

A compilation of the original document (on file in the Hidalgo County Clerk's office beginning on page 421 of Volume 2109) and amendments (on file in the Clerk's office as Documents #328651, #449636, #643459 and #1049715) to the

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE VILLAGE OF WESTLAKES SUBDIVISION

Original Covenant language

March 7, 1985 – Volume 2109, page 421

Amendments (date of adoption):

May 3, 1993 – #328651

March 21, 1995 – #449636

November 24, 1997 – #643459

February 3, 2002 – #1049715

January 8, 2013 –

Reviewed by Bill MacKenzie & Dick Baylog

November 1998

Compilations by Robert L. & Dr. Nedra S. Kinerk

May 1992, May 1998, May 1999, February 2002

Revised, compiled, and edited by: Karen L. Kinerk,

Ken Boyle, & Dr. Nedra S. Kinerk

January 8, 2013

FORWARD

The Covenants of the Village of Westlakes subdivision are to our community as the Constitution is to the United States. They are an agreement, a form of contract. When you buy a house in the Village of Westlakes, you agree to abide by the terms of the Covenants.

The original Covenants were created March 7, 1985 by the original developer, Jerry Leadbetter, and his investors.

They have been amended on five occasions since that time.

Many residents have copies of the original Covenants, and all should have received a copy when they purchased their residence. Because of resales and simply losing the document, many residents no longer have their copy of the Covenants.

Even if you have all six documents, they can be difficult to understand because the amendments have changed big chunks of text forcing you to skip from one document to another to understand the current situation.

This Document consolidates the original covenants and the five Amendments thereto that remain in effect and govern our community today.

The original Covenants and amendments thereto are legal documents and are recorded in the Hidalgo County Clerk's Office.

It was compiled by Robert L. and Nedra S. Kinerk, reviewed by William MacKenzie and Richard Baylog. We hope it is useful to you in understanding how our community is governed.

Robert L. Kinerk
March 2002

RLK/nsk

The January 8, 2013, amendments were approved by a vote of the membership and are the legal authority governing the Village of Westlakes.

Karen L. Kinerk
Dr. Nedra S. Kinerk
January 8, 2013

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF WESTLAKES SUBDIVISION

THIS DECLARATION made this 7th day of March, 1985, by THE LINKS, a Joint Venture, hereinafter called “Developer” and THE LINKS [now named THE VILLAGE OF WESTLAKES HOMEOWNERS ASSOCIATION, INC.],ⁱ a Texas non-profit corporation, hereinafter called “Association,” both of which are hereinafter collectively called “Declarants;”

WITNESSETH:

WHEREAS, Developer is the owner of the following described real estate:

Tract I

All of Lot One Hundred Twenty-Seven (127), La Lomita Irrigation & Construction Company’s Subdivision, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 24, Page 68, Deed Records, Hidalgo County, Texas.

Tract II

The West 8.79 acres of the West 20 acres of Lot One Hundred Twenty-Eight (128), of the La Lomita Irrigation and Construction Company Subdivision, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 24, Page 68, Deed Records, Hidalgo County, Texas

all of which above-described land together constitutes and is hereinafter referred to as the “Property;” and

WHEREAS, the Property, by means of the plat “The Links,” has been subdivided into residential lots, and certain common area hereinafter called “Subdivision;” and

WHEREAS, Association is a non-profit corporation duly authorized and operating under the laws of the state of Texas with a membership comprising of the Developer and all of the Lot owners within the “Subdivision;” and Association is authorized to issue 1000 Membership Shares of which 500 have heretofore been issued to Developer with the remaining unissued shares to be issued to Owners (as hereinafter defined) at the rate of one Membership Share per lot; and

WHEREAS, Developer is building upon said Property a residential subdivision including residential structures, open spaces, recreation areas, and other common facilities and improvements for the general benefit of the residents in said development; and

WHEREAS, Declarants wish to provide for the preservation of the values and amenities in said development and for the maintenance of said recreation areas, open spaces and other common facilities and improvements and to this end are hereby subjecting the Property to the covenants, conditions, restrictions, easements, charges and

liens hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner; and

WHEREAS, the Association has been formed as an agency to receive from the Developer the power to attend to and effectuate policies and programs that will enhance the pleasure and value of the development, maintain and administer the Common Area, administer and enforce these covenants and restrictions and rules and regulations of the Association, and collect and disburse the assessments and charges hereinafter created;

NOW, THEREFORE, Declarants declare that the Property is and shall be held, transferred, conveyed, sold, leased and occupied, subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which are for the purpose of protecting the value, desirability and attractiveness of the Property and which shall run with the Property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof, and the heirs, successors and assigns of each Owner. This Declaration hereby establishes a general plan for the individual ownership of real property estates consisting of residential lots, and the improvements thereon, and the eventual ownership by the Association of all of the Common Area and improvements thereon as hereinafter defined. Every conveyance of any of such residences, or premises, or any part thereof, or any interest therein, shall be and is subject to these easements, covenants, conditions and restrictions, as follows:

ARTICLE I DEFINITIONS

Section 1. The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- A. “Association” shall mean The Links Homeowners Association, Inc., [now the Village of Westlakes Homeowners Association] a Texas non-profit corporation.
- B. “Common Area” shall mean all that area as shown on the subdivision plat as recorded in the Map Records of Hidalgo County, Texas, and as may be amended from time to time as hereinafter provided, including all improvements and structures constructed or to be constructed thereon, and such additions thereto as have or may be granted to the Association for the common use and enjoyment of the Owners.
- C. “Declaration” shall mean this declaration of Covenants, Conditions and Restrictions for The Links [Village of Westlakes] Subdivision.
- D. “Developer” shall mean The Links, [Village of Westlakes] a joint venture [now Rald Investments, Inc.]ⁱⁱ, its successors and assigns.
- E. “General Assessment” shall mean as defined in Article IV of this Declaration.
- F. “Living Unit” shall mean a residential housing unit consisting of a group of rooms and hallways which are designed or intended for use as living quarters for one family and constructed by Developer on a lot or lots within the Subdivision.

