

1384



When recorded, return to:  
Wayne S. Hyatt, Esq.  
Hyatt & Stubblefield, P.C.  
1200 Peachtree Center South Tower  
225 Peachtree Street, N.E.  
Atlanta, Georgia 30303

Cross Reference to Clerk's File No.: FBC2001114485

STATE OF TEXAS

COUNTY OF FORT BEND

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR GRAYSON LAKES**

THIS AMENDED AND RESTATED DECLARATION is made as of this 18<sup>th</sup> day of NOVEMBER, 2005 by NNP-Grayson Lakes, LP, a Texas limited partnership ("**Declarant**").

**WITNESSETH:**

WHEREAS, on November 26, 2001, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions for Grayson Lakes which was recorded in the Office of the Clerk of the Court for Fort Bend County, Texas ("**Public Records**"), as Instrument No. FBC 2001114485 and has been supplemented by those Supplemental Declarations recorded in the Public Records on June 30, 2004, as Instrument No. 2004079216, and on July 6, 2004 as Instrument No. 2004081711, and on July 6, 2004 as Instrument No. 2004081712 (as supplemented, the "**Declaration**"); and

WHEREAS, the original By-Laws of Grayson Lakes Community Association, Inc. were attached and recorded in the Public Records as Exhibit "D" to the Declaration; and

WHEREAS, the Declarant desires to amend the Declaration and the By-Laws (i) to eliminate provisions for representative voting and allow each Owner personally to cast the vote assigned to his or her Unit, and (ii) to make certain changes in light of the U. S. Department of Housing and Urban Development's policy change effective January 22, 2003 eliminating the requirement for HUD approval of material amendments to the Declaration and By-Laws and other proposed actions by the Association; and (iii) to make other changes for clarification, to comply with Texas law, and to correct erroneous references;

WHEREAS, pursuant to Section 19.1 of the Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend the Declaration for any purpose except as otherwise provided in Section 15.2 of the Declaration; however, any such amendment shall not materially adversely affect the title to any Unit unless the Owner shall consent in writing; and

WHEREAS, pursuant to Section 9.6 of the By-Laws, the Declarant, as the sole Class "B" Member, may unilaterally amend the By-Laws until termination of the Class "B" Control Period;

WHEREAS, the Class "B" Membership and the Class "B" Control Period have not terminated; and

WHEREAS, such amendments do not materially adversely affect the title to any Unit and therefore do not require the consent of any Owner other than Declarant; and

WHEREAS, Section 15.2 of the Declaration applies only if a condominium within Grayson Lakes has been approved by the Federal National Mortgage Association for the purchase of Mortgages on Units in such condominium and there are currently no condominiums in Grayson Lakes so Section 15.2 is not applicable; and

NOW THEREFORE, the Declaration is hereby amended by striking the Declaration and all exhibits thereto in their entirety and substituting in its place the attached Amended and Restated Declaration, with exhibits, including the Amended and Restated By-Laws of Grayson Lakes Community Association, Inc. attached as Exhibit "D":

Prepared by/ upon recording, please return to:

Wayne S. Hyatt, Esq.  
Hyatt & Stubblefield, P.C.  
1200 Peachtree Center South Tower  
225 Peachtree Street, N.E.  
Atlanta, Georgia 30303

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
GRAYSON LAKES**

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>PART ONE: INTRODUCTION TO THE COMMUNITY</b> .....	<b>1</b>
<b>Article I    Creation of the Community</b> .....	<b>1</b>
1.1.    Purpose and Intent.....	1
1.2.    Binding Effect.....	1
1.3.    Governing Documents.....	2
<b>Article II    Concepts and Definitions</b> .....	<b>4</b>
<b>PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS</b> .....	<b>8</b>
<b>Article III    Use and Conduct</b> .....	<b>8</b>
3.1.    Framework for Regulation.....	8
3.2.    Rule Making Authority.....	8
3.3.    Owners' Acknowledgment and Notice to Purchasers.....	9
3.4.    Protection of Owners and Others.....	9
<b>Article IV    Architecture and Landscaping</b> .....	<b>11</b>
4.1.    General.....	11
4.2.    Architectural Review.....	11
4.3.    Guidelines and Procedures.....	12
4.4.    No Waiver of Future Approvals.....	14
4.5.    Variances.....	14
4.6.    Limitation of Liability.....	15
<b>Article V    Maintenance and Repair</b> .....	<b>15</b>
5.1.    Maintenance of Units.....	15
5.2.    Maintenance of Neighborhood Property.....	16
5.3.    Responsibility for Repair and Replacement; Insurance.....	16
<b>PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION</b> .....	<b>17</b>
<b>Article VI    The Association and its Members</b> .....	<b>17</b>
6.1.    Function of Association.....	17
6.2.    Membership.....	17
6.3.    Voting.....	18
<b>Article VII    Association Powers and Responsibilities</b> .....	<b>18</b>
7.1.    Acceptance and Control of Association Property.....	18
7.2.    Maintenance of Area of Common Responsibility.....	19
7.3.    Provision of Benefits and Services to Service Areas.....	21
7.4.    Insurance.....	22
7.5.    Compliance and Enforcement.....	25

