



Declaration of Covenants, Conditions, and Restrictions of Section 9 of Santa Fe Subdivision

This document serves as a partial amendment to the Correction to Declaration of Covenants, Conditions, and Restrictions of Real Property Subject to the Houston El Norte Property Owners Association, Inc. - 5,205.913 acres filed for record under Clerk's File No. 2020001702 of the Official Public Records of Liberty County, Texas (the "CCRs Covering 5,205 acres"). Section 9 of Santa Fe subdivision is a portion of the 5,205.913 acres that was described within the CCRs Covering 5,205 acres. Said CCRs Covering 5,205 acres was a declaration of covenants to encumber the entire 5,205 acres of land that was acquired by Declarant. This document is a more detailed set of covenants that encumbers a platted subdivision known as Santa Fe, Section 9. As portions of the 5,205 acres is developed and platted, then additional specific covenants will be filed for each platted subdivision.

Santa Fe, Section 9 is also part of a Master Association known as the Houston El Norte Property Owners Association, Inc., and it is part of a Master Community described in a Master Declaration with a document entitled Declaration of Covenants, Conditions and Restrictions of Houston El Norte Property Owners Association, Inc. (Master Declaration) filed for record under Clerk's File No. 2020001947 of the Official Public Records of Liberty County, Texas (the "Master Declaration").

Basic Information

Date: November 9, 2020

Declarant: Colony Ridge Development, LLC, a Texas limited liability company
P.O. Box 279
Fresno, Texas 77545

Association: Houston El Norte Property Owners Association, Inc.,
a Texas nonprofit corporation
P.O. Box 1920
Conroe, Texas 77305

Property: Santa Fe, Section 9, according to the map or plat thereof, recorded under Clerk's File No. 2021000088, of the Official Public Records of Liberty County, Texas, which is a subdivision of 551.500 acres of land, being located in the Ann Holshousen Survey, Abstract No. 208 and the David Rankin Survey, Abstract No. 333, being a portion of a 5,793.857 acre tract as recorded under Clerk' File No. 2018-010778, Official Public Records of Liberty County, Texas.

Definitions

"ACC" means the Architectural Control Committee established in this Declaration (also referenced as the "Committee").

“Assessment” means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration.

“Board” means the Board of Directors of the Association.

“Bylaws” means the Bylaws of the Association adopted by the Board, and any amendments thereto.

“Common Area” means all property within the Subdivision not designated as a Lot on the Plat and that has not been accepted for maintenance by the applicable governmental body. Common Area includes only those parts of the subdivision that are set aside by the Declarant and conveyed to the Association. Common Area does not include a reserve designed for commercial use. Declarant reserves the right to designate commercial reserves.

“Covenants” means the covenants, conditions, and restrictions contained in this Declaration, and any amendments thereto.

“Declarant” means Colony Ridge Development, LLC, a Texas limited liability company, and any successor or assign that acquires all unimproved Lots owned by Declarant for the purpose of development or is named as successor/assignee by Colony Ridge Development, LLC in a recorded document.

“Easements” means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

“Governing Documents” means this Declaration and the Bylaws and the certificate of formation, and rules of the Association, as amended.

“Lot” means each tract of land designated as a lot on the Plat, excluding lots that are part of the Common Area.

“Member” means any member of the Association, as described in the Bylaws.

“Owner” means every record Owner of a fee interest in a Lot.

“Plat” means the Plat of Section 9 of Santa Fe as recorded in the real property records of Liberty County, Texas and any replat of or amendment to the Plat made in accordance with this Declaration.

“Residence” means a detached building designed for and used as a dwelling by a Family and constructed on one or more Lots.

“Structure” means any improvement on a Lot (other than a Residence), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

“Santa Fe, Section 9” means the land that is platted as Section 9 of Santa Fe in Liberty County, Texas, according to the Plat.

“Subdivision” means the part of the Property covered by the Plat and any additional property made subject to this Declaration.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant imposes the Covenants on the Subdivision, and such Covenants shall apply to and become effective for the Subdivision when the Plat for such Section has been completed and approved by the appropriate governmental authorities. It is the Declarant’s intent that these Covenants will be imposed on this Subdivision when a plat is approved by the appropriate governmental authorities. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.