- G. “Lot” shall mean any lot with improvements thereon, with the exception of the Common Area, as may be shown upon any recorded subdivision plat or map of The Links, [Village of Westlakes] Hidalgo County, Texas, (hereinafter defined as “Subdivision”) provided, however, that the term “Lot” shall also include such additional residential lots as may be subjected to this Declaration by amendment or supplement hereto.
- H. “Member” shall mean any person or entity holding a Membership Share(s) in the Association as provided in Article II hereof.
- I. “Membership Share” shall mean those certificates or shares as are issued by the Association pursuant to this Declaration.
- J. “Owner” shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property and referenced in the Subdivision plat, including contract purchasers, but excluding Developer (until relinquishment of developer rights pursuant to Article II, Section 5) and those persons or entities having such interest merely as security for the performance of an obligation. Following the relinquishment of developer rights, developer shall be considered an “Owner” for all purposes as such term is defined in this Declaration (except for the payment of assessments as set forth in Article IV, Section 14) and shall be entitled to vote each lot owned by Developer in the same manner as any other Owner.ⁱⁱⁱ
- K. “Property” shall mean:
Tract I being all of Lot One Hundred Twenty-Seven (127), La Lomita Irrigation & Construction Company’s Subdivision, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 24, Page 68, Deed Records, Hidalgo County, Texas;
Tract II being the West 8.79 acres of the West 20 ares of Lot One Hundred Twenty-Eight (128), of the La Lomita Irrigation and Construction Company Subdivision, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 24, Page 68, Deed Records, Hidalgo County, Texas, together with such additional land as may be subjected to this Declaration by amendment or supplement hereto.
- L. “Special Assessment” shall mean as defined in Article IV of this Declaration.
- M. “Subdivision” shall mean “The Links Subdivision” as shown in the Map and Plat Records of the County Clerk of Hidalgo County, Texas, and any additions or amendments thereto.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership.

Every Owner of a Lot shall be entitled and required to be a member of the Association. If ownership of a Lot is held by more than one person, each of such persons shall be a member and entitled to the rights and privileges associated with membership in the Association, subject to the voting restrictions provided hereinafter. Only one Membership Share will be issued per lot evidencing membership in the Association, other

ⁱⁱⁱ [DEFINITIONS, Article 1, Section 1, Part J. 11-24-97 \[revision 12 16 97\] 11-24-97](#)

than what has heretofore been issued to Developer. Each such membership shall be appurtenant to the lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of title to that lot. No person or entity other than Owner or Developer may be a member of the Association and a membership in the Association may not be transferred except in connection with the transfer of title to that lot.

Section 2. Transfer of Membership.

A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of title of a lot and then only to such transferee, by assignment, intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of each Owner, upon becoming entitled to membership, to so notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a member, at its sole discretion. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any lot should fail or refuse to transfer the membership registered in his name to the transferee of such lot, the Association shall have the right to record the transfer upon the books of the Association and issue a new Membership Share to the transferee, and thereupon the old membership outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 3. Voting.

In addition to the Developer, all Owners of Lots shall be members of the Association and shall receive one Membership Share per lot and shall be entitled to one vote for each Membership Share. When more than one person is the record Owner to any Lot, all such persons shall be members and shall be named on the Membership Share issued regarding said Lot. The vote for such Membership Share shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Membership Share. There can be no split vote. Prior to or at the time of any meeting at which a vote is to be taken, each co-Owner or other person entitled to a vote at such meeting shall file with the Secretary of the Association the name of the voting co-Owner or other person entitled to a vote at such meeting, unless such co-Owner or other persons have filed a general voting authority with the Secretary applicable to all votes until rescinded. An Owner may designate by proper written proxy an individual to vote on behalf of said Owner.

A. Developer shall be entitled to one vote per Membership Share held by it.

Section 4. Suspension of Voting Rights.

In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

Section 5. Association Board of Directors

Upon the sale by Developer to Owners of all lots in the subdivision or relinquishment of developer rights—the Association shall be managed by its own Board of Directors pursuant to the Declaration and as provided in the Bylaws of the Association.^{iv}

^{iv} 11-24-97

ARTICLE III PROPERTY RIGHTS

Section 1. General Provisions.

- A. All easements, reciprocal use agreements and platted and acknowledged lot line encroachments (collectively referred to as “Easements”) described in this Declaration are appurtenant to and running with the land. They shall at all times inure to the benefit of and be binding on the Owner, from time to time, of any Lots and the Owner, from time to time, of the Common Area and their respective heirs, successors, personal representatives or assigns.
- B. The Easements created hereby shall be permanent and the covenants, conditions and restrictions contained in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by ~~the Developer~~, the Association or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assignees which Covenants, Conditions and Restrictions shall remain in force and effect and be enforceable until such time as they are modified, amended or repealed by a vote of not less than fifty-one per cent (51%) of the Owners.^v

Section 2. Right of Enjoyment.

Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, which right and easement shall include, but not be limited to easements for ingress and egress to his Lot, for lateral support, utility, water and sewer easements, vehicular parking, pedestrian ingress and egress, use of party walls adjoining his lot, and use and enjoyment of open spaces and all other parts of the “Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- A. The right of the Association to pass reasonable rules and regulations, with respect to the Common Area, for the enjoyment, health, comfort, safety and welfare of persons using same;
- B. The right of the Association to suspend the voting rights and right to the use of recreational facilities situated upon the Common Area by an Owner for any period during which any assessment against his lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations;
- C. The right of the Association to levy assessments as provided in this Declaration;
- D. The rights of the Association and Developer reserved under Section 4 and 5 of this Article III.

Section 3. Delegation of Enjoyment.

Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Areas to residents of his lot, including the members of his family, his tenants, or contract purchasers. All such persons shall be subject to the restrictions referenced herein.

