

42/5

187-00-0491
9652258
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR SPRING CREEK PINES

THIS DECLARATION, made as of the date hereinafter set forth by Mellon Properties Company, a Louisiana corporation (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the approximately 26.3513 acre tract of land in Montgomery County, Texas described on Exhibit "A" attached hereto which has been or will be platted as Spring Creek Pines, a subdivision of land in Montgomery County, Texas according to the map or plat thereof recorded or to be recorded in the Map Records of Montgomery County, Texas (the "Subdivision"); and

WHEREAS, it is the desire and intention of Declarant to provide a common plan as to the use, permissible construction, and common amenities of the property in such subdivision and, to this end to subject the Lots (hereinafter defined) in the Subdivision to the covenants, conditions and restrictions hereinafter set forth for the benefit of all present and future owners thereof;

NOW, THEREFORE, Declarant hereby declares that the Lots in the Subdivision shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Lots and shall be binding upon all parties having any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. "Association" shall mean and refer to Spring Creek Pines Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

SECTION 2. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot for the purpose of selling same.

SECTION 3. "Common Area" shall mean and refer to all properties, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members (hereinafter defined) of the Association.

J:\76051\DECLARATION COVENANTS\120.22

187-00-0492

SECTION 4. "Corner Lot" shall mean and refer to a Lot which abuts on more than one Street.

SECTION 5. "Declarant" shall mean and refer to Mellon Properties Company, a Louisiana corporation, its successors or assigns, provided that an assign is designated in writing by the Declarant as an assign of all, or part, of the rights of the Declarant under this Declaration.

SECTION 6. "HUD" shall mean the Department of Housing and Urban Development.

SECTION 7. "Lot" shall mean and refer to any of the numbered lots shown on the plat of the Subdivision intended for the construction of a residence, excluding all reserve tracts shown on the plat, but including Lots hereafter created by a replat of any reserve tracts.

SECTION 8. "Member" shall refer to every person or entity which holds a membership in the Association.

SECTION 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding any person or entity who holds an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 10. "Properties" shall mean and refer to the real property within the jurisdiction of the Association including the property within the Subdivision and any additional property hereafter added to the jurisdiction of the Association as provided herein.

SECTION 11. "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue, or thoroughfare dedicated for public use or the use of more than one Owner.

ARTICLE II
ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. CREATION. There is hereby created the Spring Creek Pines Architectural Control Committee (herein referred to as the "Committee") comprised of J. Dickson Rogers, Curtis R. Campbell, and Clinton D. Pendleton, each of whom shall serve until his successor is appointed as hereinafter provided. No person serving on the Committee shall be entitled to compensation from the Association for services performed, however, the Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the Committee.

JGC176051 \ DECLARATION / COVER LETTER 120.22

2

187-UG-U493

SECTION 2. APPOINTMENT OF MEMBERS; REMOVAL. The Declarant shall have the right to appoint all members of the Committee as well as the right to remove any member until it has sold and conveyed all of its Lots in the Properties and is no longer a Member of the Association. Prior to such date, in the event of the death, or removal or resignation of any person serving on the Committee, the Declarant, by recorded written instrument, shall designate a successor, or successors, who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers herein granted to the Committee. After the date on which the Declarant has sold and conveyed all of its Lots within the Properties, the Association's Board of Directors may perform the functions of the Committee or from time to time, appoint and remove members of the Committee.

SECTION 3. POWERS OF THE COMMITTEE. No building, structure or other improvements shall be constructed on any Lot, and no exterior alteration therein shall be made until the site plan and the final working plans and specifications have been submitted to and approved in writing by majority vote of the Committee as to conformity with the restrictions herein contained and harmony of external design and location in relation to existing structures and topography. In the event the Committee fails to approve or disapprove the site plan and final working plans and specifications for proposed improvements within forty-five (45) days after submission of all of such materials to the Committee, approval thereof shall be deemed to have been given; provided, however, failure to approve or disapprove such site plan and final working plans and specifications shall not be deemed to permit the construction of any improvements in a manner prohibited under the terms of this Declaration.

