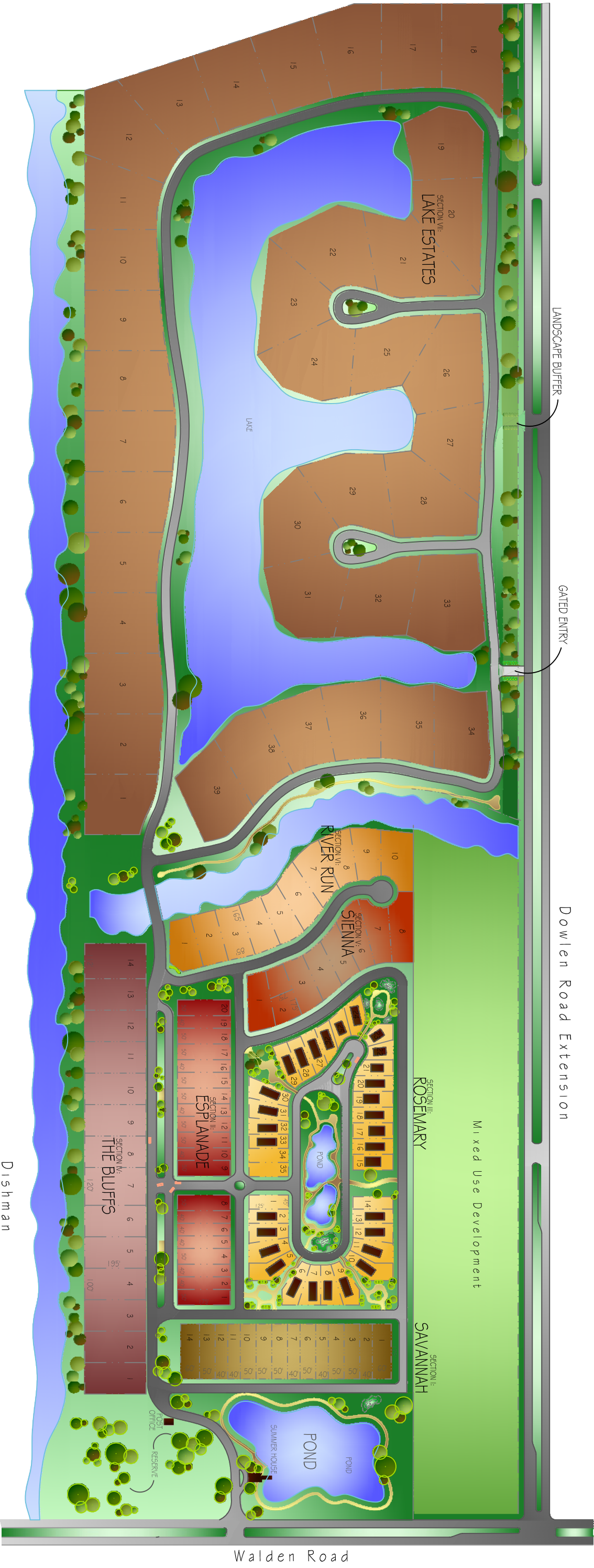
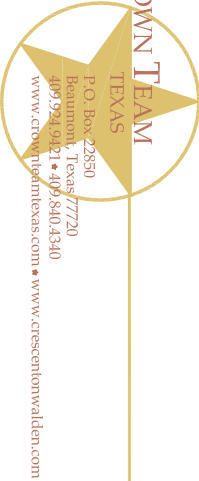




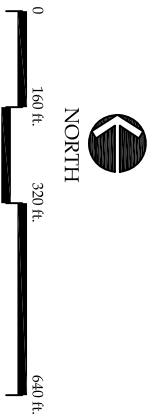
WATERFRONT LIVING IN A NEW URBAN COMMUNITY

- BODIES OF FRESH WATER
- COMMUNAL GREEN AREAS
- HIDDEN DRIVEWAYS



THE CRESCENT ON WALDEN

CROWN TEAM TEXAS
BEAUMONT, TEXAS



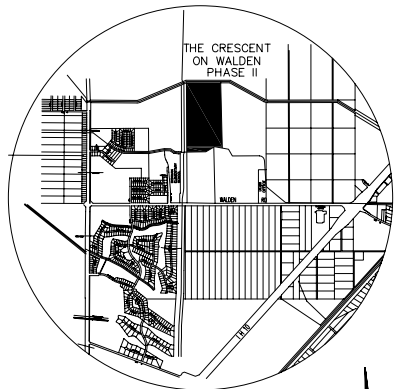
Scale: 1" = 320'
Date: September 14, 2005

SHEET FILE: Crescent\ACAD\Landplan\1-MRTG_1B.dwg
Base mapping compiled from best available information. All map data should be considered as preliminary, in need of verification, and subject to change. This land plan is conceptual in nature and does not represent any regulatory approval. Plan is subject to change.

550 Fannin St Suite 1130
Beaumont Texas 77701
Tel (409) 813-1862
Fax (409) 813-1916

Vicinity Map

N.T.S.



LEGAL DESCRIPTION:

BEING an 86.8309 acre tract of land out of and a part of those certain Crescent-Walden, LLC called 69.1525 acre tract of land, more fully described and recorded as Tract I and that certain called 28.4872 acre tract of land, more fully described and recorded as Tract II in Clerk's File No. 2005042399 of the Official Public Records of Jefferson County, Texas. Said 86.8309 acre tract being situated in the Charles Williams League, Abstract No. 59, Jefferson County, Texas and is more particularly described as follows:

BEGINNING at a 5/8-inch iron rod found for the Southwesterly corner of said Crescent-Walden Tract I, same being the Westerly line of that certain Jefferson County Drainage District No. 6 (DD6) called 3.51 acre tract (right-of-way easement) of land, more fully described and recorded in Clerk's File No. 9736192 of said Official Public Records, same being in the Easterly line of that certain DD6 tract of land, more fully described and recorded in Volume 1588, Page 85 of the Official Public Records of Jefferson County, Texas, same being the Northwest corner of that certain DD6 called 7.937 acre tract of land, more fully described and recorded in Film Code 100-44-0725 of said Official Public Records;

THENCE North 0 deg. 20 min. 59 sec. East along and with the common Westerly line of said Crescent-Walden Tract I and said DD6 called 3.51 acre tract, same being the Easterly line of said DD6 tract, a distance of 2533.01 feet to a 5/8-inch iron rod found for the Northwesterly corner of the herein described 86.8309 acre tract;

THENCE North 72 deg. 37 min. 54 sec. East a distance of 936.34 feet to a 5/8-inch ironrod found in the Southern line of the Lower Neches Valley Authority (LNVA) Canal right-of-way;

THENCE South 98 deg. 08 min. 16 sec. East along and with the LNVA Canal right-of-way a distance of 584.36 feet to a 5/8-inch iron rod found in the Westerly line of that certain City of Beaumont called 8.10 acre tract of land, more fully described and recorded in Film Code 100-62-1134 of said Official Public Records, same being the Northeast corner of the herein described 86.8303 acre tract;

THENCE South 00 deg. 16 min. 51 sec. West along and with the Westerly line of said City of Beaumont called 8.10 acre tract a distance of 2599.80 feet to a 5/8-inch iron rod found in the Northerly line of said DD6 called 7.937 acre tract, same being the Southeast corner of the herein described 86.8309 acre tract;

THENCE in a Westerly direction along and with the Southerly lines of said Crescent-Walden Tracts I & II, same being the Northerly line of said DD6 called 7.937 acre tract, the following courses and distances:

- 1) North 68 deg. 13 min. 23 sec. West a distance of 180.46 feet to a 5/8-inch iron rod found for corner;
- 2) Along a curve to the left having a radius of 360.00 feet, a central angle of 16 deg. 14 min. 39 sec., and a chord bearing of North 75 deg. 32 min. 01 sec. West for an arc distance of 102.07 feet to a 5/8-inch iron rod found for corner;
- 3) North 83 deg. 51 min. 35 sec. West a distance of 244.72 feet to a 5/8-inch iron rod found for corner;
- 4) Along a curve to the left having a radius of 205.01 feet, a central angle of 31 deg. 12 min. 49 sec., and a chord bearing of South 80 deg. 50 min. 10 sec. West for an arc distance of 111.69 feet to a 5/8-inch iron rod found for corner;
- 5) South 65 deg. 11 min. 46 sec. West a distance of 63.49 feet to a 5/8-inch iron rod found for corner;
- 6) Along a curve to the left having a radius of 375.01 feet, a central angle of 28 deg. 08 min. 33 sec., and a chord bearing of South 51 deg. 01 min. 28 sec. West for an arc distance of 184.22 feet to a 5/8-inch iron rod found for corner;
- 7) South 37 deg. 02 min. 19 sec. West a distance of 68.39 feet to a 5/8-inch iron rod found for corner;
- 8) Along a curve to the right having a radius of 85.01 feet, a central angle of 39 deg. 55 min. 55 sec., and a chord bearing of South 57 deg. 07 min. 16 sec. West for an arc distance of 59.25 feet to a 5/8-inch iron rod found for corner;
- 9) South 77 deg. 00 min. 09 sec. West a distance of 442.93 feet to a 5/8-inch iron rod found for corner;
- 10) Along a curve to the right having a radius of 85.01 feet, a central angle of 25 deg. 06 min. 59 sec., and a chord bearing of South 89 deg. 47 min. 16 sec. West for an arc distance of 37.27 feet to a 5/8-inch iron rod found for corner;
- 11) North 77 deg. 59 min. 30 sec. West a distance of 106.94 feet to the PLACE OF BEGINNING, containing 86.8309 acres of land, more or less.

GENERAL NOTES:

- 1) THIS TRACT OF LAND IS LOCATED IN ZONE "x" (NOT SHADED-AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN) AS DEPICTED ON THE FEDERAL INSURANCE RATE MAP COMMUNITY PANEL NO. 485457 0055 D WITH A REVISED DATE OF AUGUST 06, 2002. (LEAP ENGINEERING, LLC DOES NOT WARRANT NOR SUBSCRIBE TO THE ACCURACY OF SAID MAP.)
- 2) THE UTILITY EASEMENTS SHOWN HEREON ARE EXPRESSLY UNDERGROUND ONLY.
- 3) COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 IN FEET. ALL BEARINGS SHOWN HEREON WERE CALCULATED FROM SURVEYED DATA REFERENCED TO CALLS OF RECORD. ALL DISTANCES SHOWN HEREON ARE TRUE SURFACE DISTANCES. ALL AREAS SHOWN HEREON ARE TRUE SURFACE AREAS.
- 4) JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6 HAS UNIMPEDED RIGHT TO ACCESS THE PROPERTY SHOWN IN THIS AREA FOR THE PURPOSE OF MAINTENANCE. JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6 WILL NOT BE HELD RESPONSIBLE FOR DAMAGE TO ROADS, UTILITIES OR OTHER PROPERTY INCURRED DURING ANY MAINTENANCE PROCESSES UPON PROPERTY SHOWN.
- 5) ALL BEARINGS SHOWN HEREON ARE REFERENCED TO THE SOUTHERLY LINE OF THE CRESCENT ON WALDEN PHASE I BEING S 89-24' 50" E.
- 6) ALL LOTS SHALL BE GRADED TO DRAIN TO STREETS OR ADJACENT DRAINAGE STRUCTURES AND SHALL NOT DRAIN ONTO ADJACENT LOTS BEFORE OR AFTER STRUCTURES ARE BUILT.

OWNERSHIP CERTIFICATE

STATE OF TEXAS
COUNTY OF JEFFERSON

CRESCENT-WALDEN, LLC ("OWNER"), DOES HEREBY CERTIFY THAT IT IS THE RECORD OWNER OF 69.1525 ACRES AND 28.4872 ACRES OF THE LAND ("LAND") EMBRACED WITHIN THE BOUNDARIES OF SAID LAND SHOWN, DESCRIBED AND DEPICTED UPON THIS MAP, THAT OWNER HAS CAUSED SAID LAND TO BE SUBDIVIDED AND PLATTED AS SHOWN AND REFLECTED ON THIS MAP, THAT OWNER HEREBY DEDICATES TO THE APPROPRIATED HOMEOWNERS ASSOCIATIONS USE FOR NO OTHER PURPOSE, ALL EASEMENTS FOR STREETS, AND/OR DRAINAGE AS REFLECTED ON THIS MAP, ALL UTILITY EASEMENTS TO THE EXISTING UTILITY COMPANIES, ALL SAID UTILITY EASEMENTS ARE UNDERGROUND ONLY. THAT OWNER ADOPTS THIS MAP FOR THE PURPOSES OF MAKING MAKING SUBDIVISION OF THE LAND AS SHOWN AND REFLECTED HEREIN.

IN WITNESS WHEREOF, OWNER HAS CAUSED THIS CERTIFICATION TO BE EXECUTED BY ITS DULY AUTHORIZED REPRESENTATIVE.

ON THIS THE ____ DAY OF _____, 2006.

BY: TODD D. CHRISTOPHER - MANAGER
CRESCENT-WALDEN, LLC

STATE OF TEXAS
COUNTY OF JEFFERSON

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____, 2006.
BY TODD D. CHRISTOPHER, MANAGER FOR CRESCENT-WALDEN, LLC, ON BEHALF OF SAID ENTITIES.

BY: _____
A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

SURVEYOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT I, JEREMY D. RUSSELL, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, HAVE PLATTED THIS SUBDIVISION OF THE CRESCENT ON WALDEN, PHASE II FROM AN ACTUAL SURVEY MADE ON THE GROUND AND THAT ALL BOUNDARY CORNERS, LOT CORNERS, ANGLE POINTS AND POINTS OF CURVE SHOWN HEREON WILL BE MARKED WITH IRON RODS, PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION RULES AND REGULATIONS OF THE PLANNING COMMISSION OF THE CITY OF BEAUMONT, TEXAS AND FURTHER CERTIFY THAT THE TRACT OF LAND HEREIN PLATTED LIES WITHIN THE CITY LIMITS OF BEAUMONT, TEXAS.

CERTIFICATE OF APPROVAL BY THE CITY PLANNING AND ZONING COMMISSION

APPROVED THIS THE ____ DAY OF _____, 2006 BY THE CITY PLANNING AND ZONING COMMISSION OF THE CITY OF BEAUMONT,

PLANNING COMMISSION CHAIRMAN

ATTEST: SECRETARY

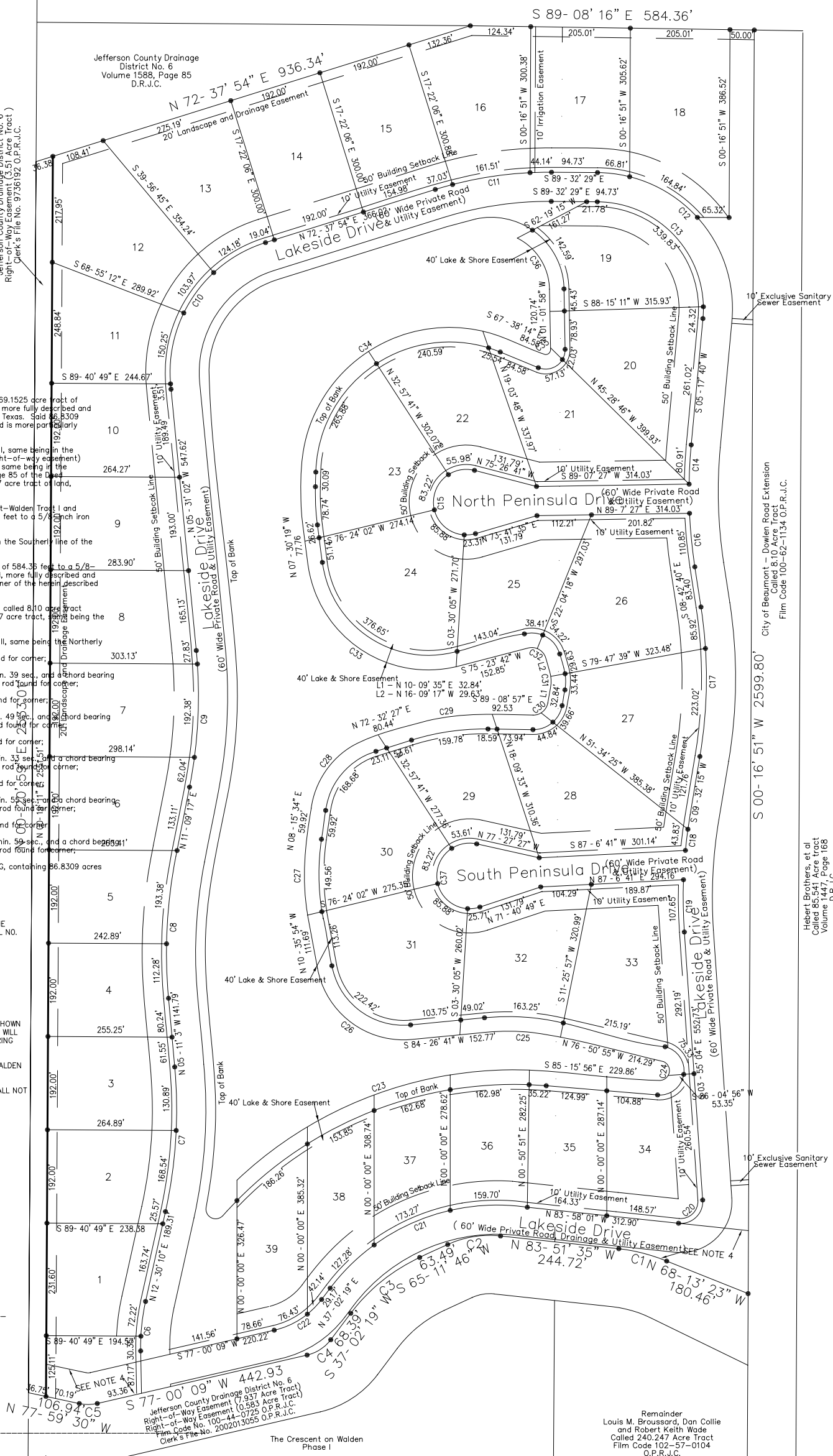
FILED FOR RECORD _____, 2006 AT _____ O'CLOCK
RECORDED IN VOLUME _____, PAGE _____ OF THE MAP RECORDS OF JEFFERSON COUNTY, TEXAS.

