

**COPY**

99-R0005250

Filed for Record in:  
SMITH COUNTY, TEXAS  
JUDY CARNES, COUNTY CLERK

On Feb 10 1999  
At 3:39pm

Deputy - Janis Farrell

**BAKER PLANTATION  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS**

February 10, 1999

**BAKER PLANTATION  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
RECITALS.....	1
ARTICLE 1 - DEFINITIONS.....	1
ARTICLE 2 - PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO.....	4
ARTICLE 3 - PROPERTY RIGHTS.....	4
Section 3.1    Owners' Common Property Easements .....	4
Section 3.2    Delegation of Use.....	5
Section 3.3    Owners' Common Road Easements .....	5
Section 3.4    Richbourg Easement .....	6
Section 3.5    Conveyance of Common Property .....	6
ARTICLE 4 - OWNER'S ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS.....	6
Section 4.1    Qualification for Membership.....	6
Section 4.2    Classes of Membership .....	6
Section 4.3    Approved by Voting.....	7
ARTICLE 5 - ASSESSMENTS.....	7
Section 5.1    Purpose of Assessments.....	7
Section 5.2    Creation of the Lien and Personal Obligation of Assessments .....	7
Section 5.3    Maximum Annual Assessment .....	8
Section 5.4    Special Assessments .....	8
Section 5.5    Uniform Rate of Assessment; Unimproved Lots.....	8
Section 5.6    Date of Commencement of Annual Assessments; Due Dates .....	8
Section 5.7    Association Certificate.....	9
Section 5.8    Effect of Nonpayment of Assessments; Remedies of the Association .....	9
Section 5.9    Subordination of the Lien to Mortgages .....	9
Section 5.10   Exempt Property .....	9
Section 5.11   Reserves .....	10
Section 5.12   Parcel Assessments .....	10
Section 5.13   Failure to Give Notice or Revise Budget.....	10
Section 5.14   Real Estate Taxes.....	10
Section 5.15   Advances by Declarant .....	10

	<u>Page</u>
ARTICLE 6 - ARCHITECTURAL CONTROL.....	11
Section 6.1    General Provisions .....	11
Section 6.2    Composition of the ARB .....	11
Section 6.3    ARB Guidelines .....	11
Section 6.4    Power and Duties of the ARB .....	12
Section 6.5    Procedure for Approval of Plans.....	13
Section 6.6    Construction Period .....	13
Section 6.7    Limitations .....	13
ARTICLE 7 - USE RESTRICTIONS AND MAINTENANCE OBLIGATIONS FOR LOTS.....	14
Section 7.1    Residential Uses.....	14
Section 7.2    Antennas and Other Devices.....	14
Section 7.3    Clothes Drying Area .....	14
Section 7.4    Nuisances .....	14
Section 7.5    Signs.....	14
Section 7.6    Energy Conservation.....	14
Section 7.7    Window Coverings .....	14
Section 7.8    Pets and Animals.....	15
Section 7.9    Oil and Mining Operation.....	15
Section 7.10    Lawful Use.....	15
Section 7.11    Repair and Parking of Vehicles .....	15
Section 7.12    Burning of Construction Debris.....	15
Section 7.13    Additional Use Restrictions .....	15
Section 7.14    Garbage and Trash Containers.....	16
Section 7.15    Window Air Conditioners.....	16
Section 7.16    Water Supply and Sewage .....	16
Section 7.17    Fuel Storage Tanks.....	16
Section 7.18    Soliciting.....	16
Section 7.19    Trees.....	16
Section 7.20    Minimum Square Footage.....	16
Section 7.21    Setback Lines .....	16
Section 7.22    Pools.....	16
Section 7.23    Maintenance Required and Failure to Maintain.....	16
Section 7.24    Prohibition on Mobile Homes/Temporary Improvements.....	17
ARTICLE 8 - MORTGAGEE PROTECTION.....	17
Section 8.1    Introduction.....	17
Section 8.2    Known Mortgagees .....	17
Section 8.3    Eligible Mortgagees .....	17
Section 8.4    Mortgagee Rights.....	17
Section 8.5    Insurance Policies .....	18

	<u>Page</u>
ARTICLE 9 - INSURANCE, CONDEMNATION AND RECONSTRUCTION.....	19
Section 9.1    Damage to or Condemnation of Common Property .....	19
Section 9.2    Damage to or Condemnation of the Parcels.....	19
Section 9.3    Damage to Common Property Due to Owner Negligence .....	19
Section 9.4    Insurance .....	20
Section 9.5    Liability Insurance for Board of Directors .....	21
ARTICLE 10 - EASEMENTS .....	21
Section 10.1    Utility Easements .....	21
Section 10.2    Declarant's Easement to Correct Drainage .....	21
Section 10.3    Easement for Unintentional Encroachment .....	21
ARTICLE 11 - MAINTENANCE RESPONSIBILITIES.....	22
Section 11.1    Owner Maintenance Responsibility .....	22
Section 11.2    Enforcement of Owner Maintenance Responsibility .....	22
Section 11.3    Association Maintenance Obligations .....	22
Section 11.4    Optional Services .....	23
Section 11.5    Parcel Landscaping and Maintenance .....	24
Section 11.6    Limited Access/Roving Patrols.....	25
ARTICLE 12 - LAND AND WATER RIGHTS .....	25
Section 12.1    Ownership of Water Resources.....	25
Section 12.2    Maintenance of Water Resource Embankments and Water Resources Bottoms.....	25
Section 12.3    Improvements on Water Resources .....	25
Section 12.4    Easements .....	26
Section 12.5    Water Resources Use Restrictions and Covenants .....	26
Section 12.6    Indemnification .....	27
ARTICLE 13 - GENERAL PROVISIONS.....	27
Section 13.1    Enforcement .....	27
Section 13.2    Severability .....	27
Section 13.3    Term .....	27
Section 13.4    Amendment.....	27
Section 13.5    Amendments and Modifications .....	28
Section 13.6    Notices .....	28
Section 13.7    Interpretation; Headings.....	28
Section 13.8    Gender and Number .....	28
Section 13.9    Legal Fees .....	28
Section 13.10    Governing Law .....	28
Section 13.11    Assignments.....	28

## EXHIBITS

Exhibit "A"	Legal Description
Exhibit "B"	ARB Guidelines
Exhibit "C"	Plat

**BAKER PLANTATION  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, AND EASEMENTS**

THIS DECLARATION is made on the date hereinafter set forth jointly by **BAKER PLANTATION JOINT VENTURE**, a Texas joint venture (the "Declarant").

RECITALS:

Declarant is the owner of certain land located in Smith County, Texas, which is more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property"). Declarant desires to maintain the beauty of the Property to assure high quality standards for the enjoyment of the Property and to promote the recreational interest, health, safety and social welfare of each owner of a portion of the Property.

A. Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, and liens of this Declaration to provide for the orderly development of the Property to assure quality standards for the enjoyment of the Property and to promote the quality of life for the residents of the Property.

B. Declarant deems it desirable to create a not-for-profit association to manage the Property. Such Association (as hereinafter defined) shall own, operate, maintain, and administer all the Common Property (as hereinafter defined). The Association shall administer and enforce the covenants, conditions, restrictions, and limitations set forth herein. The Association shall enforce the easements created herein and shall collect and disburse the assessments hereinafter created.

NOW, THEREFORE, Declarant hereby declares that all of the Property described herein shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and 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 1  
DEFINITIONS

Section 1.1 "ARB" shall mean the Architectural Review Board, as established pursuant to Article 6 hereof.

Section 1.2 "ARB Guidelines" shall refer to such guidelines as are approved from time to time by the ARB for submitting applications and obtaining approval for improvements to any Lot and shall set forth such guidelines as are believed appropriate from time to time by the ARB

as being applicable to any such improvements which will be accepted by the ARB. A copy of the ARB Guidelines is attached hereto as Exhibit "B".

Section 1.3 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 1.4 "Assessments" means all assessments provided for in this Declaration, including, but not limited to, Annual Assessments, Special Assessments, and Parcel Assessments.

Section 1.5 "Association" shall mean and refer to the Baker Plantation Owners Association, Inc., a non-profit corporation, its successors, and assigns.

Section 1.6 "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.7 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 1.8 "Common Expenses" shall mean and refer to those items of expense for which the Association is or may be responsible under this Declaration and those additional items of expense approved and adopted in the manner set forth in this Declaration, the Articles, or the Bylaws.

Section 1.9 "Common Roads" shall mean and refer to the roads, including road right-of-ways, whether or not paved, all as depicted on the plat of the Property, which provide ingress and egress to a Lot and shall mean and refer to any and all gates, gate houses, gate systems, or other improvements constructed or placed on, over, under, across, or adjacent to the Common Roads for the purpose of providing limited security to the Property. Title to the Common Roads shall be conveyed to the Association upon completion and, accordingly unless specifically set forth to the contrary, references to the Common Property shall mean and include the Common Roads.

Section 1.10 "Common Property" shall mean and refer to those tracts of land which are deeded to the Association and designed in the deed as "Common Property" and such improvements thereon as are specifically conveyed to the Association. The term "Common Property" shall also include the Common Roads, Water Resources, and any personal property acquired by the Association, if the personal property is designated as "Common Property," as well as certain land not owned by the Association but for which the Association is assigned responsibility. All Common Property is to be designated to and intended for the common use and/or enjoyment of the Owners and their guests, lessees, invitees, and employees subject to any operating rules adopted by the Association and subject to any use rights made or reserved by Declarant or any other party prior to conveyance of such Common Property or the granting of the easements or the designation for Association maintenance.

Section 1.11 "County" shall mean and refer to Smith County, Texas.

Section 1.12 "Declaration" shall mean and refer to this Baker Plantation Declaration of Covenants, Conditions, Restrictions, and Easements applicable to the Property.

Section 1.13 "Declarant" shall mean and refer to Baker Plantation Joint Venture, a Texas joint venture, and its successors and assigns, but only if and to the extent the Declarant specifically assigns rights to the successor or assign and such successor or assign shall specifically assume the obligations of Declarant under the Declaration, Articles and Bylaws. Declarant may assign all or part of its rights on an exclusive or nonexclusive basis in the manner set forth in the assignment.

Section 1.14 "Dwelling Unit" shall mean any single-family residential dwelling constructed on or within any Lot. A Lot shall be deemed unimproved until all improvements being constructed thereon are substantially complete.

Section 1.15 "Lot" or "Lots" shall mean and refer to any plot of land intended as a site for a Dwelling Unit shown upon the Plat. Upon construction of a Dwelling Unit, the term "Lot," as used herein shall include the Dwelling Unit.

Section 1.16 "Member" shall mean and refer to those persons entitled to Class "A" or "B" membership in the Association as provided in this Declaration and Articles.

Section 1.17 "Mortgagee" shall mean and refer to any institutional holder of a first mortgage encumbering a portion of the Property as security for the performance of an obligation; an insurer or guarantor of such mortgage, including without limitation, the Veterans Administration ("VA") or Federal Housing Administration ("FHA") and/or a purchaser or guarantor of such mortgages in the secondary market, including without limitation, Federal National Mortgage Association and Federal Home Loan Mortgage Corporation (collectively referred to as "FNMA") and Governmental National Mortgage Association ("GNMA"), and the Declarant, if it is holding a first mortgage on any portion of the Property.

Section 1.18 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Parcel, but excluding those having such interest in a Parcel merely as security for the performance of an obligation.

Section 1.19 "Plat" shall mean the recorded plat or replat of any subdivision of the Property as further amended or replatted from time to time. A copy of plat is attached hereto as Exhibit "C".

Section 1.20 "Parcel" shall mean a Lot.

Section 1.21 "Property" or "Properties" shall mean and refer to that certain real property described in Exhibit "A" together with improvements thereon.

Section 1.22 "Utilities" shall mean water, sewer, irrigation systems, electricity, gas, and other services and suppliers of services and goods commonly considered, from time to time, as utilities, specifically including cable television, and other communication services; provided,



however, that the inclusion within this definition of a utility service shall not imply that such service will be available to Owners.

Section 1.23 "Water Resources" shall mean and refer to all of the following water management system components which may be located wholly within the Property: lake, water retention areas (if any), swales, and all structures, pipes, conduits and other connectors among any of them.

ARTICLE 2  
PROPERTY SUBJECT TO THIS DECLARATION  
AND ADDITIONS THERETO

Section 2.1 Property. The real property that initially is used and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration consists of the Property.

ARTICLE 3  
PROPERTY RIGHTS

Section 3.1 Owners' Common Property Easements. Subject to the provisions of this Declaration, the rules and regulations of the Association, and any prior use rights granted by the Declarant in the Common Property, every Owner, their successors and assigns and their families and every guest, tenant, and invitee of such Owner is hereby granted a nonexclusive right and easement of ingress and egress and enjoyment in and to Common Property which shall be appurtenant to and shall pass with the title to every Parcel, subject to the following provisions:

(a) The right of the Association to suspend the use rights of the Common Property, except the Common Roads, by an Owner for any period during which any Assessment against his Parcel remains unpaid;

(b) The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer, or grant an easement over all or any part of the Common Property to any public agency, authority, or utility company for the purpose of providing utilities to any portion of the Property and the right of the Board to acquire, extend, terminate or abandon such easement;

(c) The right of the Association to sell, convey, or transfer the Common Property or any portion thereof to any third party other than those described in subsection (b) for such purposes and subject to such conditions as may be approved by a two-thirds (2/3) vote of the Board of Directors;

(d) The right of the Declarant or the Board of Directors to adopt rules and regulations pertaining to the use of the Common Property;

(e) The right of the Declarant or the Board of Directors to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' right therein; and

(f) The right of the Board of Directors to mortgage any or all of the Common Property for the purpose of improvement or repair of the Common Property.

Section 3.2 Delegation of Use. Any Owner may delegate his right of use and enjoyment of the Common Property to the members of his family, his tenants, or contract purchasers who may occupy the Parcel within the Property.

Section 3.3 Owners' Common Road Easements.