^v 2-3-02 (This Amendment replaces a previous 11-24-97 Amendment.)

Section 4. Association's Rights.

- A. The Association shall have the right to manage, build, reconstruct, repair, maintain and improve the Common Area.
- B. The Association shall have the right to mortgage all or any portion of the Common Area for the purpose of securing a loan of money to be used for any of the purposes specified in subsection 4.A. hereinabove, provided that the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners under this Declaration.
- C. The Association shall have the right to dedicate or transfer all or any part of the Common Area for the purpose of providing utility service to any governmental subdivision or public agency or utility.

Section 5. Common Area Subject to Easements.

- A. The Property shall be subject to easements of record on the date hereof and any easements which may hereafter be granted by the Association to any public or private utilities or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewer or water pipes, coaxial cable, or any other utility services serving any Lots or the Common Area.
- B. Anything apparently to the contrary notwithstanding, no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or other common property or any part thereof shall be effective unless it shall have received approval of a majority of the shareholders of the Association.

Section 6. Nondedication to Public Uses.

Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, expressed or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

Section 7. Easement for Unintentional Encroachment.

Notwithstanding any other provisions to the contrary contained herein, in the event that any Living Unit or any structure containing one or more Living Units or any improvements in any Living Unit or any garage encroaches upon any part of the Common Area then a perpetual easement appurtenant to such encroaching Lot shall exist for the continuance of any such encroachment on the Common Area.

Section 8. Utility and Drainage Easements.

The Association shall have the right and the obligation to maintain the utility and drainage easement as shown upon the Subdivision plat across portions of certain lots and the Common Area.

**ARTICLE IV
ASSESSMENTS**

Section 1. Personal Obligation.

Each Owner of a Lot by acceptance of a deed, whether or not it shall be so expressed in any such deed, shall be and is deemed to covenant and hereby agrees to pay to the Association:

- (a) General Assessments or charges, which shall be payable in regular monthly installments (or as otherwise agreed upon by the Association and the respective Owners) and shall include, but not be limited to, hazard and liability insurance for common property,

and an adequate reserve fund for maintenance, repairs and replacement of those elements of the common property that must be replaced on a periodic basis, and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any assessments authorized herein, together with interest, costs and reasonable attorneys' fees, shall be a continuing lien from the date payable against the Owner's fee interest in the Lot assessed. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such lot on the date said assessment became due and payable. Said personal obligation of an Owner shall not pass to his successors in title to interest unless expressly assumed by them or unless prior to such transfer, a lien for such assessments shall have been filed in writing with the Office of the County Recorder of Hidalgo County, Texas. No Owner shall escape liability for the assessments which fell due while he was the Owner by reason of non-use of the common Area or non-use, transfer or abandonment of his Lot or the right of possession thereof.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owner and residents of the Property, and to construct, manage, improve, maintain, repair and administer the Common Area and all pipes, wires, or other conduits of matter or energy located upon the Common Area, and all pipes, pumps and easements rights, wherever located, which serve the Common Area.

Section 3. General Assessments.

Until February 1, 1988, the maximum General Assessment shall be at the monthly rate of not greater than Thirty-Nine and 50/100th Dollars (\$39.50) per lot. From and after February 1, 1988, the maximum General Assessment may be increased each year up to five per cent (5%) above the maximum assessment for the previous year.. The maximum General Assessment may not be increased above five per cent (5%) in any given year without the consent of a majority of the lot owners.^{vi}

Section 4. Special Assessments.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, or which serves the Common Area, including fixtures and personal property related thereto. Special Assessments may be approved and imposed by a majority of the lot owners.^{vii}

Section 5. Notice and Quorum.

The provisions of the Bylaws of the Association shall determine the notice and quorum provisions for meetings of the members.^{viii}

Section 6. Rate of Assessment.

Both General and Special Assessments must be fixed at a uniform rate for all Lots. General Assessments may be collected on a monthly basis and special Assessments shall be collected as the Board determines.

^{vi} 11-24-97

^{vii} 11-24-97

^{viii} 11-24-97

Section 7. Date of Commencement of General Assessments.

General Assessments shall commence on the first day of the first month after the date of transfer of title from Developer to Owner of the Owner's lot and shall continue for each month thereafter for so long and in such amounts as determined by the Association pursuant to this Declaration. General Assessment rates shall be adjusted annually by the Association on a calendar basis from the original assessment rate as referenced in this Article IV Section 3 hereof but subjected to the required approval of the Lot Owners as referenced therein.

Section 8. Commencement of General Assessments.

By November 30 of each year the Board shall fix the amount of General Assessments against each Lot for the following calendar year and shall send written notice thereof to each Owner. The due date for payment of General assessments shall be as set by the Association. At the time the Association fixes the amount of General Assessments it shall adopt a budget for the following calendar year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

Section 9. Proof of Payment.

Upon written demand of an Owner, at any time, and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid General or Special Assessments levied against such Owner's Lot. Such certificate shall be conclusive evidence of payment of any General or Special Assessments not stated therein as unpaid.

Section 10. Nonpayment of Assessments.^{ix}

- (a) Penalty: Application of Payments. Delinquent assessments may bear a penalty in an amount to be set by the Board of Directors. Such penalty, in the discretion of the Board of Directors, may be a sum certain or a percentage of the delinquent assessment, and may increase according to the period of the delinquency. All payments upon account shall be first applied to the penalty and then to the assessment payment first due.
- (b) Attorney's Fees and Expenses: Lien for Expenses. The Association may bring an action at law to collect delinquent assessments or may proceed by non-judicial foreclosure as hereinafter provided. If the Association shall incur any expenses whatsoever, including but not limited to attorney's fees, court costs, title company expenses, or any other expense required to enforce any rights whatsoever of the Association against a lot owner, including but not limited to, collection of delinquent assessments, breach of this Declaration or the Bylaws, or violation of any rule or regulation promulgated by the Association or the Board of Directors, such lot owner shall be liable to the Association for such expenses and the Association may recover the same. All such expenses shall constitute a lien in favor of the Association against the lot of the owner causing such expenses to be incurred, and such lien may be foreclosed pursuant to Chapter 51, Texas Property Code, against the offending lot in the same manner as the lien for assessments as herein provided.
- (c) No Waiver of Use of Common Elements. No owner may become exempt from liability for assessments or any other obligation to the Association by waiver of

^{ix} Complete Section 10 replaced 11-24-97

the use and enjoyment of any of the Common Elements or by abandonment of such owner's lot.