DEDICATION: CLERK'S FILE NO. _____
RESTRICTIONS: CLERK'S FILE NO. _____ OF THE OFFICIAL PUBLIC RECORDS OF JEFFERSON COUNTY, TEXAS.
RECORDED _____, 2006 AT _____ O'CLOCK

BY: _____
DEPUTY

SANDY WALKER
COUNTY CLERK OF JEFFERSON COUNTY

LNVA Canal Easement



CURVE DATA				CURVE DATA			
CURVE	RADIUS	DELTA	CHORD	LENGTH	CURVE	RADIUS	DELTA
C1	360.00	16-14-39	N 75-32-01 W 102.07	102.07	C20	45.00	99-57-10
C2	205.01	31-12-49	S 80-50-10 W 111.69	111.69	C21	430.00	61-19-40
C3	375.05	28-08-33	S 51-01-28 W 184.22	184.22	C22	170.00	59-57-51
C4	85.01	89-55-55	S 57-07-21 W 59.25	59.25	C23	830.00	48-08-14
C5	85.01	25-06-59	S 89-47-16 W 37.27	37.27	C24	20.31	71-34-59
C6	430.00	13-40-07	N 05-40-05 E 102.58	102.58	C25	470.00	18-48-59
C7	970.00	17-41-13	N 03-39-34 E 299.44	299.44	C26	180.00	84-57-25
C8	1030.00	16-20-20	N 02-59-07 E 293.72	293.72	C27	530.00	17-24-21
C9	970.00	16-40-19	N 02-49-07 E 282.25	282.25	C28	177.19	64-30-32
C10	280.00	07-08-57	N 33-35-26 E 381.91	381.91	C29	530.00	18-18-38
C11	1030.00	17-49-36	N 81-32-42 E 242.68	242.68	C30	30.00	80-41-34
C12	280.00	04-50-08	N 02-47-24 E 364.14	364.14	C31	70.00	26-18-49
C13	220.00	04-50-08	N 02-47-24 E 364.14	364.14	C32	30.00	88-27-01
C14	1030.00	17-49-36	N 81-32-42 E 242.68	242.68	C33	250.00	85-43-42
C15	67.50	210-51-45	N 02-53-18 E 248.42	248.42	C34	305.00	10-50-39
C16	1030.00	17-49-36	N 81-32-42 E 242.68	242.68	C35	16.00	13-23-44
C17	970.00	16-40-19	N 02-49-07 E 282.25	282.25	C36	120.00	62-19-59
C18	1030.00	16-20-20	N 02-59-07 E 293.72	293.72	C37	67.50	210-51-45
C19	1030.00	16-20-20	N 02-59-07 E 293.72	293.72			

- LEGEND
- STREET LIGHTS
 - FIRE HYDRANT ASSEMBLY
 - GATE VALVES
 - PROPERTY CORNER

THE CRESCENT ON WALDEN PHASE II

out of the
Charles Williams League, Abstract No. 59
Located in
Beaumont, Jefferson County, Texas

January 2006

Prepared by:

LEAP ENGINEERING
550 Fannin St, Suite 1130
Beaumont, Texas 77701
Tel: (409) 813-1862
Fax: (409) 813-1916

**FIRST AMENDED AND RESTATED BYLAWS
OF
THE CRESCENT ON WALDEN PROPERTY OWNER'S
ASSOCIATION, INC.**
(A Texas Nonprofit corporation)

These First Amended and Restated Bylaws pertain to The Crescent on Walden, a planned community, subdivision and Addition in the City of Beaumont, Jefferson County, Texas, according to the plat thereof recorded under Clerk's File Number 2005042051, being ratified and amended under County Clerk's File Nos. 2006007852, 2007009399 and 200700940, Official Public Records, Jefferson County, Texas. These First Amended and Restated Bylaws are to be recorded in the Real Property Records of Jefferson County, Texas.

**FIRST AMENDED AND RESTATED BYLAWS
OF
THE CRESCENT ON WALDEN PROPERTY OWNER'S ASSOCIATION, INC.**
(A Texas Nonprofit corporation)

ARTICLE 1 - INTRODUCTION

1.1 **PROPERTY.** These First Amended and Restated Bylaws provide for the governance of **THE CRESCENT ON WALDEN**, a planned community and subdivision located in the City of Beaumont, Texas, according to the plat thereof recorded under **Clerk's File Number 2005042051, being ratified and amended under County Clerk's File Nos. 2006007852, 2007009399 and 200700940**, all of the Official Public Records, Jefferson County, Texas (herein referred to as the "**Property**" or sometimes as the "**Subdivision**") and the governance of THE CRESCENT ON WALDEN PROPERTY OWNERS ASSOCIATION, INC., a Texas non-profit corporation (the "Association" or "Corporation") which has been organized to serve as the home owners association for the Property pursuant to the Declaration.

1.2 **DECLARATION.** The Property is subject to a number of publicly recorded documents, including the Declaration of Covenants, Conditions, and Restrictions For THE CRESCENT ON WALDEN SUBDIVISION, under Clerk's File Number 2006001889, of the Official Public Records, Jefferson County, Texas Records of Jefferson County, Texas, and as amended and supplemented under those certain instruments recorded under Clerk's File Numbers 2006007852, 2006032893, 2006034647 and 2017023091, of the Official Public Records of Jefferson County, Texas, and as such document smay be subsequently amended or supplemented (herein collectively referred to as the "**Declaration**").

1.3 **DEFINITIONS.** Words and phrases defined in the Declaration have the same meanings when used in these Bylaws.

1.4 **DECLARANT CONTROL.** Notwithstanding any provision in these Bylaws to the contrary, and subject to the limitations and rights provided to members under Chapter 209 of the Texas Property Code, the Declarant shall having voting control of the Association and all rights, powers and privileges associated with such control as provided and set forth in the Declaration, including but not limited to, the provisions contained in Section 4.05 of the Declaration that reads as follows, which is hereby incorporated herein by reference:

4.05 Limitation on Voting Rights of Members. Notwithstanding the provisions of Section 4.02, no Member and no owner of any Lot shall be entitled to exercise any voting rights with respect to the Association until Declarant transfers and assigns control of the Subdivision and the Association to the Board of Directors of the Association by written instrument executed by Declarant and filed for record in the Office of the County Clerk of Jefferson County, Texas. Until such time, Declarant shall retain all voting rights with respect to the Association and Declarant shall be in sole control of the Association and of the Association's Board of Directors (except that at least 3 directors shall be elected by the Members other than Declarant) and each owner of a Lot hereby irrevocably appoints and designates Declarant as its sole agent to exercise all voting rights on behalf of the owner with respect to the owner's membership interest in the Association. Declarant agrees that it will relinquish its control and transfer and assign control of the Subdivision and the

Association to the Board of Directors and its members not later than 45 days after Declarant has sold all of the Lots within the Subdivision (including any additional lots that are added to and become subject to this Declaration pursuant to the provisions of Section 10.01 hereof).

1.5 PARTIES TO BYLAWS. All present or future lot owners and all other persons who use or occupy the Property in any manner are subject to these Bylaws, the Declaration, and the other Governing Documents as defined in the Declaration. The mere acquisition of a lot or occupancy of a dwelling will signify that these Bylaws are accepted, ratified, and will be strictly followed.

1.6 TYPE OF ORGANIZATION. As an organization of lot owners, the Association is created by the Declaration and these Bylaws. Membership in the Association is mandatory for all lot owners. The Association is a Texas nonprofit corporation.

1.7 APPLICABLE LAW. The Association is a Texas non-profit organization governed by the Texas Business Organizations Code (the "Code"), and is subject to Chapter 22 of Title 2 of the Code, and also is subject to Chapter 209 of the Texas Property Code.

1.8 GENERAL POWERS AND DUTIES. The Association, acting through the board, has the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property as may be required or permitted by the Governing Documents and applicable law. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its members, subject only to limitations upon the exercise of such powers as may be contained in applicable law or the Governing Documents.

ARTICLE 2 - BOARD OF DIRECTORS

2.1 NUMBER AND TERM OF OFFICE. The board will consist of seven (7) persons. The number of directors may be changed by amendment of these Bylaws, but may not be less than three. Upon election, each director will serve a term of three (3) years. A director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

2.2 STAGGERED TERMS. To maintain staggered terms, three (3) directors will be elected in even-numbered years, and four (4) directors will be elected in odd-numbered years; provided, however, during the Declarant Control Period, in even-numbered years the Members will elect one (1) director and the Declarant will appoint two (2) directors and in odd-numbered years the Members will elect two (2) directors and Declarant will appoint two (2) directors. To establish staggered terms, at the first election, the Chairman will designate the initial terms of the directors. If the board is ever elected en masse, the highest vote getters will select the term for which they will serve.

2.3 QUALIFICATION. The following qualifications apply to the election or appointment of persons to the board.

2.3.1 Owners. All of the directors must be members of the Association, spouses of members, or residents of or the owner of a lot in the Subdivision, except that directors elected and appointed by Declarant need not be members of the Association nor residents of or owners of a lot in the Subdivision.

2.3.2 Entity Member. If a lot is owned by a legal entity, such as a partnership or corporation, any officer, partner, agent, or employee of that entity member is eligible to serve as a director and is deemed to be a member for the purposes of this Section. If the relationship between the entity member and the director representing it terminates, that directorship will be deemed vacant.

2.3.3 Delinquency. No person may be elected or appointed as a director if any assessment against the person or his lot is more than thirty (30) days' delinquent at the time of election or appointment, provided he has been given notice of the delinquency and a reasonable opportunity to cure it.

2.4 ELECTION. Subject to Section 1.4 above, Directors will be elected by the members of the Association. So long as Declarant is in control of the Association and its Board of Directors, four (4) Directors shall be elected and appointed by Declarant and three (3) Directors shall be elected by the Members of the Association. The election of directors will be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by any method permitted by applicable law, such as Section 22.160(d) of the Code, which may include, without limitation, mail, facsimile transmission, electronic mail, or a combination of any of these.

2.5 VACANCIES. Subject to Section 1.4 above and the exceptions below, vacancies on the board caused by any reason are filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the board. Each director so elected serves until the next meeting of the Association, at which time a successor will be elected to fill the remainder of the term that was vacated. The exceptions to board-elected replacements are (1) the removal of a director by a vote of the Association's members, who will elect a replacement, and (2) a vacancy occurring because of an increase in the number of directors, which also will be filled by election of the members.

2.6 REMOVAL OF DIRECTORS.

2.6.1 Removal by Members. Subject to Section 1.4 hereof, at any annual meeting of the Association or at any special meeting of the Association called for the purpose of removing a director, any one or more of the directors may be removed with or without cause by members representing at least two-thirds of the votes present in person or by proxy at the meeting, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members must be given an opportunity to be heard at the meeting.

2.6.2 Removal by Directors. A director may not be removed by the officers or by the remaining directors, except for the following limited reasons for which a director may be removed by at least a majority of the other directors at a meeting of the board called for that purpose:

a. The director is a party adverse to the Association, the board, or a committee of the Association in pending litigation to which the Association, board, or committee is a party, provided the Association did not file suit to effect removal of the director.

b. The director's account with the Association has been delinquent for at least 90 days or has been delinquent at least 3 times during the preceding 12 months, provided he was given notice of the default and a reasonable opportunity to cure.

c. The director has refused or failed to attend 3 or more meetings of the board during the preceding twelve (12) months, provided he was given proper notice of the meetings.

d. The director is removed by the Declarant pursuant to its authority under the Declaration.

2.6.3 No Removal by Officers. A director may not be removed by officers of the Association, acting in their capacity of officers of the Association, under any circumstance.

2.7 MEETINGS OF THE BOARD.

2.7.1 Organizational Meeting of the Board. The organizational meeting of the Board to elect officers has already taken place and is approved and confirmed by these Bylaws.

2.7.2 Place of Board Meetings. The board will conduct its meetings at a location that is reasonably convenient for the greatest number of directors, and at a place or facility that is sufficiently large to accommodate the number of owners who typically attend board meetings as observers. The decision of where to meet may be made on a meeting by meeting basis by the officer or director who calls the meeting, by board resolution, or by any other practice that is customary for property owners associations. The board is not required (1) to conduct its meetings at the Property, (2) to maintain a fixed place for its meetings, (3) to select a location that is convenient to owners, or (4) to select a facility that accommodates a larger number of spectator members than is customary.

2.7.3 Types of Board Meetings. Regular meetings of the board may be held at a time and place that the board determines, from time to time, but at least one such meeting must be held at least every six (6) months, with or without notice. Special meetings of the board may be called, with notice, by the president or, if he is absent or refuses to act, by the secretary, or by any two (2) directors. In case of emergency, the board may convene an emergency meeting for the purpose of dealing with the emergency after making a diligent attempt to notify each director by any practical method.

2.7.4 Notice to Directors of Board Meetings. Notice is not required for regular meetings of the board, provided all directors have actual or constructive knowledge of the meeting date, time, and place. Notice of a special meeting must be given at least one (1) day in advance of the meeting. If notice is given, it may be given by any method or combination of methods that is likely to impart the information to the directors, including notice sent electronically by computer email, cell phone text or orally by telephone.

2.7.5 Informing Members of Board Meetings. The board will try to inform Association members of the time and place of each board meeting and will give notice in the manner required under Chapter 209 of the Texas Property Code. The information may be imparted by any method or combination of methods that is likely to be available or communicated to most if not all members in a timely manner, such as by posting on the Association's website, by broadcast email and/or cell phone text, by signs or written notice posted at the Subdivision, or by hand-delivered fliers. On the written request of an owner, the Association will provide the owner with the time and place of the next regular or special meeting of the board. The failure of the Association to disseminate and the failure of an owner to receive timely or accurate information about the date, time, and place of a meeting does not invalidate the meeting.

2.7.6 Conduct of Meetings. The president presides over meetings of the board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the board and a record of transactions and proceedings occurring at meetings. When not in conflict with law or the Governing Documents, the then current edition of Robert's Rules of Order governs the conduct of the meetings of the board.

2.7.7 Quorum. At meetings of the board, a majority of directors constitutes a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present are the acts of the board. If less than a quorum is present at a meeting of the board, the majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business that may have been transacted at the meeting as originally called may be transacted without further notice.

2.7.8 Minutes. The written report of a board meeting is not the minutes of the meeting until approved by the directors at a future meeting. The minutes must report actions taken by the board, but need not report the substance of discussion. The board is not required to distribute minutes of its meetings to the members.

2.7.9 Voting. A director who is also an officer of the Association, even the presiding officer, is expected to participate and to vote in the manner of every other director. The president

of the Association is not prohibited from voting and is not limited to tie-breaking votes. Directors may not participate by proxy at meetings of the board.

2.7.10 Open Meetings. Regular and special meetings of the board are open to members of the Association, subject to the following provisions to the extent permitted or required by applicable law:

- a. No audio or video recording of the meeting may be made, except by the board or with the board's prior express consent.
- b. Members who are not directors may not participate in board deliberations under any circumstances, and may not participate in board discussions unless the board expressly so authorizes at the meeting.
- c. Executive sessions are not open to members.
- d. The board may prohibit attendance by non-members, including representatives, proxies, agents, and attorneys of members.
- e. The board may prohibit attendance by any member who disrupts meetings or interferes with the conduct of board business or who is delinquent in payment of any assessments, fees or fines due and owing to the Association.

2.7.11 Executive Session. The board may adjourn any regular or special meeting of the board and reconvene in executive session, subject to the following conditions:

- a. The nature of business to be considered in executive session will first be announced in open session.
- b. No action may be taken nor decision made in executive session, which is for discussion and informational purposes only.
- c. The limited purposes for which the board may convene in executive session are (1) to confer with the Association's legal counsel, (2) to discuss litigation or resolution of claims with which the Association is threatened or involved, (3) to discuss labor or personnel matters, (4) to discuss a complaint from or an alleged violation by an owner when the board determines that public knowledge would be injurious to the owner, (5) on advice of counsel, to discuss matters of a particularly sensitive nature, and (6) to discuss or take any other action permitted under applicable law to be conducted in executive session.
- d. At the end of the executive session, the board must return to the open meeting and announce the general nature of the business that was considered in executive session. Any vote, act, or decision that would have been made in executive session (but for this requirement) must be made in the open meeting.
- e. The board is not required to make or maintain minutes of executive sessions.

2.7.12 Telephone Meetings. Members of the board or any committee of the Association may participate in and hold meetings of the board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

2.8 ACTION WITHOUT MEETING. Any action required or permitted to be taken by the board at a meeting may be taken without a meeting, subject to the following requirements:

2.8.1 Unanimous Consents. If all directors individually or collectively consent in writing to such action, the written consents have the same force and effect as the unanimous approval of directors at a meeting.

2.8.2 Majority Consents. If at least a majority of the directors, individually or collectively, consent in writing to such action, the written consents have the same force and effect as approval by a majority of the directors at a meeting. Prompt notice of the action so approved must be delivered to each non-consenting director.

2.8.3 Procedures. Written consents must state the date of each director's signature. The required number of written consents must be received by the Association within twenty (20) days after the date of the earliest dated consent. Written consents must be filed with the minutes of board meetings. Additional procedures may be required by the Code.

2.9 POWERS AND DUTIES. Generally, the board has all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Property. The board may do all acts and things except those which, by applicable law or the Governing Documents, are reserved to the members and may not be delegated to the board. Without prejudice to the general and specific powers and duties set forth in applicable law or the Governing Documents, or powers and duties as may hereafter be imposed on the board by resolution of the Association, the powers and duties of the board include, but are not limited to, the following:

2.9.1 Appointment of Committees. The board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee members, and may provide for reports, termination, and other administrative matters deemed appropriate by the board. Members of committees will be appointed from among the owners and residents. The board may not appoint a committee to act in its place in managing the affairs of the Association.