7.6.	Implied Rights; Board Authority.....	27
7.7.	Powers of the Association Relating to Neighborhood Associations.....	27
7.8.	Provision of Services to Units.....	28
7.9.	Relationships with Other Properties.....	28
7.11.	Use of Technology.....	28
<b>Article VIII Association Finances.....</b>		<b>29</b>
8.1.	Budgeting and Allocating Association Expenses.....	29
8.2.	Special Assessments.....	30
8.3.	Specific Assessments.....	31
8.4.	Authority to Assess Owners; Time of Payment.....	31
8.5.	Obligation for Assessments.....	32
8.6.	Lien for Assessments.....	33
8.7.	Exempt Property.....	34
8.8.	Capitalization of Association.....	34
<b>PART FOUR: COMMUNITY DEVELOPMENT.....</b>		<b>34</b>
<b>Article IX Expansion of the Community.....</b>		<b>34</b>
9.1.	Expansion by Declarant.....	34
9.2.	Expansion by the Association.....	35
9.3.	Additional Covenants and Easements.....	35
9.4.	Effect of Filing Supplemental Declaration.....	35
<b>Article X Additional Rights Reserved to Declarant.....</b>		<b>36</b>
10.1.	Withdrawal of Property.....	36
10.2.	Right to Veto Changes in Standards.....	36
10.3.	Development and Sales Activities.....	36
10.4.	Control of and Changes in Development Plan.....	36
10.5.	Right to Transfer or Assign Declarant Rights.....	37
10.6.	Exclusive Rights To Use Name of Developer or Development.....	37
10.7.	Right to Notice of Design or Construction Claims.....	37
10.8.	Central Telecommunication, Receiving, and Distribution System.....	37
10.9.	Notices and Disclaimers as to Community Systems.....	38
<b>PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY.....</b>		<b>38</b>
<b>Article XI Easements.....</b>		<b>39</b>
11.1.	Easements in Common Area.....	39
11.2.	Easements of Encroachment.....	40
11.3.	Easements for Utilities, Etc.....	40
11.4.	Easements to Serve Additional Property.....	41
11.5.	Easements for Maintenance, Emergency and Enforcement.....	41
11.6.	Easements for Lake and Pond Maintenance and Flood Water.....	41
11.7.	Easement to Inspect and Right to Correct.....	42
<b>Article XII Limited Common Areas.....</b>		<b>42</b>
12.1.	Purpose.....	42

12.2.	Designation.....	43
12.3.	Use by Others.....	43
<b>Article XIII Party Walls and Other Shared Structures .....</b>		<b>43</b>
13.1.	General Rules of Law to Apply.....	43
13.2.	Maintenance; Damage and Destruction.....	43
<b>PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY .....</b>		<b>44</b>
<b>Article XIV Dispute Resolution and Limitation on Litigation .....</b>		<b>44</b>
14.1.	Agreement to Encourage Resolution of Disputes Without Litigation.....	44
14.2.	Dispute Resolution Procedures.....	45
14.3.	Initiation of Litigation by Association.....	46
<b>Article XV Mortgagee Provisions .....</b>		<b>47</b>
15.1.	Notices of Action.....	47
15.2.	Special FHLMC Provision.....	48
15.3.	No Priority.....	48
15.4.	Notice to Association.....	49
15.5.	Failure of Mortgagee to Respond.....	49
15.6.	Construction of Article XV.....	49
<b>Article XVI Additional Relationships and Disclosures .....</b>		<b>49</b>
16.1.	Special Tax District.....	49
16.2.	Safety and Security.....	49
16.3.	Natural Conditions.....	50
16.4.	Use of Adjacent Properties; Cattle Grazing.....	50
16.5.	Irrigation Using Treated Effluent.....	50
16.6.	High Voltage Power Lines; Radio and Telecommunication Towers.....	50
16.7.	Noise from Water and Sewer Operations.....	51
<b>PART SEVEN: CHANGES IN THE COMMUNITY .....</b>		<b>51</b>
<b>Article XVII Changes in Ownership of Units .....</b>		<b>51</b>
17.1.	Compliance Certificate.....	51
17.2.	Administrative Transfer Fee.....	52
<b>Article XVIII Changes in Common Area.....</b>		<b>52</b>
18.1.	Condemnation.....	52
18.2.	Partition.....	53
18.3.	Transfer or Dedication of Common Area.....	53
<b>Article XIX Amendment of Declaration .....</b>		<b>53</b>
19.1.	By Declarant.....	53
19.2.	By Members.....	53
19.3.	Validity and Effective Date.....	54
19.4.	Exhibits.....	54

**- TABLE OF EXHIBITS -**

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Page First Mentioned</u>
"A"	Land Initially Submitted	1
"B"	Land Subject to Annexation	4
"C"	Initial Restrictions and Rules	3
"D"	Amended and Restated By-Laws of Grayson Lakes Community Association, Inc.	4
"E"	Architectural Guidelines	2

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
GRAYSON LAKES**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration") is made by NNP-Grayson Lakes, LP, a Texas limited partnership ("**Declarant**").

**PART ONE: INTRODUCTION TO THE COMMUNITY**

*NNP-Grayson Lakes, LP, as the developer of Grayson Lakes, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance and preservation of Grayson Lakes as a master planned community.*

**Article I      Creation of the Community**

1.1.    Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," has recorded this Declaration to establish a general plan of development for the planned community known as Grayson Lakes. This Declaration provides a flexible and reasonable procedure for Grayson Lakes' future expansion and provides for its overall development, administration, maintenance and preservation. An integral part of the development plan is the creation of Grayson Lakes Community Association, Inc., an association comprised of all owners of real property in Grayson Lakes, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under Texas law.