2. Annexation of Additional Property. On written approval of the Board and not less than a majority of the Members that are present at a meeting called for this purpose, the Declarant or Association who desires to subject additional property to this Declaration may record an annexation agreement that will impose this Declaration and the Covenants on that additional property.

3. Merge with City or another Property Owners Association (POA) or a legislative special district. On written approval of the Board and not less than a majority of the Members that are present at a meeting called for this purpose, the Declarant or Association may merge with another POA or a municipal entity or city or legislative special district. The intent is to allow broad and consistent enforcement of rules/restrictions and to allow better costs for services and development of this subdivision and other subdivisions in the area that are similar to this subdivision. The new POA or City or district would collect the assessments, enforce the rules/restrictions, maintain common areas, and perform part or all POA functions. The new POA or City may become the governing authority and the current Association for this Subdivision could be properly dissolved. The POA and the new entity may agree to transfer all or a portion of the duties to the new entity and both the POA and the new controlling entity would be sharing the management of the Subdivision.

Municipal Management District. Declarant has created a Municipal Management District. Owners understand that this special district is in effect that covers this subdivision to promote public improvement projects, services and commerce in the area. A special sales tax and ad valorem property tax for said District is being imposed on the property in the Subdivision.

4. The Covenants are necessary and desirable to establish a uniform plan for the

development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

5. Each Owner and occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. Declarant reserves the right to grant easements for the benefit of the Subdivision to continue the development of the Subdivision as is necessary.

3. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

4. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement.

5. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

6. Buffer Zone. There is a 150 foot circular Buffer Zone around any water well or sewer site as shown on any Plat for the Subdivision. Certain restrictions and limitations will apply within the 150 foot Buffer Zone identified on any Plat or amendment to said Plat.

C. Use and Activities

1. *Permitted Use.* A Lot may be used for one single family residence and to be used by one single family.

2. *Permitted Use.* A Lot may not be used for commercial use. Declarant reserves the right to designate commercial reserves. Any reserve or Lot within the Subdivision may be designated by the Declarant to allow for commercial use; any such reserve or Lot designated for commercial use shall be considered a Lot and therefore subject to these Declarations Declarant will be allowed to create and enforce reasonable guidelines about the construction and use within commercial reserves, such as construction quality standards, ACC approval, lighting, opaque fencing, parking, shared easements, green belts, and green belt crossings.

3. *Prohibited Activities.* Prohibited activities are -

- a. any activity that is otherwise prohibited by the Governing Documents;
- b. any illegal activity;

- c. any nuisance, noxious, or offensive activity;
- d. any dumping of rubbish;
- e. any exploration for or extraction of minerals;
- f. any loud noise that affects the use or enjoyment of neighbors;
- g. any usage of part of property to gain access (easement use) to an adjoining property outside of the Subdivision without Declarant approval;
- h. interfering with an existing drainage pattern; and
- i. any hunting and shooting.

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

5. *Storage and Repair of Vehicles.* No boat, boat trailer, boat rigging, trailer, truck larger than a one ton pick-up (including commercial vans), bus, inoperable automobile, or camper or RV shall be parked or kept in the street, in front of any Lot, or on any Lot unless such vehicle is stored within a garage or stored in the rear or side of the residence. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets. An inoperable vehicle shall not remain in driveways or streets in excess of twenty-four (24) hours. All ATV, motorcycles, mower, tractor, or other small engine shall not be parked or kept on any Lot unless such vehicle is stored within a garage or in the rear or side of the residence.

6. *Animals.* Chickens and other livestock may be raised to meet the needs of an individual resident as long as there is not an external negative impact on neighbors. Animals raised for 4H or other educational purposes are allowed as long as there is not an external negative impact on neighbors. Owner may not have more than two (2) dogs or domestic pets. No owner may have a Pitbull or Rottweiler in the Subdivision. All animals must be contained by a fence or by a leash at all times. The Board or ACC may promulgate rules and prohibitions and limits on all animals.

7. *Fires.* Fires must be attended until the fire is completely extinguished. All lot owners are subject to service fees, hourly fees, equipment fees and/or a \$1,000.00 fine if fire extinguishing services are needed or if a fire is left unattended. Check with local authorities for

burn bans or other burn restrictions. Owner agrees to follow all local and state laws concerning fires. No fire may go beyond the boundary lines of your lot. No outdoor burning of household trash shall be permitted on any Lot.