(a) In General. It is specifically acknowledged that the Common Roads, which constitute a part of the Common Property, will be conveyed by the Declarant to the Association free and clear of all liens and encumbrances, except taxes and except Declarant's reserved right to install, repair, restore, and maintain all Utility installations, street lighting, and signage, over, under, through, across, and adjacent to the Common Roads. Each Owner, the owner's successors and assigns (but only such assigns as succeed to all of such Owner's interests in a Parcel), Mortgagees, domestic help, delivery, pick-up and fire protection services, police and other authorities of the law, United States mail carriers, representatives of Utilities serving the Property, and such other persons as the Declarant and/or the Association shall designate, are hereby granted a nonexclusive easement for ingress and egress over the Common Roads.

(b) Denial of Use. The Declarant and the Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Declarant or the Association, may create or participate in any disturbance or nuisance on any part of the Property; provided, however, that the Declarant or Association shall not deny an Owner or Mortgagee the right of ingress and egress to any portion of the Property owned by such Owner or mortgaged in favor of such Mortgagee. The Declarant and the Association shall have (i) the right to adopt rules and regulations pertaining to the use of the Common Roads, (ii) the right, but no obligation, from time to time, to control and regulate all types of traffic on the Common Roads, including the installation of gate houses and gate systems, if the Declarant or Association so elects. The Declarant and the Association shall have the right, but no obligation, to control speeding and impose speeding fines which shall become a Parcel Assessment payable by the responsible Owner immediately upon receipt of a written invoice or statement and to prohibit, or not prohibit, use of the Common Roads by traffic or vehicles (including without limitation, motorcycles, "go-carts", three-wheeled vehicles, all terrain vehicles) which in the opinion of the Declarant or the Association would or might result in damage to the Common roads or create a nuisance for the residents, (iii) the right, but no obligation, to control and prohibit parking on all or any part of the Common Roads, and (iv) the right, but not obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree, or other thing, natural or artificial, which is placed or located on the Property, if the

location of the same will, in the opinion of the Declarant or Association, obstruct the vision of a motorist.

Section 3.4 Richbourg Easement. Anything to the contrary herein notwithstanding, the Declarant hereby grants to Vincent J. Richbourg and his wife, Carolyn A. Richbourg ("Richbours") an easement over and through the Common Property for the purpose of fishing on, around, and in the lake described as part of the Water Resources herein. This easement is limited to the Richbours but does include family, friends, guests, or other invitees of the Richbours, provided the Richbours accompany them. This easement will terminate as to each upon death or abandonment. This easement is expressly subject to the covenants and restrictions of this Declaration, including payment of assessments as set out in Article 5 hereof.

Section 3.5 Conveyance of Common Property. The Declarant may convey the Common Property (other than the Common Roads that shall be conveyed as provided above) to the Association at such time as all the planned improvements, if any, are complete; and in the event the Common Property is unimproved then at such time as the Declarant determines, but in all events prior to the termination of the Class B membership. Upon such conveyance, the Association shall assume all obligations of maintenance of the Common Roads, except for the unpaved portions of road right-of-ways abutting Lot. Such conveyance shall be subject to easements and restrictions of record and free and clear of all liens and financial encumbrances other than taxes for the year of conveyance. The Declarant may reserve certain rights to itself for use of the Common Property and/or Common Roads that are not inconsistent with use by the Owners.

ARTICLE 4  
OWNER'S ASSOCIATION;  
MEMBERSHIP AND VOTING RIGHTS

Section 4.1 Qualification for Membership. Every Owner and the Declarant shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Parcel.

Section 4.2 Classes of Membership. The Association shall have two classes of voting membership:

(a) Class A. The Class A Members shall be the Owners (other than the Declarant, as long as Class B membership shall exist). Class A Members shall be entitled to one (1) vote for each Parcel owned. When more than one person holds an interest in any Parcel, all such persons shall be Members; however, the vote for such Parcel shall be exercised as they, among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Parcel.

(b) Class B. The Class B Member shall be the Declarant which shall be entitled to the number of votes equal to (i) the number of Parcels from time to time subject to the Declaration, plus (ii) one (1) vote. The Class B membership shall cease

within ninety (90) days after the first to occur of the following events, at which time Declarant shall become a Class A Member entitled to one (1) vote for each Parcel owned by Declarant:

(i) when the Declarant no longer owns any part of the Property or the Additional Property;

(ii) seven (7) years from the date of recording this Declaration;

(iii) when Declarant, in its sole discretion, elects to transfer control to Class A members; or

(iv) when ninety percent (90%) of the Parcels (calculated as votes or calculated as provided above) in the Property have been conveyed to Owners other than the Declarant.

Section 4.3 Approved by Voting. Whenever in this Declaration a proposed action or issue must be approved by a specified percentage of the vote of the Association such approval may be obtained by:

(a) the specified percentage of Members casting their respective votes to approve such action or issue in person or by proxy at duly noticed and constituted meeting of the Members at which a quorum is present, or

(b) the specified percentage of Members holding all necessary votes for such approval by written consent to approve the action or issue, if so authorized by the Board of Directors.

## ARTICLE 5 ASSESSMENTS

Section 5.1 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the aesthetics, recreation, and limited security of the Owners and residents of the Property; for the improvement, maintenance, and repair of the Common Property, including without limitation the Common Roads; for the operation, management, and administration of the Association; for the establishment of a maintenance, repair, and reserve account; for payment of taxes and insurance on all Common Property; and for such other purposes as are set forth or permitted in this Declaration, the Articles, or Bylaws.

Section 5.2 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Parcel owned within the Property, hereby covenants, and each Owner of any Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) assessments or charges, either monthly, quarterly, or annually as set by the Directors ("Annual Assessment"); (ii) special assessments as set forth in Section 5.4 ("Special Assessments"); and (iii) the assessments

established pursuant to Section 5.12 ("Parcel Assessments") as applicable. Such assessments shall be established and collected as hereinafter provided. The Annual Assessments, Special Assessments, and Parcel Assessments together with interest, costs, and reasonable attorney's fees shall be a charge on the Parcel and shall be a continuing lien upon the Parcel against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Parcel at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share from the grantor.

Section 5.3 Maximum Annual Assessment. For a period of two (2) years immediately following the recording of this Declaration, the Maximum Annual Assessment against a Parcel may be increased each year more than ten percent (10%) above the maximum Assessment for the previous year only by a vote of a two-thirds (2/3) majority of the Board of Directors of the Association.

Section 5.4 Special Assessments.

(a) In General. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, addition, reconstruction, repair, or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) majority vote of the Board of Directors of the Association unless the Special Assessment is required due to the inadequacy of the insurance proceeds or condemnation award to cover the cost of a repair to Common Property (See Section 10.1) wherein no approval shall be required.

(b) Emergency. The Association may also levy a Special Assessment at any time by a majority vote of the Board of Directors for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters that affect the Common Property or Members, including, after depletion of any applicable reserves, any unexpected expenditures not provided by the Association's budget. Any such assessments shall be due and payable at the time and in the manner specified by the Board of Directors.

Section 5.5 Uniform Rate of Assessment; Unimproved Lots.

(a) Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots whether or not a Lot has a Dwelling Unit, and any increase must be applied uniformly to all Lots. In the event that an Owner or his family, guest, or invitees specifically damage the Common Property or such Lot may be subjected to a nonuniform Parcel Assessment for payment of such costs.

Section 5.6 Date of Commencement of Annual Assessments; Due Dates. The Annual Assessments for a Parcel shall commence upon substantial completion of that Parcel. A Parcel

shall be deemed substantially complete and subject to Assessments when the Common Roads necessary to provide access to a particular Parcel have been substantially constructed, Utilities as are intended for use of the Owner thereof are substantially in place and the Owner thereof is able to obtain a building permit therefor. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessment against each Parcel at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The Annual Assessment may be payable annually and the due date shall, at the Association's election, be the first day of the fiscal year unless specifically changed by the Board of Directors of the Association.

Section 5.7 Association Certificate. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments for a specified Parcel have been paid. A properly executed certificate of the Association as to the status of Assessments on a Parcel is binding upon the Association as of the date of its issuance.

Section 5.8 Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lower of the highest rate of interest permitted by the law or eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same. The Association may record a claim of lien of record in the County and thereafter foreclose the claim of lien against the Parcel. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Property or abandonment of his Parcel. The Associations have the authority to set and apply late payment fees for any owner's failure to pay an assessment by the due date provided, however, that such late payment fee shall in no event exceed twenty-five percent (25%) of the amount past due and only if not paid within sixty (60) days of the due date thereof.

Section 5.9 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage held by a Mortgagee. Sale or transfer of any Parcel shall not affect the Assessment lien. However, the sale or transfer of any Parcel pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments that became due prior to such sale or transfer. No sale or transfer shall relieve such Parcel from liability for any Assessment thereafter becoming due or from the lien thereof. Any such delinquent Assessments that were extinguished pursuant to the foregoing shall be reallocated and assessed against all of the Parcels as part of the annual budget.

Section 5.10 Exempt Property. Notwithstanding anything herein to the contrary, the following properties subject to this Declaration shall be exempt from the assessments, charges, and liens created herein: (a) all properties dedicated to, and accepted by, a local public authority or Utility company and serving a public use; (b) all properties owned by a charitable or non-profit organization exempt from ad valorem taxation by the laws of the State of Texas; and (c) all properties owned by the Declarant which have never had a Dwelling Unit constructed thereon.

Section 5.11 Reserves. The Board of Directors shall, at its election, establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Property, including the Common Roads and any gates, gate houses, and Common Roads for the purpose of providing limited security to the Property, which shall be maintained out of the Annual Assessments. This reserve fund shall constitute a portion of the annual budget. In addition, the Board of Directors may establish reserve funds from the Annual Assessments to be held in reserve for:

- (a) major rehabilitation or major repairs;
- (b) for emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss; and
- (c) initial cost, if any, of new service to be performed by the Association.

Section 5.12 Parcel Assessments. In the event that an Owner fails to maintain his Parcel, including, without limitation, landscaping, mowing of vegetation on the unpaved right-of-way in front of the Owner's Parcel or the improvements thereupon as required herein, the Association shall give written notice specifying such failure to the Owner and if the Owner fails to correct such unperformed maintenance within ten (10) days from the Association's written notice, the Association may perform such maintenance and the cost of such shall constitute a Parcel Assessment for which a claim of lien may be filed and enforced.

Section 5.13 Failure to Give Notice or Revise Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year or to give notice thereof shall not constitute a waiver or release in any manner of the Owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined. In the absence of an annual budget or notice of change, each Owner shall continue to pay the Assessment as established for the previous year.

Section 5.14 Real Estate Taxes. In the event the Common Property is taxed separately from Parcels deeded to Owners, the Association shall include such taxes as part of the Annual Assessment. In the event the Common Property is taxed as a component of the value of the Parcel owned by each Owner, it shall be the obligation of each Owner to promptly pay such taxes.

Section 5.15 Advances by Declarant. In the event of a shortfall in collected Assessments to cover expenses of the Association, the Declarant may, but is not obligated to, make advances to cover all or part of such shortfall to the Association to be repaid on such terms as may be agreed by the Association and the Declarant.

ARTICLE 6  
ARCHITECTURAL CONTROL

Section 6.1 General Provisions. No construction, modification, alteration, or improvement of any nature whatsoever, except for interior alterations not affecting the external structure or appearance of any Dwelling Unit or other structure, shall be undertaken on or adjacent to any Lot unless and until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant and the ARB. Improvements or modifications which are specifically subject to architectural approval include without limitation, the construction of the initial structures on a Lot and the painting or alteration of a dwelling (including doors, windows, roof); installation of solar panels or other devices; construction of fountains, swimming pools, Jacuzzis, construction of privacy fences; additions of awnings, shelters, gates, flower boxes, shelves, statues or other outdoor ornamentation, utility enclosures, walkways, sidewalks, walkovers, docks, and all other modifications, alterations or improvements visible from the Common Roads or other Lots.

Section 6.2 Composition of the ARB. The architectural review and control functions of the Declarant shall be administered and performed by the ARB, which shall consist of at least five (5) members who need not be Members of the Association. The Declarant shall have the right to appoint all of the members of the ARB, or such lesser number as it may, in its sole discretion, appoint for so long as it owns any of the Property. Thereafter, members of the ARB as to whom Declarant may relinquish the right to appoint, and all members of the ARB subsequent to termination of the Declarant's control, may be the Board of Directors or may be a committee appointed by, and shall be serving at the pleasure of, the Board of Directors. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors, except that Declarant, to the exclusion of the Board of Directors, shall fill any vacancy created by the death, resignation, removal, or other termination of services of any member of the ARB appointed by Declarant.

Section 6.3 ARB Guidelines. The Declarant has created a set of ARB Guidelines and has sole control of such Guidelines until Declarant no longer owns any of the Property. Subsequent to the termination of the Declarant's control of the ARB, the ARB may recommend to the Board of Directors modifications and/or amendments to the ARB Guidelines. Any modification or amendment to the ARB Guidelines shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors. No Board of Directors' approval of the ARB Guidelines shall be required during the time the Declarant has control of the ARB.