2.9.2 Manager. The board may employ a manager or managing agent for the Association, at a compensation established by the board, to perform duties and services authorized by the board.

2.9.3 Emergency Powers. An emergency exists for purposes of this Section if a local, state, or national government or governmental entity declares a disaster or state of emergency in the area in which the Property is located, or declares a state of war. In anticipation of, during, or in the aftermath of an emergency, the officers and directors may take or authorize any action they deem necessary or advisable to protect lives and property. A decision or action made in good faith

under emergency conditions may not be used to impose liability on an officer, director, employee, or agent of the Association.

ARTICLE 3 - OFFICERS

3.1 DESIGNATION. The principal officers of the Association are the president, the vice-president, the secretary, and the treasurer. The board may appoint one or more vice-presidents and other officers and assistant officers as it deems necessary. The president must be a director. Other officers may, but need not, be members or directors. Any two (2) offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the board may appoint a director or a committee to perform the duties of that officer and to act in place of that officer, on an interim basis.

3.2 ELECTION OF OFFICERS. The officers are elected no less than annually by the directors at the organizational meeting of the board and hold office at the pleasure of the board. Except for resignation or removal, officers hold office until their respective successors have been designated by the board.

3.3 REMOVAL AND RESIGNATION OF OFFICERS. A majority of directors may remove any officer, with or without cause, at any regular meeting of the board or at any special meeting of the board called for that purpose. A successor may be elected at any regular or special meeting of the board called for that purpose. An officer may resign at any time by giving written notice to the board. Unless the notice of resignation states otherwise, it is effective when received by the board and does not require acceptance by the board. The resignation or removal of an officer who is also a director does not constitute resignation or removal from the board.

3.4 DESCRIPTION OF PRINCIPAL OFFICES.

3.4.1 President. As the chief executive officer of the Association, the president: (1) presides at all meetings of the Association and of the board; (2) has all the general powers and duties which are usually vested in the office of president of an organization; (3) has general supervision, direction, and control of the business of the Association, subject to the control of the board; and (4) sees that all orders and resolutions of the board are carried into effect.

3.4.2 Vice-President. The vice-president acts in place of the president in event of the president's absence, inability, or refusal to act. The vice-president also exercises and discharges any duty required of the vice-president by the board.

3.4.3 Secretary. The secretary: (1) keeps the minutes of all meetings of the board and of the Association; (2) has charge of such books, papers, and records as the board may direct; (3) maintains a record of the names and addresses of the members for the mailing of notices; and (4) in general, performs all duties incident to the office of secretary.

3.4.4 Treasurer. The treasurer: (1) is responsible for Association funds; (2) keeps full and accurate financial records and books of account showing all receipts and disbursements; (3) prepares all required financial data and tax returns; (4) deposits all monies or other valuable effects in the name of the Association in depositories as may from time to time be designated by the board; (5) prepares the annual and supplemental budgets of the Association; (6) reviews the accounts of

the managing agent on a monthly basis in the event a managing agent is responsible for collecting and disbursing Association funds; and (7) performs all the duties incident to the office of treasurer.

3.5 AUTHORIZED AGENTS. Except when the Governing Documents require execution of certain instruments by certain individuals, the board may authorize any person to execute instruments on behalf of the Association. In the absence of board designation, the president and the secretary are the only persons authorized to execute instruments on behalf of the Association.

ARTICLE 4 - STANDARDS

4.1 SEPARATE LIABILITY. The Association is a legal entity separate from its members for the purposes of determining and enforcing rights, duties, and liabilities in contract and tort. Members, directors, and officers of the Association are not personally and individually liable for the Association's breach of a contract or for the Association's tort or omission merely because they are members, directors, or officers of the Association. A member has the right to assert a claim against the Association, and the Association has the right to assert a claim against a member.

4.2 GENERAL STANDARDS. The general standards of duty for an officer or director of the Association are the State's standards for officers and directors of a nonprofit corporation, as stated in the Code as it may be amended. On the date of this document, Sections 22.221 and 22.235 of the Code provide the following standards:

a. A director will discharge the director's duties in good faith, with ordinary care, and in a manner the director reasonably believes to be in the best interest of the Association.

b. An officer or director is not liable to the Association, its members, or another person for an action taken or not taken as a director if the director acted in compliance with the above-stated standard for discharging duties. A person seeking to establish liability of an officer or director must prove that the officer or director did not act (1) in good faith, (2) with ordinary care, and (3) in a manner the officer or director reasonably believed to be in the best interests of the Association.

4.3 RELIANCE. An officer or director may rely on information prepared or presented by (1) an officer or employee of the Association, (2) an attorney licensed by the State of Texas, (3) a certified public accountant, (4) an investment banker, or (5) a person whom the officer or director reasonably believes to possess professional expertise in the matter, and (6) in the case of a director, a committee of the Association of which the director is not a member. Such reliance must be exercised in good faith and with ordinary care. An officer or director may not rely on such information if he has actual knowledge that makes the reliance unwarranted.

4.4 COMPENSATION. Except as permitted below, a director, officer, member, or resident is not entitled to receive financial or monetary profit from the operation of the Association, and no funds or assets of the Association may be paid as salary or compensation to, or be distributed to, or inure to the benefit of a director, officer, member, or resident. Nevertheless,

a. Reasonable compensation may be paid to a director, officer, member, or resident for services rendered to the Association in other capacities.

b. A director, officer, member, or resident may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided the expense has been approved by the board.

c. The board may budget and use Association funds to purchase awards, certificates, a celebratory meal, or other customary tokens or demonstrations of appreciation for volunteer activities.

d. This Section does not apply to distributions to lot owners permitted or required by the Declaration, applicable law, or a court order.

4.5 LOANS. The Association may not loan money to or guaranty a loan for an officer or director of the Association.

4.6 CONFLICT OF INTERESTS. If a contract or transaction is fair to the Association, it is not disallowed merely because an officer, director, or member of the Association has a financial interest in the transaction, provided (1) the “interested” officer, director, or member fully and accurately discloses the nature of his interest to the board in a manner that is timely for the board’s consideration of the contract or transaction, and (2) the “interested” officer or director does not participate in the vote to approve the contract or transaction, although the “interested” director may be counted toward a quorum at the meeting. Nothing in this Section may be construed to prevent the board from adopting policies and procedures that are more stringent than the requirements of this Section, or of applicable law, such as Sections 1.003, 1.004, and 22.230 of the Code.

ARTICLE 5 - MEETINGS OF THE ASSOCIATION

5.1 ANNUAL MEETING. An annual meeting of the Association will be held each year on the date and at the time and place established and approve by the board. Subject to the provisions of Section 1.4 above, at annual meetings the members will elect directors in accordance with these Bylaws, and may also transact such other business of the Association as may properly come before them.

5.2 SPECIAL MEETINGS. It is the duty of the president to call a special meeting of the Association if directed to do so by a majority of the board or by one or more petitions signed by owners of at least 20 percent of the lots in the Property. If the petition process is used, petitions may be in any form that is customary for the time. The board may not require a specific form of petition, nor require that the petition be offered to every member of the Association. Signatures on petitions need not be notarized or witnessed. An electronic or faxed petition is acceptable if the “signer’s” identity is reasonably discernible.”

5.3 PLACE OF MEETINGS. Meetings of the Association may be held at the Property or at a suitable place convenient to the members, as determined by the board.

5.4 NOTICE OF MEETINGS. Subject to the provisions below, at the direction of the board, notice of meetings of the Association will be given to an owner of each lot at least ten (10) days but not more than sixty (60) days prior to the meeting, which notice may be in writing or sent electronically by computer email or cell phone text to the last known email address of cell phone number for each such member. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will

identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the board.

5.4.1 Notice Exception. Individual notice of the regular annual meeting of the Association is not required if (1) the time and place of the meeting is largely unchanged from year to year and (2) information about the time and place is routinely available to all members, such as by year-long posting on the Association's official website or repetitive announcements in the Association's newsletter. This exception does not apply to special meetings of the Association or to changes in the time and place of the regular annual meeting.

5.4.2 Special Meeting Notice. Within fifteen (15) days after the board resolution or receipt of petition, the board must give all members notice of the special meeting. If the board fails or refuses to call the special meeting in a timely manner, an ad hoc committee of owners may do so provided the notice of meeting names the ad hoc committee and its individual members, and further provided that the notice is delivered to an owner of every lot in accordance with these Bylaws. The notice of any special meeting must state the time, place, and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.

5.5 RECORD DATE. Before each meeting of the Association, the board will establish a list of all members for purposes of receiving a meeting notice, and a list or way of identifying members who are ineligible to vote at the meeting because of a delinquent account. These membership lists are described in the Association Records Article below. The "cut off" date on which these lists are based is referred to in the Code as the "Record Date." The Record Date for an Association meeting for which notice is given is ten (10) calendar days before the date the notice is distributed or published to the members. The Record Date for an Association meeting for which no notice is given is fifteen (15) calendar days before the meeting.

5.6 ELIGIBILITY. Every member is entitled to receive notice of Association meetings, to attend Association meetings, and to be counted towards a quorum, even if the member is ineligible to vote or to stand for election to the board.

5.6.1 Meeting Notice. An owner of each lot in the Property as of the Record Date is eligible to receive notices of meetings of the Association. Because the ownership of lots may change during a year, the ownership as of the Record Date is used to produce the membership list for use in connection with the meeting.

5.6.2 Voting. The board may determine that a member may not vote at a meeting of the Association if the member's financial account with the Association is in arrears on the Record Date, provided (1) the ineligibility applies to every member whose financial account is delinquent, and (2) each ineligible member is given notice of the arrearage and an opportunity to become eligible. The board may specify the manner, place, and time for payment for purposes of restoring eligibility. The Record Date determination of members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than thirty (30) days after the original meeting. The board is not required to disqualify owners with delinquent accounts, and may allow all owners to vote regardless of arrearages.

5.7 QUORUM. At any meeting of the Association, the presence in person or by proxy of owners of at least twenty-five percent (25%) of the lots in the Property constitutes a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of members constituting a quorum.

5.8 LACK OF QUORUM. If a quorum is not present at any meeting of the Association for which proper notice was given, members representing at least a majority of the votes present at the meeting, although not constituting a quorum, may vote to recess the meeting for not more than twenty-four (24) hours in order to attain a quorum, provided the place of the meeting remains as stated in the notice. If the meeting is adjourned without attainment of a quorum, notice of a new meeting for the same purposes within fifteen (15) to thirty (30) days may be given to an owner of each lot, at which re-called meeting the quorum requirement is lowered to half the number of lots required for the first call of the meeting.

5.9 VOTES. The vote of members representing at least a majority of the votes cast at any meeting at which a quorum is present binds all members for all purposes, except when a higher percentage is required by these Bylaws, the Declaration, or by applicable law. Cumulative voting is not permitted.

5.9.1 Co-Owned Lots. If a lot is owned by more than one member, the vote appurtenant to that lot is cast as follows. If only one of the multiple owners of a lot is present at a meeting of the Association, that person may cast the vote allocated to the lot. If more than one of the multiple owners is present, the vote allocated to the lot may be cast only in accordance with the owners' unanimous agreement. Multiple owners are in unanimous agreement if one of the multiple owners casts the vote allocated to a lot and none of the other owners makes prompt protest to the person presiding over the meeting. Votes allocated to a lot owned by the Association may be counted towards a quorum only, and may not be voted.

5.10 PARTICIPATION. Members may participate in person or by proxy at meetings of the Association. A member who participates is deemed "present" and may be counted towards a quorum unless the member participates for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

5.11 PROXIES. A member may participate in the affairs of the Association through a power of attorney or through a proxy. To be valid, each proxy must (1) be signed and dated by a member or his attorney-in-fact; (2) identify the lot to which the vote is appurtenant; (3) designate the person or position (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (4) identify the meeting for which the proxy is given; (5) not purport to be revocable without notice; and (6) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy delivered by email or by fax may be counted if any of the following occurs: (1) the proxy's authenticity can be confirmed to the reasonable satisfaction of the board, (2) the proxy has been acknowledged or sworn to by the member, before and certified by an officer authorized to take acknowledgments and oaths, or (3) the Association also receives the original proxy within five (5) days after the vote.

5.12 CONDUCT OF MEETINGS. The president, or any person designated by the board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order governs the conduct of meetings of the Association when not in conflict with the Governing Documents. Votes should be tallied by tellers appointed by the person presiding over the meeting.

5.13 ORDER OF BUSINESS. Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:

- a. Determine votes present by roll call or check-in procedure;
- b. Announcement of quorum Proof of notice of meeting;
- c. Approval of minutes of preceding meeting;
- d. Reports;
- e. Election of directors (when required);
- f. Unfinished or old business; and
- g. New business.

5.14 ADJOURNMENT OF MEETING. At any meeting of the Association, a majority of the members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

5.15 ACTION WITHOUT MEETING. Subject to board approval, any action which may be taken by a vote of the members at a meeting of the Association may also be taken without a meeting by written consents. The board may permit members to vote by ballots delivered by any method allowed by applicable law, which may include hand delivery, mail, fax, email, electronic balloting or any combination of these. Written consents by members representing at least a majority of votes in the Association, or such higher percentage as may be required by the Governing Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting.

5.16 MEETINGS BY REMOTE COMMUNICATIONS. Members of the Association may participate in and hold meetings of the Association by means of electronic town halls, conference telephone or similar communications equipment by means of which all persons participating in the meeting can communicate concurrently. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. By acquiring an interest in a lot, each owner automatically consents to the use of communication technology to effect meetings of the Association, provided the owners of at least fifty percent (50%) of the lots in the Property have access to the form of technology chosen by the board, and further provided that the Association arranges a place or method of participation for those who do not have the technology.

ARTICLE 6 - RULES

6.1 RULES. The board has the right to establish and amend, from time to time, reasonable rules and regulations for: (1) the administration of the Association and the Governing Documents;(2) the maintenance, management, operation, use, conservation, and beautification of the Property; and (3) the health, comfort, and general welfare of the residents; provided, however, that such rules may not be in conflict with applicable law or the Governing Documents. The board will, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the members.

6.2 ADOPTION AND AMENDMENT. Any rule may be adopted, amended, or terminated by the board, provided that the rule and the requisite board approval are properly recorded as a resolution in the minutes of the meeting of the board.

6.3 NOTICE AND COMMENT. At least ten (10) days before the effective date, the board will give written notice to an owner of each lot of any amendment, termination, or adoption of a rule, or will publish same in a newsletter, on the Association's website, or in any form or medium that is circulated or available to the members. The board may, but is not be required, to give similar notice to residents who are not members. Any member or resident so notified has the right to comment orally or in writing to the board on the proposed action.

6.4 DISTRIBUTION. On request from any member or resident, the board will provide a current and complete copy of rules. Additionally, the board will, from time to time, distribute copies of the current and complete rules to owners and, if the board so chooses, to non-member residents.

ARTICLE 7 - ENFORCEMENT

7.1 ACTIONS REQUIRING NOTICE AND HEARING. Before taking any of the below-described actions, the Association must give written notice and an opportunity for a hearing according to the requirements of this Article and the notice and hearing requirements of applicable law, such as Chapter 209 Texas Property Code. The following actions by or with the approval of the board, the Association, or the Architectural Committee, require notice and hearing as provided by this Article:

- a. Suspension of use of a common area.
- b. Imposition of a fine for violation of any provision of the Governing Documents, other than fines, interest, or collection fees charged for delinquent accounts and other than fines authorized under any Subdivision rules adopted and approved by the Board that have been published and distributed to the members (such as fines for speeding violations, trash, parking fines, and similar fines for rule violations) provided that the rules provide for the right to protest and appeal the imposition of the fine to the Board.
- c. Charging an owner or a lot for property damage.
- d. Filing suit against an owner other than a suit related to the collection of assessments or foreclosure of the Association's assessment lien.

7.2 NOTICE. The required written notice must contain (1) the date the violation notice is prepared or mailed; (2) a statement that not later than the 30th day after the date the owner receives the

notice, the owner may request a hearing to discuss and verify facts and resolve the matter in issue, pursuant to this Article and applicable law, such as Section 209.007 Texas Property Code; (3) a statement of how or where the request for hearing should be made or delivered; (4) a statement that if the hearing is before a committee or any body other than the board, the owner has the right to appeal the decision to the board by written notice to the board; (5) a statement that the owner may be liable for reimbursement of attorneys fees and costs if the violation continues or the damage is not paid by a stated date; and (6) the following contents applicable to violations or damage claims, as the case may be:

7.2.1 Notice of Violation. In the case of a violation of a provision of the Governing Documents, the written notice must also contain the following: (1) a description of the violation; (2) a reference to the rule or provision of the Governing Documents that is being violated, if applicable; (3) a description of the action required to cure the violation; (4) the amount of the fine or charge to be levied, the nature of the common area suspension, and/or the abatement action to be taken; (5) unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 6 months, a statement that the owner may avoid the fine or suspension by curing the violation in a reasonable period of time, which may be specified in the notice.

7.2.2 Notice of Damage. In the case of property damage for which the Association seeks reimbursement or imposition of a charge on the owner or the lot, the written notice must also contain (1) a description of the property damage and (2) the amount of the Association's claim against the owner or the lot.

7.2.3 Notice to Resident. In addition to giving the violation notice to the owner, the board may also give a copy of the notice to the non-owner resident, if the board deems it appropriate.

7.2.4 Receipt of Notice. Unless applicable law provides otherwise, any notice given to an owner pursuant to this Article will be deemed received by the owner (1) on personal delivery to the owner or to a person at the owner's address, or (2) on the third business day after the notice is deposited with the U.S. Postal Service, addressed to the owner at the most recent address shown on the Association's records, whether or not the owner actually receives the notice.

7.3 HEARING.

7.3.1 Request for Hearing. To request a hearing, an owner must submit a written request within thirty (30) days after receiving the Association's written notice. Within ten (10) days after receiving the owner's request for a hearing, and at least ten (10) days before the hearing date, the Association will give the owner notice of the date, time, and place of the hearing. If the Association or the owner requests a postponement of the hearing, the hearing will be postponed for up to ten (10) days. Additional postponements may be granted by agreement of the parties.