- (d) Lots Owned by Association. Any lots owned by the Association shall not be subject to assessments while owned by the Association.

Section 11. Recording and Enforcement of Liens.

To evidence a lien for sums assessed pursuant to this Article IV, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same and a description of the Lot. Such a notice shall be signed by an officer of the Association and it or a notice of adverse claim thereof may be recorded in the Office of the County Recorder of Hidalgo County, Texas. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment for thirty (30) days. Upon such a delinquency for thirty (30) days, the Association may proceed promptly to enforce the lien or, in its discretion to sue the person personally liable to pay the lien for the delinquency. Such lien shall be enforced by action in the same manner in which mortgages on real property may be foreclose in Texas.

In any such foreclosure, the person personally obligated to pay the lien shall be required to pay all costs of foreclosure including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The person personally obligated to pay the lien shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the foreclosed interest in the Lot as the Owner thereof.

The Association shall upon written request report to any mortgagee of a Lot any Assessments remaining unpaid for longer than thirty (30) days after the same shall have become due, provided, however, that such mortgagee first shall have furnished to the Association written notice of such encumbrance.

Section 12. Subordination of Lien.

The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage and to tax liens and liens for special assessments in favor of any taxing and assessing unit of government. Sale or transfer of any Lot therein shall not affect the Assessment lien. No such sale or transfer shall relieve a Lot from Liability for any Assessments thereafter becoming due or from the lien thereof or shall relieve the person personally obligated to pay the lien of personal liability for Assessments due prior to such sale or transfer or acquisition of premises.

Section 13. Lien for Assessments.^x

- (a) The Association shall have a lien upon each lot and the interests in the general and limited common elements and common fund appurtenant thereto to secure the payment by the owner(s) of such lot of the lot's proportionate share of all assessments required or permitted to be levied hereunder or by law, and any other sums which shall become due and owing from such owner to the Association and such lien shall also secure all other expenses, including reasonable attorney's fees,

^x Complete Section 13 added 11-24-97

incurred by the Association incident to the collection of such assessment or enforcement of such lien.

(b) Foreclosure of Liens.

(1) By the purchase and ownership of a lot in The Village of Westlakes Subdivision and/or by virtue of the ownership of such a lot, the owner purchases and/or owns the said lot subject to the right of the Association to collect assessments through non-judicial foreclosure against the lot pursuant to Chapter 51, Texas Property code. This Declaration constitutes a binding contract between The Village of Westlakes Homeowners Association and the Owner(s) of each lot in the project. This Section of the Declaration operates in the same manner as a valid and binding Deed of Trust Lien securing the payment of assessments on each lot.

(2) The appointment of an attorney is necessary to conduct the foreclosure of the said liens for unpaid assessments pursuant to this Declaration and Chapter 209 of the Texas Property Code and conducting sales of lots in The Village of Westlakes Subdivision upon which assessments are in default pursuant to this Declaration and Article 51.002, Texas Property Code.

(3) If there is a default by Owner(s) in any payment of assessments or part thereof pursuant to this Declaration for more than sixty (60) days from the date such assessments are due, then the Trustee, when requested so to do by the President or the Board of Directors after such default, shall sell the lot at public auction to the highest bidder for cash, between the hours of ten o'clock A. M. and four o'clock P.M., on the first Tuesday in any month, at the door of the Courthouse in Hidalgo County after advertising the time, place, and terms of said sale and the lot to be sold by posting, or causing to be posted, at least twenty-one (21) consecutive days prior to the date of said sale, written or printed notice thereof at the Courthouse door in Hidalgo County, Texas, (such notice shall designate Hidalgo County where the lot will be sold). In addition, at least twenty-one (21) days preceding the date of sale, written notice of the proposed sale shall be served by Certified Mail on each person obligated to pay such obligation, according to the records of Association. Service of such notice shall be completed upon deposit of the notice enclosed in a prepaid wrapper, properly addressed to such person at the most recent address as shown by the records of the Association, in a Post Office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service. Owner(s) authorize and empower the Trustee to sell the lot and any and all interests appurtenant thereto, as the Trustee shall deem expedient, to execute and deliver to the purchaser or purchasers thereof good and sufficient deeds of conveyance thereto by fee simple title, with covenants of general warranty, (and the title of such purchaser, or purchasers, when so made by the Trustee, Owner(s) bind themselves to warrant and forever defend) and to receive the proceeds of said sale which shall be applied as follows, in the following order: (i) to all reasonable costs and expenses of the sale, including, but not limited to reasonable trustee's fees and attorney's fees and costs of title evidence; (ii) to all sums owed the Association; and (iii) the excess, if any, such other person or persons entitled thereto by law. At any time during the bidding, the Trustee may require a bidding

party to identify himself or herself (full name, state and city of residence, occupation, and specific business office location) and the name and address of the principal whom he or she is representing (if applicable), and to demonstrate reasonable evidence of such bidder's financial ability (or, if applicable, the financial ability of the principal), as a condition to such bidder submitting bids at the foreclosure sale. If any such bidding party (the "Questioned Bidder") declines to comply with the Trustee's requirement in this regard, or if such Questioned bidder does respond but the Trustee, in the Trustee's sole and absolute discretion, deems the information or the evidence of the financial ability of the questioned Bidder to be inadequate, then the Trustee may continue the bidding with reservation; and in such event, (a) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (b) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be disregarded and all bids by the ultimate purchaser shall be disregarded for such period of the bidding when the only bidding parties were one or more Questioned bidders and the ultimate purchaser.