The Committee shall have the right to specify architectural and aesthetic requirements for building sites, minimum setback lines, the location, height, and extent of fences, walls, or other screening devices, the orientation of structures with respect to streets, walks, paths and structures on adjacent property and shall have the right to limit the number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The Committee shall have full power and authority to reject any site plan or final working plans and specifications that do not comply with the restrictions herein contained or that do not meet its minimum construction or architectural design requirements or that, in the sole and uncontrolled discretion and opinion of the Committee, will not be compatible with the overall character and aesthetics of the Subdivision.

The Committee shall have the right, exercisable at its sole discretion, to grant variances to certain restrictions in specific instances where the Committee in good faith deems that such

JCE\76031-UGUG-U493\CONVEYANCE\20.22

3

187-00-0494

variance does not adversely affect the architectural and environmental integrity of the Subdivision. The Committee may require the submission to it of such documents and items as it shall deem appropriate in connection with its consideration of a request for a variance. If the Committee shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the property relative to which such variance has been requested, describing the applicable restriction(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of disapproval from the Committee or (b) failure by the Committee to respond to the request for variance.

The Committee may, at its discretion, grant the approval required by this Article II for one site plan and one set of plans and specifications submitted by a Builder for improvements on multiple Lots, and such approval shall be effective for each Lot on which such improvements are constructed.

SECTION 4. LIMITATION OF LIABILITY. The Committee has no liability or obligation whatsoever in connection with any plans and/or specifications and no responsibility for the adequacy thereof or for the construction of any improvements contemplated by any such plans and/or specifications. The Committee has no duty to inspect any improvements; and, if the Committee should inspect any improvements, the Committee shall have no liability or obligation to any party arising out of such inspection. The Committee expressly shall have no liability or responsibility for defects in or omissions from any plans and/or specifications or for defects in or omissions from the construction of any improvements. Notwithstanding any covenant, condition or term contained in this Declaration or provision of the By-Laws of the Association to the contrary, the Committee shall not have any liability to any Owner arising or resulting from any act or omission of the Committee taken or omitted pursuant to this Declaration or the By-Laws of the Association. Each Owner by accepting a conveyance of any Lot or of any portion of the Properties conclusively shall be deemed to have unconditionally and irrevocably waived all claims against the Committee arising or resulting from acts or omissions pursuant to this Declaration or the By-Laws of the Association.

ARTICLE III
SPRING CREEK PINES HOMEOWNERS ASSOCIATION, INC.

SECTION 1. ORGANIZATION. Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of

187-00-0495

the maintenance funds, enforcement of the restrictive covenants contained herein, and architectural control of the Lots.

SECTION 2. BOARD OF DIRECTORS. The Association shall act through a Board of Directors (the "Board") having a minimum of three (3) and a maximum of five (5) members. The Board shall consist of three (3) members unless or until the By-Laws are amended to increase such number. The Board shall manage the affairs of the Association as specified in this Declaration and the By-Laws of the Association.

SECTION 3. MEMBERSHIP. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

SECTION 4. VOTING RIGHTS. The Association shall initially have two (2) classes of membership as follows:

Class A. Class A Members shall be all persons or entities who own a Lot with the exception of the Declarant. After the Conversion Date (as hereinafter defined), the Declarant shall become a Class A Member.

Class B. The Class B Member shall be the Declarant. The Class B membership shall cease and become converted to Class A membership on the Conversion Date.

Class A Members shall be entitled to one (1) vote for each Lot owned within the Properties and the Class B Member shall be entitled to three (3) votes for each Lot owned within the Properties. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Class A Members, and the vote for the Lot owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests.

SECTION 5. CONVERSION DATE. The Conversion Date shall occur on the earlier of:

- (i) The date the total number of votes of the Class A Members equals the number of votes of the Class B Member; or
- (ii) Such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Montgomery County, Texas.

SECTION 6. TERMINATION OF MEMBERSHIP. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that

187-00-0496

such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot within the Subdivision, hereby covenants and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) annual assessments or charges; and
- (b) special assessments for capital improvements,

such assessments or charges to be fixed, established and collected as hereinafter provided. These assessments and charges, together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment or charge, together with such interest, late charges, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them. However, successors in title shall nonetheless acquire title to the land subject to the lien securing the assessments and charges.