7.3.2 Pending Hearing. Pending the hearing, the board may continue to exercise the Association's other rights and remedies for the violation, as if the declared violation were valid. The owner's request for a hearing suspends only the action described in the Association's written notice.

7.3.3 Attendance. The hearing may be held with or without the presence of the owner or the owner's representative.

7.3.4 Hearing. The hearing may be held in a closed or executive session of the board. At the hearing, the board will consider the facts and circumstances surrounding the violation. The owner may attend the hearing in person, or may be represented by another person or written communication.

7.3.5 Minutes of Hearing. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine or charge, if any, imposed, or abatement or suspension action, if any, authorized. A copy of the notice and request for hearing should be placed in the minutes of the hearing. If the owner appears at the hearing, the notice requirement will be deemed satisfied.

7.4 ACTIONS EXEMPT FROM NOTICE AND HEARING REQUIREMENTS. As a general rule, every action other than the above-described actions requiring notice and hearing are impliedly exempt from the requirements of this Article. As permitted by applicable law, such as Section 209.007 of Texas Property Code, the following actions are expressly exempt:

- a. A temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the Property. The temporary suspension is effective until the board makes a final determination on the suspension action after following the notice and hearing procedures prescribed by this Article.
- b. A lawsuit in which the Association seeks a temporary restraining order or temporary injunctive relief.
- c. A lawsuit filed by the Association that includes foreclosure as a cause of action.
- d. The collection of delinquent assessments.

7.5 IMPOSITION OF FINE. Within thirty (30) days after levying the fine or authorizing the abatement, the board must give the owner notice of the levied fine or abatement action. If the fine or action is announced at the hearing at which the owner is actually present, the notice requirement will be satisfied. Otherwise, the notice must be in writing.

7.5.1 Amount. The board may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The board may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation. If the board allows fines to accumulate, it may establish a maximum amount for a particular fine, at which point the total fine will be capped.

7.5.2 Type of Fine. If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, weekly, or monthly). If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.

7.5.3 Other Fine-Related. The Association is not entitled to collect a fine from an owner to whom it has not given notice and an opportunity to be heard. The Association may not charge interest on unpaid fines. The Association may not foreclose its assessment lien on a debt consisting solely of fines.

7.6 REIMBURSEMENT OF EXPENSES AND LEGAL FEES. In addition to any other rights set forth in the Governing Documents for violation of a provision of the Governing Documents, the board may levy and collect individual assessments for reimbursement of reasonable fees and expenses, including without limitation legal fees, incurred by the Association to enforce the Governing Documents, including the collection of delinquent assessments, subject to the following conditions:

7.6.1 Notice. The Association must give the owner written notice that the owner will be liable for reimbursement of any such fees and expenses incurred by the Association if the delinquency or violation continues after a date certain that is stated in the notice. This notice requirement does not apply to legal fees incurred by the Association in connection with the Association's counterclaim in a lawsuit to which an owner is a plaintiff.

7.6.2 Hearing. If legal fees are incurred by the Association for an action requiring notice and hearing, the owner is not liable for reimbursement of legal fees incurred (1) before the date by which the owner must request a hearing, if the owner does not request a hearing, or (2) before conclusion of the hearing, if the owner does request a hearing.

7.6.3 Records. By written request, an owner may obtain from the Association copies of any invoices for charges, including legal fees, for which the Association seeks reimbursement.

7.6.4 Foreclosure. In connection with a nonjudicial foreclosure of the Association's assessment lien, applicable law, such as Chapter 209 of the Texas Property Code, may establish a limit for the amount of attorneys fees that the Association may include in its lien.

7.7 ADDITIONAL ENFORCEMENT RIGHTS. Notwithstanding the notice and hearing requirement, the board may take immediate and appropriate action, without giving the notices required in this Article, against violations of the Governing Documents which, in the board's opinion, are (1) self-evident, such as vehicles parked illegally or in violation of posted signs; (2) threatening to life or property; or (3) repeat violations of the same provision by the same owner to whom prior notices and demands have been given for the same violation. Further, the provisions of this Article do not apply to specific remedies provided in the Governing Documents for certain violations, such as nonpayment of assessments.

ARTICLE 8 - OBLIGATIONS OF THE OWNERS

8.1 NOTICE OF SALE. Any owner intending to sell or convey his lot or any interest therein must give written notice to the board of his intention, together with (1) the address or legal description of the lot being conveyed, (2) the name and address of the intended purchaser, (3) the name, address, and phone number of the title company or attorney designated to close the transaction, (4) names and phone numbers of real estate agents, if any, representing seller and purchaser, and (5) scheduled date of closing. An owner will furnish this information to the board at least ten (10) business days before the scheduled date of closing or conveyance. The requirements of this Section may be satisfied by giving the Association a copy of an accepted resale contract in connection with the owner's request to the Association for a resale certificate.

8.2 PROOF OF OWNERSHIP. Except for those owners who initially purchase a lot from Declarant, any person, on becoming an owner of a lot, must furnish to the board evidence of ownership in the lot, which copy will remain in the files of the Association. A copy of the recorded deed is the customary evidence. The Association may refuse to recognize a person as a member unless this requirement is first

met. This requirement may be satisfied by receipt of a board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the lot or any interest therein.

8.3 OWNERS' INFORMATION. Within thirty (30) days after acquiring an ownership interest in a lot, the owner must provide the Association with the owner's mailing address, telephone number, and driver's license number, if any; the name and telephone number of any resident other than the owner; and the name, address, and telephone number of any person managing the lot as agent of the lot owner. An owner must notify the Association within thirty (30) days after he has notice of a change in any information required by this Section, and must provide the information on request by the Association from time to time.

8.4 MAILING ADDRESS. The owner or the several co-owners of a lot must register and maintain one mailing address to be used by the Association for mailing of notices, demands, and all other communications. If an owner fails to maintain a current mailing address with the Association, the address of the owner's lot is deemed to be his mailing address.

8.5 REGISTRATION OF MORTGAGEES. Within thirty (30) days after granting a lien against his lot, the owner must provide the Association with the name and address of the holder of the lien and the loan number. The owner must notify the Association within thirty (30) days after he has notice of a change in the information required by this Section. Also, the owner will provide the information on request by the Association from time to time.

8.6 ASSESSMENTS. All owners are obligated to pay assessments imposed by the Association to meet the common expenses as defined in the Declaration. A member is deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the assessments made or levied against him and his lot.

8.7 COMPLIANCE WITH DOCUMENTS. Each owner will comply with the provisions and terms of the Governing Documents, and any amendments thereto. Further, each owner will always endeavor to observe and promote the cooperative purposes for which the Property was established.

ARTICLE 9 - ASSOCIATION RECORDS

9.1 INSPECTION OF BOOKS AND RECORDS. Books and records of the Association will be made available for inspection and copying pursuant to applicable law, such as Section 22.351 of the Code and Section 209.005 Texas Property Code."

9.1.1 Proper Purpose. The board may require a member to submit a written demand for inspection, stating the purpose for which the member will inspect the books and records. The board, may in its sole and absolute discretion (1) determine whether the member's purpose for inspection is proper; (2) deny the request if the board determines that the member's purpose is not proper; (3) if granting the request, to identify which books and records are relevant to the member's stated purpose for inspection.

9.1.2 Copies. A member, at member's expense, may obtain photocopies of books and records for which the board grants the right of inspection. The board has the right to retain possession of the original books and records, to make copies requested by the member, and to charge the member a reasonable fee for copying.

9.1.3 Member's Agent. A member's inspection of the books and records may be assisted or performed by the member's agent, accountant, or attorney.

9.1.4. Records of Attorneys and Accountants. The files and records of an attorney or accountant who performs services for the Association are not records of the Association, are not subject to inspection by members, and are not subject to production in a legal proceeding.

9.2 RESALE CERTIFICATES. Any officer may prepare, or cause to be prepared, assessment estoppel certificates or resale certificates pursuant to applicable law, such as Chapter 207 of the Texas Property Code, titled Disclosure of Information by Property Owners Association. The Association may charge a reasonable fee for preparing such certificates, and may refuse to furnish such certificates until the fee is paid. Any unpaid fees may be assessed against the lot for which the certificate is furnished. The Association may delegate the responsibility for a resale certificate to its managing agent, if any.

9.3 MANAGEMENT CERTIFICATE. As required by applicable law, such as Section 209.004 of the Texas Property Code, the Association will maintain a current management certificate in the county's public records. When the Association has notice of a change in any information in the recorded certificate, the Association will prepare a restated or amended certificate and deliver it to the county clerk for filing. Absent gross negligence, the Association is not liable for a delay or failure to record a certificate. The Association may delegate the responsibility for a management certificate to its managing agent, if any.

9.4 MEMBERSHIP LIST. The board must maintain a comprehensive list of Association members for compliance with the Code as well as the Governing Documents. The Association must make the membership list available to any owner on written request, and may charge a reasonable fee for cost of copying and delivering the owners list.

9.4.1 Types of Information. At a minimum, the Association must maintain for each lot the name and mailing address of at least one owner, and a description of the lot owned if different from the mailing address). The Association may also maintain, as an Association record, additional contact information for owners, such as phone numbers, fax numbers, email addresses, places of employment, emergency contact information, mortgage information, and any other items of information provided by owners or obtained by the Association.

9.4.2 Source of Ownership Information. In compiling the ownership or membership list, the Association may rely on any combination of (1) public records, such as tax rolls, (2) documentation provided by title insurance companies, (3) self-reporting by owners and residents, and (4) any other reasonably reliable and customary source of ownership information. The requirement of maintaining ownership records may not be construed to require the Association to affirmatively investigate or research title to a lot.

9.4.3 Information Available to Members. Membership information to be maintained by the Association is similar to what is typically available to the public on the website of the appraisal district, and may not be considered confidential, private, or protected information as between the Association and its members. Neither the Association nor a member of the Association may sell or otherwise market the Association's membership information without the express prior consent of the owners. Each owner, by acquiring an ownership interest in a lot, acknowledges that the owner's contact information is a record of the Association that is available to all members of the Association.

9.4.4 Inspection List. In accordance with applicable law, the Association will prepare a list of owners of all lots in the Property for inspection by the members prior to the meeting. The purpose of the list is to enable members to communicate with each other about the meeting. The inspection list must be available for inspection by the members from the second business day after the date notice of the meeting is given until adjournment of the meeting for which it was prepared. The list may be inspected or copied by an owner or the owner's attorney or agent. The inspection list must have the following characteristics:

- a. The list must be in alphabetical order of owners' surnames, or in numerical order of street addresses.
- b. The list must contain the name of at least one owner of each lot, or an indication that the current ownership cannot be determined and the identity of the last known owner.
- c. The list must contain an address for each member.
- d. The list must identify how many lots are owned by each owner, if that cannot otherwise be determined from the list.
- e. If all lots do not have uniform votes, such as lots owned by Declarant during the Declarant Control Period, the list must identify the number or weight of votes attached to each lot.
- f. The list must identify which owners or lots are ineligible to vote at the meeting due to an assessment delinquency or other disqualifying condition.

ARTICLE 10 - NOTICES

10.1 CO-OWNERS. If a lot is owned by more than one person, notice to one co-owner is deemed notice to all co-owners. Similarly, notice to one resident of a lot is deemed notice to all residents of the lot.

10.2 DELIVERY OF NOTICES. Any written notice required or permitted by these Bylaws may be given personally, by mail, by fax, by email, by cell phone text, or by any other method permitted by applicable law, such as the Texas Business Organizations Code. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by fax or email, the notice is deemed delivered on successful transmission of the facsimile or electronic correspondence. The notice must be sent to the party's last known address as it appears on the records of the Association at the time of transmission. If an owner fails to give the Association an effective address, the notice may be sent (1) to the address of the owner's lot and/or (2) to the owner's address shown on the then-current property tax rolls for the lot. If the Association properly transmits the notice, the owner is deemed to have been given notice whether or not he actually receives it.

10.3 WAIVER OF NOTICE. Whenever a notice is required to be given to an owner, member, or director, a written waiver of the notice, signed by the person entitled to the notice, whether before or after the time stated in the notice, is equivalent to giving the notice. Attendance by a member or director at any meeting of the Association or board, respectively, constitutes a waiver of notice by the member or

director of the time, place, and purpose of the meeting. If all members or directors are present at any meeting of the Association or board, respectively, no notice is required and any business may be transacted at the meeting.

ARTICLE 11 - INDEMNIFICATION

11.1 GENERAL. The purpose of this Article is to mandate some of the permissive provisions of Chapter 8 of the Code, and to indemnify Association Leaders. The definitions of Chapter 8 of the Code are hereby incorporated by reference, without regard to the corporate status of the Association. As used in this Article, "Association Leader" means a person who is a current or former officer or director of the Association, or a current or former committee chair or committee member of the Association.

11.2 MANDATORY INDEMNIFICATION. The Association will indemnify an Association Leader who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was an Association Leader, if the following determinations are made.

11.2.1 Determinations. It must be determined that the person acted in good faith, and that:

- a. the person reasonably believed (1) in the case of conduct in the person's official capacity, that the person's conduct was in the Association's best interest, or (2) in any other case, that the person's conduct was not opposed to the Association's best interests;
- b. in the case of a criminal proceeding, the person did not have a reasonable cause to believe the person's conduct was unlawful;
- c. with respect to expenses, the amount of expenses other than a judgment is reasonable; and
- d. indemnification should be paid.

11.2.2 Effect of Proceeding Termination. A person does not fail to meet the determination standard solely because of the termination of a proceeding by judgment, order, settlement, conviction, or a plea of nolo contendere or its equivalent.

11.2.3 How Determinations Are Made. If all of the directors are disinterested and independent, as defined in the Code, the determinations required under this Section will be made by a special legal counsel selected by the board. Otherwise, the determinations will be made by the owners of a majority of lots in the Property, other than lots owned by persons who are not disinterested and independent as defined in the Code, or by a special legal counsel selected by those owners.

11.3 EXCEPTIONS TO MANDATORY INDEMNIFICATION. A person who is found liable to the Association or is found liable because the person improperly received a personal benefit is not entitled to indemnification under this Article if, in a legal proceeding, the person has been found liable for (1) willful or intentional misconduct in the performance of the person's duty to the Association, (2) breach of the person's duty of loyalty owed to the Association, or (3) an act or omission not committed in good faith that constitutes a breach of a duty owed by the person to the Association. In all other instances, indemnification of a person who is found liable to the Association is limited to reasonable expenses actually incurred by the person in connection with the proceeding, excluding a judgment, a penalty, a fine,

or any other type of sanction. A person indemnified by the Association is considered to have been found liable in relation to a claim, issue, or matter only if the liability is established by an order, including a judgment or decree of a court, and all appeals of the order are exhausted or foreclosed by applicable law.

11.4 EXPENSES. The indemnification provided by this Article covers reasonable expenses and costs, such as legal fees, actually and necessarily incurred by the indemnified person in connection with a qualified claim.

11.4.1 Advancement of Expenses. The Association may pay or reimburse reasonable expenses incurred by an indemnified person who was, is, or is threatened to be made a respondent in a proceeding in advance of the final disposition of the proceeding without making the determinations required under the Section above titled "Mandatory Indemnification," after the Association receives a written affirmation by the person of the person's good faith belief that the person has met the standard of conduct necessary for indemnification under this Article, and a written undertaking by or on behalf of the person to repay the amount paid or reimbursed if the final determination is that the person has not met that standard or that indemnification is prohibited by this Article. The required written undertaking must be an unlimited general obligation of the person but need not be secured and may be accepted by the Association without regard to the person's ability to make repayment.

11.4.2 Witness Expenses. The Association may pay or reimburse reasonable expenses incurred by an Association Leader, member, employee, agent, or other person in connection with that person's appearance as a witness or other participation in a proceeding at a time when the person is not a respondent in the proceeding.

11.5 INDEMNIFICATION OF OTHER PERSONS. Subject to the same limitations, determinations, and exceptions for Association Leaders, the Association may indemnify and advance expenses to a person who is not otherwise covered by this Article's indemnification as provided by (1) a provision in a Governing Document of the Association, (2) a contract to which the Association is a party, (3) common law, (4) a board resolution, or (5) a resolution approved by the Association's members. A person indemnified under this Section may seek indemnification or advancement of expenses from the Association to the same extent that an Association Leader may seek indemnification or advancement of expenses under this Article.

ARTICLE 12 - DECLARANT PROVISIONS

12.1 CONFLICT. The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.

12.2 BOARD OF DIRECTORS. During the Declarant Control Period, Section 4.05 of the Declaration governs the number, qualification, and appointment of directors. The initial directors will be appointed by Declarant and need not be owners or residents. Directors appointed by Declarant may not be removed by the owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

12.3 TRANSITION MEETING. As provided by Article 16 of the Declaration, within sixty (60) days after the end of the Declarant Control Period, or sooner at Declarant's option, Declarant will call a

meeting of the members of the Association for the purpose of electing directors, by ballot of members. Notice of the transition meeting will be given as if it were notice of an annual meeting.

ARTICLE 13 - AMENDMENTS TO BYLAWS

13.1 **AUTHORITY.** Although the general authority for amending the Bylaws resides with the members of the Association, certain amendments may be made by the board, without a vote of the members.

13.1.1 **Amendments by Board.** For the following limited purposes, the board may amend these Bylaws with or without approval by the members, provided the proposed amendment has the prior unanimous approval of the directors: (1) to correct mistakes in the Bylaws, (2) to conform the Bylaws to changes in controlling law applicable to any topic addressed in these Bylaws, (3) to change the name of the Association, and (4) to restate previously amended Bylaws for the sole purpose of incorporating the amendments into the body of the Bylaws.

13.1.2 **Amendments by Declarant.** Declarant may amend these Bylaws in accordance with the provisions of the Declaration.

13.1.3 **Amendments by Members.** All other amendments of these Bylaws must be approved by the members according to the terms of this Article.