(4) The Association shall have the additional right, upon the commencement of any action to enforce the lien herein given, (which is not required but only an option) to have appointed by the court in which said action is instituted, a receiver to take possession of the premises and collect the said rents, issue, and profits arising from the lot. This provision is a right created by this Declaration and is cumulative of, and is not to affect in any way, the right of the Association to the appointment of a receiver given the Association by law.

(5) If default be made in the payment of assessments, or any part thereof (other than the fault of the Association), then the Association shall have the option to proceed with foreclosure in satisfaction of such unpaid assessments, either through the courts or by directing the Trustee to proceed as if under a foreclosure, conducting the sale as herein provided.

(6) In case of any sale hereunder, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder, all statements of facts, or other recitals therein made as to the nonpayment of assessments secured, or as to the request to the Trustee to enforce this trust, or as to the proper and due appointment of any substitute trustee, or as to the advertisement of sale, or time, place, and manner of sale, or as to any other preliminary fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

(7) At the option of the Board of Directors, with or without any reason, a successor trustee may be appointed by the Board of Directors without any formality other than a designation in writing of a successor or substitute trustee, who shall thereupon become vested with and succeed to all the powers and duties given to the Trustee herein named, the same as if the successor trustee had been named original Trustee herein; and such right to appoint a successor trustee shall exist as often and whenever the Board of Directors desires. The Board of Directors may act

through any authorized officer, or by any agent or attorney in fact properly authorized by any such officer.

(8) Neither the exercise of, nor the failure to exercise, any option given under the terms of this Section shall be considered as a waiver of the right to exercise the same, or any other option given herein, and the filing of a suit to foreclose this Lien upon the lot, either on any matured portion of the obligation or for the whole obligation, shall never be considered an election so as to preclude foreclosure under the power of sale after a dismissal of the suit; nor shall the filing of the necessary notices for foreclosure, as provided herein, preclude the prosecution of a later suit thereon. The Association shall not be required to file a Notice of Lien in the Official Records of Hidalgo County, Texas or any other document as a prerequisite to the exercise of its right of foreclosure herein described.

(9) Any sale of the lot under these provisions shall, without further notice, create the relation of landlord and tenant at sufferance between the purchaser and Owner(s) or any person holding possession of the lot through Owner(s), and upon failure of Owner(s) or such person to surrender possession thereof immediately, Owner(s) or such person may be removed by a writ of possession of the purchaser, either in the Justice Court having venue or in any other Court hereafter having venue.

(10) If the Lien of the Association provided for herein is invalid or unenforceable as to any part of the obligation, or if the Lien is invalid or unenforceable as to any part of the lot, the unsecured or partially secured portion of the obligation shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the obligation, and all payments made on the obligation, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the obligation which is not secured or fully secured by the Lien.

(11) The Association shall have the right, through its Board of Directors, to become the purchaser at all sales to enforce this Lien and to have the amount for which such property is sold credited on the obligation then owing.

(12) Delinquent Owner(s) will pay all reasonable attorney's fees and expenses which may be incurred by the Association or Trustee, in enforcing the collection of assessments, expenses, or the enforcement of any term whatsoever of this Declaration, the terms of this Section, or in any suit to which the Association or Trustee may become a party where the Lien or the lot are in any manner involved and all expenses incurred in presenting a claim against the estate of a decedent or a bankrupt and will also pay any attorney's fees and expenses reasonably incurred in connection with the assignment to Association of any leases subsequently entered into by Owner(s) which by the terms hereof are required to be assigned to Association as additional collateral to secure payment of the indebtedness herein secured as well as any and all such fees and expenses reasonably incurred prior to full and final payment of such assessments relating to transfer of title to the premises and similar matters not otherwise provided for herein.

(13) As a condition precedent to the ownership of lots, Owner(s) specifically waive the right to procedural due process, i.e., notice and opportunity to be heard in a judicial proceeding in a court having jurisdiction of the parties and the subject

matter prior to commencement of such proceedings under the power of sale herein granted.

- (c) Status after Foreclosure or Sale. Upon the sale or conveyance of a lot, including sales at foreclosure, all unpaid assessments against the selling owner for such owner's pro rata share of the common expenses and charges shall be first paid out of the sales price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:
- (1) Assessments, liens and charges in favor of state and any political subdivision thereof for taxes due and unpaid on the lots; and
 - (2) Amounts under mortgage or deed of trust instruments duly recorded.

ARTICLE V

ARCHITECTURAL CONTROLS^{xi}

Section 1. Architectural Restrictions.

- (a) Architectural Committee. The Board of Directors, by resolution adopted by a majority of the directors shall appoint an Architectural Control Committee consisting of not less than three (3) members of the corporation, which committee shall serve at the pleasure of the Board of Directors.
- (b) Approval of Plans and Specifications. No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, be made, nor shall any landscaping of any lot or lots be undertaken until the plans and specifications showing the nature, kind, shape, height, materials, building square footage and location of the same shall have been submitted to and approved in writing by the Architectural Committee. the Architectural Committee shall not disapprove any plans submitted to it, either by the developer or by any third party desirous of erecting improvements on a lot located on the property, so long as said building is in substantial conformity with existing buildings or improvements located on other lots in the Property, and in compliance with these Restrictions. In the event no approval or denial is granted within ten (10) days of the date of submission of any such plans to the Architectural Control Committee, such approval shall automatically be deemed to be granted.
- (c) Arbitration. Any dispute under this Agreement shall be submitted to arbitration to an arbitration committee appointed by the Greater McAllen Board of Realtors. If the Greater McAllen Board of Realtors refuses or fails to appoint such a committee, then the dispute shall be submitted to arbitration under the rules of the American Arbitration Association.
- (d) Exterior Maintenance. In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Developer or the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of the Owner. Should the Association incur expenses in doing such repair, maintenance and restoration, such expenses shall constitute a

^{xi} Complete Article V rewritten 11-24-97

lien in favor of the Association against the lot of the owner causing such expenses to be incurred and such lien may be foreclosed pursuant to Chapter 51, Texas Property Code, in the same manner as the lien for assessments as described in Article IV, Section 13 hereof.