Section 6.4    Powers and Duties of the ARB. The ARB shall have the following powers and duties:

(a) To require submission to the ARB of two (2) complete sets of preliminary and final plans and specifications as hereinafter defined for any improvement or structure of any kind, to be constructed by any person or entity other than the Declarant, including, without limitation, any building, Dwelling Unit, fence, wall, sign, site paving, grading, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object, exterior lighting scheme, or other improvement described in Section 6.1 ("Proposed Improvement"), the construction or placement of which is proposed upon any Parcel or Property. The ARB may also require submission of samples of building materials and colors proposed for use in the Proposed Improvement and may require such additional information as reasonably may be necessary for the ARB to completely evaluate the Proposed Improvement in accordance with the Declaration and the ARB Guidelines;

(b) To approve or disapprove any Proposed Improvement or change or modification thereto, the construction, erection, performance, or placement of which is proposed upon any Parcel or the Property. Subsequent to the transfer of control of the ARB by the Declarant, any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board of Directors within thirty (30) days of such decision for a review thereof. The determination of the Board of Directors upon reviewing any such decision shall be final; provided, however, that during the time the Declarant controls the ARB, determination by the ARB shall be final;

(c) To evaluate each application for the total effect, including the manner in which the Lot is developed. This evaluation relates to matters of judgment and taste that cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a Proposed Improvement might meet individual criteria delineated in this Article and the ARB Guidelines and still not receive approval, if, in the sole judgment of the ARB, its overall aesthetic impact is unacceptable. The approval of an application for one Proposed Improvement shall not be construed as creating any obligation on the part of the ARB to approve applications involving similar designs for Proposed Improvements pertaining to different Parcels;

(d) If any Proposed Improvement as aforesaid shall be changed, modified, or altered without prior approval of the ARB of such change, modification, or alteration, and the plans and specifications therefor, if any, then the Owner shall, upon demand, cause the Proposed Improvement to be restored to comply with the original plans and specifications or the plans and specifications originally approved by the ARB, and shall bear all costs and expenses of such restoration, including costs and reasonable attorney's fees of the ARB, plus applicable sales tax;

(e) In addition, any Owner making or causing to be made any Proposed Improvement or additions to the Property or a Parcel agrees and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors, and assigns, to

hold the ARB, Association, Board of Directors, Declarant, and all other Owners harmless from any liability, damage to the Property, and from expenses arising from the construction and installation of any Proposed Improvement. Owners shall be solely responsible for the maintenance, repair, and insurance of any alteration, modification, or change and for assuring that the Proposed Improvement meets with all applicable governmental approvals, building codes, rules, and regulations. Approval by the Declarant and/or the ARB of a Proposed Improvement shall not constitute a basis for any liability of the members of the ARB, the Association, or Declarant for any reason, including, without limitation, (i) failure of the plans to conform to any applicable building codes or (ii) inadequacy or deficiency in the plans resulting in defects in the improvements; and

(f) The ARB is hereby authorized to make such reasonable charges as it deems necessary to cover the cost of review of the plans and specifications. The ARB may require Owners to post a construction surety bond ("Surety Bond") payable to the Association before construction may commence. The amount of the Surety Bond shall be stated in the ARB Guidelines. The Surety Bond shall be refunded upon completion of the Proposed Improvements if all conditions and requirements of the Declaration, the ARB Guidelines, and the Surety Bond are met. In the event that an Owner fails to abide by the conditions and requirements of the Declaration, the ARB Guidelines, and/or the Surety Bond, the Association may use the Surety Bond to cure any defect. For an example, but not a limitation, the Association may use the Surety Bond to have construction debris removed from the job site if the Owner fails to do so. The posting of the Surety Bond shall not limit the Owner's liability as specified in this Declaration.

Section 6.5 Procedure for Approval of Plans. The ARB shall approve or disapprove the preliminary and final applications for a Proposed Improvement within fifteen (15) days after each has been submitted to it in proper form together with all supporting information. If the plans are not approved within such period, they shall be deemed disapproved. The applications and plans submitted to the ARB shall comply with the ARB Guidelines in effect from time to time, with such variances as are approved by the ARB in its discretion.

Section 6.6 Construction Period. Once commenced, construction must be completed within twelve (12) months, except where such completion is impossible due to strikes, fires, natural emergencies, or natural disasters, or unless waived in writing by the Declarant. During construction of the Proposed Improvement, the Owner shall be required to maintain the Parcel in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Parcel. The ARB may, at its option, establish reasonable hours for construction activities so as to minimize disturbance to Owners of land adjacent to the Parcel under construction. Any damage caused by construction to any adjacent Parcel or Common Property is the responsibility of the Owner who is doing the construction.

Section 6.7 Limitations. Nothing shall be erected, constructed, planted, or otherwise placed in such a position (subsequent to the initial construction of improvements on the Property by Declarant) so as to create a hazard or block the vision of motorists upon any of the common roads, which are part of, adjacent to, or near the Property.

ARTICLE 7  
USE RESTRICTIONS AND MAINTENANCE OBLIGATIONS FOR LOTS

In order to provide for congenial occupancy of the Property and for the protection of the value of the Lots, the use of the Lots shall be in accordance with the following restrictions and conditions so long as the Lots are subject to this Declaration:

Section 7.1 Residential Uses. Lots shall be used for residential living units and for no other purpose, and no business or commercial building may be erected on any Lot and no business may be conducted on any part of any Lot. No time-share ownership of Lots is permitted without Declarant's approval.

Section 7.2 Antennas and Other Devices. No exterior radio or television antenna, satellite dish or other receiving or transmitting device, antenna or aerial, solar panel or other solar collector, windmill, or similar exterior structure shall be placed or erected upon any Lot or affixed in any manner to the exterior of any improvement on such Lot; provided, however, satellite receptor dishes shall be allowed subject to ARB approval, if any.

Section 7.3 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless screened from the view of neighboring Owners and from the street.

Section 7.4 Nuisances. Nothing shall be done or maintained on any Lot or Common Property which may be or become an annoyance or nuisance to any other Lot in the vicinity thereof or to its occupants, or to the Common Property. Any activity on a Lot that interferes with television, cable, or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors and the written decision of the Board of Directors shall be dispositive of such dispute or question.

Section 7.5 Signs. No signs, advertisements, or notice of any type or nature whatsoever shall be placed or displayed on any mailbox, Dwelling Unit, or Lot without the approval of the ARB, in its sole discretion.

Section 7.6 Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearances of such devices will be scrutinized and controlled to assure consistency with neighborhood aesthetics. Request for approval of installation of any type of solar equipment shall be submitted to the ARB and shall be construed only as approved by the ARB.

Section 7.7 Window Coverings. No reflective window coverings or treatments shall be permitted on any building on the Property. All window coverings shall have linings or other treatment so that the exterior appearance of the window appears neutral from the street and further no unsightly objects shall be placed in the windows so as to be visible from the street. The ARB, at its discretion, may control or prohibit other window coverings and treatments not reasonably compatible with aesthetic standards set forth herein.

Section 7.8 Pets and Animals. No animals except common domestic household pets, within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Lot or within the Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance; and no pets will be allowed on the Property other than on the Lot of the Owner of such pets, unless confined to a leash. No pet shall be allowed to run at large and all pets shall be kept within an enclosed area, which must be clean, sanitary, and reasonably free of refuse and waste, all subject to ARB approval. Upon written request of any Owner, the Board of Directors may conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether such animal is making an unreasonable amount of noise, whether an animal is being allowed to run at large, or whether an animal is a nuisance. The decision of the Board of Directors in such matters is conclusive and shall be enforced as other restrictions contained herein. The Association reserves the right to designate specific areas within the Common Property where pets may be walked on leashes by their owners. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels for boarding or operation shall be allowed.

Section 7.9 Oil and Mining Operation. No oil drilling, mining operations, oil refining, quarrying or oil development operations, or tanks, tunnels, mineral excavations or shafts shall be permitted upon, in, or under any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 7.10 Lawful Use. No improper, offensive, or unlawful use shall be made of the Property or any part thereof and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 7.11 Repair and Parking of Vehicles. No commercial or inoperative vehicle shall be parked in the street or in the driveway on any Lot except incidental to construction thereon. No vehicles shall be parked on the street overnight but shall be stored in garages with the doors closed or parked in the driveway. In addition, automobile parking on any Lot shall be limited to a reasonable number of automobiles appropriate to the residential use of the Lot. Only automobiles bearing current license and registration tags, as required pursuant to state law, shall be permissible to be parked on any of the Property. Boats, trailers, campers, and motor homes must be stored in garages. No vehicle repair shall be performed in the driveway unless it is of a short-term duration or repairs that take less than three (3) hours.

Section 7.12 Burning of Construction Debris. Lot clearing debris or Lot maintenance debris shall not be burned or remain on the Lots or Common Property. Construction debris, clearing debris, or pollutants shall not be buried on any Lot or Common Property.

Section 7.13 Additional Use Restrictions. The Board of Directors may adopt such additional use restrictions, rules, or regulations applicable to all or any portion or portions of the Lots and to waive or modify application of the foregoing use restrictions with respect to any Lot as the Board of Directors, in its sole discretion, deems appropriate.

Section 7.14 Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with the rules and regulations adopted by the Board of Directors. No garbage or trash shall be placed elsewhere and no portion of the Property shall be used for dumping refuse.

Section 7.15 Window Air Conditioners. No window air conditioning unit shall be installed in any of the Dwelling Units without the prior approval of the ARB.

Section 7.16 Water Supply and Sewage. No individual well or septic tank will be permitted on any Lot without Declarant's prior written consent.

Section 7.17 Fuel Storage Tanks. No fuel or gas storage tanks shall be permitted on any Lot, except that Owner may maintain a small gas bottle or tank for gas barbecues and fireplaces in an area on his Lot specifically approved by the ARB.

Section 7.18 Soliciting. No soliciting will be allowed at any time within the Property, except by special permission of the Board of Directors.

Section 7.19 Trees. No tree shall be cut or removed from the Property without approval of the ARB, which may be conditioned upon such factors as the Owner's mitigation and overall landscape plans for the Parcel.

Section 7.20 Minimum Square Footage. Each Dwelling Unit shall have a minimum of 3000 heated and air conditioned space of such square footage.

Section 7.21 Setback Lines. No improvement shall be constructed on any Lot in violation of the such setback lines as are established from time to time by the ARB relating to the following: (a) front setback, (b) side setback, and (c) rear setback.

Section 7.22 Pools. All pools, including, without limitation, swimming pools, spas and Jacuzzis, screening, enclosures, housings, equipment housing, and fencing must be approved by the ARB prior to any construction.

Section 7.23 Maintenance Required and Failure to Maintain. No weeds, underbrush, or other unsightly vegetation shall be permitted to grow or remain upon any Lot or in the non-paved right-of-way in front of any Lot, and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot or in the non-paved right-of-way in front of any Lot. The Owner shall maintain the exterior of the Dwelling Unit and improvements on his Lot and any bulkhead along his Lot in good and workmanlike manner, and shall present a neat and clean appearance upon the Lot and the non-paved right-of-way in front of any Lot including painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. In the event that any Owner fails or refuses to keep his Lot or the non-paved right-of-way in front of his Lot free of weeds, underbrush, refuse piles, debris, or other unsightly growth or objects, or to keep the Dwelling Unit or improvements on his Lot in a good and workmanlike manner, or in a neat and clean appearance, after not less than five (5) days written notice to Owner, the ARB, or the Board

of Directors may authorize its agents to enter upon the Lot or upon the non-paved right-of-way in front of any Lot and perform any necessary maintenance at the expense of the Owner, which expense shall be deemed a Parcel Assessment. Such entry will not be deemed a trespass. During construction of a Dwelling Unit or other improvement, each Owner will be required to maintain his Lot and the non-paved right-of-way in front of any Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot.

Section 7.24 Prohibition on Mobile Homes/Temporary Improvements. No mobile home, manufactures home, shack, barn, shed, or other outbuilding shall be allowed on any Lot. However, this provision shall not prohibit the use of a mobile home as a sales office, construction or builder's trailer, maintenance trailer, or temporary recreation building used by the Declarant or its assigns.

## ARTICLE 8 MORTGAGEE PROTECTION

Section 8.1 Introduction. This Article establishes certain standards for the benefit of Mortgagees, and is written to comply with Chapter VI of Fannie Mae's Selling Guide in effect at the time of drafting. If a Mortgagee requests from the Association compliance with the guidelines of an Underwriting Lender, the board, without approval of Owners or mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender. This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls.

Section 8.2 Known Mortgagees. An Owner who mortgages his lot will notify the Association, giving the complete name and address of his mortgagee and the loan number. An Owner will also provide that information on request by the Association from time to time. The Association's obligations to mortgagees under the Documents extend only to those mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the mortgagees known to the Association, without regard to other holders of mortgages on lots. The Association may rely on the information provided by Owners and mortgagees.

Section 8.3 Eligible Mortgagees. "Eligible Mortgagee" means a Mortgagee that submits to the Association a written notice containing its name and address, the loan number, the identifying number and street address of the mortgaged lot, and the types of actions for which the Eligible Mortgagee requests timely notice. A single notice per lot will be valid so long as the Eligible Mortgagee holds a mortgage on the lot. The board will maintain this information. A representative of an Eligible Mortgagee may attend and address any meeting that an Owner may attend.

### Section 8.4 Mortgagee Rights.

(a) Termination. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by at least 51 percent of Eligible Mortgagees, in addition to the required consents of owners. An action to terminate the legal

status for reasons other than substantial destruction or condemnation must be approved by at least 67 percent of Eligible Mortgagees. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 30 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

(b) Inspection of Books. Mortgagees may inspect the Association's books and records, including the Documents, by appointment, during normal business hours.

(c) Financial Statements. If a Mortgagee so requests, the Association will give the Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

(d) Right of First Refusal. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a lot does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

Section 8.5 Insurance Policies. If an Underwriting Lender is a Mortgagee or an owner, the Association will comply with this Section in addition to the other insurance requirements of this Declaration. The following provisions are derived from Chapter 7, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993:

(a) Named Insured. The Association's insurance policies covering the common areas must name the Association as the named insured.

(b) Notice of Cancellation. Insurance policies maintained by the Association should require the insurer to notify in writing each Mortgagee named in the mortgage clause at least 10 days before the insurer cancels or substantially changes the Association's coverage. Additionally, the Association will use its best efforts to send timely written notice to Eligible Mortgagees of a lapse, cancellation, or material modification of any insurance policy maintained by the Association.

(c) Insurance Carrier. The Association's hazard insurance policy must be written by an insurance carrier that meets or exceeds the requirements, from time to time, of an Underwriting Lender.

(d) Policy Deductible. The deductible on the Association's hazard insurance policy must not exceed the maximum limits permitted by an Underwriting Lender. Funds to cover the deductible should be included in the Association's operating reserve account.

(e) Full Replacement Cost. The Association's hazard insurance policy should cover 100 percent of the insurable replacement cost of the insurable improvements, if required by an Underwriting Lender.

(f) Endorsements. The Association will obtain endorsements to its hazard insurance policy as required by an Underwriting Lender.

(g) Liability Coverage. The amount of the Association's liability insurance should be at least that required by an Underwriting Lender.

## ARTICLE 9 INSURANCE, CONDEMNATION AND RECONSTRUCTION

Section 9.1 Damage to or Condemnation of Common Property. In the event that any portion of the Common Property is damaged or destroyed by casualty or natural events, or taken through condemnation proceedings or conveyance in lieu thereof, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction, if practical and possible.

Repair, reconstruction, or restoration of the Common Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the repair, reconstruction, and restoration of such damage. If the insurance proceeds or condemnation award and any reserves maintained by the Association for such purpose are insufficient, the deficit shall be assessed against all Owners as a Special Assessment. If there is a surplus of insurance proceeds or condemnation award, such surplus shall become the property of the Association.