1.2.    Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Grayson Lakes in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Grayson Lakes, their heirs, successors, successors-in-title, and assigns.



This Declaration, as it may be amended, shall remain in effect and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 30 years from the date that the original Declaration was Recorded. After such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by a majority of the then Owners has been Recorded within the year preceding any extension, agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Notwithstanding this, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents for Grayson Lakes consist of:

- this Declaration and such Supplemental Declarations as may be Recorded from time to time; and
- the Association's Articles of Incorporation and By-Laws; and
- the Restrictions and Rules described in Article III; and
- the Architectural Guidelines described in Article IV; and
- such resolutions as the Association's Board of Directors may adopt;

all as they may be amended.

Some areas within Grayson Lakes may be subject to additional covenants, restrictions and easements, and some areas may be subject to the jurisdiction of a Neighborhood Association with its own governance documents and policies. If there is a conflict between the Governing Documents and any such additional covenants or restrictions, or between the Governing Documents and a Neighborhood Association's governance documents or policies, the Governing Documents shall control. However, a Supplemental Declaration, other Recorded covenants applicable to any portion of Grayson Lakes, or a Neighborhood Association's governance documents and policies, may contain provisions which are more restrictive than the provisions of the Governing Documents and, in such case, the more restrictive shall control. The Association may, but shall not be required to, enforce any such additional covenants and restrictions and a Neighborhood Association's governance documents.

The Governing Documents apply to all Owners and occupants of property within Grayson Lakes, as well as to their respective tenants, guests and invitees. If a Unit is leased, the lease shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

The Association, the Declarant, and every Owner shall have the right to take legal action to enforce the Governing Documents. The Association shall have the specific enforcement powers and remedies described in Section 7.5 and elsewhere in the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Diagram 1.1 identifies the various Governing Documents and their functions.

<b>GOVERNING DOCUMENTS</b>	
<p><b>Articles of Incorporation</b> _____ (filed with the Secretary of State)</p>	<p>establishes the Association as a nonprofit corporation under Texas law</p>
<p><b>By-Laws</b> _____ (Board of Directors adopts; attached as Exhibit "D")</p>	<p>governs the Association's internal affairs, such as voting, elections, meetings, etc.</p>
<p><b>Declaration</b> _____ (Recorded)</p>	<p>creates obligations which are binding upon the Association and all present and future owners of property in Grayson Lakes</p>
<p><b>Supplemental Declaration</b> _____ (Recorded)</p>	<p>expands Grayson Lakes and/or creates additional obligations, restrictions and easements on a portion of Grayson Lakes</p>
<p><b>Architectural Guidelines</b> _____ (Declarant adopts; attached as Exhibit "E")</p>	<p>establish standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items on Units</p>
<p><b>Restrictions and Rules</b> _____ (Board or members may adopt; initial set attached as Exhibit "C")</p>	<p>govern use of property, activities, and conduct within Grayson Lakes</p>
<p><b>Board Resolutions</b> _____ (Board adopts)</p>	<p>establish rules, policies and procedures for internal governance, interpret Governing Documents, regulate operation and use of Common Area, among other things</p>

Diagram 1.1 - Governing Documents

## Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The guidelines and standards for design, construction, landscaping, and exterior items placed on Units adopted pursuant to Article IV, as they may be amended. The Architectural Guidelines, as amended through the date hereof, are attached as Exhibit "E."

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Articles": the Articles of Incorporation of Grayson Lakes Community Association, Inc., filed with the Office of the Secretary of State, State of Texas, as they may be amended.

"Association": Grayson Lakes Community Association, Inc., a Texas non-profit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Texas corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within Grayson Lakes for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Grayson Lakes Community Association, Inc., as they may be amended. A copy of the By-Laws, as amended through the date hereof, is attached to this Declaration as Exhibit "D."

"Class "B" Control Period": The period of time during which the Declarant, as the Class "B" Member, is entitled to appoint a majority of the members of the Board, as provided in Article III of the By-Laws. The Class "B" Control Period shall terminate on the first to occur of the following:

(a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have been conveyed to Class "A" Members other than Builders; or

(b) 20 years from the date of Recording of this Declaration; or

(c) such earlier date as the Class "B" Member, in its sole discretion, executes and records a written notice voluntarily terminating the Class "B" Control Period.

**"Common Area"**: All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

**"Common Expenses"**: The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary or appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members entitled to cast a majority of the total Class "A" votes in the Association. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

**"Community-Wide Standard"**: The standard of conduct, maintenance, or other activity generally prevailing in Grayson Lakes, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Grayson Lakes change.