SECTION 2. PURPOSE OF ANNUAL ASSESSMENTS. The annual assessments levied by the Association shall be used for carrying out the purposes of the Association as stated in its Articles of Incorporation and this Declaration. The judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. Such funds may be used to finance all or any of the following:

- i. Operation, maintenance, repair, and improvement of the Common Area, including funding of appropriate reserves for future repair, replacement and improvement of same;

187-00-0497

- ii. Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;
- iii. Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Area;
- iv. Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
- v. Maintaining or replacing any landscaping in the Common Area;
- vi. Designing, purchasing and installing any improvements to the Common Area;
- vii. Mowing and routine maintenance of the Common Area;
- viii. Contracting for street lights in the Properties;
- ix. Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
- x. Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
- xi. Employing policemen or watchmen and/or a security service;
- xii. Contracting for insect and pest control such as mosquito fogging;
- xiii. Carrying out the duties of the Board of Directors of the Association;
- xiv. Installing, maintaining and replacing a fence or wall, which shall initially be an eight (8) foot high masonry wall along the rear lot lines of the Lots adjacent to the landscape reserves along Rayford Road, as shown on the Plat of the Properties;
- xv. Carrying out such purposes of the Association as generally benefit the Members of the Association; and
- xvi. Maintaining, repairing and/or replacing security gates and private Streets which serve the Lots.

As stated hereinabove, the Association shall not be obligated to perform all of the foregoing functions or any particular function. The judgment of the Board of Directors of the Association in

187-00-0498

establishing annual assessments and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS. The maximum annual assessment for 1996 shall be \$400.00 per Lot. Each year after 1996 the maximum annual assessment may be increased by the Board of Directors of the Association at its sole discretion, by an amount equal to a twenty percent (20%) increase over the maximum assessment for the previous year without a vote of the Members of the Association. The maximum annual assessment may be increased above twenty percent (20%) by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy, at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

SECTION 4. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS. In addition to the annual assessment 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, or repair or replacement of a capital improvement located upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments may be collected on a monthly basis at the Board's election.

SECTION 5. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 above shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast twenty percent (20%) of each class of the votes of the Association's membership shall constitute a quorum. If the required quorum is not present or represented, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 6. RATES OF ASSESSMENT. Both annual and special assessments on all Lots shall be fixed at uniform rates provided, however, there shall be no assessment against the Lots owned by the Declarant for each year that the Declarant makes a contribution to the Association equal to any financial deficit incurred by the Association for such year.

SECTION 7. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT. The annual assessment for 1996 shall commence as to

187-00-0499

all Lots on a date fixed by the Board of Directors of the Association (the "Board"), shall be prorated according to the number of months remaining in the calendar year, and shall be due and payable thirty (30) days after notice of the assessment is sent to every Owner whose Lot is subject to assessment. Thereafter, on or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessments which are not paid in full by the date specified by the Board shall be delinquent. Any delinquent assessment shall commence to bear interest on the due date at the greater of (i) fifteen percent (15%) per annum or (ii) the maximum lawful rate of interest which may be charged, from the date of delinquency until paid. If the assessment is not paid when due, the lien herein retained and created against the affected property shall secure the assessment due, interest thereon from the date due and payable, all costs of collection, court costs, reasonable attorney's fees actually incurred, and any other amount provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit for collection against the Owner personally obligated to pay the assessment or foreclose the lien created and reserved hereby against the Lot of such Owner.

The Association's lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring his Lot, the Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of Directors of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision(s), amendment(s), or recodifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not

187-00-0500

petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the Owner's debt. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the Lot sold at foreclosure. The Owner shall have no right of redemption after or resulting from a foreclosure sale of the Association's lien. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Lot shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein by non-use of Common Area or abandonment of the property owned by such Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to interest, and then to delinquent assessments.

SECTION 9. SUBORDINATION OF THE LIEN TO MORTGAGES. As herein above provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the lien in favor of the Association provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to

187-00-0501

any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

SECTION 10. EXEMPT PROPERTY. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

SECTION 11. PRIVATE STREETS. The Streets located within the Properties as shown on the plat of the Properties are private streets for the benefit of the Owners. The Association has the obligation to maintain, repair and/or replace such Streets as necessary for the benefit of the Owners, and the costs thereof shall be paid for by the assessments provided for in this Article IV. Each Owner, by acceptance of a deed of any portion of the Properties, acknowledges such Owner's obligation to pay such assessments as may be levied by the Association to pay for the cost of maintaining, repairing and/or replacing the Streets.