8. *Maintenance of Lot; Landscaping.* Owners shall regularly mow any occupied Lots such that the grass and other vegetation are never permitted to exceed six (6) inches in height. The Lot Owner shall maintain the Lot all the way to any street. In the event that a Lot is not occupied, then the Owner is not required to mow.

9. *Maintenance of Ditches.* Owners shall clean and maintain all utility and drainage easements that are located within the boundaries of the Lot.

10. *Vegetation Reserves.* Certain reserves within the Subdivision are restricted to maintain the natural vegetative state and create a buffer between certain areas within the Subdivision. If an area is designated as a Vegetation Reserve, then the following restrictions apply:

- a) The sole purpose of the vegetation reserve is to provide a buffer zone or vegetation area between certain areas;
- b) Declarant agrees to keep the reserve unimproved and to retain its natural vegetative condition;
- c) Declarant shall keep the reserve in a natural state as much as possible;
- d) Utilities may go through the reserve (including along crossing roads) with the least amount of impact on disrupting the natural vegetative state of the reserve;
- e) The Declarant has the right to create crossings and/or driveways through the Vegetation Reserves in order to allow future development of the Subdivision and to allow development of future commercial reserves;
- f) Fences shall not be allowed within the reserve;
- g) Declarant will be allowed to remove damaged or dead trees located within the reserve, if said trees are likely to damage adjacent property; and
- h) Declarant has the right to maintain the reserve, including removal of trash and debris.

11. *Driveway limitations on Grand San Jacinto Drive.* It is prohibited for all residential lots with a frontage towards Grand San Jacinto Drive and with frontage on a secondary road/street, to build a driveway or entry towards Grand San Jacinto Drive.

D. Construction and Maintenance Standards

1. *Lots*

a. *Consolidation of Lots.* An Owner of adjoining Lots, with Declarant approval or by consent of the Board, may consolidate those Lots into one site for the construction of one single family residence. The adjoining lots once approved shall then be considered one Lot for assessments and for voting and for any other issues addressed by this document.

b. *Subdivision Prohibited.* No Lot may be further subdivided without Declarant approval.

c. *Easements.* No easement in a Lot may be granted without Declarant approval.

2. *Culverts.* An Owner of a Lot must follow proper procedures for installation of culverts, which includes installation by a contractor selected by Declarant or installation by Liberty County.

3. *Permits.* An Owner of a Lot must secure utility, building, and other required permits before construction on any lot. Declarant has the right to request and verify that all necessary permits have been secured.

4. *Future Mobile Home Designations.* The Declarant will designate certain lots as lots allowing a mobile home or a permanent home (the "Mobile Home Lots") and Declarant will also designate certain other lots as lots allowing only a permanent home (the "Non Mobile Home Lots"). Many of the lots in the Subdivision do not have a designation at this time (the "Remaining Lots"). The Declarant reserves the unilateral right to designate the Remaining Lots as Non Mobile Home Lots or Mobile Home Lots. In the event that a Remaining Lot does not have a designation, then said Lot will be treated as a Mobile Home Lot until such time that Declarant makes a designation.

5. *Lots Prohibiting Mobile Homes.* "Non Mobile Home Lots" will be defined as follows and will be subject to the following additional restrictions:

- a. No mobile homes, manufactured homes or modular homes will be permitted;
- b. Earth tone and/or muted color (no neon or bright colors) on exterior of Residence and the exterior must be a uniform color. The predominant exterior materials of the main residential structure, garage, ancillary buildings or other structures, whether attached or detached, shall be masonry, brick, stucco, stone, wood or fiber-cement siding. No single-family construction, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property;
- c. Residence cannot be placed on beams, but must be on a slab. The presence of skirting does not create an exception to this restriction;
- d. All non mobile home residences shall contain not less than one thousand two hundred (1,200) square feet unless otherwise approved by the Committee. Any Residence or Structure requires approval of the Board before construction begins. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness;
- e. Submittal of building plans should include exterior materials, site plan, layout of structure on the Lot, roofing materials, fence, outbuilding, builder name, and exterior colors. Plans should be submitted to the Management Company at the

following address: CH&P Management, LLC, P.O. Box 1920, Conroe, Texas 77305 or other designated management company or address;