With respect to any insurance proceeds or condemnation award in connection with such loss or damage to the Common Property or improvements thereon, the Association is hereby designated to represent the Owners in any proceedings, negotiations, settlements, or agreements in connection with such award.

Section 9.2 Damage to or Condemnation of the Parcels. In the event of damage or destruction to any portion of the improvements on a Parcel due to casualty, natural events, condemnation, or conveyance in lieu thereof, the improvements shall be repaired or restored by the Owner. In the event that the damage, destruction, or condemnation renders the improvements uninhabitable or the damage is so substantial that the Owner determines not to rebuild the improvements on the Parcel, the Owner shall clear the debris and have the Parcel leveled within sixty (60) days from the date of destruction or damage and shall thereafter maintain the Parcel in a clean and sanitary condition.

Section 9.3 Damage to Common Property Due to Owner Negligence. In the event that the Common Property is damaged as a result of the willful or negligent acts of the Owner, his tenants, family, guests, or invitees, such damage shall be repaired by the Association and the cost of repair thereof shall be a Parcel Assessment against such Owner as described in Article 5.



#### Section 9.4 Insurance.

(a) In General. The Board of Directors shall obtain and maintain insurance policies insuring the interests of the Association as hereinafter described. The policy of property insurance shall cover all of the Common Property (except land, landscaping, foundation, excavation, and other items normally excluded from coverage) but including fixtures and building service equipment, to the extent that they serve the Common Property.

(b) Policy Coverage. The policy shall afford, as a minimum, protection against the following:

(1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(2) all other perils which are customarily covered with respect to projects similar in construction, location, and use, including flood insurance, if applicable, and all perils normally covered by the standard "all risk" endorsement, where such is available. If flood insurance is required, it must be in an amount of one hundred percent (100%) of current replacement cost of the improvement or the maximum coverage under the National Flood Insurance Program.

(3) losses covered by general liability insurance coverage covering all Common Property in the amount of at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insurers for property damage, bodily injuries, and deaths of persons in connection with the operation, maintenance, or use of Common Property and any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(c) Policy Limits. The hazard policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost of the insured properties exclusive of land, foundation, excavation, and items normally excluded from coverage. The maximum deductible amount for such policies shall be the better of \$10,000 or one percent (1%) of the policy amount, provided that the funds to cover the deductible shall be included in the Association reserve accounts. The policy shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association. The Board of Directors may obtain such additional insurance as it in its sole discretion deems reasonable, convenient, or necessary. In the event that any of the coverage required herein becomes unavailable or prohibitively expensive, the Association may make such changes in coverage as it deems reasonable and prudent.

(d) Unavailability. In the event that any of the insurance requirements contained herein become unavailable and/or prohibitively expensive or the Mortgagees modify their insurance requirements, the Board of Directors, in its discretion, may

determine to modify the coverages contained herein in such a manner as the Board of Directors using its business judgment determines reasonable and prudent.

Section 9.5 Liability Insurance for Board of Directors. The Association shall maintain and pay for such liability insurance for the Board of Directors and members of the ARB and committees of the Board of Directors as the Board of Directors deems appropriate.

## ARTICLE 10 EASEMENTS

Section 10.1 Utility Easements. Declarant hereby reserves for itself, its successors, and assigns, and hereby grants to the Association, a nonexclusive perpetual alienable blanket easement for the benefit of the Property upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair, and maintenance of all Utility and service lines and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, television cable or communication lines and systems, and police powers and services supplied by local state and federal governments. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables, or other improvements installed on or within such easements. Upon termination of the Declarant's right to grant such easements, the Association shall have the right to grant the easements described herein.

Section 10.2 Declarant's Easement to Correct Drainage. For so long as the Declarant is a Class B member, Declarant hereby reserves for itself, and hereby grants to the Association and its designees, a nonexclusive, perpetual blanket easement on, over, and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery; make any gradings of the soil; or to take any other similar action reasonably necessary, following which Declarant or the Association, as applicable, shall restore the affected property to its prior condition as nearly as practicable. The Declarant or Association shall give reasonable notice of intent to take such action to all affected Owners, unless in its opinion an emergency exists which precludes such notice. The right granted hereunder may be exercised at the sole option of Declarant or the Association and shall not be construed to obligate Declarant or the Association to take any affirmative action in connection therewith.

Section 10.3 Easement for Unintentional Encroachment. The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any Parcel upon the Common Property or vice-versa caused by or resulting from, construction, repair, shifting, settlement, or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment which easement is appurtenant to the encroaching property to the extent of such encroachment.

ARTICLE 11  
MAINTENANCE RESPONSIBILITIES

Section 11.1 Owner Maintenance Responsibility. Except as expressly provided elsewhere in this Declaration, each Owner is obligated to and responsible for performing all maintenance, repair, and restoration in connection with that Owner's Parcel and all improvements thereupon. Each Owner shall maintain the exterior of all buildings and improvements on his Parcel in a good and workmanlike manner and shall present a neat and clean appearance upon the Parcel including painting, repairing, replacing, and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Owners shall further assure that no weeds, underbrush, or other unsightly vegetation is permitted to grow or remain upon his Parcel or the right-of-way existing between the property on his Parcel and the paved surface of any road and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Parcel or the right-of-way existing between the property on his Parcel and the paved surface of any road.

Section 11.2 Enforcement of Owner Maintenance Responsibility. In the event that any Owner fails or refuses to maintain the Owners' Parcel in the manner set forth above, after written notice to Owner, the Association may authorize its agents to enter upon the Parcel or the right-of-way existing between Owner's Parcel and the paved surface of any road and perform any necessary maintenance, the cost thereof shall be assessed against the Owner of the Parcel as a parcel Assessment. In the event that any Owner leases his Parcel and the improvements thereon to a tenant, the Association shall notify the Owner and it shall be the Owner's responsibility to assure that the maintenance is performed.

Section 11.3 Association Maintenance Obligations. Notwithstanding any other specific requirements set forth therein, the Association is obligated to and responsible for performing the following services to and for the benefit of all Parcels and Owners to the extent permitted by applicable law:

(a) Common Property. Maintenance of all Common Property including roadway lighting, nature preserves, medians, and landscaping of Common Road right-of-ways and public properties located within reasonable proximity to the Property such that deterioration would affect the appearance of the Property as a whole; provided, however, that the unpaved portion of any right-of-way located on a Lot shall be maintained by the Owner of that Lot and not by the Association;

(b) Water Resources. Maintenance of all Water Resources as provided in Article 13 below;

(c) Limited Access. Employment of access control personnel and devices, such as gates and such patrols as the Association deems reasonable, and maintenance of electronic and other limited security devices as deemed appropriate from time to time by the Association, it being understood that only limited security is reasonably possible;

(d) Insurance. To provide liability and hazard insurance covering improvements and activities on the Common Property, as provided in Article 10 above;

(e) Taxes. To pay taxes and assessments against the Common Property and Common Roads and upon request of an Owner or institutional mortgagee, to furnish evidence thereof;

(f) Improvements. To construct improvement on the Common Property for any purposes as may be required or authorized elsewhere in this Article;

(g) Administration. To provide administration, accounting, and communication services as are appropriate to operate the functions of the Association; and

(h) General.

(1) To take any and all actions necessary to enforce this Declaration and the covenants and restrictions affecting the Properties and perform any of the functions or services delegated to the Association in any other covenants or restrictions applicable to the Property.

(2) To provide such other services which in the judgment of the Board of Directors are necessary or desirable to carry out the Association's duties under the terms of this Declaration and to keep any Common Property or other property serving the Members of the association neat and attractive and to preserve or enhance its value, to eliminate fire, health, or safety hazards, and such other services or facilities which in the judgment of the Board of Directors may be of general benefit to the Members and the Property.

**Section 11.4 Optional Services.** Any one or more of the following may be provided by the Association (but no obligation shall exist to provide any of the following) for the benefit of all Parcels and all owners:

(a) Recreation. To conduct recreation, sports, craft, and cultural programs of interests to Owners and their guests;

(b) Lawn Care. To provide lawn maintenance as described in Section 12.5 below;

(c) Pest Control. To provide exterior and interior pest control services;

(d) Safety Equipment. To provide safety equipment for storm and other emergencies;

(e) Improvements. To construct improvements on the common properties for any of the purposes required under this Article;

(f) Communications. To provide communication services informing Members of activities;

(g) Recreation Areas. To provide lakes, play fields, tennis facilities, swimming pools, bicycle paths, sidewalks, leisure trails, parks, wildlife areas, fishing facilities; and rest rooms serving the Property;

(h) Utilities. To provide water, irrigation and sewage facilities, and any other utilities if not adequately provided by a private utility in Smith County or some other public body;

(i) Walking/Bicycling Areas. To provide and maintain sidewalks, walking paths or trails, bicycle paths, and nature paths; and

(j) Flood Insurance. To provide for obtaining voluntary flood insurance on a pooled or non-pooled basis covering damage to structures on Lots, and to determine the appropriate methods and procedures for making such coverage available to Owners and for allocating the costs thereof (including, without limitation, premiums and administrative costs) among the insureds based upon the relative value of the coverage received; provided, however that in providing any such insurance, the Association and its Directors shall have no liability for failing to obtain or maintain such insurance properly in force.

(k) Other. To provide any other service or benefit not specifically set forth above.

#### Section 11.5 Parcel Landscaping and Maintenance.

(a) In General. If the Association on behalf of the Owners votes to do so, then in addition to the maintenance of the Common Property, the Association shall provide or contract to provide routine landscaping maintenance for all Parcels, as applicable, in a manner and with such frequency as is consistent with good property management. Such maintenance shall include lawn mowing and maintenance and care (but not replacement) of trees, shrubs, grass, and other similar green areas lying within the Parcels but shall not include any other services. The Association shall assess the Parcels, or Parcels in a Neighborhood, as applicable, for the Lawn Maintenance Expense as part of the Annual Assessment. Notwithstanding the foregoing, Parcels that are undeveloped or do not have lawn and landscaping shall not incur any Lawn Maintenance Expense.

(b) Mandatory. The Association may provide lawn and landscaping care and maintenance to any Lot that the Association determines, in its sole discretion, requires additional lawn or landscaping care or maintenance and shall assess the Owner for expenses associated therewith as a Parcel Assessment. Additionally, Owners may upgrade and improve the quantity and quality of landscaping on Parcels provided the Owner complies with the architectural control provisions of Articles 6 and 7. Any

incremental cost of maintenance of any such upgraded landscaping requiring additional care may be assessed to the Owner as a Parcel Assessment.

Section 11.6 Limited Access/Roving Patrols. The Association shall establish certain procedures with respect to access and operation of the Property from time to time. As part of the charges included within the Assessments, each Owner will be obligated to pay a portion of the expenses for maintaining limited access to and/or roving patrols within the Property. No representation, guaranty, or warranty is made, nor assurance given, that the limited access system and possible presence of roving patrols and/or other procedures for the operation of the Property will prevent injury or damage to person or property. Neither the Developer, the Association, the ARB, nor any of their directors, officers, employees, agents, or shareholders shall be liable or responsible for any personal injury or death or for any loss or damage to property which occurs within the Property regardless of whether it is due to the failure of any limited access system, the inadequacy of any roving patrols, or any other procedures for operation of the Property adopted from time to time.

## ARTICLE 12 LAND AND WATER RIGHTS

Section 12.1 Ownership of Water Resources. Certain portions of the Property may be designated as storm water retention or retention ponds and are herein referred to as "Water Resources".

Section 12.2 Maintenance of Water Resources Embankments and Water Resources Bottoms. The Association shall be responsible for and obligated to monitor, police, maintain, and control the water level and quality of the Water Resources and shall maintain all Water Resources. The Association shall have the power and right as it deems appropriate, to control and eradicate plants, fowl, reptiles, animals, fish, and fungi in and on any Water Resources, as well as to maintain any drainage device and/or water level devices so as to insure compliance with applicable governmental regulations as they exist from time to time. The Owner of the land adjacent to the water edge of the Water Resources ("Adjacent Owner") shall maintain the embankment to the water edge as such level shall rise and fall from time to time. Maintenance of the embankment shall be conducted so that the grass, planting, or other lateral support of the embankment shall exist in a clean and safe manner and so as to prevent erosion. If the Adjacent Owner shall fail to maintain the embankment, the Association shall have the right, but not the obligation, to enter onto the Adjacent Owner's Parcel and perform the maintenance at the expense of the Owner, which expense shall be a Parcel Assessment against the Owner and his Parcel as provided in Article 5.

Section 12.3 Improvements on Water Resources. In the event that Declarant, any entity designated by the Declarant, or the Association shall construct any bridges, docks, or other improvements which may extend over or into the Water Resources or construct any bulkheads or similar improvements to support or enhance the Water Resources, the Association shall maintain any and all improvements in good repair and condition. No Owner, except the Declarant, its designee or the Association, shall be permitted to construct any dock, or any other improvement,

permanent or temporary, on, over, or under any Water Resources without the written consent of the ARB, which consent may be withheld for any reason.

Section 12.4 Easements. The Owners' use and access to the Water Resources shall be subject to and limited by the rules and regulations of the Association and the easements reserved in Article 10. The use of Water Resources shall be limited to such uses as the Association shall permit from time to time, including fishing and/or recreational use. The Association is hereby granted a nonexclusive easement for ingress and egress over the Water Resources and a parcel of land extending fifteen feet (15') from the water edge for the purpose of providing the maintenance required herein and the Adjacent Owners are hereby granted a nonexclusive easement over the Water Resources for the purpose of providing any maintenance to the embankment.