13.2 **AMENDMENTS BY MEMBERS.**

13.2.1 **Proposal.** The Association will provide or make available to an owner of each lot with a description, if not exact wording, of any proposed amendment. The proposed amendment, description of the proposed amendment, or instructions for obtaining a copy of the proposed amendment at no cost will be included in the notice of any annual or special meeting of the Association at which the proposed amendment is to be considered.

13.2.2 **Consents.** Subject to the following limitation, an amendment of these Bylaws must be approved by members representing at least a majority of the votes present, whether in person or by proxy, at a properly called meeting of the Association for which a quorum is obtained. This Section, however, may not be amended without the approval of owners representing at least a majority of the total lots in the Property.

13.3 **EFFECTIVE.** To be effective, an amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of these Bylaws and any amendments hereto; (2) signed and acknowledged by at least one officer of the Association, certifying the requisite authority and/or approvals; and (3) recorded in the Real Property Records of Jefferson County, Texas. An amendment may be effective immediately if adopted at an Association meeting at which owners of two-thirds of the lots are represented. Otherwise, an amendment is not effective until ten (10) days after an owner of each lot is notified of the amendment and provided with a copy of the amendment or instructions for obtaining a copy.

13.4 **MORTGAGEE PROTECTION.** If a provision in a Governing Document or applicable law requires notices to and consent of mortgagees for certain actions and amendments, the Association must give the required notices to and obtain the required approvals from applicable mortgagees.

13.5 DECLARANT PROTECTION. During the Declarant Control Period, no amendment of these Bylaws may affect Declarant's rights herein without Declarant's written and acknowledged consent. Specifically, this Section, the article titled "Declarant Provisions," and the sections titled "Declarant Control" and "Drafter's Intent" may not be amended during the Declarant Control Period without prior written approval of Declarant. Declarant's written consent must be part of the amendment instrument.

ARTICLE 14 - GENERAL PROVISIONS

14.1 DRAFTER'S INTENT. These Bylaws are to be construed liberally to give effect to the drafter's intent.

14.2 CONFLICTING PROVISIONS. If any provision of these Bylaws conflicts with any provision of the applicable laws of the State of Texas, the conflicting Bylaws provision is null and void, but all other provisions of these Bylaws remains in full force and effect. If a provision of the Association's certificate of formation or Articles of Association conflicts with these Bylaws, the certificate of formation or Articles controls. In the case of any conflict between the Declaration and these Bylaws, the Declaration controls.

14.3 SEVERABILITY. Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.

14.4 CONSTRUCTION. The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

14.5 FISCAL YEAR. The fiscal year of the Association will be on a calendar year basis.

14.6 WAIVER. No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

CERTIFICATION & ACKNOWLEDGMENT

Approved by the Board of Directors of **THE CRESCENT ON WALDEN PROPERTY OWNERS ASSOCIATION, INC.** at a special meeting of the Board called for the purpose of adopting these First Amended and Restated Bylaws, and further approved by the vote of a majority of the Members of the Association at a special meeting of the Members that took place on _____.

SIGNED this _____ day of _____, 20____.

Directors:

President

Secretary

COUNTY OF JEFFERSON §

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this ____ day of _____, 20____.

After recording, please return to:

27

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
THE CRESCENT ON WALDEN SUBDIVISION**

STATE OF TEXAS

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§
§



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COUNTY OF JEFFERSON

WHEREAS, CRESCENT-WALDEN, L.L.C., a Texas limited liability company ("Declarant"), is the owner and developer of that certain subdivision known and designated as **The Crescent on Walden** (the "Subdivision" or "Property"), situated in Jefferson County, Texas, as shown in the Map or Plat of said Subdivision filed of record under File No. 2005042051 of the Official Public Records of Jefferson County, Texas (the "Plat" or "plat");

AND WHEREAS, Declarant desires to create within the Subdivision a planned community with residential and commercial communities, lots, open spaces, landscaping, private streets, common lighting, drives, lakes and other common improvements for the benefit of the entire Subdivision and community;

AND WHEREAS, Declarant desires to provide for, among other matters, the preservation of the values and amenities in said community and for the maintenance of said open spaces, landscaping, private streets, common lighting, drives, lakes and other common improvements; and, to this end, desires to subject the Property, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and for every owner of any part thereof;

AND WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an owners' association to which would be delegated and assigned the powers of (i) maintaining and administering the common properties and facilities, (ii) administering and enforcing the covenants and restrictions contained herein and (iii) collecting and disbursing the assessments and charges hereinafter created;

AND WHEREAS, Declarant has caused or will cause a non-profit corporation to be incorporated under the laws of the State of Texas for the purpose of effecting the intents and objectives herein set forth;

AND WHEREAS, Declarant does hereby agree that the Property is to be subdivided into numbered lots according to said plat and that all of the lots of the Property shall held, sold and conveyed subject to the covenants, conditions, stipulations and restrictions hereinafter set forth.

NOW THEREFORE, for the purposes of creating and carrying out a uniform plan for the improvement and sale of the Property as a restricted subdivision, the following restrictions upon the use of the Property are hereby established and adopted, and shall henceforth be made a part by appropriate reference to this instrument, of each and every contract, deed and lease covering the numbered lots set forth on said map and same shall be considered a part of each contract, deed and lease, as though fully incorporated therein.

And the restrictions hereinafter set forth, except as herein otherwise provided, shall be and are hereby imposed upon each numbered Lot in said subdivision, as shown by the plat and as referred to

herein, and same shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I.

DEFINITIONS

1.01 "Association" shall mean and refer to **THE CRESCENT ON WALDEN PROPERTY OWNERS ASSOCIATION, INC.**, its successors and assigns.

1.02 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, or portion of a Lot, but excluding those having such interest merely as security for the performance of an obligation.

1.03 "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.04 "Common Area" and "Common Properties" shall mean all real property owned by the Association, regardless of when acquired, that is for the common use and enjoyment of the Owners, and shall include streets, roads, lakes, waterways, lighting, drainage structures, drainage easements, access easements and other common improvements. The Common Area to be owned by the Association shall initially consist of all the streets, drives, lakes, waterways, drainage easements, lighting, access easements and other common improvements. In certain circumstances, Common Area may not be owned by the Declarant or the Association in fee, but may, in some instances, be held as an easement, be leased or may simply be areas of land that are not owned or leased by Declarant or the Association but which are maintained by the Association or the Declarant for the use and benefit of the Owners.

1.05 "Lot" shall mean and refer to each of the lots described or shown on the Plat, as amended from time to time.

1.06 "Declarant" shall mean and refer to **Crescent-Walden, L.L.C.**, its successors and assigns.

1.07 "Architectural Control Guidelines" shall mean the guidelines, rules and specifications established and set forth from time to time by the Architectural Control Committee defining requirements for construction, maintenance, alterations and repairs of any and all structures and improvements within the Property and setting forth all other applicable rules and regulations pertaining to any matter over which the Architectural Control Committee has been granted control under this Declaration. The Architectural Control Guidelines may be prepared and filed of record at any time by the Architectural Control Committee and may be amended and restated from time to time as determined in the discretion of the Architectural Control Committee.

ARTICLE II.

RESERVATIONS AND DEDICATION

2.01 Roads and Streets. There is hereby reserved unto Declarant, its successors and assigns, perpetual easements and rights-of-way in, along, under, over, across and through roads and streets of every type shown on the Plat or map of the Subdivision to construct, operate, maintain, inspect,

reconstruct and repair roads and streets, together with the right to connect such roads and street with other roads and streets. The roads and streets are not dedicated to the public in any manner, but Declarant reserves for itself and its successors and assigns the right to dedicate such roads and streets to the public.

2.02 Utilities. There is hereby reserved unto Declarant, its successors and assigns, the exclusive right and easement into the streets, lakes and waterways shown on the recorded plat of the Property and also into any area designed as a utility easement on the recorded plat of the Property, to lay, construct, maintain, operate, repair, replace and remove utility lines (including but without limitation, water lines, sewer lines, gas lines, electric lines, telephone and communication lines, and cable television lines, whether located above or below ground); and, further Declarant reserves for itself and its successors and assigns the exclusive right and easement, without further assent or permit from any Owner, to grant franchises and easements to any public or private utility company, municipality or water company, to lay, construct, maintain, operate, repair, replace and remove utility lines in said roads, streets, lakes, waterways, easements and drives. For purposes hereof, Declarant and its successors and assigns shall have the right of access to and across each Lot in the Subdivision for the purpose of laying, constructing, maintaining, repairing and replacing the public and/or private utility lines. Any claims for damages, if any, by the construction, maintenance, repair thereon or replacement thereof on account of temporary or other inconvenience caused thereby against the Declarant or any public or private company or any other agent or servants, are hereby waived by any Owner and any Owner's heirs, successors and assigns.

2.03 Lakes and Waterways. There is hereby reserved unto Declarant, its successors and assigns, perpetual easements and rights-of-way in, along, under, over, across and through all lakes, lagoons, channels and waterways of every type shown on the Plat or map of the Subdivision (hereinafter collectively called the "waterways") to construct, operate, maintain, inspect, reconstruct and deepen lakes, lagoons, channels and waterways, together with the right to connect such waterways with other lakes, lagoons, channels and waterways. The waterways are not dedicated to the public in any manner, but Declarant reserves for itself and its successors and assigns the right to dedicate such waterways to the public. No pier, wharf, deck, dock, boathouse or other improvement or structure whatsoever shall be erected in, over, under or through any of the waterways except with the written consent of Declarant, its successors and assigns. Declarant further reserves for itself and its successors and assigns the exclusive right and easement, without further assent or permit from any Owner, to grant franchises and easements to any public or private company to lay, construct, maintain, repair and replace such waterways. For purposes hereof, Declarant and its successors and assigns shall have the right of access to and across each Lot in the Subdivision for the purpose of laying, constructing, maintaining, repairing, deepening and replacing the waterways. Any claims for damages, if any, by the construction, maintenance, repair thereon, deepening or replacement thereof on account of temporary or other inconvenience caused thereby against the Declarant or any public or private company or any other agent or servants, are hereby waived by any Owner and any Owner's heirs, successors and assigns

2.04 Assignment and Transfer of Reservations. It is further reserved unto the Declarant, the exclusive right to transfer unto the Association or to any other person or company, by deed or other legal means, the Common Area, and the reservations as designated unto Declarant in this Article II.

ARTICLE III.

USE RESTRICTIONS

The Property and each Lot situated thereon shall be constructed, developed, reconstructed, repaired, occupied and used as follows:

3.01 Residential Purposes. Unless specifically designated on the Plat for commercial use, each Lot (including land and improvements) shall be used and occupied for single family residential purposes only and no Owner or other Occupant shall use or occupy such Owner's Lot, or permit the same or any part, thereof to be used or occupied, for any purpose other than as a private single family residence for the Owner or such Owner's tenant and their families and domestic servants employed on the premises. As used herein the term "single family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of any Lot for a duplex apartment, garage apartment, or other apartment use; provided, however, if the design and specifications thereof are approved by the Architectural Control Committee, an Owner may construct a second residence on a Lot for private use as an apartment by a member of the Owner's family or by a domestic servant employed by the Owner.

3.02 Replatting. No Lot shall be replotted or resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time-to-time, upon compliance with applicable law, to file a replat of the Plat to effect a resubdivision or reconfiguration of any Lots then owned by Declarant. Owners shall not unreasonably withhold or delay any necessary joinder in or consent to the replat or amendments to the Plat. The privilege to replat Lots owned by the Declarant reserved in this section shall be exercisable only by Declarant.

3.03 Minimum and Maximum Floor Space. Each and every dwelling and other improvements constructed on any Lot shall contain such minimum square feet and shall not exceed such maximum square feet as established and required by the Architectural Control Committee (as provided in Section 3.11 and Article VI hereof). In the absence of any determination by the Architectural Control Committee of the minimum and maximum square footage requirements, then each dwelling shall contain a minimum of 2,000 square feet and a maximum of 6,000 square feet.

3.04 Combining Lots. If approved by the Architectural Control Committee, any person owning two or more adjoining Lots may consolidate such Lots into a single building location for the purpose of constructing one (1) residential structure thereon (the plans and specifications therefor must be approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such consolidation must comply with the requirements and guidelines imposed by the Architectural Control Committee and the rules, ordinances and regulations of any governmental authority having jurisdiction over the Property; and provided further that combining Lots shall not be permitted in Sections 1, 2 and 3 of the Subdivision. In the event of any such consolidation, the consolidated Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration; provided, however, such Owner shall continue to pay assessments on such Lots and shall be entitled to the number of votes as if such Lots had not been consolidated. Any such consolidation shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior written approval of Declarant as well as the prior written approval of any utility company having the right to the use of such easements. Combining of portions of Lots into a single building site is prohibited.

3.05 Setback Requirements and Building Location. All front, side and rear setbacks must be approved by the Architectural Control Committee, and must meet the requirements of the Plat. The location of the main residence on each Lot shall be subject to the written approval of the Architectural Control Committee. No building or structure of any type shall be erected on any Lot nearer to the property lines than indicated by the minimum building setback line on the Plat.

3.06 Height. No building or structure on any Lot shall exceed, in height, the maximum height allowed by the Architectural Control Committee.

3.07 Driveways. Each Lot must be accessible to the adjoining street by a driveway suitable for such purposes and approved in writing as to design, materials and location by the Architectural Control Committee before the residential structure located on such Lot may be occupied or used.

3.08 Access. No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the Architectural Control Committee.

3.09 Drainage. Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will flow to streets, canals, drainage easements, or Common Properties, and in conformity with the general drainage plans for the subdivision.

3.10 Utilities. Each residence situated on a Lot shall be connected to the water and utility lines as soon as practicable after same are available at the Lot line. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Architectural Control Committee, and, if so approved, the Architectural Control Committee may require that such tank, bottle or cylinder be installed underground. Without limiting the generality of the foregoing, each residence situated on a Lot shall be connected to the water and sewer lines providing water and sewer service to the Subdivision. Private water wells and private septic systems are prohibited and no Owner may elect to opt out of or refuse to use the water and sewer system that is available to the entire Subdivision. The Association shall have the power to enter into contracts with any person or public or private company to obtain sewer and wastewater service for the Subdivision and all of the Lots and the owners of the Lots shall be bound by the terms of such contracts. If the Association fails to enter into any such contracts, then each lot owner shall contract directly with the providers of water and sewer service. Each Owner shall be required to pay all applicable fees and charges relating to the use of the water and sewer systems as may be established and assessed from time to time. Any such fees and charges may be billed directly to the Owner or the Association may elect to contract to have the Association pay the total fees and charges to the provider of the system and in turn the Association may assess each Owner and Member his proportionate share of such fees and charges, which assessments shall become part of the annual maintenance assessments made upon the Members as provided in Article V of these Declarations.

3.11 Construction Requirements.

(a) The building plans and exterior design, color and appearance of all dwellings and all other structures and improvements of any kind must be approved by the Architectural Control Committee prior to the start of construction. The exterior surface of all residential dwellings and all other structures and improvements of any kind shall be constructed of materials and shall be of an appearance and color approved by the Architectural Control Committee. The Architectural Control Committee will only approve building materials which are of a high grade and quality and which are consistent with the external design, color and appearance of other improvements within the subdivision. The roof pitch of any structure must be approved in writing by the Architectural Control Committee. Exterior paint and stain colors shall be subject to the written approval of the Architectural Control Committee.

(b) All improvements of any kind shall be constructed in accordance with the Architectural Control Guidelines adopted and approved by the Architectural Control

Committee. All buildings and improvements of any kind must be constructed by a builder approved by the Architectural Control Committee. The Architectural Control Guidelines may be amended from time to time by the Architectural Control Committee. The Architectural Control Guidelines, as adopted and amended from time to time by the Architectural Control Committee, may prohibit or restrict the construction or installation of certain types of structures, facilities or other improvements, including but not limited to, swimming pools, spas, outbuildings, boat sheds, RV sheds, fences, docks, piers and other improvements.

(c) Upon the sale of any residential Lot in the Subdivision by the Developer to any third party, the third party who purchases such Lot (the "Initial Purchaser") must start construction of the residence to be built on such Lot within two years from the date the Initial Purchaser acquired ownership of the Lot. Such construction must be completed in accordance with all of the requirements set forth in these restrictions and in strict compliance with the standards and specifications established by the Architectural Control Committee, as may be published and amended from time to time. Except as provided in the next sentence, if the Lot is sold by the Initial Purchaser, there shall be no extension of time granted to any subsequent buyer and owner to start construction of the residence and such construction must still start within two years from the date the Initial Purchaser acquired ownership of the Lot; provided, however, if the Lot is sold in an arms length transaction by the Initial Purchaser or any subsequent owner within the six month period preceding the expiration of the two years after the Lot was first acquired by the Initial Purchaser, then the time that construction of the residence on such Lot must be started will be extended for six months. This six month extension shall be applicable one time only, regardless of any subsequent sales or change in ownership of the Lot. If the owner of the Lot fails to start construction of the residence within the time required by these restrictions, then the Developer or any assignee designated by the Developer shall have the option to repurchase the Lot from the then current owner for a cash purchase price equal to the original purchase price paid to the Developer by the Initial Owner, which option may be exercised by the Developer any time before construction of the residence has started on such Lot. If the owner of the Lot fails to diligently proceed with completion of construction of the residence on the Lot in accordance these restrictions and the standards and specifications established by the Architectural Control Committee, then a special assessment shall be imposed on the owner and the Lot in the amount of FIFTY DOLLARS (\$50.00) per day for each day that the owner is in breach of these restrictions, which assessment shall be payable to **THE CRESCENT ON WALDEN PROPERTY OWNERS ASSOCIATION, INC.**, and which assessment shall be secured by a lien on the Lot that is enforceable in the same manner as all other assessments provided for in Article V of these restrictions.

(d) Prior to initial occupancy of a residence constructed on any Lot, the Owner thereof must construct (or cause to be constructed) a sidewalk along each street-side lot line of the Lot, using materials and constructed in accordance with all specifications set forth and established by the Architectural Control Committee; provided, however, that sidewalks shall not be required on any service loop street. Each Owner shall be responsible for maintaining the side walk located on the Lot and also any street curb located on or adjacent to any Lot of the Owner, which maintenance shall be performed at the Owner's expense and shall be maintained in accordance with the standards and specifications established from time to time by the Architectural Control Committee.