- f. Any structure prior to being placed on these lots must meet all requirements and must be approved by the Board;
- g. The Board may adopt policies and procedures for reviewing and approving structures;
- h. Each Lot shall be used only for single-family residence purposes. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed two (2) stories in height, and a private garage for not more than three (3) cars, which structure shall not exceed the main dwelling in height or number of stories;
- i. Outbuildings, whether temporary or permanent, used for accessory, storage or other purposes must be approved by the Architectural Control Committee. The standard, type, quality and color of materials used in the construction of gazebos, storage structures, shade and other structures shall be harmonious with those of the main residence. Outbuildings may not be placed nearer than the rear and side setback lines specified on the plat;
- j. Detached garage and any outbuildings must match the exterior of the Residence;
- k. Satellite dish antennas which are forty inches or smaller in diameter and antennas designed to receive television broadcast signals may be installed, provided that they are installed in conformance with the Architectural Guidelines adopted by the Board. Satellite dish antennas which are greater than forty inches in diameter and other antennas are prohibited;
- l. All clothesline, equipment, garbage cans, service yards, woodpiles, refuse containers, or storage piles and household projects such as equipment repair and construction projects shall be screened by adequate planting or fencing so as to conceal them from view of neighboring lots, streets, parks and public areas. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the lots and not allowed to accumulate thereon;
- m. Driveways must be paved and no pervious material may be used for a driveway;
- n. Boats, campers, RVs, trailers, large trucks, or ATVs must be in rear or side of property as required by the Prior Declaration;
- o. Fences cannot be located within the front setback requirement (25 foot or larger as shown on the Plat). Fences must be of new materials and be made of wood, masonry, stucco, iron ore or other professional material. The construction of installation of walls, fences and/or hedges must meet Architectural Control

Committee guidelines and be in accordance with the provisions of the Prior Declaration. The Owner shall be responsible for maintaining and repairing all walls, fences and hedges located on the Owner's Lot. No fence shall be within the drainage easement or utility easement:

- p. Free-standing play structures such as playhouses, play forts, and swing sets shall be permitted in the back yard. Basketball goals shall be permitted on the driveway but not allowed on streets;
- q. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall eradicate all weeds and keep all grass thereon cut, neatly maintained, and regularly fertilized. Owner, at all times, shall be responsible for prompt removal and replacement of dead or dying trees, bushes and bedding plants. In no event shall owner use, or allow any Lot be used, for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish;
- r. Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot or Common Areas except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely advertising the Lot for sale or rent, and except signs used by Declarant or a Builder to advertise the Lot during the construction and sales period. The Architectural Guidelines approved by the Board may permit school spirit or security signs subject to the conditions relating to size and period of display as contained in the guidelines and subject to obtaining the Architectural Committee's prior written approval;
- s. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lot;
- t. Roofing materials may include composition shingles having a minimum warranty period of 25 years. Composition shingle roofs shall be comparable in color to weathered wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type or classification roofing material shall be permitted only at the sole discretion of the Declarant or its assigns upon written request. Roofs must be in good repair and have a proper pitch;
- u. All front and side yards of each Lot must be covered with grass within 120 days of completion of the construction;
- v. No hedge or shrubbery planting which obstructs sight-lines of streets and roadways shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sight-lines for roadways within the subdivision. The

determination of whether any such obstruction exists shall be made by the Architectural Control Committee, whose determination shall be final, conclusive and binding on all Owners;

- w. No vegetable, herb or similar gardens or plants shall be planted or maintained in the front or side yards of any Lot or in the rear (back) yard of any Lot if visible from any street;
- x. The Architectural Control Committee may from time to time promulgate rules and regulations adopting an approved list of plant life which may be utilized on any Lot, which rules and regulations may prescribe that a minimum dollar amount be established and utilized as the landscaping budget for each Lot; and
- y. The Non-Mobile Home Lots are subject to all other rules stated in this Declaration except to the extent that this Declaration conflicts with the provisions of this Paragraph 5, then this Paragraph 5 will prevail.

Non-Mobile Home Lots Designation: None at this time.