- (e) Type of Buildings Permitted. All Lots shall be used for residential purposes only, and no building shall be erected, altered, placed, or permitted to remain on any Lot other than a detached single family one story dwelling and private garage for not more than three (3) automobiles. All dwellings must retain the original garage and may not subsequent to original construction, convert such garage into living area or some other use.
- (f) Re-Subdivision or Consolidation. None of said Lots shall be re-subdivided in any fashion except that any person owning two or more adjoining Lots may consolidate such Lots into a single building site, with the privilege of constructing improvements as permitted in this Section 14 on each resulting building site, provided that such consolidation meets with the approval of the Architectural Control Committee as set forth in subsection (b) above. In the event one or more lots are consolidated, the owner of the consolidated lots shall pay assessments based upon the number of lots existing prior to consolidation.
- (g) Landscaping allowed. Nothing herein shall be construed to prevent Lot Owners from planting flowers or shrubs on their respective Lots around or adjacent to the living unit located thereon, provided same does not hinder or interrupt the view by the other Lot Owners of the golf course, lakes and other common green areas.
- (h) Enforcement. The Developer or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- (i) Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

ARTICLE VI

OTHER RIGHTS AND OBLIGATIONS OF THE Association

Section 1. The Common Area and Exteriors.

The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. Such responsibility shall include, but not be limited to, the following: the maintenance and repair of the Common Area improvements, or material located within or used in connection with the Common Area, The Association shall be responsible for mowing the grass located on a Lot, except that the Association will not be responsible for mowing any area which is enclosed by a fence or wall. The Owner shall be responsible for the maintenance and care of individual garden or shrub areas that the Owner places on the Lot at Owner's discretion. All maintenance and repair of the individual Living Units

and garages shall be the sole obligation and expense of the individual Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Lot is subject.^{xii}

Section 2. Services.

The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Subdivision whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Subdivision or the enforcement of this Declaration, and in addition thereto may reimburse Developer for expenses incurred by Developer for the maintenance and operation of the Common Areas during the initial stages of the development of the Subdivision.

Section 3. Personal Property for Common Use.

The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a Lot, provided that an Owner may delegate his right of enjoyment of such personal property to residents of his Lot. A transfer of title to a Lot shall transfer to the transferee ownership of the transferors beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Lot.

Section 4. Utilities.

The Association shall pay as a common expense all charges for water and sewer used upon the Common Area.

Section 5. Hazard and Liability Insurance for Common Property.

The Association shall procure fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred per cent (100%) of the insurable value (based on current replacement only); and shall use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable common property including insured improvements. The cost of such insurance shall be assessed as provided in Article IV above.

**ARTICLE VII
OWNER'S MAINTENANCE**

Section 1. Upkeep and Maintenance.

Each Owner shall be responsible for the upkeep and maintenance of his Living Unit, garage, roof, patio and all other areas, features or parts of his Lot. An Owner shall do no act nor any work that will impair the structural soundness or integrity of an adjoining Living Unit or garage, or impair any easement or hereditament, nor do any act nor allow

^{xii} 5-3-93

any condition to exist which will adversely affect the other Living Units, garages or their Owners.

Section 2 (a) Duty to Maintain Property.

Each Owner shall maintain all structures erected upon their lots in a first class condition and in good order and repair. In the event an Owner allows a structure on his property to become run down or in a state of disrepair, the Board of Directors may give the Owner a written notice of the violation and provide in the notice a reasonable time for the Owner to remedy the violation. If the Owner fails or refuses to remedy the violation within a reasonable time, the Board of Directors may impose a fine, pursuant to Article X, Section 14. Each day the Owner allows the violation to continue after the deadline set in the written notice shall constitute a separate violation.^{xiii}

**ARTICLE VIII
PARTY WALLS**

Section 1. General Rules of Law to Apply.

Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article VIII, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance.

The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty.

If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use and said Owner shall be entitled to proceed to collect same in a court of competent jurisdiction and shall be further entitled to the recovery of court costs and reasonable attorney fees incurred thereby.

Section 4. Weatherproofing.

Notwithstanding any other provision of this Article VIII, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Arbitration.

In the event of any dispute arising concerning a party wall, or under the provisions of this Article VIII, each party may agree to arbitration rather than the taking of court action as per Section 3 hereof and in such event each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

**ARTICLE IX
RECIPROCAL EASEMENTS**

Section 1. Reciprocal Easements.

The Living Units are and shall be constructed on the lots in such a manner that it is possible that all or a portion of the overhang portion of a Living Unit may encroach upon the air space of an adjacent lot. In such event, these Declarations hereby acknowledge and grant to said adjacent Lot Owner an irrevocable right and easement for the purpose of allowing said encroachment. In addition thereto, these Declarations hereby acknowledge and grant to each and every Lot Owner an easement right of ingress and egress over and across that portion of the encroached lot that is necessary for the maintenance and repair of that part of the overhang structures for which the easements created hereby exists. Such easement and right of ingress and egress shall be exercised in a reasonable manner and upon reasonable notice to the Lot Owner whose Lot is utilized for such maintenance and repair.

ARTICLE X GENERAL RESTRICTIONS, OBLIGATIONS AND RIGHTS OF OWNERS

Section 1. Living Unit and Lot Restrictions.