ARTICLE V
PROPERTY RIGHTS IN THE COMMON AREA

SECTION 1. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT. Subject to the provisions herein stated, every Member shall have an easement of access and a right and easement of enjoyment in the Common Area, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- (b) Upon the approval of at least two-thirds of each of the Class A Members and the Class B Members, the Association shall have the right to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred; provided, however, so long as there is a "Class B Membership" such actions shall require the prior approval of HUD.
- (c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.

187-00-0502

- (d) The Association shall have the right to suspend the voting rights and enjoyment rights of any Members for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.
- (e) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, and to suspend the enjoyment rights and voting rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (f) Upon the approval of at least two-thirds of each of the Class A Members and the Class B Members, the Association shall have the right to dedicate, sell or transfer all or any part of the Common Area to any public agency or authority and the right to grant or dedicate easements in portions of the Common Area to public or private utility companies; provided, however, so long as there is a "Class B Membership" such actions shall require the prior approval of HUD.
- (g) The right of the Association to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his rights and easements of enjoyment to the Common Area to the members of his family, to his tenants, and to such other persons as may be permitted by the Association.

ARTICLE VI
USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot is hereby restricted to residential dwellings for single family residential use only. No business, professional, commercial or manufacturing use shall be made of any Lot, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence. No structure other than one single family residence and its approved outbuildings shall be constructed, placed on, or permitted to remain on any Lot in the Subdivision. The use of any Lot for duplex houses, garage apartments for rental purposes, apartment houses, or mobile homes is specifically prohibited.

Notwithstanding the foregoing, a residence on a Lot may be used for a Home Occupation provided that:

187-00-0503

- (1) no person other than a resident of the residence shall be engaged or employed in the Home Occupation at the site;
- (ii) there shall be no visible storage or display of occupational materials or products;
- (iii) there shall be no exterior evidence of the conduct of a Home Occupation and no Home Occupation shall be conducted on the Lot outside of the residence; and
- (iv) no additional parking shall be provided for the Home Occupation.

As used herein, the term Home Occupation shall mean a commercial enterprise conducted in a single family residence which is incidental to the principal residential use.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs, cats, or other household pets not to exceed two (2) in number may be kept on a Lot, provided that they are not kept, bred, or maintained for any business purposes.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any property within the Subdivision nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision.

SECTION 4. STORAGE AND REPAIR OF VEHICLES. Unless otherwise approved by the Committee, no boat, water craft, boat trailer, boat rigging, motor home, trailer, truck larger than a one ton pick-up, bus, inoperable automobile, or camper shall be parked or kept in the Street in front of or side of any Lot or on any Lot unless such vehicle is stored within a garage or otherwise screened from public view from all Streets. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or Streets other than work of a temporary nature. For the purposes of the foregoing the term "temporary" shall mean that the vehicle shall not remain in driveways or Streets in excess of twenty-four (24) hours.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, after the initial construction of residences by the Declarant and the Builders, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 7:00 P.M.

187-UU-0504

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tightfitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 7. DISPOSAL OF HAZARDOUS SUBSTANCES. No gasoline, motor oil, paint, paint thinner, pesticide, or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or detention pond within the Properties, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction of residences by Builders in the Subdivision, building materials may be placed or stored outside the property lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the Streets.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

ARTICLE VII ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF RESIDENCE. Only one detached single family residence not more than two stories shall be built or

187-00-0505

permitted on each Lot. All residences shall have an attached or detached enclosed garage which shall be large enough to contain a minimum of two (2) parked cars. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

SECTION 2. LIVING AREA REQUIREMENTS. The total living area of each single family dwelling, exclusive of porches and garages, shall be not less than sixteen hundred (1,600) square feet.