Section 12.5 Water Resources Use Restrictions and Covenants. In connection with the use of any Water Resources, the following restrictions shall apply:

- (a) No motorized or powerboats shall be permitted on any Water Resources with the exception of boats used for maintenance thereof;
- (b) No bottles, trash, cans, or garbage of any kind or description shall be placed in any Water Resources;
- (c) No activity shall be permitted on any Water Resources which may become an annoyance or nuisance to the adjacent property and the Owners thereof. The Association's determination whether any activity constitutes an annoyance or nuisance shall be dispositive;
- (d) No person or entity, except Declarant or the Association, shall have the right to pump or otherwise remove any water from any Water Resources for the purpose of irrigation or other use;
- (e) There shall be no fishing permitted from bridges, streets, or right-of-ways, except as expressly provided by the Declarant. Only Owners and guests shall be permitted to fish in the Water Resources and only in areas so designated and only in accordance with government regulations;
- (f) The use of any pesticides that may drain into the Water Resources shall be prior approved by the Board of Directors. In addition, it is recommended that the use of chemical fertilizers be limited and natural organic fertilizers be encouraged; however, the Board of Directors has the power to specifically dictate which fertilizers and pesticides may be used.
- (g) The Board of Directors of the Association shall be entitled to establish, amend, or modify rules and regulations governing the use of the Water Resources.

Section 12.6 Indemnification. In connection with the platting of the Property or obtaining permits necessary to develop the Property, the Declarant may assume or may be required to assume certain obligations for the maintenance of the Water Resources, Common Property or the Common Roads, or parts thereof. The Declarant hereby assigns to the Association and the Association hereby assumes all the obligations of the Declarant under the Plat, applicable permits or under any applicable governmental regulations and for any and all obligations for the maintenance of Water Resources, Common Property or the Common Roads, or parts thereof, within the Property or Additional Property. Association further agrees that subsequent to the recording of this Declaration, it shall indemnify and hold Declarant harmless from suits, actions, damages, liability, and expense in connection with loss of life, bodily or personal injury, or property damage or other damage arising from or out of occurrence, in, upon, at, or from the maintenance of the Water Resources, Common Property or the Common Roads, or parts thereof, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants, or licensees, but not including any liability occasioned wholly or in part by the acts of the Declarant, its successors, assigns, agents, or invitees.

## ARTICLE 13 GENERAL PROVISIONS

Section 13.1 Enforcement. The Association, the Declarant for so long as it is a Class B member, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration; provided, however, that the foregoing shall not be construed to limit the Declarant's rights under Article 6 to retain Architectural Control as provided therein. Failure by the Association, 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 Board of Directors may adopt rules and regulations imposing reasonable procedures for imposing reasonable fines for the breach by any Owner or guest or invitee of any Owner of the covenants and restrictions contained herein. Neither the Declarant nor any officer, director, agent, or shareholder of the Declarant nor any member of the Board of Directors shall have any liability for failure to enforce any restriction, condition, covenant, reservation, lien, charge, or rule.

Section 13.2 Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions that shall remain in full force and effect.

Section 13.3 Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless a termination thereof is approved by the Owners holding ninety-percent (90%) of the votes of the Association.

Section 13.4 Amendment. For so long as Declarant retains its Class B Membership, Declarant reserves the right without consent or joinder of any Owner or Mortgagee to (a) amend this Declaration, provided that such amendments shall conform to the general purposes and



standards of the covenants and restrictions, herein contained; (b) amend this Declaration for the purpose of curing any ambiguity in or inconsistency between the provisions herein contained; (c) include in any supplemental declaration or other instrument hereafter made any additional covenants, restrictions, and easements applicable to the Property which do not lower the standards of the covenants, restrictions, and easements herein contained; (d) release any Parcel from any part of the covenants and restrictions which have been violated, if Declarant, in its sole judgment determines such violation to be a minor or insubstantial violation; (e) to conform to the requirements of any Mortgagee; or (f) to conform to the requirements of institutional mortgage lenders or title insurance companies. This Declaration may also be amended by an instrument signed by an officer of the Association certifying that Owners representing not less than seventy-five percent (75%) of all the votes of the Association have approved the amendment. Any amendment must be recorded.

Section 13.5 Amendments and Modifications. The Board of Directors and the ARB may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance, and control of the Dwelling Units, Parcels, Property, and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as provided herein shall be furnished to each Owner.

Section 13.6 Notices. Any notice required to be sent to the Owner of any Parcel under the provisions of this Declaration shall be deemed to have been properly sent and given when mailed, postage prepaid, or hand-delivered to the Parcel and to the last known address of the person who appears as Owner of such Parcel on the records of the Association at the time of such mailing, if different.

Section 13.7 Interpretation; Headings. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of the Property. All headings are for convenience only and shall not be used to interpret or construe the provisions of the Declaration.

Section 13.8 Gender and Number. The use of the masculine gender herein shall be deemed to include the feminine or neuter gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 13.9 Legal Fees. All attorneys' fees and court costs which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, regardless of whether such enforcement requires judicial action, shall be assessed against and collectible from the Owner against whom such action was taken and shall be a lien against such Owner's Parcel in favor of the Association.

Section 13.10 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Texas, both substantive and procedural.

Section 13.11 Assignments. The rights of the Declarant herein, or either or them, may be assigned to each other, or to any third party, by an instrument executed with the same formalities as is this instrument.

EXECUTED this 10<sup>th</sup> day of February, 1999.

BAKER PLANTATION JOINT VENTURE

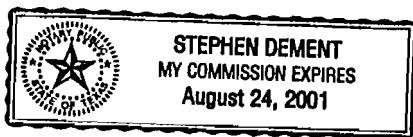
BAKER REALTY GROUP, INC.

By: Margaret S. Hall  
Margaret S. Hall, Its President

THE STATE OF TEXAS           §  
  §  
COUNTY OF SMITH           §

BEFORE ME, the undersigned authority, on this day personally appeared MARGARET S. HALL, President, of BAKER REALTY GROUP, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as an act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, FEBRUARY 10, 1999.



Stephen Dement  
Notary Public in and for  
The State of Texas

Notary's Name: Typed or Printed

My Commission Expires:

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**All those certain lots, tracts or parcels of land situated in Smith County, Texas, and being Lots 1 through 53, of Baker Plantation, according to the Final Plat showing Baker Plantation, recorded in Cabinet D, Slide 29-B, Plat Records of Smith County, Texas.**

**EXHIBIT "B"**

**ARCHITECTURAL REVIEW BOARD**

**GUIDELINES**

## **EXHIBIT “B”**

### **BAKER PLANTATION ARCHITECTURAL REVIEW BOARD**

#### **Meeting & Fee Schedule**

**Meeting dates subject to change or cancellation without notice. Completed submissions not received by deadline date will be reviewed at the next scheduled meeting date.**

#### **Application Fee:**

**To process a complete submission for review, the applicant must also provide an Application Fee, payable to the “BPOA ARB” in the amount indicated below. This fee is an administrative fee and is non-refundable.**

- Single-family residence: \$350.00 for new construction**
- Single-family residence: \$150.00 for existing structures**

#### **Compliance Deposit:**

**New Construction - Minimum deposit of \$1,000.00 shall be required but in no event shall the compliance deposit exceed ten percent (10%) of the appraised value of the house and lot.**

**Existing Structures or Grounds - Minimum deposit of \$100.00 shall be required but in no event shall the compliance deposit exceed ten percent (10%) of the cost of the proposed improvement or \$500.00**

**Compliance deposits are due upon ARB final approval and applicant’s receipt of letter of approval.**

# **BAKER PLANTATION OWNERS' ASSOCIATION, INC. ARCHITECTURAL DESIGN GUIDELINES**

## **I. STATEMENT OF PURPOSE, PRINCIPLES, AND POLICIES.**

The Developer of Baker Plantation, Baker Plantation Joint Venture, a Texas joint venture, ("Developer"), is desirous of an aesthetically pleasing and functionally convenient community, and has declared and recorded covenants, conditions, and restrictions applicable to improvements on Baker Plantation. The Covenants establish the Baker Plantation Owners' Association, Inc. ("BPOA"). Architectural Review Board ("ARB"), and sets forth its jurisdiction, powers, and obligations, and the rules and regulations under which it will conduct its review of proposed improvements. The initial authority for this review was established in Article 6 of the Baker Plantation Covenants, Conditions, and Restrictions ("Declaration") and BPOA. Statements in this document are intended to condense, amplify, or clarify provisions of that Declaration. In the event of a conflict, the Declaration's provisions will prevail.

The ARB has been established to define and interpret aesthetic standards in Baker Plantation, and to examine, approve, or disapprove any and all proposed vertical or horizontal improvements for a building site in Baker Plantation.

ARB approval must be obtained for, but not limited to, dwellings, garages, any type of outbuilding, decks, terraces, patios, courtyards, sidewalks, driveways, parking areas, signs, mailboxes, playground equipment, playhouses, swimming pools, tennis courts, greenhouses, walls, fences, exterior lighting, and any exterior changes or alterations to existing improvements, including, without limitation, colors of any exterior surface or material.

The lake is the centerpiece of the community and its integrity is of paramount importance to the ARB. In that regard, the ARB will be extremely sensitive to any activities that may affect its aquatic life and general condition. This may include strict control of the use of pesticides, chemicals, and fertilizers within Baker Plantation.

ARB approval must be obtained for landscaping, cut and fill operations, and drainage, as well as the removal of any tree more than four inches (4") in diameter, measured at a height of four feet (4') from the base.

## **II. STATEMENT OF OBJECTIVES.**

The best word to describe the philosophy of Baker Plantation is a commitment to quality and consistency within a pastoral neighborhood environment.

The ARB has a strong determination and desire to create a superior living environment for generations to come through the preservation of the architectural motif and character of the community.

Presented herein are the Community Design Guidelines with regard to residential design and landscaping. Our intent is to present the overall design concept of the community and to give your design professionals reasonable parameters within which they can work in a creative manner. It is our hope that this manual will inspire and encourage outstanding individually designed residences which, when viewed together, produce an equally outstanding and harmonious community environment.

As Baker Plantation is developed, we hope that each individual property owner takes an active interest and concern for the quality of our surroundings by designing his/her own environment with an eye for quality in design, workmanship, and materials.

Each stage of activity will be carefully monitored to assure compliance with our philosophy and this manual. We are committed to specific principles and standards to be observed by all owners. Each detail has been carefully formulated to assure an attractive environment for all residents. Our commitment to the property owner is the reason behind this manual and the spirit in which all of the professionals associated with creating this community have approached their roles and responsibilities. We encourage property owners to embrace our commitment to excellence and the standards established herein.

### III. DESIGN PHILOSOPHY.

The architectural design concept for Baker Plantation is that buildings should, in general, be unobtrusive in form and color in order to complement their natural setting.

No particular period, style, or geographic influences are specifically endorsed or encouraged, rather design, detailing, or concepts from numerous styles might be appropriate if harmoniously used in a structure. The main concern is that Baker Plantation be homogenous in feeling with a park-like setting free from shapes, colors, and design statements, which vie for attention creating a greater visual impact than their neighbors. Buildings should not be created as a total entity but rather as a planned addition to the individual site embracing the natural setting and neighborhood design characteristics.

The most successful design solutions are those which make it difficult to determine which elements are part of the building and which is part of the landscape. The design philosophy should be summarized by stating that design considerations extend beyond the building's walls to include the entire site. In that regard, the exterior materials should be of a form, color, and texture that complement and enhance the man-made and natural environment.



#### IV ARCHITECTURAL REVIEW BOARD.

##### A. PURPOSE.

To review all plans to ensure that individual construction reflects the overall design objectives of the entire Baker Plantation community and that the elegance and natural setting is preserved and enhanced, and to protect and promote the value of property.

The ARB has been established for the purpose of defining aesthetic standards of construction in Baker Plantation, and examining and approving or disapproving any and all proposed improvements for a building site within Baker Plantation, including, but not limited to: dwellings, garages, outbuildings or parking lots, mailboxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playground equipment, playhouses, awnings, walls, fences, landscaping, screen doors, screen enclosures, exterior lights, sewer, drainage, disposal system, any exterior addition to or change or alteration to existing structures, including, without limitation, painting or staining of any exterior surface (jointly referred to herein as “proposed improvements”).

##### B. OBJECTIVES.

Architectural and Design Review shall be directed towards, but not limited to, attaining the following objectives for Baker Plantation:

1. Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms.
2. Ensuring that the location and configuration of the proposed improvements are visually harmonious with the terrain and vegetation of the residential lot and with surrounding residential lots and structures and does not unnecessarily block scenic views from existing or planned structures or tend to dominate any general development or natural landscape.
3. Ensuring that the architectural design of proposed improvements and their materials and colors are visually harmonious with Baker Plantation’s overall appearance and design theme of the neighborhood, with surrounding development, with natural land forms and native vegetation, and with development plans, officially approved by the ARB or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.

4. Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots, and blend harmoniously with the natural landscape.
5. Ensuring that any proposed improvements comply with the provisions of these covenants and the covenants, conditions, and restrictions set forth in the applicable Declaration.
6. Promoting building design and construction techniques, which respond to energy consumption and environmental quality consideration such as, heat loss, air emissions, and run-off water quality.

C. ENFORCEMENT POWERS.

1. The ARB reserves the right during construction of the proposed improvements as a part of its approval process, to enter into the lot to inspect the proposed improvements to assure their compliance with the approved plans and specifications.
2. If any proposed improvements shall be made without the approval of the ARB or are not in compliance with the approved plans and specifications, then owner shall, upon written demand, cause the proposed improvements to be removed or restored within ten (10) days from the date of the written demand to their original conditions, and such owner shall bear all costs and expenses of such restoration or removal, including costs and reasonable attorney's fees of the ARB.
3. If owner has not removed or restored or commenced to remove or restore the unapproved proposed improvements within the period set forth in Subparagraph 2 hereof, the ARB shall have the right to institute an actions to recover sums due, for damages or to seek injunctive relief to require the owner to cease, remove, or restore the unapproved proposed improvements. It is hereby declared that any violation of the requirements set forth herein may not be adequately compensated by recovery of damages and, accordingly, the ARB, on behalf of the Association may seek an injunction to restrain a violation or breach or threatened violation or breach.
4. In addition to the foregoing, the ARB may enforce the provisions hereof in accordance with the compliance deposit hereinafter set forth.

All the remedies set forth herein are cumulative. No delay, failure, or omission on the part of the ARB in exercising any right, power, or remedy herein provided shall be construed as an acquiescence thereto or a waiver of the right to enforce its rights, powers, or remedies.

No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the ARB, the Association, Developer, or any owner on account of any failure to bring any action on account of any violation or breach of the provisions of these Architectural Design Guidelines.

5. In all enforcement actions, the prevailing party shall be entitled to be reimbursed for its attorney's fees, prior to or at trial or on appeal and all reasonable court costs.