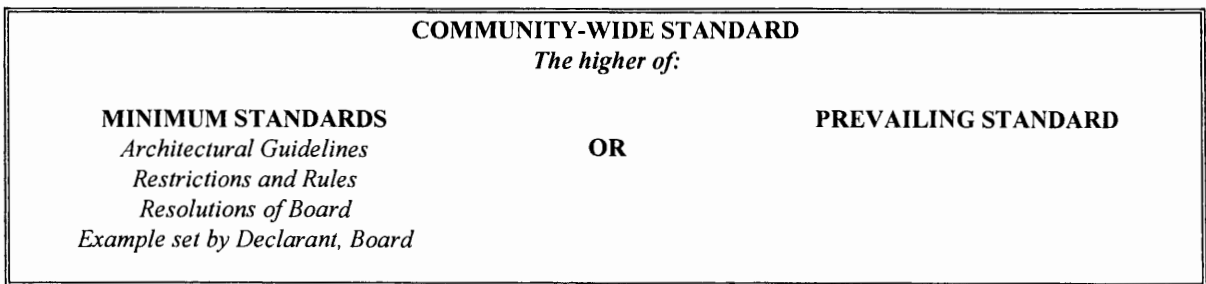


Diagram 1.2. Community-Wide Standard

**"Covenant to Share Costs"**: any declaration of easements and/or covenant to share costs which Declarant executes and Records that creates certain easements for the benefit of the Association or the present and future owners of the subject real property and/or that obligates the Association and such owners to share the costs of maintaining property described in such Covenant to Share Costs.

**"Declarant"**: NNP-Grayson Lakes, LP, a Texas limited partnership, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the

purpose of development and/or sale and who the immediately preceding Declarant designates as Declarant in a Recorded instrument.

**"Eligible Mortgage Holder"**: a holder, insurer or guarantor of a first priority Mortgage on a Unit who has submitted a written request to the Association to notify it of any proposed action requiring the consent of a specified percentage of Eligible Mortgage Holders pursuant to Article XV. The term **"Eligible Mortgage"** shall refer to the Mortgage held by an Eligible Mortgage Holder.

**"Governing Documents"**: A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Architectural Guidelines, the Restrictions and Rules, and Board resolutions, all as they may be amended.

**"Grayson Lakes"** The real property described in Exhibit "A," together with such additional property as is made subject to this Declaration in accordance with Article IX.

**"Limited Common Area"**: A portion of the Common Area primarily benefiting one or more, but less than all, Units, as described in Article XII.

**"Master Plan"**: The land plan for the development of Grayson Lakes prepared by Carter & Burgess, Inc., and approved by the City of Houston, Texas, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Declaration as provided in Article IX.

**"Member"**: A Person subject to membership in the Association pursuant to Section 6.2.

**"Mortgage"**: A mortgage, a security deed, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term **"Mortgagee"** shall refer to a beneficiary or holder of a Mortgage.

**"Neighborhood"**: A group of Units which are subject to the jurisdiction of a Neighborhood Association in addition to the jurisdiction of the Association.

**"Neighborhood Association"**: A condominium association or other owners association, if any, having jurisdiction over any portion of Grayson Lakes concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

**"Owner"**: One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a limited liability company, trust, or any other legal entity.

"Record," "Recording," or "Recorded": The filing of a legal instrument in the Office of the County Clerk of Fort Bend County, Texas, or such other place as may be designated as the official location for recording deeds, plats and similar documents affecting title to real estate, or a term describing an instrument so filed.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified and repealed pursuant to Article III.

"Service Area": A group of Units designated as a separate Service Area pursuant to this Declaration for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units. A Service Area may be comprised of more than one housing type and may include noncontiguous parcels of property. A Unit may be assigned to more than one Service Area. Where the context permits or requires, the term "Service Area" shall also refer to the Service Area Committee established in accordance with the By-Laws to represent the interests of Owners of Units within a Service Area. Service Area boundaries may be established and modified as provided in Section 7.3.

"Service Area Assessments": Assessments levied against the Units in a particular Service Area to fund Service Area Expenses, as described in Section 8.1.

"Service Area Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Service Area.

"Special Assessment": Assessments levied in accordance with Section 8.2.

"Specific Assessment": Assessments levied in accordance with Section 8.3.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designates Service Areas, and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

"Unit": A portion of Grayson Lakes, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

A parcel of land under single ownership shall be deemed to be a single Unit until such time as a subdivision plat or condominium instrument is Recorded subdividing all or a portion of

the parcel. Thereafter, the portion encompassed by such plat or condominium instrument shall contain the number of Units determined as set forth in the preceding paragraph and any remaining portion shall continue to be treated as a single Unit.

Units may be combined or further subdivided, and boundary lines of Units may be changed, only by Recording of a plat or other legal instrument further subdividing or resubdividing the parcel of property (which subdivision shall be subject to such other restrictions as may be set forth in this Declaration or the Restrictions and Rules). In the absence of Recording such a legal instrument, ownership of adjacent Units by the same Owner shall not permit such Units to be treated as a single Unit for purposes of voting and assessment, notwithstanding that such Units may be improved with a single dwelling.

## **PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

*The standards for use and conduct, maintenance, architecture, landscaping and other aesthetic matters at Grayson Lakes are what give the community its identity and make it a place that people want to call "home." Each Owner and resident participates in upholding such standards and can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying and enforcing such standards while providing the flexibility for the community standards to evolve as Grayson Lakes changes and grows over time.*

### **Article III Use and Conduct**

#### **3.1. Framework for Regulation.**

The Governing Documents establish, as part of the general plan of development for Grayson Lakes, a framework of affirmative and negative covenants, easements and restrictions that govern Grayson Lakes. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c), nor to administrative policies which the Board may adopt by resolution to interpret, define or implement the Restrictions and Rules.