6. *Lots Allowing Mobile Homes.* "Mobile Home Lots" shall be defined as lots that allow mobile homes, manufactured homes, modular homes or homes built on a beam with appropriate skirting. A mobile home may be installed on a Lot with written approval by the ACC. All mobile homes must be kept in good repair and must be maintained in compliance with the standards below to preserve their attractiveness. The ACC will consider if a mobile home is acceptable to be installed based on the following criteria:

- a. Minimum size of 14' x 60' or 840 square feet
- b. skirting must be installed within 45 days of placing mobile home within Subdivision;
- c. Earth tone and/or muted color (no neon or bright colors) on exterior of mobile home;
- d. All siding in place;
- e. No mold visible (from a distance of 50 feet);
- f. No rust visible (from a distance of 50 feet);
- g. Skirting in place with no missing panels (after installation);
- h. Windows and window frames intact and in good condition;
- i. No rotted wood;
- j. No missing trim; and

k. Roof in good condition with no patches visible (from a distance of 50 feet).

7. *Mobile Home Approval.* In order to comply with this inspection criteria, a lot owner shall submit pictures (minimum of 8) to the ACC. The ACC may make the written approval based on review of the photographs; however, the ACC reserves the right to physically inspect the mobile home. The ACC shall act on the requested approval within 30 days, or the request for written approval will be deemed to have been granted. The goal of the ACC is to have mobile homes that fit with the quality and character of the subdivision. Plans should be submitted to the Management Company at the following address: CH&P Management, LLC, P.O. Box 1920, Conroe, Texas 77305 or other designated management company or address.

8. *Outbuildings.* Outbuildings must be kept painted and in a state of good appearance and repair at all times. Outbuildings should be located behind the Residence when possible. No building shall be erected or placed on any Lot that has not been first approved by the ACC. Plans should be submitted to the Management Company at the following address: CH&P Management, LLC, P.O. Box 1920, Conroe, Texas 77305 or other designated management company or address.

9. *House Numbers.* A house number must be placed on each house within four (4) weeks after date of closing or one (1) week of the date that the Owner begins any type of construction.

10. *Fencing.* Architectural Control Committee will publish guidelines to specify the height and type of fencing. The construction or installation of walls, fences and/or hedges must meet Architectural Control Committee guidelines and be in accordance with the provisions of the Declaration. The Owner shall be responsible for maintaining and repairing all walls, fences and hedges located on the Owner' Lot. No fence shall be within the drainage easement or utility easement.

11. *Timing of Construction.* An owner is not required to begin construction within any given time period. During the course of actual construction of any permitted structure or improvement thereunder, and provided construction is proceeding with due diligence, the Owner shall have 24 months to complete exterior construction; provided, however, during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of the construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of the other properties within the Subdivision

12. *Temporary Structures.* The following rules apply to temporary structures located on a Lot as described below.

a) Temporary structures shall be allowed only during the initial 24 month construction period.

b) Temporary structures shall only be allowed if construction is proceeding with reasonable due diligence.

c) Temporary structures shall not be allowed on any Lot unless approved by the ACC. Plans should be submitted to the Management Company at the following address: CH&P Management, LLC, P.O. Box 1920, Conroe, Texas 77305 or other designated management company or address.

d) Temporary structures shall mean any structure that is mobile or temporary in nature and includes but is not limited to travel trailer, camper, vehicle, shed or other portable building.

E. Architectural Control Committee

1. Establishment.

a. Purpose. The ACC (the "Committee") is established as a committee of the Association to assist the Association in ensuring that all Residences, Structures, and landscaping within the Subdivision (including reserves) are aesthetically compatible and conform to the Governing Documents. The Declarant or Association may delegate this authority to a Management Company.

b. Members. The ACC consists of at least 1 person but no more than 3 persons appointed by the Board. The Board may remove or replace any ACC member at any time.

c. Term. ACC members serve for a term of 2 years unless removed by the Board. The Board has the power to stagger the terms of the ACC so that the ACC can maintain continuity.

d. Standards. The Board is responsible to adopt standards and requirements that do not conflict with the other Governing Documents to carry out its purpose. The ACC is responsible to review plans and assure compliance with the standards promulgated by the Board. These standards are not effective unless recorded with the county clerk. On request, Owners will be provided a copy of any standards.