SECTION 3. LOCATION OF RESIDENCE ON LOT. The location of each residence on a Lot will be approved by the Committee with its approval of the site plan and the final working plans and specifications. No building shall be located on any Lot nearer to a Street than the minimum building setback lines shown on the plat containing such Lot and no building shall be located on any utility easement. No building shall be located nearer than five (5) feet to an interior lot line; provided, however, (i) a residence may be located not less than three (3) feet from an interior lot line if the construction of a residence on the adjacent Lot is no closer than seven (7) feet to the same interior lot line, and (ii) a detached garage located a minimum of fifty-five (55) feet from the front lot line may be located three (3) feet from an interior lot line. No residence or garage shall be located nearer than eight (8) feet from the rear lot line. For the purposes of this section, eaves, steps and open porches or driveways shall not be considered as a part of a residence.

SECTION 4. TYPE OF CONSTRUCTION. A minimum of 51% of the exterior wall area of all residences below eight (8) feet and above the foundation, exclusive of doors and windows, shall be masonry or brick veneer construction, unless a variance from this restriction is specifically approved in writing by the Committee.

No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and accessory building (except a greenhouse) shall correspond in style, color and architecture with the dwelling to which it is appurtenant. No structure of any kind or character which incorporates wood construction on the exterior shall be erected on any Lot unless such structure receives at least two coats of paint at the time of construction or the exterior is of redwood or cedar material.

SECTION 5. TEMPORARY BUILDINGS. Unless otherwise approved by the Committee, temporary buildings or structures shall not be permitted on any Lot. Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences. With the Declarant's approval, Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Subdivision. At

187-00-0506

the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be reconvertd to a garage or a garage must be added to such residence.

SECTION 6. DRIVEWAYS. On each Lot the Builder shall construct and the Owner shall maintain at his expense the driveway from the garage to the abutting Street, including the portion of the driveway in the street easement, and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto.

SECTION 7. ROOF MATERIAL. Roofs of all residences shall be constructed of asphalt or composition type shingles or other materials approved by the Committee.

SECTION 8. FENCES. No fence or wall shall be erected on any Lot nearer to the Street than the minimum building setback lines from the Street shown on the plat of the Subdivision. The erection of chain link fences on any Lot is prohibited. Owners shall construct and maintain a minimum six (6) foot high (and maximum eight (8) feet high) cedar or masonry fence or wall (or other suitable enclosure approved by the Committee) to screen from public view outside clothes lines, yard equipment, and wood piles or storage piles. Such fences shall be constructed with pickets of materials commonly known as 1x4's, or wider, with the pickets facing outward to the adjacent Street or Common Area.

SECTION 9. GRASS AND SHRUBBERY. The Owner of each Lot used as a residence shall spot sod or sprig the area between the front of his residence and the curb line of the abutting Street. The grass shall be of a type and within standards prescribed by the Committee. Grass and weeds shall be kept mowed to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision, shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil.

SECTION 10. SIGNS. Except for one (1) sign of not more than five (5) feet square advertising a residence on a Lot for sale or rent, no signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Committee. The right is reserved by Declarant to construct and maintain, or to allow Builders within the Subdivision to construct and maintain, signs, billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. In addition, the Declarant and the Association shall have the right to erect identifying signs at each entrance to the Subdivision.

187-00-0507

SECTION 11. TRAFFIC SIGHT AREAS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any Corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 12. EXTERIOR ANTENNAE. Unless otherwise approved by the Committee, no radio or television wires or antennae, including satellite dishes, shall be placed so as to be visible to public view from the Street of the house address.

SECTION 13. DISPOSAL UNITS. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

SECTION 14. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any residence, but the Committee, at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from the Street of the house address.

SECTION 15. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

SECTION 16. ENFORCEMENT OF LOT MAINTENANCE. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, Declarant or the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Declarant or Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Declarant, the Association, or their agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

187-00-0508

ARTICLE VIII
EASEMENTS

SECTION 1. GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plat of the subdivision or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 2. MAINTENANCE EASEMENT. There is reserved, for Declarant, the Association, and their respective successors and assigns, a three-foot wide construction and maintenance easement adjacent and parallel to each of the rear and side lot lines of all Lots that abut a landscape reserve, greenbelt, or Street where Declarant has constructed or intends to construct a fence within the landscape reserve or public rights-of-way, together with the right of ingress and egress for the purposes, without liability to the Owner for damages arising from the use of the easement, of constructing, repairing, and/or reconstructing the fence. The easement area shall remain unobstructed of any structures or plantings that would prohibit access to the fence for construction and maintenance purposes.