#### **3.2. Rule Making Authority.**

(a) Subject to the terms of this Article and the Board's duty pursuant to Section 6.1 of the By-Laws to exercise its powers in a reasonable, fair and nondiscriminatory manner, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners or publish notice concerning any proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Members entitled to cast more than 50% of the total Class "A" votes in the Association and the

Class "B" Member, if any, disapprove. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the By-Laws. Upon such petition of the Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Members may, at an Association meeting duly called for such purpose, adopt rules that modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Any such action shall require approval of Members entitled to cast more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners.

(d) The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee. Every new rule or change shall be Recorded.

(e) No action taken under this Article shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

### 3.3. Owners' Acknowledgment and Notice to Purchasers.

**All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as amended, expanded and otherwise modified from time to time.** Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained from the Association.

### 3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary from one area of Grayson Lakes to another.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located



in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

(c) Signs. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs and the Architectural Guidelines may establish design criteria for such signs consistent with Texas law.

(d) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(e) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, to the extent in compliance with local laws and ordinances, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance to persons outside the Unit.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, rules may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Board.

(h) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop Grayson Lakes.

The limitations in subsections (a) through (h) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XIX.

#### **Article IV Architecture and Landscaping**

##### **4.1. General.**

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within Grayson Lakes, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of Grayson Lakes shall be designed by and built in accordance with the plans and specifications of a licensed architect or professional building designer unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

##### **4.2. Architectural Review.**

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Grayson Lakes, acknowledges that, as the developer of Grayson Lakes and as an owner of portions of Grayson Lakes as well as other real estate within the vicinity of Grayson Lakes, Declarant has a substantial interest in ensuring that the improvements within Grayson Lakes enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of Grayson Lakes or any real property adjacent to Grayson Lakes, unless earlier terminated in a written instrument that Declarant executes and Records.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "**ARC**"), or (ii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated. It shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to them.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount if any, as the Board may establish.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer**." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget.

#### 4.3. Guidelines and Procedures.

(a) Architectural Guidelines. The Architectural Guidelines for Grayson Lakes in effect as of the date of this Amended and Restated Declaration are attached as Exhibit "E" but are subject to amendment as provided in this Section. The Architectural Guidelines may contain general provisions applicable to all of Grayson Lakes as well as specific provisions that vary from one area within Grayson Lakes to another. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of Grayson Lakes or has a right to expand Grayson Lakes pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

Any amendments to the Architectural Guidelines shall be effective upon Recording. The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within Grayson Lakes.

(b) Procedures. Except as otherwise specifically provided in this Declaration or the Architectural Guidelines, no activities shall commence on any portion of Grayson Lakes until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information that Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within nine months after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within nine months of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and

regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) preclude the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

#### 4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Grayson Lakes; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for materials use, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that structures are fit for their intended purpose, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, view preservation, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in Grayson Lakes; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Article VI of the By-Laws.

### **Article V Maintenance and Repair**

#### 5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence or curb located on the Common Area or public right-of-way within 15 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

5.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence or curb located on the Common Area or public right-of-way within 15 feet of its boundary; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

The Association may assume maintenance responsibility for property within any Neighborhood, either upon designation of the Neighborhood as a Service Area pursuant to Section 7.3 or upon the Board's determination, pursuant to Section 7.5(a), that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.3. Responsibility for Repair and Replacement; Insurance.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association is obligated to carry such insurance pursuant to any applicable Supplemental Declaration or otherwise notifies the Owner in writing that it is carrying such insurance on the Unit (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall also apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to

any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

### **PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION**

*This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of Grayson Lakes. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Grayson Lakes.*

#### **Article VI The Association and its Members**

##### **6.1. Function of Association.**

The Association has been established to administer Grayson Lakes in accordance with the Governing Documents. Its responsibilities include, but are not limited to:

- (a) management, maintenance, operation and control of the Area of Common Responsibility; and
- (b) interpretation and enforcement of the Governing Documents; and
- (c) establishing and upholding the Community-Wide Standard; and
- (d) upon delegation or termination of Declarant's authority under Article IV, administering the architectural review process for Grayson Lakes, as provided in that Article.

##### **6.2. Membership.**

(a) Classes of Membership. The Association shall have two classes of membership, Class "A" and Class "B". Class "A" Members shall be all Owners except the Class "B" Member, if any. The sole Class "B" Member shall be the Declarant. The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
- (ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall hold a Class "A" membership for each Unit which it owns.

Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any additional property made subject to this Declaration pursuant to Article IX. Such additional classes shall have such rights, privileges and obligations as may be



specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(b) Automatic Membership; Exercise of Privileges. Every Owner automatically becomes a Member of the Association upon taking title to a Unit and remains a Member so long as the Owner holds title to such Unit. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

(a) Voting Rights. The voting rights of each class of membership shall be as follows:

(i) Class "A". Each Unit owned by a Class "A" Member is assigned one vote equal to that of every other Unit owned by a Class "A" Member.

If there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

No vote shall be exercised for any property that is exempt from assessment under Section 8.7.

(ii) Class "B". The Class "B" Member shall not have voting rights relative to the number of Units it owns; rather, the consent of the Class "B" Member shall be required for various actions of the Board, the membership and committees, as specifically provided elsewhere in the Governing Documents. In addition, the Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III of the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. In addition, after termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

**Article VII Association Powers and Responsibilities**

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Section 18.3. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common

Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants and residents of Grayson Lakes.