- (a) No more than one Living Unit shall be erected or maintained on each Lot. No Living Unit or garage shall ever be constructed on the Common Area, and no Living Unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a Living Unit or upon a Lot, nor shall any Lot or any part thereof be leased, sublet, assigned or suffered to be used for a hotel, The maintenance of an office by the Association or its designated manager for the purposes of management of the Property shall not be considered a violation of this covenant:
- (b) The following signs and decorations are permitted on each lot.
- A. One (1) "For Sale" or "For Rent" sign no larger than 25" x 25".
 - B. Two (2) political signs no larger than 2' x 2' (30) days prior to an election and three (3) days after an election.
 - C. Holiday and seasonal decorations.
 - D. Garage sale signs on the day of the sale.
 - E. US, Texas, and/or military flags.
 - F. Any other type of sign or decoration with prior Board approval.

Section 2. Common Area Restriction.

No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area, nor shall any "For Sale: or "For Rent: signs or any window display advertising be maintained or permitted on any part thereof, except that Developer reserves the right for itself or its agents to maintain a business and sales office during the construction and sales period until the last Lot is sold or long-term leased, and to place "For Sale," "For Rent" or any other signs on any part of the Common Area or unsold Lots and to use any part of the Common Area or unsold Lots for sale or display purposes during such period.

Section 3. Obstructions.

There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area without the prior written consent of Association except construction materials and equipment during the construction period or except as

specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Association.

Section 4. Prohibition of Damage and Certain Activities.

Nothing shall be done or kept on any Lot or in the Common Area or any part thereof which would increase the rate of insurance on the Common Area or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Lot or in the Common Area or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area or any part thereof or of the exterior of the buildings located thereon shall be committed by any Owner or any invitee of any Owner and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees, to the Association or other Owners. No noxious, destructive or offensive activity shall be allowed on any Lots or in the Common area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Property.

Section 5. Walls and Patios.

No Owner shall relocate, heighten, lower or otherwise move or change any structure, wall or patio upon a Lot or Common Area except as provided in Article V hereinabove.

Section 6. No Unsightly Uses.

No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Common Area, or on a Lot so as to be visible from outside the Lot. The Common Area and Lots shall be kept free and clear of all rubbish, debris and other unsightly materials.

Section 7. Animals.

No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or on any Lot or on the Common Area or any part thereof, except that household pets of mature size may be kept on Lots, subject to rules and regulations adopted by the Association provided that they are not kept, bred, or maintained for any commercial purposes. Any such pet causing or creating a nuisance or unreasonable disturbance should be reported to Animal Control by the Complainant.

Section 8. Prohibited Structures.

No structure of a temporary character, including but not limited to, trailer, basement, tent, or shack shall be maintained on any Lot nor shall any garage or other building except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters, either temporarily or permanently.

Section 9. Storage.

Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, yard and garden tools and equipment and trash and garbage containers, shall not be allowed unless screened from view by enclosures so as to be effectively screened from view outside the Lot. The design of such screened enclosure must be approved by the Association in accordance with the architectural control provisions hereof. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious

weed or other natural substance, and the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of residents is prohibited. Usual household trash and garbage shall be regularly collected and may be kept outside only if in sanitary containers which are so screened. Notwithstanding the foregoing, no boats, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall at any time be stored or parked on any Lot outside of a house or garage other than for unloading purposes for a reasonable period of time. No such boats, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall be stored or parked on any part of the Common area without the express written approval of the Association.

Section 10. Signs.

No sign of any kind (other than designations, in such styles and materials as the Association shall by regulation approve, of street addresses and names of Owners) shall be displayed to the public view on any Lot, except as provided for in Section 1 and 2 hereof.

Section 11. Antennas.

Except with prior written approval and authorization of the Association no exterior television or radio antenna or ~~satellite dish~~ of any sort shall be placed, allowed or maintained upon any portion of the improvements or structures to be located in the Subdivision or upon any portion of any Lot, other than an antenna for the master antenna system, should any such master system or systems be utilized and require any such exterior antenna. Any external antenna allowed by the Association shall not exceed twenty-one inches (21") in diameter and shall be located only as directed by the Association.^{xiv}

Section 12. Lot Sale

The Village of Westlakes is non-discriminatory and welcomes all who agree to follow our COVENANTS, BY-LAWS, and RULES AND REGULATIONS.

Section 13. Rules and Regulations.

The Association shall adopt such other rules and regulations from time to time governing the use and enjoyment of the Common Area as the Association in its sole discretion deems appropriate or necessary.

Section 14. Fines for Violations of Declaration, etc.^{xv}

- (a) The lot owners and tenants shall at all times obey the provisions of the Declaration and the Bylaws of the Village of Westlakes Homeowners Association and the rules and regulations of the Association, and all owners shall use their best efforts to see that they are faithfully observed by all families, guests, invitees, employees, tenants and persons over whom they exercise control and supervision. Any owner found to be in violation of the Declaration, Bylaws, rules and regulations or who causes damage to the common area of the subdivision may be fined by the Association. Each lot owner is also responsible for any violations of the declaration, Bylaws, rules and regulations by guests or tenants of such owner and may be fined for such violations. Prior to the imposition of a fine, the offending owner shall be given a

^{xiv} [ARTICLE X, Section 11 revision on antennas 3-21-95](#)

^{xv} [Article X, Section 14, \(a\) through \(j\) added 12-16-97](#) [Complete Section 14 added 11-24-97](#)