D. BASIS FOR DECISION.

Approval shall be granted or denied by the ARB based upon the standards and guidelines promulgated by the ARB from time to time, including:

1. compliance with the provisions of these Architectural Design Guidelines;
2. the quality of workmanship and materials;
3. the harmony of external design with the surroundings;
4. the effect of the construction on the appearance from surrounding property; and
5. such other factors, including purely aesthetic considerations, which in the sole opinion of the ARB, shall affect the desirability or suitability of the construction.

It is possible, therefore, that a home might meet the individual criteria delineated herein and still not receive approval, if in the sole judgment of the ARB, its overall aesthetic impact is unacceptable. The approval of an application for one home site shall not be construed as creating a precedent or any obligation on the part of the ARB to approve applications involving similar designs pertaining to different home sites.

E. LIMITATIONS OF RESPONSIBILITY.

The primary goal of the ARB is to review the application, plans, materials, and samples submitted to determine if the proposed structure conforms in appearance with the Design Guidelines and does not assume responsibility for the following:

1. structural adequacy, capacity, or safety features of the proposed structure;
2. soil conditions or erosion requirements;

3. compliance with all building codes, safety requirements, governmental laws, regulations, or ordinances; and
4. performance or quality of work by any contractor.

Any owner making or causing to be made any proposed improvement agrees and shall be deemed to have agreed, for himself and his heirs, personal representatives, successor, and assigns to hold the ARB, Baker Plantation, the BPOA, and all other owners harmless from any liability and damage to property and from expenses arising from the construction and installation of any proposed improvements or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents, or required approvals, whether given, granted, or withheld; and such owner shall be solely responsible for the maintenance, repair, and insurance of any proposed improvement and for assuring that the proposed improvement is in full compliance with all local, state, and federal laws, rules, and regulations.

#### F. MEMBERSHIP.

The ARB shall be appointed by the Developer until termination thereof and thereafter by the Board of Directors and shall have the duties and functions described in the Declaration. The ARB shall consist of a minimum of five (5) members who need not be members of the BPOA.

The Developer or BPOA Board of Directors reserves the right to approve recommendations and to request replacement of any members who do not understand the spirit and intent of the ARB's mission. The homeowner members shall be selected for alternating two (2)-year terms. Such terms may be extended for an additional two (2) years by vote of the majority of the remaining Board members.

The Board may obtain the services of additional consultants as needed.

A quorum requirement will have been met if three (3) members of the ARB are in attendance at regular or special meetings.

#### G. ADMINISTRATOR.

The ARB may appoint an Administrator to handle the day-to-day responsibilities of processing submissions and coordinating with owners, including the following:

1. Explanation and interpretation of Design Guidelines.

2. Providing pre-design conferences to consider existing data relating to a particular home site, adjacent or planned homes, easements, setbacks, etc.
3. Scheduling of all meetings and member notification.
4. Review job progress, schedule ARB inspections, and issue applicable ARB permits and certifications.

#### H. MEETINGS.

The Administrator with two (2) days' written notification of time, date, and place may call meetings.

Anyone wishing to appear before the ARB in conjunction with the construction application shall notify the ARB Administrator and request to appear. All appearances before the ARB shall be limited to ten (10) minutes. Due to the technical nature of the proceedings, it is preferred that the architect make such presentations.

#### I. MINUTES/NOTIFICATION.

All decisions of the ARB will be recorded at ARB meetings. Although owners will not be present at meetings, recorded minutes will be available upon request. Plans and specifications will be retained by the ARB, as part of the record. Applicants will be notified within five (5) working days of all decisions made by the Board.

#### J. APPEALS.

If an application has been denied or the approval is subject to conditions, which the owner feels are unacceptable, the owner may request a hearing before the BPOA Board of Directors. The Board will review the decision of the ARB and notify the owner within ten (10) days of the hearing.

#### K. FEES AND BONDS.

##### 1. Administration Fee.

BPOA ARB requires the payment of an administration fee at the time of application. The fee is non-refundable and should be made payable to the "BPOA ARB". The following fees are subject to change without notice:

- |    |  |           |
|----|--|-----------|
| a. | Modification of grounds                      | \$ 50.00  |
| b. | New construction of single-family residences | \$ 350.00 |
| c. | Existing structures                          | \$ 150.00 |

2. Compliance Deposit.

- a. The ARB requires that each owner submitting plans and specifications for a proposed improvement shall place in escrow with the ARB a sum of money, which shall be a compliance deposit. The purpose of the compliance deposit is to:
- (i) complete the proposed improvement in the event that the owner fails to complete construction of the proposed improvements in accordance with the approved plans and specifications, including the approved landscaping;
  - (ii) clean the site or neighborhood lots if the builder fails to properly clean the area;
  - (iii) pay the attorney's fees of the ARB in the event that it is required to obtain the services of an attorney to enforce compliance; and
  - (iv) pay fines in accordance with General Contract Guidelines and Violation and Time Schedule as published from time to time.

The funds constituting the compliance deposit shall be held in a non-interest bearing account.

- b. The amount of the compliance deposit shall be computed as follows:
- (i) Existing structures or grounds: Minimum deposit of One Hundred Dollars (\$100.00) shall be required, but in no event shall the compliance deposit exceed ten percent (10%) of the cost of the proposed improvement or Five Hundred Dollars (\$500.00).
  - (ii) New construction: Minimum deposit of One Thousand Dollars (\$1,000.00) shall be required but in no event shall the compliance deposit exceed ten percent (10%) of the appraised value of the house and lot.

The foregoing amounts shall not constitute a limit on the owner's liability but will be applied against the total cost of enforcement of these provisions, including, without limitation, the cost of removal

or restoration, construction in accordance with the approved plans and specifications, attorney's fees, and court costs.

The ARB has the authority to grant exceptions to the foregoing amounts, on a case-by-case basis, relative to the number of compliance deposits to be on hand for any one builder.

- c. In the event that the owner (contractor) does not comply with his obligations hereunder, including, without limitation, construction of an unapproved proposed improvement or failure to construct in full accordance with the approved plans and specifications.

The ARB shall give the owner written notice of the noncompliance and ten (10) days to cure the noncompliance. If such noncompliance is not cured, the ARB may use the compliance deposit to complete the construction or remove and restore the unapproved proposed improvements or to retain an attorney. Upon a violation as set forth herein, the ARB shall be entitled to retain the entire compliance deposit amount, even if the entire amount is not utilized, such overage shall be deemed a penalty for such failure.

If the owner (contractor) fails to comply with the General Contractor Guidelines and Violation and Time Schedule, ARB may upon noncompliance issue a notice of noncompliance and deduct the appropriate fine from the compliance deposit.

- d. In order to determine compliance and completion for disposition of compliance deposit, owner/builder shall contact the ARB for final in-field inspection.

#### L. APPROVAL OF BUILDERS.

All builders must be pre-approved by the ARB prior to commencement of construction of any residences within Baker Plantation.

Provided, however, that the fact that the builder is on the approved list does not constitute a guaranty by the ARB, the association, or the Developer of the quality of the work. The builder shall handle all construction defects and the owner shall rely upon its warranty.

M. VARIANCES.

All variance requests pertaining to ARB approvals must be made in writing to the ARB. Any variances granted shall be considered unique and not set any precedent for future decisions.

N. ADDITIONAL REQUIREMENTS.

These Design Guidelines have been adopted to assist the owners within Baker Plantation and the ARB in connection with the architectural approval process. These are merely guidelines, and the ARB will have the right to waive any of the requirements, or will have the right to require additional or more stringent requirements.

V. ARCHITECTURAL REVIEW PROCEDURES.

The following is an outline of the procedures for plan submissions for single-family detached homes. All plans are to be submitted to the BPOA ARB, as required.

Once approved by the ARB, applications are valid for one (1) year from date of approval. After one (1) year, applications expire and become invalid. If applicant wishes to proceed with project after date of expiration, he must reapply for new approval.

A. PROFESSIONAL CONSULTANTS.

Selections of a Texas registered architect and a landscape architect are not required but are encouraged.

B. PRELIMINARY PLANS.

At the discretion of the applicant, a schematic or design concept may be submitted to the ARB in order to determine suitability of a particular style or design for Baker Plantation. Preliminary plan submissions are recommended to resolve potential problems before going to the time and expense of contract documents.

Preliminary plans shall include, but are not limited to:

1. application form;
2. site plan at 1" = 20 ' or other suitable scale showing all trees, grades, horizontal and vertical improvements with pertinent dimensions, setbacks, easements, etc.;
3. floor plans (may be shown on site plan);
4. key elevations or sketches to define exterior;
5. list of materials or locations of materials; and
6. submission fee.



The ARB will render an opinion as to whether the preliminary submittal would be acceptable. The ARB's opinion will be strictly non-binding and will be offered in an effort to save the applicant time and expense.

C. FINAL SUBMISSION.

In order to provide a systematic and uniform review of the proposed construction, two (2) sets of architectural documents are required. Plans and specifications shall be completed and detailed to the point that all significant aspects of construction are clearly identified and understandable by construction professionals. Sheet sizes of 24" x 36" are preferred.

As a minimum, the drawings shall include:

1. Site Plans - scale in size appropriate to show detail, but not less than 1" = 20'-0", indicating:
  - a. access street(s) and walkway(s), drives and other exterior improvements, including material and color;
  - b. grading, drainage plan;
  - c. fill plan, if any (indicating run-off and tree preservation method);
  - d. culvert(s), location and size and flow direction;
  - e. foundation plan indicating finished floor elevation;
  - f. exterior lighting plan;
  - g. interior lighting and elements which may be readily visible from the outside;
  - h. service yards and air-condition/pool equipment enclosures;
  - i. entry of water, electricity and telephone utility services to lot;
  - j. tree survey showing location and species of trees four inches (4") or larger in diameter at a point four feet (4') above ground;
  - k. building plan to scale, overlaid on tree survey indicating all structures and other improvements to be included in the scheme with an indication of trees to remain and trees to be removed (at the same scale as boundary/tree survey;
  - l. location and identification of special features (e.g., drainage ditch, nearby lake, easements, adjacent structures, etc.);
  - m. mechanical equipment showing location and screening details; and
  - n. location of contractor's I.D. sign, dumpster, and portable outdoor toilet facilities.
2. Floor Plans. In a scale appropriate to show all details including an exact computation of the square footage stated by floor in the case of multi-floored residences and finished floor elevations.

3. Roof Plans. In size appropriate to show detail.
4. Foundation Plans. In size appropriate to show detail.
5. Elevations. Depicting all four (4) sides, including hidden views:
  - a. existing and finished grade;
  - b. total height dimensions; and
  - c. exterior treatment to include all materials, door and window fenestrations, walls, fences, A/C enclosures, pool equipment enclosures.
6. Typical Wall and Building Sections, depicting:
  - a. materials;
  - b. roof pitch; and
  - c. fences, screens, exterior walls, etc.
7. Details, depicting:
  - a. design features and other improvements requiring clarifications;
  - b. fascia and trim details;
  - c. doors and windows;
  - d. garage doors; and
  - e. driveways and sidewalks.
8. Patios, Decks, Balconies, Verandas, Porches, Pools, Enclosures, etc.
9. Exterior Lighting - details with product photos.
10. Landscape Plan - at a scale of site plan, preferably signed and sealed by a registered Texas landscape architect., including:
  - a. Boundary. Indicate all perimeter property lines, setbacks, dedicated easements, and north arrow.
  - b. Structures. Position all structures on the property and indicate the location of all windows, doors, and permanent construction elements, which are proposed.
  - c. Perimeter Areas. Reflect all adjacent site conditions (i.e., driveways, neighboring landscape beds, and trees) and surrounding roadways, lake, and pertinent features, which may affect the subject property.

- d. **Hardscape.** Indicate all proposed vehicular and pedestrian circulation treatments, swimming pool location and configuration, miscellaneous amenity elements, garden features, and permanent site furnishings, which may affect the use of the site.
- e. **Utility Elements.** Show all air conditioner equipment locations, irrigation controller/clock, exposed utility meters, garbage areas, gas tank and/or valves, pool equipment, and any service or utility elements with opaque screen of wall and landscape buffers.
- f. **Decorative Grading.** Indicate general existing grades and all proposed decorative grading (earth berming) at one-foot (1') intervals.
- g. **Existing Vegetation.** Based upon the current tree survey, accurately identify and locate all existing vegetation with a caliper of four inches (4") or greater, which is intended to be removed, remain, or be relocated on the site and adjacent properties within ten feet (10') of property line.
- h. **Proposed Vegetation.** Provide a comprehensive landscape layout for all trees, shrubs, ground covers, vines, and sod, which are proposed throughout the site.
- i. **Street Tree Location.**
- j. **Plant List.** Identify all proposed vegetation with a plant list that reflect the scientific and accepted common name, quantity, spacing, height, spread, caliper, or size at time of installation as well as any necessary remarks which may be required to clearly portray the technical needs for design review and/or final installation purposes.
- k. **Irrigation.** A detailed plan for ARB review.

#### D. FINAL STAKEOUT.

Concurrent with final submission, the owner or contractor will provide a string stakeout of the lot lines and building lines for review by the ARB. All trees to be retained must be clearly marked with red surveyor's tape.

#### E. BUILDING PERMIT.

Upon approval by the ARB of the final plans and the stakeout, the owner may then submit to the county or other agencies for a Building Permit, if applicable.

F. POSTING PERMITS.

Start site clearing and construction after first posting ARB permit letter on the back of the approved builder's sign.

G. CONSTRUCTION COMMENCEMENT

Upon receipt of the ARB approval, the owner can commence construction. The ARB reserves the right to inspect in the field for compliance during any stage of construction.

H. SURVEY/CONSTRUCTION BOND.

Upon certification by the ARB that all improvements have been satisfactorily completed, including landscaping, in accordance with the approved plans and specifications, the ARB will issue a final approval certificate.

No residence within Baker Plantation may be occupied by any person until a final approval certificate is issued by the ARB. Upon final approval, the BPOA ARB will return the compliance deposit as is appropriate.

VI. LANDSCAPING STANDARDS.

A. INTRODUCTION.

The goal of the ARB is to provide for the sensitive enhancement of the environment by the encouragement of an on-going planting program, which adheres to a "natural theme". Material selections and planting arrangements, which reinforce lush naturalistic settings in keeping with the character of the region, will be expected and the repetition of native plant species will, in general, be considered preferable.