SECTION 3. UNDERGROUND ELECTRICAL DISTRIBUTION SYSTEM. An underground electric distribution system has been installed within the Subdivision which will be designated an Underground Residential Subdivision and which underground service area shall serve all Lots in the Subdivision. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

187-00-0509

Easements for the underground service may be crossed by driveways and walkways provided that the Builder or Owner makes prior arrangements with the utility company furnishing electric service and provides and installs the necessary electric conduit of approved type and size under such driveways or walkways prior to construction thereof. Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, and neither Builder nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, or improvements (other than crossing driveways or walkways provided the conduit has been installed as outlined above) of the Owner and located on the land covered by said easements.

ARTICLE IX
ENFORCEMENT

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X
GENERAL PROVISIONS

SECTION 1. TERM. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots covered by this Declaration has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

SECTION 2. AMENDMENT.

This Declaration may be amended at any time by an instrument executed by the owners of two-thirds of the Lots covered by this Declaration; provided, however that so long as there is a "Class B Membership," any amendment of this Declaration shall require the prior approval of HUD. Any such amendment shall become effective when an instrument is filed for record in the Official Records of Montgomery County, Texas, with the signatures of the requisite number of the Owners of the Lots within the Properties.

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

187-00-0510

SECTION 4. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 5. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. REPLATTING. Declarant shall have the right to replat any Lots as well as the right to subdivide any reserve tracts contained within the Properties into single family residential lots, by recorded plat or in any lawful manner. Lots created by the subdivision of a reserve tract shall be subject to these restrictions as if such Lots were originally platted as lots. The replatting of any portion of the Properties by an Owner other than the Declarant prior to the Conversion Date shall require the written consent of the Declarant.

SECTION 7. ANNEXATION.

Upon request by an owner of land, the Association may annex real property to its jurisdiction. Any such annexation shall require the affirmative vote of Members representing a majority of the Association's votes present at a meeting duly called for such purpose and, as long as there is a "Class B Membership," the prior approval of HUD. Annexation of land shall be accomplished by filing of record in the public records of Montgomery County, Texas, an annexation agreement describing the property being annexed. Such annexation agreement shall be signed by the President and the Secretary of the Association and by the owner of the property being annexed. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 7 and to ascertain the presence of a quorum at such meeting.

C. Effect of Annexation. The Owners of Lots in property annexed into the jurisdiction of the Association shall be entitled to the use and benefit of all Common Area of the Association, provided that the annexed property shall be impressed with and subject to an annual maintenance assessment imposed by the Association on a uniform, per Lot basis with the annual assessment on all other property within the jurisdiction of the Association.

SECTION 8. MERGER; DISSOLUTION. The Association may be merged with another non-profit corporation or dissolved only with the assent of not less than two-thirds (2/3's) of the Members

187-00-0511

voting in person or by proxy at a meeting duly called for such purpose; provided, however, so long as there is a "Class B Membership," such merger shall also require the prior approval of HUD. In the event of a merger of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights, and obligations may be transferred to the surviving association, or alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, this Declaration is executed effective as of the 14th day of August, 1996.

County of Montgomery
The undersigned hereby certifies that this instrument was filed in the proper office on the date and at the time stated herein by me and was duly RECORDED in the official Public Records of Real Property of Montgomery County, Texas.

MELLON PROPERTIES COMPANY, a Louisiana corporation

AUG 23 1996



Montgomery County, Texas
County Clerk

By: [Signature]
Its: Vice President

FILED FOR RECORD

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

56 AUG 23 AM 10:27
MONTGOMERY COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

This instrument was acknowledged before me on August 23, 1996, by Clincon D. Pendleton, Vice President of Mellon Properties Company, a Louisiana corporation, on behalf of said corporation.

RECORDERS MEMORANDUM
of the State of Texas, this instrument was found to be inadequate in the best interests of the public and the State of Texas. This instrument is hereby rejected and the original instrument is returned to the recorder. This instrument was filed and recorded.

[Signature]
Notary Public in and for the State of Texas

(SEAL)
After recording, return to:
Clincon D. Pendleton
Mellon Properties Company
515 Post Oak Blvd., Suite 130
Houston, Texas 77027