3.12 Landscaping. All Lots shall be landscaped in accordance with the landscaping requirements established by the Architectural Control Committee. Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the written approval of the Architectural Control Committee. Weather permitting, each Lot shall be fully landscaped within the time required by the Architectural Control Committee. Each Lot Owner shall be responsible for maintaining his own landscaping in a healthy condition and in accordance with the requirements established from time to time by the Architectural Control Committee.

3.13 Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot unless otherwise approved and permitted by the Architectural Control Committee.

3.14 Trash Receptacles and Collection. Each Lot Owner shall make or cause to be made appropriate arrangements with a waste disposal company approved by the Association for collection and removal of garbage and trash on a regular basis. If the Owner fails to make such provisions, the Association may do so and assess the costs thereof to the Owner. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the Association in connection with the storage and removal of trash and garbage. Garbage cans and other receptacles shall (except when placed on a street or drive for regular collection purposes) be hidden or screened from public view. All Lots shall at all times be kept in a healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter, nor for the storage of any junk vehicles and nor for the repair of any motor vehicle, boat or marine vessel. All trash, garbage, or waste matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly-fitting lids, or other containers approved by the Association, and which shall be maintained in a clean and sanitary condition. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot and no open fires or burning shall be permitted upon any Lot without the prior approval of the Association.

3.15 Exterior Lighting. No exterior light, including landscape lighting, shall be installed or maintained on any Lot without the prior written approval of the Architectural Control Committee. Further, and notwithstanding such prior written approval, upon being given notice by the Architectural Control Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or shield the same in such a way that it is no longer objectionable.

3.16 Window Coolers and Window Treatments. No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential building on any part of the Subdivision without the prior written approval of the Architectural Control Committee. No aluminum foil, reflective film or similar treatment shall be placed on any windows or glass without the prior written approval of the Architectural Control Committee.

3.17 Antennas Restrictions and Satellite Dishes. No radio or television aerial wires or antennas shall be maintained on the outside of any building nor shall any freestanding antennas of any style be permitted. All radio or television aerial wires or antennas must be built within the main structure and must not be visible from outside of such structure. No satellite dish shall be permitted on any Lot or structure constructed on any Lot without the prior written approval of the Architectural Control Committee. No satellite dish shall be visible from the street or any adjoining property.

3.18 Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent, shack, barn or any other structure or building, other than the residence to be built thereon, shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer; provided, however, that Declarant reserves the exclusive right to erect, place and maintain and to permit builders to erect, place and maintain such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Property. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Property, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Property. Any truck, bus, recreational vehicle, boat, boat trailer, jet ski, motorcycle, trailer, mobile home, campmobile, camper, tractor, farm equipment, lawn equipment or any vehicle other than conventional automobile shall, if brought within the Property, be stored, placed or parked within the garage of the appropriate Owner or concealed from view from adjoining Lots, Common Properties, or public streets, unless approved in writing by the Architectural Control Committee.

3.19 Parking. On-street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Association. Parking in driveways is permitted.

3.20 Signs. No signs or flags shall be displayed to the public view on any Lot without the prior written approval of the Architectural Control Committee. No "for rent" and no "for sale" signs shall be permitted and no such signs shall be displayed to the public view of any Lot. With the prior written approval of the Architectural Control Committee, a sign or signs identifying the owner, builder and any architect or designer may be displayed during construction, but no other signs will be allowed. Further, no fountains or other yard decorations shall be constructed, installed or placed on any Lot, nor shall any flags, banners or pennants be displayed on any Lot, without the prior written approval of the Architectural Control Committee.

3.21 Removal of Dirt. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon.

3.22 Drilling and Mining Operations. No oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Lot.

3.33 Offensive Activities. No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Owners. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot, except that dogs, cats or other household pets [not to exceed two (2) adult animals] may be kept, provided that they are not kept, bred or maintained for commercial purposes. No radio, stereo, broadcast or loud speaker units and no amplifiers of any kind shall be placed upon or outside, or be directed to the outside of any building, without prior written approval and authorization of the Association. No garage sales, estate sales or similar activities or events shall be conducted on any residential lot. No open fires or

burning shall be permitted on any Lot. Repairs and maintenance of vehicles, lawn equipment, appliances and other equipment on driveways and other areas open to view by the public is prohibited.

3.24 Renting and Timesharing. No Lot or residence or other improvement constructed thereon shall be rented to any third party except for rentals made on an Owner's behalf by a professional real estate company who has been approved by the Architectural Control Committee. No Lot or residence or other improvement constructed thereon shall be subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot or residence constructed thereon rotates among members of a program on a fixed or floating time schedule.

3.25 Duty of Maintenance.

(a) Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (i) Prompt removal of all litter, trash, refuse and waste;
- (ii) Lawn mowing on a regular basis;
- (iii) Tree and shrub pruning;
- (iv) Watering landscaped areas;
- (v) Keeping exterior lighting and maintenance facilities in working order;
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive;
- (vii) Keeping parking areas, driveways, curbs and roads in good repair;
- (viii) Complying with all government health and police requirements and all requirements of the Association and the Architectural Control Committee;
- (ix) Repair of exterior damages to improvements;
- (x) Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties maintained by applicable governmental authorities or the Association; and
- (xi) Repainting of improvements.

(b) If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give

such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the repairs and maintenance or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repair and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person.

(c) Notwithstanding the provisions above, if, at any time, an Owner shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to three (3) times the cost of the Association for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed six inches (6") in height, the Association shall have the right and authority to mow and clean the Lot, as aforesaid.

(d) The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to this Section shall, jointly and severally, be liable for the cost of such work [such costs constituting a special individual assessment] and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons, jointly and severally, and shall constitute a lien against that portion of the Property on which said work was performed. Such lien shall have the same attributes as the lien for Assessments and special assessments set forth in this Declaration, and the Association shall have the identical powers and rights in all, respects, including but not limited to the right of foreclosure.

3.26 Maintenance of Common Area and Common Properties. All landscaping and improvements placed or erected on the Common Area or Common Properties by Declarant shall be owned and maintained by the Association. For purposes hereof, the Association may contract with Declarant, any person or company affiliated with or related to Declarant, and any other person or company to maintain the Common Area and Common Properties on behalf of the Association, which contracts may be for such term and on such conditions as the Board of Directors of the Association may approve.

3.27 Hunting and Firearms. No hunting and no use or discharge of firearms will be allowed from or in the Subdivision.

3.28 Boats and Marine Vessels. No boat, jet ski, watercraft or other marine vessel will be allowed to operate or be anchored or docked in any manner in any of the lakes or waterways of the Subdivision without the prior written approval of the Association.

3.29 Exterior Christmas Lights. No exterior Christmas lights, nor any other exterior lighting or decorations of any kind shall be erected or displayed except in strict accordance with the Architectural Control Guidelines.

3.30 Minimum Set Back Lines. No dwelling structures, including attached or detached garage or other accessory building, shall be located nearer to the front Lot line or nearer to a side Lot line than the building set back line shown on the recorded Plat or Plats of the Subdivision. However, with the

prior written approval of the Architectural Control Committee (as part of its plan approval), open and unenclosed terraces or porches and eave and roof overhangs may project across the front building set back line. Further, no dwelling structure, including any attached or detached garage or other accessory building, shall be located nearer the rear lot line than what is approved by the Architectural Control Committee. The Architectural Control Committee shall determine in which direction a dwelling or other building shall face on a Lot.

3.31 Utility Service and Meters; Mechanical Equipment Screening. All utility service lines between meter points and dedicated utility easements shall be underground unless otherwise approved in writing by the Architectural Control Committee. Meters for utilities shall be screened from view from any street in the Subdivision unless otherwise approved in writing by the Architectural Control Committee. Air conditioning compressors and other external mechanical equipment must be screened from view from the streets in the Subdivision in a manner acceptable to the Architectural Control Committee unless otherwise approved in writing by the Architectural Control Committee.

3.32 Conflict Between Ordinances and Restrictions. In the event of any conflict between the restrictions contained in this Declaration and any ordinances, laws, rules, or regulations of any municipal or other governmental authorities having jurisdiction over the Subdivision or the construction of improvements therein, then such ordinances, laws, rules and regulations, shall control, except however, that if these restrictions contained herein are in any respect more restrictive than such ordinances, laws, rules, or regulations, than the restrictions contained herein shall control.

3.33 Variances. The Board of Directors of the Association may, in its discretion, approve a variance of any of the use restrictions or other restrictions contained in this Declaration in order to overcome practical difficulties and prevent unnecessary hardships in the application of the restrictions set forth herein, provided that such variance will not be materially detrimental or injurious to the other Lots and the Subdivision.

ARTICLE IV.

PROPERTY OWNERS ASSOCIATION

4.01 Property Owners Association. Declarant will organize or cause to be organized an association with will be organized for the purposes hereinafter mentioned, and such Association shall be called "**THE CRESCENT ON WALDEN PROPERTY OWNERS ASSOCIATION, INC.**". The Association shall have the right and obligation to maintain the Common Area and Common Properties once Declarant turns over and assigns such right and obligations to the Association. The Association shall administer the maintenance fund hereinafter provided within these restrictions. The Association shall have all of the powers and authority set forth in its Articles of Incorporation and Bylaws, together with the general powers of a nonprofit corporation, and together with the powers and authority set forth in this Declaration, and shall have the power and authority to do any and all lawful things which may be authorized, required or permitted to be done by applicable law.

4.02 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a member of the Association. Except as provided in Section 4.05 below each Member shall have a number of votes equal to the Relative Factor shown in Exhibit "A" for the Lot owned by each such Member. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.

4.03 Suspension of Voting Rights. The Association may suspend the voting rights of any Owner for any period during which any assessment against that owner's Lot remains unpaid.

4.04 Bylaws. The Association shall have Bylaws that set forth such other and further rules and regulations governing the Association and its operation.

4.05 Limitation on Voting Rights of Members. Notwithstanding the provisions of Section 4.02, no Member and no owner of any Lot shall be entitled to exercise any voting rights with respect to the Association until Declarant transfers and assigns control of the Subdivision and the Association to the Board of Directors of the Association by written instrument executed by Declarant and filed for record in the Office of the County Clerk of Jefferson County, Texas. Until such time, Declarant shall retain all voting rights with respect to the Association and Declarant shall be in sole control of the Association and of the Association's Board of Directors and each owner of a Lot hereby irrevocably appoints and designates Declarant as its sole agent to exercise all voting rights on behalf of the owner with respect to the owner's membership interest in the Association. Declarant agrees that it will relinquish its control and transfer and assign control of the Subdivision and the Association to the Board of Directors and its members not later than 45 days after Declarant has sold all of the Lots within the Subdivision (including any additional lots that are added to and become subject to this Declaration pursuant to the provisions of Section 10.01 hereof).

ARTICLE V.

COVENANTS AND MAINTENANCE ASSESSMENTS

5.01 Creation of the Lien and Personal Obligation of Assessments. Each purchaser and Owner of any Lot, by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of the Lot), to pay to the Association (or to an entity or collection agency designated by the Association): (1) annual maintenance assessments or charges (as specified in Section 5.04 hereof), such assessments to be fixed, established and collected from time to time as herein provided; (2) special assessments for capital improvements and other purposes (as specified in Section 5.05 hereof), such assessments to be fixed, established and collected from time to time as hereinafter provided; and (3) individual special assessments levied against one or more Owners to reimburse the Association for any reasonable expenses incurred in enforcing these Restrictions against any Owner and for extra costs for maintenance and repairs caused by the willful or negligent acts or omissions of such Owner or Owners, his Tenants (if applicable), and their respective family, agents, guests and invitees, and not caused by ordinary wear and tear (as specified in Section 5.05 hereof), all of such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual maintenance, special capital, and special individual assessments described in this Section 5.01 (hereinafter, the "Assessment" or the "Assessments") together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which any such Assessment is made. Each such Assessment, together with interest thereon, attorneys' fees, court costs, and other costs of collection thereof shall also be the continuing personal obligation of the Owner of such Lot at the time when the Assessment fell due. Further, no Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his Lot. Existing obligations of an Owner to pay Assessments and other costs and charges shall not pass to bona fide first lien mortgagees which become Owners by reason of

foreclosure proceedings or an action at law subsequent to the date the Assessment was due; provided, however, any such foreclosure proceeding or action at law shall not relieve such new Owner of such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent Assessment.

5.02 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for (i) the purpose of promotion of the recreation, comfort, health, safety and welfare of the Owners and/or the residents of the Subdivision; (ii) managing the Common Area and Common Properties; (iii) enhancing the quality of life in the Subdivision and the value of the Lots; (iv) improving and maintaining the Common Area and Common Properties, the properties, services, improvements and facilities devoted to or directly related to the use and enjoyment of the Common Area and Common Properties, including, but not limited to, the payment of taxes on the Common Area and Common Properties and insurance in connection therewith and the repair, replacement and additions thereto; (v) paying the cost of labor, equipment (including, the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Area and Common Properties; (vi) carrying out the powers and duties of the Board of Directors of the Association as set forth in this Declaration and the Bylaws; (vii) paying the contractual obligations, debts and liabilities of the Association; (viii) carrying out the purposes of the Association as stated in its Articles of Incorporation; (ix) pay all costs associated with the operating the Common Areas, including but not limited to, utilities, landscaping and maintenance; and (x) carrying out the powers and duties relating to the Architectural Control Committee, after Declarant has delegated or assigned such powers and duties to the Association.

5.03 Improvement and Maintenance of the Common Area and Common Properties Prior to Conveyance to the Association. Initially, all improvement of the Common Area and Common Properties shall be the responsibility of the Declarant and shall be undertaken by Declarant at its sole cost and expense with no right to reimbursement from the Association. After the initial improvements to the Common Area and Common Properties are substantially completed and until the date of the conveyance of the title to the Common Area and Common Properties to the Association, the Declarant, on behalf of the Association, shall have the responsibility and duty (but with right of Assessment against all Owners) of maintaining the Common Area and Common Properties, including, but not limited to, the payment of taxes on and insurance in connection with the Common Area and Common Properties and the cost of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Area and Common Properties. In this regard, and until such time as the Common Area and Common Properties are conveyed to the Association, all Assessments collected by the Association (less such amount required for the operation of the Association) shall be forthwith paid by the Association to Declarant, to the extent that such Assessments are required by Declarant to maintain the Common Area and Common Properties as set forth in this Paragraph. The Association may rely upon a certificate executed and delivered by the Declarant with respect to the amount required by Declarant to maintain the Common Area and Common Properties hereunder.

5.04 Annual Maintenance Assessments. Each Lot and property owner shall be subject to an annual maintenance assessment to provide and pay for any of the purposes set forth in Section 5.02 above (herein sometimes referred to as the "Annual Maintenance Assessment"). The General Maintenance Assessment shall be made allocated among all lot owners based upon the Relative Factor for each Lot shown in Exhibit "A" attached hereto. Further, the following provisions shall apply for the Annual Assessment:

- (a) Commencing with the year beginning January 1, 2006, and each year thereafter, each Member shall pay to the Association an annual maintenance assessment in such amount as set by the Board of Directors, at its annual meeting next preceding

such January 1, 2006, and each successive January 1 thereafter, except that the meeting setting forth the first year's assessment may take place at any time during 2006.

(b) Subject to the provisions of Section 5.04(c) below, the rate of annual maintenance assessments may be increased by the Board. The Board may, after consideration of current maintenance, operational and other costs and the future needs of the Association, fix the annual maintenance assessments for any year at a lesser amount than that of the previous year.

(c) An increase in the rate of the annual maintenance assessments as authorized by Section 5.04(b) hereof in excess of twenty-five percent (25%) of the preceding year's annual maintenance assessments must be approved by the majority vote of the Members of the Association.

(d) When the annual maintenance assessment is computed for Lots, all or a portion of such annual maintenance assessment shall be payable to the Association by the Member according to the status of the Lot owned by such Member as follows:

(i) As to a Lot owned by any person or company other than Declarant, the full annual maintenance assessment shall be payable.

(ii) As to a Lot owned by Declarant, one percent (1%) of the annual maintenance assessment shall be payable.

(e) The Board of Directors may provide that annual maintenance assessments shall be paid monthly, quarter-annually, semi-annually or annually on a calendar year basis. No later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall (i) estimate the total common expenses to be incurred by the Association for the forthcoming fiscal year, (ii) determine, in a manner consistent with the terms and provisions of this Declaration, the amount of the annual maintenance assessments to be paid by each Member, and (iii) establish the date of commencement of the annual maintenance assessments. Written notice of the annual maintenance assessments to be paid by each Member and the date of commencement thereof shall be sent to every Member, but only to one (1) joint Owner. Each Member shall thereafter pay to the Association his annual maintenance assessment in such manner as determined by the Board of Directors.

(f) The annual maintenance assessments shall include reasonable amounts, as determined by the Members or by the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Area and Common Properties. Assessments collected as reserves shall not be considered to be advance payments of regular annual maintenance assessments.

5.05 Special Capital Assessments and Special Individual Assessments.

(a) In addition to the annual maintenance assessments authorized in Section 5.04 hereof, the Board of Directors of the Association may levy in any calendar assessment year a special capital assessment for the purpose of (i) defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Property or Common Area or Common

Properties, including the necessary fixtures and personal property related thereto (ii) maintaining portions of the Common Area and Common Properties and improvements thereon, including but not limited to, maintaining, repairing and replacing streets, roads, lights, canals, waterways and bulkheads, or (iii) carrying out other purposes of the Association; provided, however, that any such special capital assessment levied by the Association shall have the approval of a majority of the Members. Any special capital assessment levied by the Association shall be paid by the Members directly to the Association on such date or dates as determined by the Board of Directors. All such amounts collected by the Association may only be used for the purposes set forth in this Section 5.05.

