAS STORAGE TANKS. Residential liquefied petroleum gas (such as propane) tanks as defined in Section 202.019 of Texas Property Code, may be installed above ground on the Owner's Lot by a certified installer, if the tank is a size reasonably necessary to meet the gas requirements of the residence. The Association may adopt or enforce dedicatory instrument guidelines to regulate the installation of liquid propane gas tanks. Each installation must be approved by the Architectural Control Committee and shall comply in all respects to the codes and requirements of all applicable governmental authorities as it relates to distance from structures, distance to property and/or setback lines, distance to electric service or lines, or any other requirements. Tanks must be completely and attractively concealed from view from all other Lots and Common Areas.

5.36 ADDITIONAL LAND USE REGULATIONS. The Association is empowered to establish additional land use regulations relating to the Existing Property, both on Lots and the Common Facilities (including Subdivision streets), as it may from time-to-time deem necessary to ensure the preservation and appearance of the Subdivision as a residential neighborhood. Such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional



rules or regulations shall in any manner revoke or relax any of the restrictions of use set forth in this section.

## Article 6

### EASEMENTS

- 6.1 EASEMENTS. Easements for installation, replacement and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. Within these easements, if any, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or, in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all improvements in such area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
- 6.2 SUBDIVISION WALLS AND FENCES. An easement for construction, reconstruction, repair, and maintenance of any Subdivision fence, entry wall, monument, or sign, now or hereafter erected on a Lot, is hereby reserved to the Association upon and across each such Lot. No Owner of a Lot on which a Subdivision entry wall, monument, or sign is placed shall do or permit any act which damages, defaces, or alters such wall, monument or sign or obscures the same from view of any adjoining street. Any vegetation growing outside of a Subdivision entry wall which borders the rear of any Lot in THE HOMESTEAD @ TURTLE CREEK shall be maintained by the Association. Vegetation growing between the Subdivision entry wall and the adjoining street along the side of any corner Lot shall be maintained by the Lot Owner in a neat, orderly and trimmed condition. Should any Lot Owner fail in this regard, the Association may enter onto the Lot for such purposes and at the expense of the Owner.
- 6.3 MAINTENANCE AND ACCESS EASEMENTS. There is hereby created in favor of all easement Owners, the Association and their assignees a right of ingress or egress across, over, and under the Properties for the purpose of installing, replacing, repairing, and maintaining all facilities for utilities. Utilities shall include, but not be limited, to water, sewer, telephone, electricity, gas, cable television and appurtenances thereto. Such right of ingress and egress may also be used to repair, correct, replace, or maintain any wall, fixture, light, or other structure or item constituting part of the Common Facilities, or required or permitted to be maintained under the terms hereof, or to correct or remove any condition prohibited under the terms hereof.



The Association may not amend a dedicatory instrument to grant the Association an easement through or over an Owner's Lot without the consent of the Owner. The Association is not prohibited from adopting or enforcing a restriction in the dedicatory instrument that allows the Association to access an Owner's Lot to remedy a violation of the dedicatory instrument.

6.4 WAIVER OF LIABILITY. Neither the utility, the Association, the Board, the ACC, nor any member of the Board or ACC shall be liable for any damage done by any utility company or their assigns, agents, employees or servants, using any easements now or hereinafter in existence, whether located on, in, under or through the Lots, to fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Lots. No provision hereof related to placement or nature of structures or conditions on a Lot, nor the approval thereof, express or implied, by the ACC shall affect the rights of easement Owners nor enlarge the rights of Lot Owners with regard to the construction or maintenance of improvements or conditions within an easement area.

6.5 DRAINAGE EASEMENTS. Easements for drainage throughout the Subdivision are reserved as shown on the Subdivision Plat, such easements being depicted thereon as "drainage easements." No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may:

- (a) Alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;
- (b) Alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the proper written approval of the ACC;
- (c) Construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;
- (d) Permit storage, either temporary or permanent, of any type upon or within such drainage easements; or
- (e) Place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.
- (f) Deviate from the requirements of this section without the express written approval of the ACC.

6.6 COMPLIANCE BY OWNER. The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the



ACC or the Association, and neither the ACC nor the Association shall be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this Article shall in no way affect any other recorded easement in the Subdivision.

6.7 ELECTRIC, WATER, TELEPHONE, CABLE TELEVISION FOR RESIDENTIAL USE. PLEASE NOTE THE EASEMENTS SET OUT ON THE PLAT. Generally, the easements shall be thirty (30) feet in width running from the back property line and/or the front property line. The utilities, including, but not limited to, electric, water, telephone, and cable television shall have both underground and overhead systems in the HOMESTEAD @ TURTLE CREEK. On the underground system, the easement will use thirty (30) feet. The underground system will be installed parallel to and ten (10) feet from one side of the easement, and the utility will use the remainder of the easement for access. No fences will be permitted within the easement that would prevent access to the system by the utility. The overhead system shall require at least twenty-five (25) feet in width with additional guying rights extending from the easement area as needed. Any fences over or under the overhead easement shall have gates of at least twelve (12) feet in width for access at both ends and may not be locked to deny access by the utility. All utilities, public or private, shall be held harmless from any and all damages caused by the utility in the repair, maintenance and replacement of the utility's equipment, improvements, lines and surface of the utility easement. All utilities located on and within each Lot shall be underground, except for the electric power company's overhead service drops for Lots 1 through 9. The Lot Owner shall be responsible for the installation and maintenance of all facilities past the point of common connection. The point of connection (metering point) for water and electric service shall be within ten (10) feet of the front Lot line at a location designated by the water or power company for all Lots except for Lots 1 through 9, which are built out. (The electrical metering points of Lots 1 through 9 are located at the meter or on a meter pole set within ten (10) feet of the rear property line and the water meter set by the water company is within ten (10) feet of the front property line.)