(b) Declarant and its designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

(d) The Association may at any time impose an initiation fee for use of any amenity within the Common Area and restrict use of such amenity to only those persons who pay such initiation fee and agree to pay, as a Specific Assessment, their pro rata share of the costs of operating such amenity. The Board shall determine, in its discretion, whether any such initiation fee is to be refundable or nonrefundable and whether the rights of access and use may be transferred to a subsequent Owner of the Unit or are nontransferable. So long as any such initiation fee is required for use of a particular amenity, the operating costs shall be allocated as a Specific Assessment among only those Owners authorized to use the amenity. For purposes of this subsection, "**operating costs**" shall include, without limitation, the cost of utilities, maintenance and repair, insurance, and staffing, but shall not include reserves for replacement. Any initiation fees that the Association collects pursuant to this Section may be used for such purposes and in such manner as the Board determines appropriate in the exercise of its business judgment, consistent with its duty pursuant to Section 6.1 of the By-Laws.

#### 7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility shall include, but need not be limited to:

(a) all portions of and structures situated on the Common Area; and

(b) all streets and roadways within Grayson Lakes unless and until such time as they are accepted by a public body for perpetual maintenance, except those streets, if any, owned by a Neighborhood Association; and

(c) any landscaping within public rights-of-way within or abutting Grayson Lakes; and

(d) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association; and

(e) all ponds, streams and/or wetlands located within Grayson Lakes which serve as part of the stormwater drainage system for Grayson Lakes, including improvements and equipment installed therein or used in connection therewith, which maintenance shall include maintaining the water level of all lakes and ponds within the Common Area to within six inches of the top of any spillway serving such lake or pond; and

(f) any pipes, lines, pumps, or other apparatus comprising the irrigation system serving the Common Area, to the extent located within Common Area, rights-of-way, or easements granted to the Association; and

(g) any property and facilities Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property that it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Notwithstanding the above, some portions of the Area of Common Responsibility may consist of open space or conservancy areas intentionally left in a natural or relatively undisturbed state. The level of maintenance that the Association provides to the Area of Common Responsibility may vary from a high level of landscaping and regular, weekly maintenance to intermittent or no maintenance, depending on the nature and intended use of the particular open space area. Open space or other natural areas may serve as habitats for a variety of native plant, animal, and insect species, and may contain creeks, fallen trees and other naturally occurring conditions, some of which may pose hazards to persons or pets coming in contact with them. Neither the Association, the Declarant, nor any Builder shall have any responsibility for providing maintenance in such areas or taking action to abate such conditions.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation during such regular or seasonal operating hours as the Board may adopt, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing 75% of the Class "A"

votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced without Declarant's prior written approval as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

Except as otherwise specifically provided in this Declaration or any applicable Supplemental Declaration, the costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Covenant to Share Costs, other Recorded covenants, or agreements with the owner(s) thereof. The costs that the Association incurs or expects to incur for maintenance, repair and replacement of Limited Common Areas shall be a Service Area Expense assessed against the Units within the Service Area to which the Limited Common Areas are assigned.

### 7.3. Provision of Benefits and Services to Service Areas.

(a) The Declarant, on Exhibit "A" to this Declaration and/or by Supplemental Declaration submitting additional property to this Declaration, may assign the submitted property to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Units in addition to those which the Association generally provides to all Units. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area shall be assessed against the Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Units, or (b) a higher level of service than the Association otherwise provides. Upon receipt of such petition signed by Owners of a majority of the Units within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to be made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 67% of the Units within the proposed Service Area, the Association shall provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services shall be assessed against the Units within such Service Area as a Service Area Assessment, subject to the right of the Owners of Units within the Service Area to veto the budget for their Service Area as provided in Section 8.1.

(c) The Board may, by resolution, designate a group of Units as a Service Area and levy Service Area Assessments against such Units to fund the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Service Area. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Service Area and adjacent public roads, private streets within the Service Area, and lakes or ponds within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all similarly situated Units shall be treated the same.

7.4. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes; and

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits; and

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law; and

(iv) Directors and officers liability coverage; and

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Service Area, obtain and maintain property insurance on the insurable improvements within such Service Area, which insurance shall comply with the requirements of Section 7.4(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Service Area shall be a Service Area Expense; and (ii) premiums for insurance on Limited Common Areas shall be a Service Area Expense of the Service Area to which such Limited Common Areas are assigned, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Houston, Texas metropolitan area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.4(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Texas which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate; and

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Service Area shall be for the benefit of the Owners within the Service Area and their Mortgagees, as their interests may appear; and

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually; and

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause; and

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member); and

(vii) provide a waiver of subrogation under the policy against any Owner or occupant of any Unit; and

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests; and

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash; and

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause; and

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed

estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall cause damaged improvements on the Common Area to be repaired or reconstructed unless the Members entitled to cast at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Service Area, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.4(a).

#### 7.5. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Article VIII of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board); and

(ii) suspending the vote attributable to the violating Owner's Unit; and

(iii) suspending any Person's right to use any recreational facilities within the Common Area; and



(iv) suspending any services which the Association provides to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association; and

(v) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in Grayson Lakes; and

(vi) levying Specific Assessments pursuant to Section 8.3 to cover costs which the Association incurs to bring a Unit or Neighborhood Association's property into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of an Owner or occupant of a Unit, their guests or invitees.