B. SUBMISSION REQUIREMENTS.

To ensure that the unique elements that create the visual appeal of the community are preserved and enhanced and that any proposed vegetative improvements are kept consistent for the benefit of all, a comprehensive landscape plan and plant list will be required for all proposed residential endeavors. The ARB reserves the right to approve or disapprove any such submission, and may at its sole discretion make suggestions or require modifications which may be appropriate to bring the proposed landscape plan into compliance with the Design Guidelines of Baker Plantation.

The ARB may require a minimum of five percent (5%) (excluding automatic irrigation system) of the total estimated construction cost and lot value to be applied toward landscaping. Although exterior landscape lighting will be encouraged and decorative earthwork (berming) may be encouraged, expenditures for such items will be considered to be in addition to the basic landscape requirements. At its discretion, the ARB further retains the right to increase landscape expenditures as it sees fit, to a maximum of ten percent (10%) of the said total of house and property. The landscape plan shall be prepared by a landscape professional (preferably a landscape architect) and submitted to the ARB.

In recognition of the numerous indigenous plant communities, which occur throughout Baker Plantation, the ARB requires that any tree with a diameter greater than 4 inches (4") (measured four feet [4'] above the existing grade) be removed by permission only. Prior to the removal of any vegetation, the applicant shall submit a survey of all existing trees indicating trees to be saved and trees to be removed. All trees proposed for removal shall be tagged. No trees shall be removed without approval of the ARB or its representative. The ARB reserves the right to require the replacement of any trees that are approved for removal. Tree replacements shall be similar in species and habit of growth to the original and shall be generally provided in sufficient quantities to fully replace the total inches of caliper (tree diameter) lost to clearing. The initial site plan should reflect the tree survey.

#### C. DESIGN REQUIREMENTS.

The general landscape design theme for Baker Plantation is intended to be natural and informal, using sufficient plant material to present an established appearance at time of installation.

Areas of undisturbed tree growth should generally be preserved and efforts to incorporate such areas into the landscape design of each home site will be considered desirable. Such areas shall be cleaned, trimmed, and mulched as may be necessary to produce an integrated appearance throughout the design. Insofar as possible, small trees should be left in these areas. Tree wells and other applicable forms should be considered to preserve some areas.

Plants should generally be massed in clusters and seemingly random patterns, rather than in overly organized linear configurations.

Placement of primary trees should be situated in such a manner so as to complement rather than decorate the residence.

Care should be taken to introduce plant material to interrupt long, horizontal building elements and to modulate overbearing vertical surfaces.

Common property lines of adjoining residential sites should be planted in such a manner as to be advantageous to each party. In keeping with the preceding, masses of screen plantings will be desirable over uninterrupted hedges and vertical modulation of mutual benefit will be encouraged.

Submitted landscape plans should address existing (if any) landscape treatments to common property lines. To avoid arbitrary termination of plant material at property lines, every effort shall be made to align existing (on adjacent lot[s]) plant beds with proposed plant beds.

While planting organization will be expected, overly contrived garden configuration, topiary forms, and vegetation clipped into unnatural shapes will be discouraged. Small formal gardens may be allowed if contained in a private area not visible from the street.

Wherever possible, flowering trees, shrubs, perennials, ground covers, and blossoming vines will be introduced into the landscape plan for each residential installation.

#### D. PLANTING REQUIREMENTS.

##### 1. Street Trees.

To reinforce the common streetscape design character throughout the community, each residential property will participate in the creation of a unified street tree program for the community. Each home site will provide a minimum of two (2) Shumard Red Oak trees along all street frontages. Red Oaks shall be a minimum of three inch (3") caliper, ten feet (10') in height, and with a four foot (4') spread. Such trees shall be planted back from the curb seven to ten feet (7' to 10') and be spaced at equal intervals forty to fifty feet (40' to 50') apart. Every effort should be made to coordinate spacing with adjacent lot(s).

The previous comments notwithstanding, placement of street trees should not interfere with sight lines required for pedestrian or vehicular safety, nor in such a manner as to restrict the vistas from adjoining residential sites.

2. Primary Canopy Trees and Pines.

The combined canopies of existing and proposed primary canopy trees shall, at maturity, provide a minimum total coverage of at least fifty percent (50%) of all open site areas (exclusive of building coverage and related impervious surfaces). All trees of this type shall have a minimum height of ten feet (10') and a minimum spread of four feet (4') at time of installation. There will be a minimum of four (4) canopy trees required for each home site.

To produce a more cohesive appearance and unified landscape design character throughout the community, no more than three (3) varieties of a primary canopy tree species will be permitted on any single home site.

In general, primary canopy trees shall be provided for both the front and rear elevations of each residence, in accordance with the minimum landscape requirements.

Much of Baker Plantation's forest cover consists of stands of various native pine and oak trees. The continued use of pines and oaks is encouraged. The use of fast growing weak wood trees is discouraged. Existing trees can count toward minimum requirements.

3. Flowering Trees and Accent Trees.

Flowering trees and accent trees will be encouraged throughout the community, and shall be incorporated in such a manner as to provide visual interest and design reinforcement in the landscape beds throughout the home site. Choice of colors should be kept compatible with the remainder of the installation.

4. Flowering Shrubs/Ornamental Grasses.

Flowering shrubs will generally be used as an enhancement to adjacent architectural elements or for reinforcement throughout the home site to ensure visual interest. The use of shrubs and ornamental grasses that are natural in appearance is encouraged. Such shrubs shall be maintained in such a manner as to promote maximum blooming. To create an initial established appearance, the plants shall be no smaller than three (3) gallons in size. Unduly long or uninterrupted linear flowering shrub masses installed in a formal fashion will generally not be allowed. A more natural hedging application, installed in a meandering alignment, will be considered desirable.

5. Evergreen Hedges.

Evergreen hedges will generally be used as a design reinforcement to the architectural character of the residence or as may be required for visual screening or buffering purposes. Such hedges shall be no smaller than three (3) gallon-sized plants. The plants shall be full to base to create an established appearance. The use of double staggered rows of hedge plants rather than a single row is encouraged where space permits.

All exposed mechanical equipment (air conditioning units, swimming pool and spa equipment, etc.) shall be completely screened with a solid evergreen hedge and wall consistent with the architectural plan of the home. Care shall be exercised in the placement of such hedges to avoid conflict with neighboring unit vistas and ventilation, while maintaining visual separation of undesirable elements.

6. Shrubs and Ground Covers.

Foundation shrubs and ground cover beds will be provided in conjunction with the remainder of the landscape installation to reinforce a more unified design character for each home site. Although simplicity of planting design is expected, proper attention to the contrasts of adjoining species (in terms of color, texture, and habit of growth) is encouraged.

In general, larger quantities of a limited palette of shrubs will be considered more desirable than a wide mixture of limited quantities of varying materials. These shrubs shall be planted close together, according to their variety, to form a continuous mass rather than isolated solitary plantings.

7. Sod and Lawn.

Unless ARB approval is obtained, all sod throughout the residential portions of Baker Plantation will be St. Augustine or Centipede. Sod should be installed solid in front yard. Hydromulch with Centipede mix will be allowed in back yards only. A balance of approximately fifty percent (50%) of any residential site (exclusive of building coverage and related impervious surfaces) planted in open lawn or sod area is encouraged.

8. Lake Banks.

In order to stabilize lake banks and minimize lake sedimentation, all single family lots which border on the lake must have grass sod installed from the normal water elevation back to a line three feet (3') beyond the top of



the lake bank. The species of grass sod used should be consistent for all lots bordering any one lake and shall be as established by the BPOA ARB. No lake banks may be otherwise planted or mulched without specific approval by the ARB. Any such measure must guarantee the integrity and stability of the lake bank. Also, no aquatic plantings within the littoral (shallow water) zone will be allowed without specified ARB approval. In all cases, the lot owner is required to provide sufficient water and maintenance to ensure optimum plant health and a neat, well-kept appearance.

## E. LANDSCAPING SPECIFICATIONS.

### 1. Minimum Planting Specifications.

- a. All existing trees shall be protected from damage during the construction period by the erection of a suitable fence enclosure located no closer than five feet (5') from the affected vegetation.
- b. Soil amendments and fertilizer applications at installation should conform with current practices and standards endorsed by the American Association of Nurserymen and with Section 12.5 (f) of the Declaration.
- c. All planting beds, tree rings, and shrub groupings shall be installed and maintained with a minimum layer of two inches (2") of clean, fresh pine straw or bark mulch. Yard trimmings and commercial clipping residue will not be acceptable for use as plant mulch.
- d. All newly installed trees shall be staked only as necessary to insure stability during the initial established period for the landscape installation.

### 2. Minimum Irrigation Specifications.

- a. All residential landscaped areas shall have installed a fully automatic irrigation system capable of one hundred percent (100%) coverage throughout each home site.
- b. All irrigation heads will be of such variety and installed in such a manner as to be generally out of sight.
- c. All exposed time clocks, switch gear, and equipment shall be appropriately screened from view.

## VII. CONTRACTOR STANDARDS.

The following shall apply to any and all construction, improvement, alteration or maintenance of any structure, to any change to the exterior of any structure, and to grading, excavating, tree removal, landscaping, or any other change to the grounds of a single-family site within Baker Plantation. In the event a violation of these criteria and guidelines takes place, the construction or work being performed shall cease until conformance is achieved. Infractions of the construction rules may be cause for a \$500.00 fine per infraction and/or suspension of a contractor or subcontractor from the community.

### A. BUILDING CONTRACTORS.

All builders and general contractors must be pre-approved prior to commencement of new construction or major renovation of any residence within Baker Plantation.

### B. START OF CONSTRUCTION.

No lot clearing or placement of portable toilets will be permitted until all required governmental permits are obtained and formal written approval of the ARB has been granted. All approvals shall be posted (including ARB and government permits) prior to commencing.

### C. PORTABLE TOILETS.

Prior to commencing work, a portable toilet must be placed on the job site and in a manner so as to least disturb other residences and other construction.

### D. CONSTRUCTION TRAFFIC.

All construction traffic shall access the community through the designated construction entrance, if any. For security purposes, all contractors must register a complete list of their sub-contractors and other employees who are permitted entry into the community with the community association.

All vehicles shall be parallel parked on private streets and shall not be parked on any other lots whether vacant, under construction, or completed. There will be no washing of any trucks on the streets.

### E. CONSTRUCTION HOURS.

The construction working hours are currently from 7:00 a.m. to 6:00 p.m., Monday through Saturday, except on nationally recognized holidays.

F. STREET AND SITE CLEAN UP.

All construction sites must be maintained in a neat and orderly fashion. Inspection may be made on Friday afternoons for compliance. All contractors are required to provide at least one (1) trash dumpster for every residence under construction. Dumpsters must be emptied on a regular basis or when waste is visible from the street. The builder is responsible for trash that blows off the site and shall retrieve such trash immediately. No trash shall be stockpiled on the lot. There will be no stockpiling or dumping on adjacent lots or on streets. Remaining trash will be removed by the Association and billed to the responsible contract or sub-contractor. Contractors will use only the utilities provided on the site on which they are working.

ARB reserves the right to require fabric trash barriers.

The street and curb shall be cleaned a minimum of once per week and kept free of debris and dirt.

G. CLEARING.

Only plants, vegetation, and trees directly within the planned structure, roof overhangs, or driveway shall be removed. Any plants, vegetation, or trees uprooted or cut down on the job site shall be removed from the job site and from the community as soon as is practical but not later than five (5) working days.

H. CONSTRUCTION DAMAGE.

Any damage to streets and curbs, drainage inlets, sidewalks, street lights, street markers, mailboxes, walls, etc., will be repaired by the Association and such costs billed to the responsible contractor or taken from the compliance deposit.

I. CONSTRUCTION SPILLAGE.

Operators of vehicles are required to see that they do no spill any damaging materials while within the community. If spillage of a load occurs, operators are responsible for cleaning it up. Clean-ups done by the Association will be billed to the contractor responsible for ordering the delivery. Please report any spills as soon as possible.

J. TELEPHONE/CABLE TV LINES.

If any telephone, cable television, electrical, water, irrigation water, etc., lines are cut, it is the contractor's responsibility to report the accident to the BPOA within thirty (30) minutes.

K. DRESS.

All construction workers will be required to wear clothing compatible with their specific job requirements. Shirts will be worn at all times.

L. CONSTRUCTION SITE APPEARANCE.

All personnel working in the community are to keep all of their areas free of discarded materials such as lunch bags and odd materials at all times. Objects should not be thrown out of cars and trucks.

M. NOISE LEVELS.

Loud radios or noise will not be allowed within the community. Normal radio levels are acceptable; however, speakers mounted on vehicles or outside of homes under construction are not permitted.

N. VEHICLES AND EQUIPMENT.

No vehicles (trucks, vans, cars, etc.) may be left in the community overnight. Construction equipment may be left on the site while needed, but must not be kept on the street, unless prior permission has been granted. Job site office trailers are allowable during construction providing they are clean and in good repair and condition.

O. PERSONNEL.

Only bona fide workers are allowed on the property and are required to exit the property upon completion of their work. Spouses may drive workers to and from the site, but must not remain on the property unless they are actual employees of the sub-contractor. For safety reasons, children will not be permitted on the job site. No alcoholic beverages are permitted on or near the job site. Contractor personnel will not be permitted to bring pets on the property.

P. SIGNAGE.

1. During construction, one (1) approved standardized construction sign shall be allowed within the front setback of the lot to assist subcontractors and others locate the particular lot within the community. Such sign may be erected at commencement of construction and removed at completion of construction.
2. During construction, one (1) approved standardized permit board will be erected within the front setback of the lot to accommodate all building permits and/or approvals which may be issued. This will include the final

approval issued by the BPOA ARB. Unless otherwise approved, the permit board shall utilize the backside of the construction sign.

3. NO OTHER SIGNS, BOARDS, FLAGS, BANNERS, ETC., SHALL BE PERMITTED.

This shall include, but not be limited to, signs advertising, offering, or soliciting “for sale” or “open house” by an agency, the owner, or builder. This shall include any signs placed on the interior of a structure which are visible in any manner from the exterior.