## Article 7

### AMENDMENTS

7.1 The owner of any property who desires to add to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may make written submission therefor to the Association together with the following:

- (a) The proposed property shall be described by size, location, proposed land use, and general nature of proposed private improvements;
- (b) The proponent shall describe the nature and extent of Common Facilities to be located on the proposed property and fully describe any mortgage debt related to the Common Facilities or other debt which he seeks the Association to assume;
- (c) The proponent shall state that the proposed additions, if made, will be subjected to the general scheme of this Declaration and all Association assessments.

Upon such submission and subject to the Association's later review and approval of a proposed form of Declaration of Covenants, Conditions and Restrictions for the proposed property, the Association shall vote on the proposal. At least sixty-seven (67) percent of the total votes allocated to the Members present and voting in person or by proxy at a meeting at which a quorum is present shall be required for approval. If the proposed property shall be approved for addition to the jurisdiction of the Association, such addition shall be complete upon the proponent's filing of record a Declaration of Covenants, Conditions and Restrictions or similar instrument in form approved by the Board of Directors of the Association and executed by said Board of Directors or one (1) or more authorized officers of the Association.

7.2 DURATION. This Declaration shall remain in force and effect until January 1, 2024, at such time, and each tenth (10<sup>th</sup>) anniversary thereafter, this Declaration shall be automatically renewed for a period of ten (10) years unless the Owners of sixty-seven (67) percent of the Lots shall file a written agreement to abandon same.

7.3 AMENDMENTS. These Covenants may be amended by the affirmative vote of at least sixty-seven (67) percent of the total votes allocated to the Members and voting in person or by proxy at a special or annual meeting of the Association at which a quorum is present for which the notice of meeting includes this purpose of meeting, provided that no amendment shall be effective until filed of record in the Official Public Records of Real Property of Kerr County, Texas.



## Article 8

### ENFORCEMENT

8.1 BREACH BY OWNER. The failure of any Owner to comply with any Restriction or Covenant will result in irreparable damage to other Owners of Lots in the Subdivision; thus the breach of any provision of the Declaration may not only give rise to an action for damages at law, but also may be made the subject of an action for injunctive relief and/or specific performance in equity in any court of competent jurisdiction. In the event enforcement actions are instituted and the enforcing party recovers, then in addition to the remedies specified above, court costs and reasonable attorney's fees shall be assessed against the violator.

8.2 REMEDIES. In addition to the remedies for enforcement provided for elsewhere in this Declaration, the violation or attempted violation by an Owner, his family or guests of the provisions of this Declaration, or any amendment hereto, or Rules and Regulations promulgated by the Board of Directors, shall authorize the Board (in the case of all of the following remedies) or any Owner (in the case of the remedies provided in (d) below), to avail itself of any one or more of the following remedies:

- (a) The imposition of a special charge not to exceed Two Hundred (\$200.00) Dollars per violation; or
- (b) The suspension of Owner's rights to use any Association property for a period not to exceed thirty (30) days per violation, plus attorney's fees incurred by the Association with respect to the exercise of such remedy; or
- (c) The right to cure or abate such violation, including the right to enter any Lot upon which such violation exists without liability for trespass, and to charge the expense thereof, if any, to such Owner, plus attorney's fees incurred by the Association with respect to the exercise of such remedy; or
- (d) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to attorney's fees and court costs.

8.3 WRITTEN NOTICE. Before the Board invokes the remedies provided in subparagraphs (a), (b), (c) and (d) above, it shall give written notice of such alleged violation to Owner, and shall provide the Owner the opportunity to respond. The process is described in Texas Property Code 209.007.