2. Plan Review.

a. Required Review by ACC. No Residence, Mobile Home or Structure may be erected on any Lot or Reserve, or the exterior altered unless plans, specifications, and any other documents requested by the ACC have been submitted to and approved by the ACC in writing. The plans and specifications must show exterior design, height, building materials, color scheme, location of the Residence Mobile Home or Structure depicted horizontally and vertically, and the general plan of landscaping, all in the form and detail the ACC may require.

b. Procedures

i. Complete Submission. Within 20 days after the submission of plans and specifications by an Owner, the ACC must notify the submitting Owner of any other

documents or information required by the ACC. In the absence of timely notice from the ACC requesting additional documents or other information, the submission is deemed complete. Plans should be submitted to the Management Company at the following address: CH&P Management, LLC, P.O. Box 1920, Conroe, Texas 77305 or other designated management company or address.

ii. Deemed Approval. If the ACC fails to give notice of disapproval of the plans and specifications to the submitting Owner within 30 days after complete submission, the submitted plans and specifications are deemed approved.

c. Appeal. An Owner may appeal any action of the ACC to the Board. The appealing Owner must give written notice of the appeal to the Board, and if the appeal is by an Owner who is not the submitting Owner, the appealing Owner must also give written notice to the submitting Owner within 5 days after the ACC's action. The Board shall determine the appeal within 30 days after timely notice of appeal is given. The determination by the Board is final.

d. Records. The ACC will maintain written records of all requests submitted to it and of all actions taken. The Board will maintain written records of all appeals of ACC actions and all determinations made. Any Owner may inspect the records of the ACC and Board, but no Owner may inspect or copy the interior floor plan or security system design of any other Owner.

3. *Variances.* Where specifically granted the power by the provisions hereof, the Committee shall have the right, exercisable at its sole discretion, to grant variances to certain restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision. The Committee may require the submission to it of such documents and items as it shall deem appropriate in connection with its consideration of a request for a variance. If the Committee shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the property relative to which such variance has been requested, describing the applicable restriction(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of disapproval from the Committee or (b) failure by the Committee to respond to the request for variance. The Committee shall have no authority to grant any variance except in the instances expressly provided herein.

4. *Non-Liability For Committee Action.* No member of the Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed an approval of, any building or improvement from the standpoint of safety, whether structural or otherwise, or conformance with existing building codes, governmental laws or regulations. Furthermore, no member of the Committee, any officer or member of the Board of Directors or the Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such individuals were acting on behalf of the Association, the Committee, the Board of Directors, or

otherwise. Finally, neither Declarant, the Association, the Board of Directors, or the Committee, or their officers, agents, members 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.

F. Association

1. *Establishment and Governance.* The Houston El Norte Property Owners Association, Inc. is established by filing its certificate of formation and is governed by the certificate, the Declaration, and the Bylaws. The Association has the powers of a nonprofit corporation and the property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

2. *Rules.* The Board may adopt rules that do not conflict with law or the other Governing Documents. On request, Owners will be provided a copy of any rules.

3. *Membership and Voting Rights.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Association has two classes of voting Members:

a. *Class A.* Class A Members are all Owners, other than Declarant. Class A Members have one vote per Lot. When more than one person is an Owner, each is a Class A Member, but only one vote may be cast for a Lot.

b. *Class B.* The Class B Member is Declarant and has three votes for each Lot owned. The Class B Membership ceases and converts to Class A Membership when Declarant transfers control of the subdivision to the Association.

4. *Neighborhood Committee.* A committee of 1 to 5 Owners shall be elected annually by the Owners in the Subdivision (the "Neighborhood Committee", sometimes referred to as an Advisory Committee), which Neighborhood Committee shall act as a liaison for the Subdivision to the Association Board. The 1 to 5 Owners receiving the most votes at the meeting where such election is held shall be the Neighborhood Committee members for the following year, or until replaced by subsequent vote.

G. Assessments

1. *Authority.* The Association may levy Assessments to promote the recreation, health, safety, and welfare of the residents in the Subdivision, to fund operating expenses of the Association, and to improve and maintain the Common Areas.

2. *Personal Obligation.* An Assessment is a personal obligation of each Owner when the Assessment accrues.

3. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant and assigned to the Association. By acceptance of a

deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to secure Assessments.

4. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.

5. *Regular Assessments*

a. *Rate.* Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses of the Association. Until changed by the Board, the Regular Assessment is \$120.00.

b. *Changes to Regular Assessments.* Regular Assessments may be changed annually by the Board.

c. *Collections.* Regular Assessments will be collected yearly in advance, payable on the first day of January of each year. All assessments are due by January 31st of each year. The Board intends to send a notice of the dues owed each year; however, lack of notice of an invoice does not excuse payment of dues and the accrual of interest, late charges, and legal fees. During the first year when a lot is purchased from Declarant, the Association will prorate the amount of the Regular Assessment based on the purchase date.