In addition, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without the necessity of compliance with the procedures set forth in Article VIII of the By-Laws:

(i) requiring an Owner or Neighborhood Association, at its own expense, to perform maintenance on such Owner's Unit or the Neighborhood Association's property, respectively, or to remove any structure, item or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition; and/or

(ii) entering the property and exercising self-help to remove or cure a violating condition upon failure of an Owner or Neighborhood Association to take action as required pursuant to subsection (i) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; and/or

(iii) exercising self-help in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

(iv) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the procedures set forth in Article XIV, if applicable.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(c) The Association, by contract or other agreement, may enforce applicable county ordinances and permit Fort Bend County to enforce ordinances within Grayson Lakes for the benefit of the Association and its Members.

#### 7.6. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except to the extent that the Governing Documents or Texas law specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Article VI of the By-Laws.

#### 7.7. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association that the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any

Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.8. Provision of Services to Units.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner as a Specific Assessment, or may include the costs thereof in the Association's budget as (a) a Common Expense and assess it as part of the Base Assessment if provided to all Units, or (b) a Service Area Expense and assess it as a Service Area Assessment if provided to all Units within a particular Service Area. By way of example, such services and facilities might include trash collection, landscape maintenance; pest control service; cable, digital, satellite or similar television service; telecommunication and internet connection services; security monitoring; caretaker; transportation; fire protection; utilities; and other services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.9. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11. Use of Technology.

The Association may, as a Common Expense, provide for or offer services that make use of technological opportunities to facilitate the goals and fulfill the responsibilities of the Association. For example, to the extent Texas law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; collect assessments by electronic means; sponsor a community cable television channel; create and maintain a community intranet or Internet homepage; and maintain an "online" newsletter or bulletin board.

## **Article VIII Association Finances**

### **8.1. Budgeting and Allocating Association Expenses.**

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses which the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected need by an annual contribution over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including any Covenant to Share Costs), and the amount to be generated through the levy of assessments.

(b) Calculation of Base Assessments. Upon determining the total amount of income required to be allocated through the levy of Base Assessments, the Board shall establish the Base Assessment at an equal rate per Unit, to be levied against all Units subject to assessment under Section 8.4.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.5(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

(c) Calculation of Service Area Assessments. Except as may otherwise be provided in this Declaration or any applicable Supplemental Declaration, the total amount of estimated Service Area Expenses for each Service Area shall be allocated equally among all Units in the benefited Service Area which are subject to assessment under Section 8.4, to be levied as a Service Area Assessment; provided, unless otherwise specified in the applicable Supplemental Declaration, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures, may be

levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts that the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment or Service Area Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Members entitled to cast at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. The Service Area Expense budget for each Service Area shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, and in the case of a Service Area budget, on petition of Owners of at least 2/3 of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(e) Budget Revisions. The Board may revise the budget and adjust the Base Assessment or Service Area Assessments from time to time during the year, subject to the notice requirements and the rights to disapprove the revised budget as set forth above.

## 8.2. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Service Area if such Special Assessment is for Service Area Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members (if a Common Expense) or Owners (if a Service Area Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and

may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

### 8.3. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.8). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b); and

(c) to cover the deductible on the Association's insurance assessed pursuant to Section 7.4(b); and

(d) to cover any other amounts authorized to be levied against a particular Unit pursuant to the Governing Documents.

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

### 8.4. Authority to Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the first anniversary of the date on which Declarant transferred title to the Unit; or (b) the date on which construction of a dwelling on the Unit is substantially complete, as the Board may determine, or the Unit is actually occupied, whichever first occurs. The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the

Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.5. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of Grayson Lakes, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Texas law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Financial Obligations to Association. Declarant shall be liable for assessments on any Units which it owns that are subject to assessment under Section 8.4 except that, during the Class "B" Control Period, Declarant may satisfy its obligation for Base Assessments and Special Assessments for Common Expenses on any such Units either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of Base and Special Assessments for Common Expenses levied on all other Units subject to assessment and the amount of (i) actual expenditures by the Association during the fiscal year for Common Expenses (i.e., exclusive of Service Area expenses), plus (ii) contributions to reserves in accordance with the general operating budget. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year,

Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Class "B" Control Period, Declarant shall pay Base Assessments on any Units it owns that are subject to assessment under Section 8.4 in the same manner as any other Owner liable for such assessments.

Regardless of Declarant's election under this Section, any of Declarant's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

#### 8.6. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of Texas law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and Record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and Record any such document shall not affect the validity, enforceability, or priority of the lien. **The lien may be foreclosed through judicial or, to the extent allowed by law, nonjudicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 (Vernon 1984), as it may be amended, in like manner of any deed of trust on real property. Each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other instrument conveying such Unit to the Owner, a power of sale to be exercised in accordance with Tex. Prop. Code Ann. Section 51.002 (Vernon 1984), as it may be amended.**

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit, subject to the Owner's right of redemption, if any, under Texas law. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from



Owners of all Units subject to assessment under Section 8.4, including such acquirer, its successors and assigns.

8.7. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility; and

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c) of the Internal Revenue Code.