- written warning of the violation by the Board of Directors or by the management agent of the Association. Such written warning shall describe the violation or property damage for which the owner is responsible and the amount of the proposed fine or damage charge.
- (b) The amount of the fines to be imposed for violations of the Declaration, Bylaws, rules and regulations shall be determined in advance by resolution of the Board of Directors.
 - (c) In the event of a violation of the Declaration, Bylaws, rules and regulations, an owner or such owner's tenant or guest must be given a reasonable time, by a specified date, to cure the violation (if the violation is capable of being cured) and avoid the fine unless the lot owner, tenant or guest was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months.
 - (d) If an offending owner wishes to contest such owner's guilt or innocence of the violation (or that of a tenant or guest) for which such owner received the written notice, such owner must, within thirty (30) days after receipt of a written notice as described in subsection (a) hereof request, in writing, a hearing before the Board of Directors regarding the alleged violation. Such request may be served upon the Board of Directors by delivering it to the President or to the Management Agent. If the owner does not serve upon the Board within Thirty (30) days a written notice requesting a hearing, then such owner is precluded from contesting the assessed fine in a court of law or otherwise. The Association may give a copy of any written notices under this Section to an occupant of a home in the subdivision.
 - (e) Within a reasonable time after receipt of the written notice from the owner, the Board shall set a time and place for a hearing, and shall notify the violating owner of the same. In no case shall the hearing be set prior to seven (7) days after the notice of hearing is mailed from the Board to the violating owner. If the violating owner or the violating owner's representative fails to appear at the hearing, then such violating owner's opportunity to be heard shall be deemed waived, and the decision of the Board may not be further contested by the violating owner. No action may be taken against the violating owner by the Association prior to the date of the hearing before the Board of Directors.
 - (f) At the hearing, the violating owner, in person or through a representative, shall have the opportunity to be heard by the Board with regard to such violating owner's alleged violation. Within three (3) days after the date of the hearing, the Board shall make a decision with regard to the alleged violation, and shall mail a written notice of the Board's decision to the owner by mail. The decision of the Board shall be final.
 - (g) All written notices given under this Section shall be made either by personal delivery or by United States Certified Mail, Return Receipt Requested. For purposes of notices to the violating owner, the address to which notices shall be sent shall be the last known address of the violating owner as shown by the records of the Association, unless the Association is otherwise notified in writing by the violating owner. In the case of a levied fine or damage charge, the Association shall give the lot owner written notice not later than the 30th day after the date of levy.

- (h) If the fine is not paid by an owner within ten (10) days after the citation is given, or after the date of a hearing at which the fine is confirmed, such fine shall become a lien against the lot of the violating owner which lien may be enforced by non-judicial foreclosure in the same manner as a lien for assessments. This sub-paragraph (h) shall not apply to penalties assessed against tenants, but tenants may be evicted for violation of the Declaration, Bylaws, rules and regulations following the same procedure as for collection of fines against owners set forth in Article X, Section 14. Thereafter, if a tenant refuses to leave the premises within a reasonable time, the Association shall have the right to institute a judicial proceeding to evict the tenant and the tenant shall be liable to the Association for all attorney fees, expenses and costs in connection with such proceeding.
- (i) If a violation of the Declaration, Bylaws, rules or regulations of the subdivision by an owner, tenant or guest continues after the receipt of a warning notice, each day the violation continues shall be considered a separate violation and subject to an additional fine.
- (j) Any violation of the Declaration, Bylaws, rules or regulations of the subdivision by an owner, tenant or guest shall be considered to cause the Association irreparable damage and may be the subject of court action by the Association for injunctive relief. Any attorney fees, costs and expenses incurred by the Association in enforcing the provisions of this Section 14 shall be paid by the responsible owner. Such attorney fees, costs and expenses shall have the character of an assessment and may be collected by non-judicial foreclosure as provided for in the Declaration and in the Texas Condominium Act, Chapter 82, Texas Property Code.

ARTICLE XI INSURANCE

Section 1 Liability Insurance.

The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain a broad form of public liability insurance in such amounts as the Association determines necessary covering all common elements and all acts, omissions to act and negligence of Owners, the Association, its employees and agents.

Section 2 Insurance Obligation of Lot Owners.

Lot Owners are required to maintain fire, extended coverage, vandalism and malicious mischief insurance with all risk endorsement covering the insurable replacement value of the Lot Owner's Living Unit and garage and shall provide proof of same to Association upon the Association's request.

ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement.

Enforcement of these covenants and restrictions may be by any proceeding at law or in equity against any person violating or attempting to violate any covenant or restriction, either to restrain violation, to compel compliance, or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Attorneys' fees and costs

of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any persons violating the terms contained herein.

Section 2. Mergers.

Upon a merger or consolidation of the Association with another corporation as provided in its Articles and Bylaws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated Association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or additions to the covenants established by this Declaration within the Property, except as hereinabove provided.

Section 3. Access.

For the purpose solely of performing the repairs and maintenance authorized by this Declaration, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner (except in an emergency), to enter upon any Lot.

Section 4. Severability.

Invalidation of any one of these covenants or restrictions by legislation, judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Notices.

Any notice required to be sent to any Member of the Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member appearing on the records of the Association at the time of such mailing.

Section 6. Captions.

The Article and Section headings are intended for convenience only and shall not be given any substantive effect.

IN WITNESS WHEREOF, the said THE LINKS, a Joint Venture and THE LINKS HOMEOWNERS ASSOCIATION, INC., A Texas non-profit corporation have caused this document to be executed as of the day and year first above written,

THE LINKS
A Joint Venture

By: _____

Jerry Leadbetter, co-manager

By: _____

William Lavender, co-Manager

THE LINKS HOMEOWNERS ASSOCIATION, INC.

A Texas Non-Profit Corporation

By: _____

Jerry Leadbetter, President

ACKNOWLEDGMENTS

STATE OF TEXAS

COUNTY OF HIDALGO

The foregoing instrument was acknowledged before me this 7th day of March, 1985, by Jerry Leadbetter and William Lavender, Co-Managers of THE LINKS, a Joint Venture, on behalf of the Joint Venture.

Notary Public

My commission Expires: April 10, 1985

STATE OF TEXAS

COUNTY OF HIDALGO

The foregoing instrument was acknowledged before me this 7th day of March, 1985, by Jerry Leadbetter, President of THE LINKS HOMEOWNERS ASSOCIATION, INC., a Texas non-profit Corporation.

Notary Public

My Commission Expires: April 10, 1985