6. *Special Assessments.* In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefitting the Subdivision but requiring funds exceeding those available from the Regular Assessments. Any Special Assessment must be approved in accordance with the Bylaws. Written notice of the terms of the Special Assessment will be sent to every Owner.

7. *Fines.* The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by law. The Board may adopt a Deed Restriction Enforcement Policy and charge fines pursuant to that policy.

8. *Subordination of Lien to Mortgages.* The lien granted and reserved to the Association is subordinate to any lien granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure.

9. *Delinquent Assessments.* Any Assessment not paid by the due date is delinquent.

10. *Lots Owned By Declarant.* **Lots Owned By Declarant and/or the Association. Notwithstanding any provision to the contrary in this Declaration, no annual or special assessments or charges shall accrue, be charged, or assessed against Lots owned by the Declarant or Association (this includes any dues, interest, late charges, expenses, or legal fees accrued on an account while a Lot is owned by someone other than the Declarant or Association), whether such Lots are unsold Lots remaining in Declarant's or Association's inventory or have been previously sold or conveyed and subsequently foreclosed or**

repossessed in any manner by Declarant or Association (including Deed in Lieu of Foreclosure). This exemption remains intact even after the Declarant transfers control of the subdivision to the Association. This right may be assigned by Declarant.

H. Remedial Rights

1. *Late Charges and Interest.* A late charge of \$20.00 is assessed for each year that dues are not received by the Association by January 31st. Delinquent Assessments accrue interest at the rate of 10 percent per year. The Board may change the late charge and the interest rate.

2. *Costs, Attorney's Fees, and Expenses.* The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

3. *Judicial Enforcement.* The Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Association's lien, or enforce or enjoin a violation of the Governing Documents. An Owner may bring an action against another Owner to enforce or enjoin a violation of the Governing Documents.

4. *Remedy of Violations.* The Association may access an Owner's Lot to remedy a violation of the Governing Documents.

5. *Suspension of Other Rights.* If an Owner violates the Governing Documents, the Association may suspend the Owner's rights under the Governing Documents in accordance with law until the violation is cured, provided, however, that the right of an Owner to run for a position on the Board shall not be limited except as provided by law.

6. *Damage to Property.* An Owner is liable to the Association for damage to Common Areas caused by the Owner or the Owner's family, guests, agents, independent contractors, and invitees in accordance with law.

I. Common Area

1. *Common Area Easements.* Each Member has an easement in and to the Common Area, subject to the right of the Association to -

a. charge reasonable admission and other fees for the use of recreational facilities situated on the Common Area, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;

b. suspend a Member's rights under the Governing Documents;

c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and

d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of a majority of the Members that are actually present (or by Proxy) at a meeting.

2. *Permitted Users.* A Member's right to use and enjoy the Common Area extends to the Member's family, guests, agents, and invitees, subject to the Governing Documents.

3. *Unauthorized Improvements in Common Area.* A Member may not erect or alter any Structure on, or clear, landscape, or disturb, any Common Area except as approved by the Board.

J. General Provisions

1. *Term.* This Declaration runs with the land and is binding in perpetuity.

2. *No Waiver.* Failure by the Association or an Owner to enforce the Governing Documents is not a waiver.

3. *Corrections.* The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.

4. *Amendment.* This Declaration may be amended unilaterally and solely in the discretion of the Declarant by a signed written statement at any time before the Control Transfer Date. The Control Transfer Date shall be defined as the date at which Declarant has transferred/sold more than 99% of the total acreage of land included within all real property subject to the control of the Association. After the Control Transfer Date, this Declaration may be amended at any time by a majority vote of the members. An instrument containing the approved amendment will be signed by the Association and recorded.

5. *Conflict.* This Declaration controls over the other Governing Documents.

6. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

7. *Notices.* Any notice required or permitted by the Governing Documents must be in writing. To the extent required by law, notices regarding remedial rights must be given by certified mail, return receipt requested. All other notices may be given by regular mail. Notice is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, and addressed to the last known address. Unless otherwise required by law or the Governing Documents, actual notice, however delivered, is sufficient.