- 8.4 LIEN AGAINST OWNER. All charges assessed against an Owner pursuant to this Article shall constitute a continuing lien upon the Lot of such Owner as fully as if such charge were an unpaid annual or special assessment.
- 8.5 FORECLOSURE OF ASSESSMENT LIENS. In order to secure the payment of the assessments, charges, expenses and other fines or fees levied or charged by the Association or any other lawful governing body, each Owner of a Lot 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 expedited foreclosure and pursuant to the provisions of Section 209.0092 of the Texas Property Code and Rules 735 and 736, Texas Rules of Civil Procedure and any successor statute or amendment thereof; and each such Owner hereby expressly grants the Association a power of sale in connection therewith. Prior to applying for an expedited foreclosure, the Board shall provide written notice of the total amount of the delinquency giving rise to the foreclosure to any other holder of a lien of record on the property whose lien is inferior or subordinate to the Association's lien as evidenced by a deed of trust. This notice shall be sent by certified mail, return receipt requested, to the address for the lienholder shown in the deed records relating to the property in question. The recipient of the notice shall have an opportunity to cure the delinquency before the sixty-first (61<sup>st</sup>) day after the date the recipient receives the notice. The Association shall, whenever it proceeds with expedited foreclosure pursuant to the provisions of said Section 209.0092 of the Texas Property Code and said power of sale the power of sale granted herein, designate in writing a trustee to post and mail or cause to be posted and mailed 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 filed for record in the Real Property Records of Kerr County, Texas. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot. Upon request by the Association, Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended. In addition to the foregoing charges for delinquent accounts, each Owner shall be obligated to pay to the Association all actual costs of collection incurred by the Association, including attorney's fees and such reasonable late charges and collection charges as the Board of Directors may establish, all of which shall also be subject to the liens of the Association. 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. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of the improvements located thereon and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to appoint a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such property by forcible detainer or by Writ of Possession. 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.

The Association may not foreclose an assessment lien if the debt securing the lien consists solely of:

- (a) Fines assessed by the Association;
- (b) Attorney's fees incurred by the Association solely associated with fines assessed by the Association; or
- (c) Amounts added to the Owner's account as an assessment for an Owner's request for copies of the Association's records if an Owner requests a vote recount.

Notice of the lien may be given as required by Texas Property Code 209.010. At any foreclosure, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed.

In the event of non-payment by any Owner of any charge or fee 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 8.5 to comply with the provisions of Sections 209.0092 of the Texas Property Code and Rules 735 and 736, Texas Rules of Civil Procedure and any successor statutes or amendments thereof. In the event of the amendment hereafter of any of the aforementioned statutes or rules, the President or any Vice-President of the Association may take action without joinder of any other Owner or mortgagee or other person, and may by amendment to this Declaration filed in the Official Public Records of Kerr County, Texas, amend the provisions hereof so as to comply with Section 209.0092 of the Texas Property Code.

## Article 9

### MISCELLANEOUS

- 9.1 TITLES. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.
- 9.2 GOVERNING LAW. This Declaration shall be governed by, construed and interpreted in accordance with the laws of the State of Texas. All acts required or permitted to be performed hereunder are performable in Kerr County, Texas. It is agreed that any action brought to enforce or construe the terms or provision hereof or to enjoin or require the performance of any act in connection herewith shall be brought in a court of competent jurisdiction sitting in Kerr County, Texas.
- 9.3 INTERPRETATION. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible to more than one or conflicting interpretations, then the interpretation which is more nearly in accordance with the general purposes and objectives of this Declaration shall govern.
- 9.4 OMISSIONS. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted here from, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.
- 9.5 GENDER AND GRAMMAR. The singular, whenever used herein, shall be construed to mean the plural, when applicable. The necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.
- 9.6 ADDITIONAL INFORMATION. Architectural Design Guidelines for the Subdivision, Rules and Regulations of the Association, and other documents and information which may affect an Owner or prospective Owner may be implemented by the ACC, or the Association. Each Owner and prospective Owner is advised to carefully examine each of such documents in addition to this Declaration to determine his rights and obligations as an Owner.
- 9.7 NOTICE. Any notice, report, demand or other instrument authorized or required to be given or furnished shall be in writing. Such notice shall be given or furnished when



addressed to the party intended to receive the same and delivered at such address, or two (2) days after same is deposited in the United States mail by certified mail, return receipt requested.

I, MARIAN R. MYERS, President of THE HOMESTEAD @ TURTLE CREEK HOMEOWNERS' ASSOCIATION, do hereby certify that this is a true and correct copy of the FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for THE HOMESTEAD @ TURTLE CREEK, KERR COUNTY, TEXAS, approved and adopted by the Board of Directors on November 17, 2020.

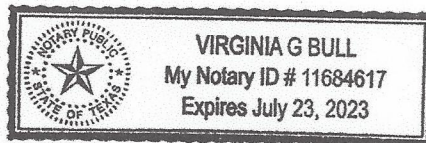
EXECUTED effective this 20<sup>th</sup> day of Nov, 2020.

THE HOMESTEAD @ TURTLE CREEK  
HOMEOWNERS' ASSOCIATION

By: Marian R. Myers  
MARIAN R. MYERS,  
President

STATE OF TEXAS  
COUNTY OF KERR

This instrument was acknowledged before me on the 20<sup>th</sup> day of November 2020 by



✓ Filed by & Return to:  
MARIAN MYERS  
360 SADDLE CLUB  
KERRVILLE, TX  
78028



FILED AND RECORDED  
At 10:00 o'clock AM  
STATE OF TEXAS  
COUNTY OF KERR

November 24, 2020  
I hereby certify that this instrument was filed in the numbered sequence on the date and time stamped above by me and was duly recorded in the Official Public Records of Kerr County Texas,  
Jackie Dowdy, County Clerk  
[Signature] Deputy