Exception shall be granted for a staffed open house during daylight hours. One sign maximum shall be allowed for each lot staffed.

4. Except for approved “Parade of Homes” signage sponsored by local Building Association or other special events approved by the Board of Directors, no award or directional signs shall be placed, posted, or erected anywhere within the confines of the entire Baker Plantation.
5. No signs, flags, or banners either on a permanent or temporary basis shall be placed, posted, or erected, which advertises, offers, or solicits business of a retail or commercial nature, without the prior review and approval of the BPOA ARB.
6. Temporary identification signs announcing new development within the community will be permitted. Such signs must have prior review and approval of BPOA ARB.
7. Permanent identification and directional signage whether identifying an individual development, community, village street name, or location are subject to review and approval of the ARB.
8. The BPOA ARB shall have the absolute authority to remove and retain without notice, any and all signage that is prohibited, non-conforming to standard specifications, or not having the prior review and approval of the ARB.

#### VIII. BAKER PLANTATION BUILDER QUALIFICATIONS.

The ARB insists that the quality of the construction of our homes is in keeping with our standards for excellence in design. Architectural designs are simply plans; execution of those plans require experience. It is for these reasons that we require an application, and have set the following criteria for approval of Builders.

- A. The Builder must have experience in building custom, single-family homes.

- B. The Builder must provide pictures, along with the names, addresses, and telephone numbers, of all homes built during the last three (3) years and a recommendation from at least three (3).
- C. The Builder must provide a complete list of subcontractors and suppliers for the past three (3) years.
- D. The Builder must supply a letter from a lender that establishes his financial ability to construct a custom home and his financial stability over the last three (3) years.
- E. The Builder must provide a certificate of insurance of limits no less than Three Hundred Thousand Dollars (\$300,000) per occurrence with Five Hundred Thousand Dollars (\$500,000) aggregate for liability and casualty coverage.
- F. The Builder agrees to supply the Board with a current financial statement or other information acceptable to the Board, to verify Builder's financial condition, upon request.

The above criteria have been established for the protection of the community as a whole. We do not wish to stifle competition; in fact, we encourage it. However, a Builder's reputation is only earned through experience, customer satisfaction, and efficient management.

## IX. BUILDING GUIDELINES AND ARCHITECTURAL STANDARDS.

### A. GENERAL.

#### 1. Accessory Structures.

Many lots are large enough to accommodate a gazebo, cabana, detached garage, and guesthouses. If built, the accessory structures must be located within the required setbacks and match the architectural details of the home. Roofs and exterior walls must be compatible with the main house in both design and color.

#### 2. Buildings/Accessory Structures Setbacks.

The building setbacks regarding the placement of buildings, garages, decks, patios, walls, and hedges will be at the discretion of the ARB, depending on the lot's location. Some lots may have required variations due to special factors. The ARB will establish setbacks on these lots in consultation with the owner and architect during the initial review stage.

3. Building Heights

Maximum building height of residences shall be thirty-five feet (35') measured from the first floor to the highest point of the roof (excluding chimneys). Maximum building height shall not exceed thirty-nine feet (39') above the crown of the roadway. Residences may have a third floor of 250 square feet maximum allowable, if built within the roofline.

Whenever possible, the second (or third) floor should be tucked into or related to the roof structure with dormers or small roof terraces to diminish the scale.

4. Easements.

No permanent structures shall be placed in any easement.

5. Maximum Building Coverage.

A maximum of forty percent (40%) of the lot can be covered by the building. The building shall mean areas contained under the roof, including air-conditioned or non-air conditioned space under roof.

6. Square Footage and Stories.

All single-family residences shall have minimum square footage of 3000 square feet.

7. Finished Floor Elevations/Foundations.

Ideally, the minimum finished floor (first floor) shall be eighteen inches (18") above the crown of the adjacent roadway and a minimum of eighteen inches (18") above grade; however allowance may be made for lots that fall below curb grade. The maximum first floor finished floor elevation of residences shall be forty-eight inches (48") above the crown of the road. While slab on grade is prohibited visually, they may be accomplished through the use of stem walls with backfilling. Exposed foundations shall be finished in the same material as the exterior finish of the home.

In the event a wood floor or crawl space is provided, the ventilation openings are to be covered with grating, wood louvers, or lattice painted to conform with the trim or color scheme of the homes. Standard aluminum vent grills are not permitted. Any concrete-block foundation walls are to be clad or stuccoed. Wooden pilings used for foundation support shall be encased in finish wood trim, as exposed round piling is not appropriate.

Careful attention should be given to all foundations to provide for the same degree of detailing found in the main body of the house.

8. Exterior Appearances.

- a. Walls: The architectural design throughout these neighborhoods will be primarily stucco, stone, or brick, graced with arches and fenestrations of stucco, stone, or brick bands and accents. Colors shall be a subtle range of earth tones and muted pastels, creating individuality between houses and a sense of community harmony.

Minimum floor-to-ceiling height of the primary living area conditioned living space on the first floor shall be ten feet (10'). The minimum height on the second floor shall be nine feet (9'). However, such requirement does not apply to the sloped ceilings working within the roofline.

- b. Windows: Wood frame windows are strongly suggested, as are the use of French doors in combination with windows. They should be carefully proportioned to enhance the exterior appearance and interior light quality. Vinyl or aluminum clad wood and aluminum windows will be permitted, subject to color approval.

Scale proportion and alignment (horizontal and vertical) are critical elements of design. Transom windows are encouraged.

Lightly tinted glass is acceptable, but foil or reflective material is not allowed. Drapery liners of a neutral color are required to provide a consistent exterior appearance. Roof overhangs, awnings, and shutters are appropriate sun screening devices with approval of design, material, and colors.

- c. Roofs, Materials, and Appurtenances: The roofs of all residences within the community, while perhaps different in material and color, shall have a similarity of form to provide for a homogeneous character, with all gable and hip roofs having a minimum roof slope of 8/12.

Roofing less than 8/12 slope is acceptable only in minor areas (not to exceed 15% of roofing area) with primary acceptability in use as a connection to more dominant themes of the roofing mass. All connecting roofs, i.e., garage to main structure or freestanding garage, etc., shall have a roof with material compatible with the main structure.



Roof materials may be chosen from a limited selection of cedar shakes, cedar shingles, the imitation cedar, pressure-treated shingle, or concrete tile in a limited variety of shapes and colors. The use of heavily variegated colors creating spotted contrast is strongly discouraged.

Roof overhangs form an integral part of the architectural character of the community and should be maximized wherever possible to provide shelter from both the subtropical sun and rain showers. In many cases the roof overhangs may incorporate balconies, decks, and screened porches. The contemporary “shed” design is not appropriate. Roof overhangs shall be a minimum of twelve inches (12”) and a maximum of twenty-four inches (24”).

Eaves shall be designed in scale with the residence and its vertical scale. Fascia shall be three-piece minimum and at least eight inches (8”) wide. “Dental molding” trim or cornice banding is encouraged under the soffit.

Soffets shall be enclosed. Applied brackets are encouraged.

Roof attachments, whether ornamental or functional such as ornamental ridge caps, weather vanes, oversized fireplace flues, etc., are not only permissible, but encouraged to give an additional scale of detail to the dwellings.

All roof accessories such as vent stacks and roof vents shall be either painted to match the roof color, or accentuated to form a statement. Wherever possible, vents shall be located away from the entry elevations. Flashing is recommended to be copper except in the case of metal roofs, where it shall be of the same material. Raw aluminum or galvanized flashing is not allowed.

The use of solar energy producing devices (active and/or passive) and small cable TV dishes (18” or smaller) are subject to the ARB approval, but in all cases must be removed from view from the street or adjacent properties. Skylights are not permitted within view of/from the facing street.

- d. Chimneys: Chimneys, along with other projects above roofing surfaces, play a dominant role in depicting the character desired; chimney dimensions shall be compatible in scale to the structure; however, the minimum size shall be two feet, six inches (2’6”) by four feet, six inches (4’6”). All exposed surfaces of chimneys

should be of stucco, stone, or brick with a preference for covered flue endings.

Prefab metal fireplaces, when used, must have architecturally designed coverings for all exposed metal flue pipes and caps.

- e. Doors: Front doors should make a strong architectural statement. Wood or glass exterior doors are strongly recommended to exceed a height of seven feet (7'). The use of double front entry doors or doors enhanced by side and/or top window panels are strongly encouraged. Sliding patio doors are discouraged and in no case shall be utilized where they are visible from the street or used as a front entrance.

Garage doors should be compatible with the exterior wall design and color. Garage doors must incorporate automatic garage door openers. Garages must be rear loading or side loading; however, side-loading garages on corner lots will require specific approval of the ARB.

- f. Shutters: From a design point of view, louvered shutters are encouraged, but bevel board and panel shutters are acceptable. In the bevel-board style, the joints between boards and the crosspieces should be understated to avoid a rustic look. A very small "V" groove should be between boards, and all edges of the crosspieces should be chambered. All shutters shall be operable using traditional hardware, pivots, and latches. Louvered-shutters can be allowed to tilt from the top or swing open. It is important to note that the installation of shutters should be done in the historical manner, i.e., louver blade should angle with the outer edge downward when the shutters are closed in front of the window so that they block the sunlight. Tilting shutters have the advantage of allowing light to flow through the window while offering protection from sun and rain.

All shutters must be sized to fit the window and must be painted wood or ARB approved, authentic-looking materials. Anodized aluminum is acceptable for louvered shutters. The rough sawn unfinished wood look is not acceptable.

## 9. Driveways.

Driveway widths should be a maximum of twelve feet (12'), except in the vehicular parking area or as the drive enters the garage enclosure. Driveway entry from the street must generally be located at least five feet

(5') from the side property lines and, where possible, should gracefully curve to the garage entrance rather than overly straight and structured driveways and located to avoid existing trees. The Board on an individual basis will review access to garages.

The maximum driveway width at the intersection of the curb shall not exceed twenty feet (20') and should have a curved or geometric pattern intersecting with the driveway. This cleared area shall be part of the submission for committee approval as part of the hardscape drawings on the landscape site plan.

Recommended surfaces are stone, brick, concrete (either stamped or with patterns), loose stone, or Chattahoochee set in concrete. Each driveway design, pattern, and coloring shall be noted on the site plan for hardscape of the landscape design drawings. Epoxied surfaces and asphalt driveways are not permitted.

10. Garages.

All garages must accommodate at least two (2) cars, and no more than six (6). Garages may be detached from the main residence, but must fall into the building envelope.

Carports are not permitted; however, Porte Cocheres are permitted with the restriction of no underneath permanent parking. A smaller door for golf cart entry will not be included in the above total. Garage doors facing the street will not be permitted, with the exception of corner lots (which may face secondary street).

Garage doors and cart storage doors over two cars shall be offset a minimum of twenty-four inches (24") to break the massing of the doors. It is preferred that all garage doors be recessed a minimum of twelve inches (12").

11. Sidewalks.

Property owners shall be required to construct a poured concrete sidewalk a minimum of six feet (6') in width. Sidewalks shall be installed at the time of installation of driveways with optional approved curb cuts across the front of the lot.

12. Walls/Fences

All fences shall be prior approved by the ARB.

Declarant will construct the wall on the west side of the Property Facing County Road 122 and construction thereof will commence contemporaneously with the overall development of the Property.

All fences on the rear of lots which abut the lake or the surrounding common area shall be wrought iron with optional brick, stone, or stucco columns placed at reasonable distances apart and approved by the ARB.

With respect to all perimeter lots, except those on the west side of the Property, all fencing on the rear of each lot must be approved by the ARB and be completed within one (1) year of purchase. Chain-link fences are expressly prohibited.

13. Pools/Pool Cabanas/Pool Enclosures.

Pools must be located in the side or rear of the residence, and must conform to any setback requirements promulgated by the ARB.

Pools must be designed to complement the architectural components of the residence. Pools must be in-ground. Pool coping may not be higher than one foot (1') below the finished first floor elevation of the residence.

Pool enclosures may not be free standing. If screening is desired, the enclosure must be designed as an integral part of the structure, and not appear as an added appendage. Exposed aluminum screen structures are not allowable. Effort should be made to recess primary aluminum members behind or within masonry columns or trellises to provide shadow relief and complement the structural system.

Pool cabanas will be permitted if compatible to the architectural elements of the residence, including roof, and must be situated within the pool setbacks established. The cabana may not be a dwelling residence, and only a minimal Pullman type kitchen will be allowed. In essence, a "weekend guest cottage" is the only use permitted.

14. Greenhouses.

Detached greenhouses will be reviewed on case by case basis. Greenhouses must be located within the fence location area. The ARB will take into account the impact of the structure on neighboring residences and views.

15. Porches, Decks, Verandas, and Balconies.

The creative use of wide verandas on the front, sides, or rear of the residences is strongly encouraged.

Handrails and/or columns form an integral part of the veranda concept. The handrails and columns should be either stone, wood, painted aluminum, or wrought iron (with proper rust prohibitor), and designed to be architecturally compatible with the residence. Columns and handrails must be relatively simple, properly proportioned to the scale and mass of the house and be understated rather than be overly ornate or fussy.

Balconies are encouraged to provide second floor privacy areas and to add a view to lake.

Porch or deck enclosures may not be free standing. If screening is desired, the enclosure must be designed as an integral part of the roof and walls and not appear as an added appendage.

16. Mailboxes.

Mailboxes shall be of a standard design except where designated.

17. House Numbers and Names.

The entire community has a pre-designated house/street number system. Single-family residences will be required to use an approved address post and mailbox.

18. Exterior Lighting.

Exterior lighting must be provided for safety and security. Recessed or down lighting and vertical landscape lighting are recommended in lieu of floodlights.

No lighting should be located as to interfere with vehicular traffic or become a nuisance to neighbors by adversely affecting the nighttime environment of adjacent properties. The ARB will approve all post-mounted and building-mounted fixtures that are visible from other properties.

19. Colors.

The intent of the color palette for Baker Plantation is to blend the intense colors of nature, including sky, flowers, trees, and lake into muted subtle

shades. The number of colors utilized should be kept to a minimum and the intense contrasting of base and trim colors should be avoided.

The ARB in reviewing the colors will take into account the combination and intensity of colors selected, their appropriate use, and the palette of surrounding residences.

**EXHIBIT "C"**

**PLAT**



# BAKER PLANTATION