(b) The Board of Directors of the Association may levy special individual assessments against one or more Owners for (i) reimbursement to the Association of the costs for repairs to the Property or Common Area or Common Properties and improvements thereto occasioned by the willful or negligent acts of such Owner or Owners and not ordinary wear and tear; (ii) for payment of fines, penalties or other charges imposed against an Owner or Owners relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws of the Association or any rules or regulation promulgated hereunder; and (iii) to reimburse the Association for all reasonable expenses incurred to enforce these Restrictions, including but not limited to, attorney's fees and litigation expenses. Any special individual assessment levied by the Association shall be paid by the Owner or Owners directly to the Association. All amounts collected by the Association as special individual assessments under this Section 5.05 shall belong to and remain with the Association.

5.06 Uniform Rate of Annual Maintenance Assessments and Special Capital Assessments. Both annual maintenance assessments and special capital assessments (excepting therefrom special individual assessments) must be fixed at a uniform rate for all Lots, and be payable as set forth herein. In determining the uniform rate for all Lots, the Board may determine to set and assess such rates in any way that is reasonable and uniform to all Lot owners, including setting a flat per for each Lot, a rate based on the size of each Lot, a rate based on the frontage each Lot may have to the streets or waterways, a rate based on the Relative Factor for each Lot as shown in Exhibit "A" attached hereto, or under any such other method as determined by the Board. Such rates may differ for different assessments.

5.07 Date of Commencement of Assessments; Due Dates; No Offsets. The annual maintenance assessments provided for herein shall commence on the date fixed by the Board of Directors to be the date of commencement and, except as hereinafter provided, shall be payable monthly, quarterly, semi-annually or annually, in advance, on the first day of each payment period thereafter, as the case may be and as the Board of Directors shall direct. The first annual maintenance assessment shall be made for the balance of the calendar year in which it is levied. The amount of the annual maintenance assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual maintenance assessment provided for in Section 5.04 hereof as the remaining number of months in that year bears to twelve; provided, however, that if the date of commencement falls on other than the first day of a month, the annual maintenance assessment for such month shall be prorated by the number of days remaining in the month. The due date or dates, if to be paid in installments, of any special capital assessment or special individual assessment under Section 5.05 hereof shall be fixed in the respective resolution authorizing such assessment. Annual maintenance, special capital and special individual assessments may be established, collected and enforced by the Declarant at any time prior to the incorporation of the Association. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason. Notwithstanding anything contained herein to the contrary, the regular annual assessments provided for in this Declaration shall not attach to any Lot until the first to occur of the following (i) the conveyance of a Lot by Declarant to an Owner (other than a Builder), (ii) thirty (30) days following the substantial completion of a residence upon a Lot owned by Declarant, or (iii) with respect to a Lot

conveyed by Declarant to a Builder, the earlier of the substantial completion of a residence thereon, the conveyance by the Builder of such Lot (except for conveyance to Declarant), or two hundred seventy (270) days after the Builder has acquired title to such Lot. A Builder for purposes hereof shall be a person or entity who acquires a Lot for purposes of construction thereon a residence for sale for a profit and who is in the home construction business.

5.08 Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors shall fix the date of commencement and the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of all assessments shall be delivered or mailed to every Owner subject thereto. Such notice shall be sent to each Owner at the last address provided by each Owner, in writing, to the Association.

(c) The omission of the Board of Directors to fix the assessments within the time period set forth above for any year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

(d) The Board of Directors shall upon demand at any time furnish to any Owner liable for said assessment a certificate signed by an officer or agent of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

5.09 Non-Payment of Assessment.

(a) Delinquency. Any Assessment, or installment thereof, which is not paid in full when due shall be delinquent on the day following the due date (herein, "delinquency date") as specified in the notice of such Assessment. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid within ten (10) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from and after the delinquency date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum lawful rate.

(b) The unpaid amount of any Assessment not paid by the delinquency date shall, together with the interest thereon as provided in Section 5.09(a) hereof and the cost of collection thereof, including reasonable attorneys' fees, become a continuing lien and charge on the Lot of the non-paying Owner, which shall bind such Lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. The lien shall be superior to and other liens and charges against the Lot, except only for tax liens and the lien of any bona fide first mortgage or first deed of trust now or hereafter placed upon such Lot. A subsequent sale or assignment of the Lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. The Board shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. Such power shall

be entirely discretionary with the Board. As hereinbefore stated, the personal obligation of the Owner incurred at the time of such Assessment to pay such Assessment shall remain the personal obligation of such Owner and shall not pass to such Owner's successors in title unless expressly assumed by them in writing. Liens for unpaid Assessments shall not be affected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his lot.

To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk of Jefferson County, Texas.

(c) Remedies. The lien securing the payment of the Assessments shall attach to the Lot belonging to such non-paying Owner with the priority set forth in this Section. Subsequent to the recording of a notice of the lien, the Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- (i) the interest provided in this Section,
 - (ii) the costs of preparing and filing the complaint in such action,
 - (iii) the reasonable attorneys' fees incurred in connection with such action,
- and
- (iv) any other costs of collection;

and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents or trustees the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The Association may also suspend the Association membership and voting rights of any Owner who is in default in payment of any Assessment in accordance with this Declaration and/or the Bylaws. To secure and enforce the payment of all assessments provided for in this Declaration, together with all interest accrued or accruing thereon and attorney's fees and other costs reasonably incurred by the Association in collecting the same, and for the auxiliary and cumulative enforcement of said lien, and in consideration of the sum of \$1.00 to Declarant in hand paid by the Trustee hereinafter named, and for the further consideration of the uses, purposes and trusts hereinafter set forth, Declarant has granted, sold, and conveyed, and by these presents does grant, sell, and convey unto Lance Fox, Trustee, of Jefferson County, Texas, whose mailing address is P. O. Box 1751, Beaumont, Texas 77704, and any substitute or successor trustee appointed hereunder by Declarant or the Association (each of whom shall have the

power to appoint a successor trustee), each of the Lots in the Subdivision, to have and to hold the said Lots unto the said Trustee, and to his substitutes or successors forever. Declarant does hereby bind itself, its successors and assigns, to warrant and forever defend the Lots unto the said Trustee, his substitutes, successors and assigns forever, against the claim or claims of all persons claiming or to claim the same, or any part thereof by, through, or under Declarant, and so subject to any superior liens and all items of record in the office of the County Clerk of Jefferson County, Texas on the date hereof affecting the Lots, for and upon the following trusts, terms, covenants, and agreements, to-wit:

(i) This conveyance, however, is made in trust to secure the payment of all assessments provided for in this Declaration (whether now owed or hereafter ever accruing to the Association). Should Declarant, its successors and assigns, make full payment of the assessments hereby secured as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect.

(ii) In the event, however, of default in the payment of any assessment hereby secured, in accordance with the terms of this Declaration, it shall thereupon, or at any time thereafter, be the duty of the Trustee or his successor or substitute, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust against the Lot against which the assessment is due and owing in the manner provided in §51.002 of the Texas Property Code, as then amended; and after giving notice and advertising the sale as provided in said §51.002 (but without any other action than is required by said §51.002 as then amended) and otherwise complying with that statute, the Trustee shall sell the Lot (including any improvements thereon) at public sale as provided in said §51.002 and make due conveyance to the purchaser or purchasers thereof, with covenants of general warranty binding upon the then Owner of such Lot and such Owner's heirs, executors, administrators and successors.

(iii) Out of the money arising from such sale, the Trustee acting shall first pay all expenses of advertising said sale and making the conveyance (including a Trustee's fee of 5% of the gross sales proceeds), and then to the Association the full amount of assessments owing, together with interest thereon and reasonable attorneys' fees and expenses, rendering the balance of the sale price, if any, to the Owner of said Lot prior to such sale, his heirs or assigns, or to such other person or persons as may be legally entitled thereto. The recitals in the conveyance to the purchaser or purchasers of such Lot shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner of such Lot prior to such sale, his heirs, executors, administrators, successors and assigns.

(iv) It is agreed that in the event foreclosure should be commenced by the Trustee, or his substitute or successor, the Association, as beneficiary hereunder, may at any time before the sale of the Lot direct the abandonment of the sale and may then institute suit for the collection of the assessments, interest and collection costs then owing to the Association, and, at the election of the Association, for judicial foreclosure of the assessment lien. It is further agreed that if the Association should institute suit for collection and for judicial foreclosure of the assessment lien, the Association may, at any time prior to the entry of a final judgment in said suit, dismiss the same and require the Trustee, or his substitute or successor, to sell the Lot against which the assessment is then owing in accordance with the provisions of this Section 5.09(c).

(v) In case of the absence, resignation, death, inability, failure or refusal of the Trustee herein named or of any substitute trustee appointed hereunder to act, or in the event that the Association shall deem it desirable to remove without cause the Trustee or any

substitute trustee and appoint another to execute this trust, then in any of such events, the Association shall have the right and is hereby authorized and empowered to appoint a successor and substitute without any formality other than an appointment and designation in writing; and this appointment shall vest in him, as substitute or successor trustee, the estate and title in and to all said Lots, and he shall thereupon hold, possess, and execute all the rights, title, powers and duties herein conferred upon the Trustee named herein. The right to appoint a successor substitute trustee shall exist as often and whenever from any of said causes any trustee, original or substitute, cannot or will not act, resigns, or has been removed with or without cause.

(vi) The exercise or attempted exercise of the power of sale herein contained shall not exhaust the power of sale and shall not prevent and subsequent exercise thereof.

(vii) The Association, as beneficiary hereunder, if it is the highest bidder, shall have the right to purchase at any sale of a Lot pursuant hereto and to have the amount for which such Lot is sold credited against the indebtedness then owing on such Lot to the Association.

(viii) It is especially agreed that in the event of a foreclosure under the powers granted herein, the person in possession of the Lot sold shall thereupon become a tenant at will of the purchaser or purchasers at the foreclosure sale. Should such tenant then refuse to surrender possession of the Lot upon demand, the purchaser or purchasers shall be entitled to institute and maintain a statutory action for forcible detainer of said Lot in the justice of the peace court for the justice precinct in which the Lot is situated. The bringing of an action for forcible detainer shall not preclude the bringing of any other action for the possession of said Lot, and the bringing of one character of action shall not preclude the other and same may be exercised separately or simultaneously.

(d) Notice to Mortgages. The Association may, and upon the written request of any mortgagee holding a prior lien on any part of the Property, shall report to said mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the delinquency date of such Assessment.

5.10 Subordination of the Lien to Mortgages. The lien securing the payment of the Assessments shall be subordinate and inferior to the lien of any perfected First Mortgage granted by an Owner in good faith now or hereafter recorded against any Lot. A First Mortgage is defined as (a) a mortgage or deed of trust which has first and paramount priority under applicable law, (b) a mortgage or deed of trust securing an "equity loan" pursuant to §50(a)(6) of Article XVI of the Texas Constitution, or (c) a mortgage or deed of trust securing a "reverse mortgage" pursuant to §50(a)(7) of Article XVI of the Texas Constitution, provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve the new Owner of such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent assessment.

5.11 Exempt Property.

The following property subject to this Declaration shall be exempted from the assessments, charges and liens created in Section 5.04 and Section 5.05(a) hereof:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use; and
- (b) All Common Properties.

5.12 Estoppel Information from Board with Respect to Assessments. The Board shall upon demand at any time furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates. Within ten (10) days after the date a written request for subdivision information is received from an Owner, Owner's agent, or a title insurance company or its agent acting on behalf of an Owner, the Association shall deliver to the Owners, Owner's agent, or the title insurance company or its agents, (i) a current copy of the Declaration applying to the Addition, (ii) a current copy of the By-laws and rules of the Association, and (c) a resale certificate that complies with §207.003(b) of the Texas Property Code, as amended. The Association may establish and collect a reasonable charge to assemble, copy, and deliver the information required by §207.003 of the Texas Property Code, as amended.

ARTICLE VI.

ARCHITECTURAL REVIEW

6.01 Approval Required by Architectural Control Committee. No building, structure, fixture or improvement of any kind may be erected or constructed, and no exterior addition to or change in any structure may be made (including repainting or re-roofing involving a change in exterior color scheme), and no building, outbuilding, fence, wall, room addition, residence, structure, antenna or other projection from a structure (whether of a temporary or permanent nature, and whether or not such structure shall be affixed to the ground) nor any other improvement (including but not limited to, swimming pools, hot tubs, spas, fountains, fences, sport courts, basketball goals, landscaping, light fixtures, mailbox nor any other type of improvement) may be constructed, commenced, erected, maintained, improved or altered, nor may any grading, excavation, tree removal, planting, change or exterior color or other work which in any way alters the exterior color or other work which in any way alters the exterior appearance of any Lot or improvement be done on any Lot, until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted in writing and approved in writing by the Architectural Control Committee (hereinafter sometimes called the "Committee" regarding (a) the harmony of its exterior design and location in relation to, and its effect upon surrounding structures, vegetation, topography, and the overall community design of the Property, (b) the type and quality of the exterior materials, (c) the quality of the exterior workmanship, (d) the location of the planned improvements with respect to topography and in relation to other existing or planned structures in the Subdivision, and (e) compliance with the terms of this Declaration and guidelines adopted by the Architectural Control Committee. The plans submitted to the Committee shall at a minimum show the (a) kind, shape, size, height and exterior color scheme, (b) the locations of all improvements, including driveways, sidewalks, and off-street parking, (c) utility installations, (d) the kind, nature, and quality of materials, (e) finished grade, topography, and elevation, and (f) site landscaping.

6.02 Appointment of Committee. The Committee shall be composed of an least three (3) members. The initial members of the Committee shall be appointed by Declarant. The Declarant shall have the right, in its sole discretion, to remove any existing member of the Committee and to increase the number of members of the Committee and to appoint such additional member(s) as may be required to fill

the vacancy or vacancies resulting from the increase in the number of the members thereof, such action to be taken and effected by Declarant's (or its successor's) executing a written instrument reflecting such action and filing it for record in the office of the County Clerk of Jefferson County, Texas. Upon the failure to appoint an Architectural Control Committee, the Board of Directors of the Association shall serve as the Architectural Control Committee. Persons serving on the Committee shall not be entitled to compensation for services performed on the Committee; provided, however, the Board of Directors may approve and authorize the payment of reasonable compensation for service on the Committee by any architect, engineer, attorney or other licensed professional. In addition, the Committee, with the approval of the Board of Directors, 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 such services as they render to the Committee.

6.03 Regulation. The Architectural Control Committee shall regulate the external design, appearance and location of the Property and of improvements thereon in such a manner as (a) to comply with the terms and restrictions set forth in this Declaration, (b) to promote those qualities in the environment which bring value to the Property, and (c) to foster the attractiveness and functional utility of the community as a place to live, including a harmonious relationship among structures, vegetation and topography.

6.04 Failure to Respond. In the event that the Architectural Control Committee fails to respond in writing to an application within thirty (30) days after the plans and specifications in writing have been submitted to the secretary, in accordance with adopted procedures, approval will be deemed granted.

6.05 Guidelines. The Architectural Control Committee shall develop and promulgate policy Architectural Control Guidelines for the application of the architectural review provisions in this Declaration. The policy guidelines shall include (a) review procedures, (b) aspects and objectives of review, and (c) principles and criteria used as standards in determining the achievement of the required objectives. The policy guidelines may also include specific design objectives. The policy guidelines may also include specific design practices that, though optional, are generally acceptable methods for achieving the required objectives in particular design problems frequently encountered in the Property. The Policy guidelines are intended to assist the Architectural Control Committee and the Owners of Lots in the ongoing process of community design. They may be modified and supplemented from time to time.

6.06 Vacancies. In the event of the death or resignation of any member of the Committee, the remaining member(s) of the Committee, even though less than a majority may appoint a successor to the Committee by written instrument executed by the remaining member(s) of the Committee and filed for record in the Office of the County Clerk of Jefferson County, Texas. If all of the members of the Committee die, resign or refuse or are unable to serve, then the Declarant (or its successor) shall have the authority to appoint successor members of the Committee by written instrument executed by the Declarant (or its successor) and filed for record in the Office of the County Clerk of Jefferson County, Texas. However, if all members of the Committee die, resign, or refuse or are unable to serve and the Declarant (or its successor) has not appointed successor members within one hundred eighty (180) days after the death, resignation, or refusal or inability to serve of the last of the Committee members, then the Association, through its Board of Directors, shall exercise the authorities herein granted to the Committee. In addition, at any time after thirty-five (35) years from the date of this Declaration, the Association, by written instrument approved by its Board of Directors and recorded in the real property records of Jefferson County, Texas, may change the membership of the Committee or withdraw powers and duties from or restore powers and duties to the Committee. The Declarant may at any time assign its right to control and appoint members to the Committee to the Board of Directors of the Association.

6.07 Manner of Approval. Plan approval or disapproval by the Committee as required in this Declarant shall be approved by at least a majority of the members of the Committee, be in writing and be signed by at least one (1) member of the Committee. Approval of Plans (whether actual or deemed) shall not be valid or effective for more than one hundred twenty (120) days, and if, within one hundred twenty (120) days after plan approval, the construction, reconstruction, addition, change, or alteration for which plan approval was obtained has not commenced, then plans must be resubmitted and approved by the Committee before any such construction, reconstruction, addition, change, or alteration may be commenced. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary or capricious, and under no circumstances shall the Committee, any member of the Committee, or any representative of the Committee be subject to any suit by anyone for damages for any action or failure to act on the part of the Committee, any member of the Committee or any representative of the Committee.

6.08 Liability. Neither the Committee, nor any member of the Committee or any representative thereof shall be liable to any person or entity under any theory or under any circumstance in connection with the Committee's approval (whether actual or deemed) of any plans submitted to the Committee for approval, including without limitation, any liability based upon the soundness of construction or adequacy of plans and specifications, mistake of judgment, negligence or nonfeasance, or for any other reason. Neither the Committee nor any member or representative thereof shall have any liability to any person or entity by reason of the construction of buildings or the making of other improvements which shall depart from or be at variance with the plans approved by the Committee.

ARTICLE VII.

GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

7.01 Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors. Prior to the incorporation of the Association, the Declarant shall select and appoint the Board of Directors. From and after the effective date of the Association's incorporation, the Board of Directors shall be selected in accordance with the Articles of Incorporation and Bylaws of the Association, subject, however, to the provisions of Section 4.05 hereof. The Board, for the benefit of the Property, the Common Properties and the Owners, shall provide, and pay for, out of the funds(s) collected by the Association pursuant to Article V above, the following:

(a) Care and preservation of the Common Properties and the furnishing and upkeep of any desired personal property for use in the Common Properties. Expenditures for the repair or installation of capital improvements, not included in the annual maintenance budget, may be paid from the reserve fund as specifically provided in Section 7.05 herein.

(b) Care and maintenance of the private streets, waterways, bulkheads, landscaping, screening walls and entry features which may be constructed by Declarant on the Common Properties or on private property. Maintenance includes a repair, rebuilding or cleaning deemed necessary by the Board of Directors.

(c) Should the Board so elect, maintenance of exterior grounds, drives, parkways, private streets and access areas, including care of trees, shrubs and grass, the exact scope of which shall be further specified by the Board from time to time. In particular, the Board shall be empowered to contract with persons or entities who shall

the responsible for the maintenance of landscaping, trees, shrubs, grass and like improvements which are located on the Common Properties and/or the Lots, except for landscaping, and other like improvements which are located within rear yards or side yards enclosed by solid fence, which shall be maintained by the individual Lot Owner. Maintenance services contracted or by the Board in accordance with this paragraph shall be paid for out of Association funds.

(d) The Association shall have the right to control access to and prevent persons from coming onto the Property. The Association may in its discretion, but shall not be required to, maintain an access control facility located at the entrance of the subdivision and may retain a private security service for the subdivision for the purpose of preventing persons from entering onto the Subdivision without the prior approval of an Owner or Declarant. The access control facility may be operated by the Association, its employee or agent, at such hours and times as the Board may determine from time to time. Nothing contained herein shall be construed so as to hold Declarant or the Association, or any of their employees or agents, responsible for the prevention, nor liable for any loss or losses due to theft, burglary, or damage, or any injury to persons or property caused by persons gaining access to the subdivision. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE SUBDIVISION AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT NOR ANY OF THEIR RESPECTIVE PARTNERS, OWNERS, EMPLOYEES, AGENTS, MEMBERS OR OFFICERS SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND RESIDENTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL CONTROL COMMITTEE DO NOT MAKE ANY REPRESENTATION OR WARRANTY WITH REGARD TO ANY SECURITY SYSTEM, FIRE PROTECTION SYSTEM, OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO ARCHITECTURAL STANDARDS BULLENNS AND DESIGN GUIDELINES ESTABLISHED BY THE DECLAPANT OR THE ARCHITECTURAL CONTROL COMMITEE. EACH OWNER AND RESIDENT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, THE, BOARD OF DIRECTORS, THE ARCHITECTURAL CONTROL COMMITTEE, THE DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND RESIDENT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, THE ARCHITECTURAL CONTROL COMMITTEE, THE DECLARANT, OR ANY SUCCESSOR DF,CLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, RESIDENT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO SECURITY SYSTEM OR ANY FIRE AND/OR BURGLAR ALARM

SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY. Controlled access services and maintenance of the controlled access system (including, but not limited to, a guard house, guard service and controlled access gates) which may be constructed by Declarant on the Common Properties or on private property. Maintenance may include, but not be limited to, all repairs, rebuilding and cleaning as required. The exact scope of security services shall be further specified by the Board from time to time. In particular, the Board shall be empowered to contract with persons or entities who shall be responsible for the operation and maintenance of the controlled access system, including guard service. Controlled access services contracted for by the Board in accordance with this paragraph shall be paid for out of Association funds.

(e) The services of a person or firm to manage and/or provide consultation to the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.

(g) A policy or policies of insurance ensuring the Association, its officers and directors against any liability to the public or to the Owners (and/or their invitees or tenants) incident to the operation of the Association, including, without limitation, officers' and directors' liability insurance.

(h) Workers' compensation insurance to the extent necessary to comply with any applicable laws.

(i) Such Fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.

(j) Any other materials, supplies, insurance or property owned by the Association, furniture, labor, services, maintenance, repairs, alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

(k) To execute all declarations of ownership for tax assessment purposes and to pay all taxes with regard to the Common Properties and any other property of the Association.

(l) To enter into agreements or contracts with insurance companies, taxing authorities and the holders of mortgage liens on one or more Lots with respect to: (i) taxes on the Common Properties and (ii) insurance coverage of the Common Properties, as they relate to the assessment, collection and disbursement process envisioned in this Declaration.

(m) To borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board sees fit.

(n) To enter into contracts, maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management

of the Association and the Common Properties, expressly including the power to enter into management and maintenance contracts.

(o) If, as, and when the Board, in its sole discretion, deems necessary it may take action to protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements.

(p) To make reasonable rules and regulations for the operation and use of the Common Properties and to amend them from time to time, provided that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Members, or, with respect to a rule applicable to less than all of the Property, by a majority of the Members in the portions affected.

(q) Subsequent to incorporation, to make available to each Owner, one hundred twenty (120) days after the end of each year, an unaudited annual report.

(r) Pursuant to Article VII herein, to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency.

(s) If, as and when the Board, in its sole discretion, deems necessary, it may take action to enforce the provisions of this Declaration, the provisions of any Supplementary Declaration, the provisions of any additional restrictive covenants placed upon all or any part of the Property, and any rules made hereunder, and to enjoin and/or seek damages from any Owner for violation of such provisions or rules.

7.02 Board Powers. From and after the date on which the title to the Common Properties has been conveyed to the Association, the Board shall have the exclusive right to contract for all goods, services and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

7.03 Maintenance Contracts and Other Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with the Declarant, any person or company related to or affiliated with Declarant, and any Owner for the performance by the Association of services for and on behalf of the Board and the Association, with such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association. The Board shall also have the power and authority to enter into any contract that that the Board determines will benefit the Association, the Owners or the Subdivision, with such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association. Without limiting the generality of the foregoing, the Board shall have the power to enter into a contract with any public or private person, company or entity to obtain water service, sewer service, waste disposal service and any other service for the Owners and the Subdivision.

7.04 Liability Limitations. No Member, officer of the Association or member of the Board of Directors shall be personally liable for debts contracted for, or other-wise incurred by the Association, or for a tort of another Member, whether such other Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor any of their respective partners, directors, officers,

agents, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same.

The Common Properties may be subject to storm water overflow, natural bank erosion and other natural or man-made events or occurrences to extents which cannot be defined or controlled. Under no circumstances shall Declarant nor the Association nor any of their respective partners, members, employees, officers, directors, or agents ever be held liable for any damages or injuries of any kind or character or nature whatsoever resulting from: (i) the occurrence of any natural phenomena; (ii) the failure or defect of any structure or structures situated on or within the Common Properties; and (iii) any act, conduct, omission or behavior of any individual, group of individuals, entity or enterprise occurring on, within or related to the Common Properties.

7.05 Reserve Funds. The Board may establish reserve funds, for such purposes as may be determined by the Board, which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and are not net income to the Association. Expenditures from any such fund will be made at the direction of the Board. The reserve fund provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the subdivision, and maintaining the subdivision and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors. Capital expenditures from this fund may include by way of example, but not be limited to, private street and street light repair, drainage improvements and improvements to bodies of water or other repair of major damage to the Common Properties not covered by insurance.

ARTICLE VIII.

INSURANCE; REPAIR AND RESTORATION

8.01 Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, the improvements thereon and appurtenant thereto, for the interest of the Association and of all Members thereof, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and use to the subject property. Such insurance may include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier.

(b) Public liability and property damage insurance on a broad form basis.

(c) Fidelity bond for all directors, officers and employees of the Association having control over the receipt or the disbursement of funds in such penal sums as shall be determined by the Association in accordance with its Bylaws.

(d) Officers and directors liability insurance.

8.02 Insurance Proceeds. Proceeds of insurance shall be disbursed by the insurance carrier to the Association or contractors designated by the Association as the Board of Directors may direct. The Association shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties.

8.03 Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article V of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to repair or replace any loss or damage for which an Owner is bound hereunder, such Owner shall, as such Owner's undivided responsibility, pay any excess costs of repair or replacement.

8.04 Mortgagee Protection. There may be attached to all policies of insurance against loss or damage by fire and other hazards, a mortgagee's or lender's loss payable clause; provided, however, that amounts payable under such clause to the mortgagee may be paid to the Association to hold for the payment of costs of repair or replacement, subject to the provisions of Section 8.02 hereof. The Association shall be responsible to hold said monies or to collect additional monies if the proceeds are insufficient to pay for the cost of all repairs or replacements and shall ensure that all mechanics', materialmen's and similar liens which may result from said repairs or replacements are satisfied.

8.05 Destruction of Improvements on Individual Lots. In the event of destruction (total or partial) to the improvements on any individual Lot due to fire or any other cause each Owner covenants and agrees to clear and remove any and all debris resulting from such damage within two (2) months after the date that the damage occurs and to complete all necessary repairs or reconstruction of the damaged improvements within one (1) year after the date that the damage occurs.

ARTICLE IX.

USE OF COMMON PROPERTIES

The Common Properties may be occupied and used as follows:

9.01 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Properties which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increasing of any insurance carried by the Association. No waste shall be committed in or on the Common Properties.

9.02 Damage to the Common Properties. Each Owner shall be liable to the Association for any damage to the Common Properties caused by the negligence or willful misconduct of the Owner or such Owner's family, guests, pets, tenants or invitees.

9.03 Rules of the Board. All Owners and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be able to the Association for all damages and costs, including reasonable attorney's fees, incurred by the Association in connection therewith.

ARTICLE X.

ADDITIONS TO PROPERTY SUBJECT TO THIS DECLARATION

10.01 Additions to Property. Additional land(s) may become subject to this Declaration in any of the following manners:

(a) The Declarant may add or annex additional real property (including residential and commercial property) to the scheme of this Declaration by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions ("Supplemental Declaration") which shall extend the scheme of the Covenants and Restrictions of this Declaration to such property; provided, however, that such Supplementary Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration (including without limitation modification and amendment of Exhibit "A") as may be necessary to reflect the different character, if any, of the added properties and as are not materially inconsistent with this Declaration in a manner which adversely affects the plan of development of this Declaration.

(b) In the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of the majority of the outstanding votes within each voting class of the Association.

(c) Any additions made pursuant to Paragraphs (a) and (b) of this Section 10.01, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added.

(d) The Declarant shall have the right and option, without the joinder, approval or consent of any person(s) or entity(ies), to cause the Association to merge or consolidate with any similar association then having jurisdiction over real property located (in whole or in part) within one mile of any real property then subject to the jurisdiction of the Association. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association 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 association may administer the Covenants and Restrictions established by this Declaration within the Properties together with the covenants and restrictions established upon any other properties as one scheme.

ARTICLE XI.

GENERAL PROVISIONS

11.01 Enforcement. The Association, the Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, including the right of the Association to recover reasonable attorney's fees in connection with the enforcement hereof. Failure by the Association, by the Declarant 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.

The Association, the Declarant or the Owner seeking to enforce these Restrictions shall first notify the Owner, in writing, of the violation of this Declaration, which has occurred and provide said Owner a reasonable opportunity to remove or correct such violation. If, after being provided adequate notice and a reasonable time to cure the violation, the Owner shall fail or refuse to do so, the Association, the Declarant or the Owner seeking to enforce these Restrictions may proceed with appropriate legal action. If the violation is cured voluntarily or mandatory after the Association, the Declarant or the Owner seeking to enforce these Restrictions has incurred any reasonable expenses for attorney's fees or other costs of pursuing the matter to completion, such fees or other costs of pursuing the matter to completion, such expenses as are reasonably related to the resolution of the dispute including but not limited to fees for consultation, counseling, inspection and correspondence, shall become a charge against the property to attach as a lien in the same manner as provided in Article V. hereof unless paid by the Owner on demand.

The delay, forbearance or failure of enforcement of any restriction herein contained for any violation or proposed or attempted violation of any restriction herein contained shall not constitute a waiver of the right of Declarant, the Association or any Owner to thereafter enforce such restriction as to any subsequent violation or proposed or attempted violation.

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

11.03 Term, Duration and Amendments. The covenants and restrictions of the Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Declarant, or the Owner of any Lot subject to this Declaration, his respective legal representatives, heirs, successors, and assigns, for a term of seventy-five (75) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this declaration may be amended or terminated at any time and from time to time by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment or termination must be properly recorded in Jefferson County, Texas.

11.04 Use of Terms. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

11.05 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

11.06 Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

11.07 Notices to Mortgagees. If a holder of a mortgage on a Lot shall notify the Association of its address and the identity of the Lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by this Declaration.

11.08 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or the Bylaws of the Association shall be determined by the Board of Directors, whose determination shall be final and binding upon all Owners.

11.09 Termination of and Responsibility of Declarant. If Declarant shall convey all of its right, title and interest in and to the Properties and assign all its rights, benefits and obligations as Declarant hereunder to any partnership or partnerships, individual or individuals, corporation or corporations, limited liability company or limited liability companies, or other entity or entities, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

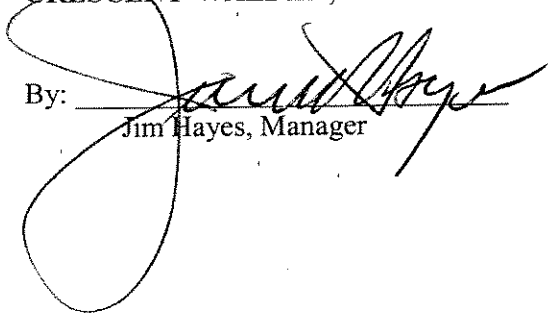
11.10 Joinder of Lienholder. Region's Bank ("Lienholder"), being the holder of a lien on the Property, joins with Declarant in the execution of this Declaration for the purposes of: (a) consenting to and adopting the Plat of the Subdivision, (b) consenting to the grant or dedication by Declarant of all streets and utility and other easements shown and reflected on the Plat, together with all other easements granted or reserved by Declarant in this Declaration, (c) subordinating its lien to all of the aforementioned easements and easement rights, and (d) subordinating its lien to the restrictions, covenants, and conditions imposed by Declarant on the Subdivision by this Declaration. However, Lienholder joins herein solely as a lienholder and only for the purposes set forth above in this Section, and it does not assume any of the liabilities, duties, covenants, warranties or obligations of Declarant, if any, nor does Lienholder make any warranties, representations, or guaranties, whether express or implied, by execution of this Declaration.

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EXECUTED this 13 day of January, 2006.

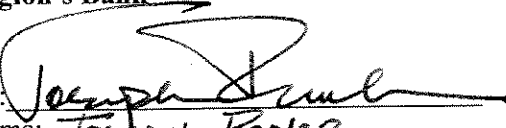
Declarant:

CRESCENT-WALDEN, L.L.C.

By: 
Jim Hayes, Manager

LIENHOLDER:

Region's Bank

By: 
Name: Joseph Proker
Title: Senior Vice President

STATE OF TEXAS §

COUNTY OF JEFFERSON §

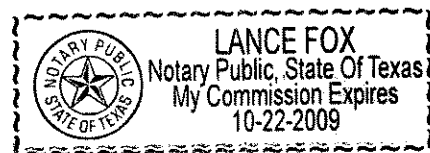
This instrument was acknowledged before me on January 13, 2006, by Jim Hayes, Manager of **CRESCENT-WALDEN, L.L.C.**, a Texas limited liability company.

[Signature]
Notary Public, State of Texas

My Commission Expires:

10-22-09

Lance Fox
(Printed or Typed Name of Notary)



STATE OF TEXAS §

COUNTY OF JEFFERSON §

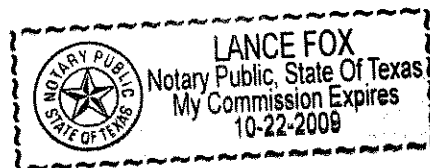
This instrument was acknowledged before me on January 13, 2006, by Joseph Proler, Senior Vice President of **Region's Bank**, on behalf of said entity.

[Signature]
Notary Public, State of Texas

My Commission Expires:

10-22-09

Lance Fox
(Printed or Typed Name of Notary)



AFTER RECORDING RETURN TO:

Lance Fox
Orgain, Bell & Tucker, L.L.P.
P.O. Box 1751
Beaumont, TX 77701

EXHIBIT A

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE CRESCENT ON WALDEN SUBDIVISION

Savannah		Rosemary		Sienna		River Run	
Section I	Relative Factor	Section III	Relative Factor	Section V	Relative Factor	Section VI	Relative Factor
Lot 1	24	Lot 1	14	Lot 1	28	Lot 1	33
Lot 2	16	Lot 2	14	Lot 2	30	Lot 2	31
Lot 3	20	Lot 3	16	Lot 3	28	Lot 3	29
Lot 4	20	Lot 4	13	Lot 4	26	Lot 4	29
Lot 5	16	Lot 5	16	Lot 5	23	Lot 5	30
Lot 6	20	Lot 6	14	Lot 6	24	Lot 6	30
Lot 7	16	Lot 7	11	Lot 7	27	Lot 7	34
Lot 8	20	Lot 8	10	Lot 8	38	Lot 8	35
Lot 9	20	Lot 9	14			Lot 9	34
Lot 10	20	Lot 10	20			Lot 10	46
Lot 11	16	Lot 11	18				
Lot 12	16	Lot 12	14				
Lot 13	16	Lot 13	14				
Lot 14	28	Lot 14	14				
		Lot 15	14				
		Lot 16	14				
		Lot 17	14				
		Lot 18	14				
		Lot 19	14				
		Lot 20	14				
		Lot 21	10				
		Lot 22	9				
		Lot 23	13				
		Lot 24	21				
		Lot 25	13				
		Lot 26	11				
		Lot 27	12				
		Lot 28	15				
		Lot 29	16				
		Lot 30	16				
		Lot 31	13				
		Lot 32	12				
		Lot 33	14				
		Lot 34	14				
		Lot 35	14				