8.8. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

**PART FOUR: COMMUNITY DEVELOPMENT**

*The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of Grayson Lakes and to accommodate changes in the master plan which inevitably occur as a community the size of Grayson Lakes grows and matures.*

**Article IX Expansion of the Community**

9.1. Expansion by Declarant.

Declarant may from time to time expand Grayson Lakes to include all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property and stating the intent to submit it to the provisions of this Declaration. A

Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Grayson Lakes pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 30 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer, assign, or otherwise permit this right to be exercised by any Person or Persons who are the developers of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer, assignment or permission shall be memorialized in a written, Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also expand Grayson Lakes to include additional property by Recording a Supplemental Declaration describing the additional property and the intent to submit it to the provisions of this Declaration. Any such Supplemental Declaration shall require the affirmative vote of Members entitled to cast more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of Grayson Lakes to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any

additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

**Article X Additional Rights Reserved to Declarant**

10.1. Withdrawal of Property.

So long as Declarant has a right to expand Grayson Lakes pursuant to Section 9.1, Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the real property which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10%. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Right to Veto Changes in Standards.

So long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, the Declarant shall have the right to veto any amendment to or modification of the Restrictions and Rules or Architectural Guidelines.

10.3. Development and Sales Activities.

Until the Recording by Declarant of a written statement that all sales activity has ceased or 40 years from the date this Declaration is Recorded, whichever is earlier:

(a) Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge. Such right shall specifically include the right of Declarant and its designees to use Common Area facilities for an information center and/or for administrative, sales and business offices at no charge.

(b) Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

10.4. Control of and Changes in Development Plan.

(a) Every Person that acquires any interest in Grayson Lakes acknowledges that Grayson Lakes is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Association nor any Neighborhood Association shall engage in, or use Association funds to support, any protest, challenge or other form of objection to (a) changes in uses or density of property within or outside Grayson Lakes, or (b) changes in

the Master Plan as it relates to property outside Grayson Lakes, without the prior written consent of Declarant, which consent may be granted or withheld in Declarant's sole discretion.

(b) No Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of Grayson Lakes without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

(c) The rights and limitations set forth in this Section 10.4 shall continue in effect until the earlier of (a) 40 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

#### 10.5. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

#### 10.6. Exclusive Rights To Use Name of Developer or Development.

No Person other than Declarant and its authorized agents shall use the name "Grayson Lakes", any derivative of such name, or associated logos or depictions, in any electronic, printed or promotional media or material without Declarant's prior written consent. However, Owners may use the name "Grayson Lakes" in printed or promotional matter where such term is used solely to specify that particular property is located within Grayson Lakes. The Association shall also be entitled to use the word "Grayson Lakes" in its name.

#### 10.7. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Grayson Lakes in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection pursuant to the rights reserved in Section 11.7.

#### 10.8. Central Telecommunication, Receiving, and Distribution System.

Declarant reserves for itself, its Affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within Grayson Lakes, and to contract for service to the buildings and the structures within any Unit, a central telecommunication (including cable

television and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, and other related apparatus and equipment (the "**Community System**") as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right shall include, without limitation, Declarant's right to select and contract with companies licensed to provide telecommunications and cable television service in the Fort Bend County, Texas area, and to charge or authorize such provider to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of any relevant government authority, if applicable.

Declarant may enter into and assign to the Association, or cause the Association to enter into, a bulk rate service agreement providing for access to any Community Systems for all Units as a Common Expense. If particular services or benefits are provided to particular Owners or Units at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the charges as a Specific Assessment and pay such charges to the provider on behalf of the Owners, as the Board deems appropriate.

Further, if any such contract for a Community System is in effect, the dwelling on each Unit shall be pre-wired to connect to such Community System. If such wiring is installed by a party other than the provider of the Community System, the Owner shall contact the provider of the Community System upon completion of such installation and arrange for the provider of the Community System to inspect the wiring to ensure compatibility with the Community System. The provider of the Community System may charge the Owner of the Unit a reasonable fee for such inspection. If it is determined that the wiring is not compatible, the Owner of the Unit shall promptly arrange for such wiring to be replaced with wiring that is compatible with the Community System.

#### 10.9. Notices and Disclaimers as to Community Systems.

In recognition of the fact that interruptions in service provided by any Community System may occur from time to time, neither the Association nor the Declarant or any of Declarant's affiliates, successors, or assigns shall in any manner be liable for, and no Community System user shall be entitled to a refund, rebate, discount, or offset in applicable fees for, any interruption in Community Systems services, regardless of whether or not such interruption is caused by reasons within the service provider's control, except as may otherwise be agreed to by the Community System provider.

### **PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY**

*The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.*

**Article XI Easements**

11.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) the Governing Documents and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the Board's right to:
  - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area; and
  - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws; and
  - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration; and
  - (iv) impose reasonable membership requirements and charge reasonable initiation fees, admission or other use fees for the use of any recreational facility situated upon the Common Area; and
  - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public; and
  - (vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 18.3; and
- (d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

### 11.2. Easements of Encroachment.

(a) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

(b) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units as reasonably necessary to install, maintain, repair and replace any fence constructed on or within one foot of the boundary line of any Unit.

### 11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout Grayson Lakes (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve Grayson Lakes, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant or any Builder owns or within public rights-of-way or easements reserved for such purpose on Recorded plats or in other Recorded documents; and

(ii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement.

Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over Grayson Lakes as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and designees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon portions of Grayson Lakes adjacent to or containing bodies of water and wetlands which are part of the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, repair, and replace structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any portion of Grayson Lakes abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.



Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 50 feet of bodies of water and wetlands within Grayson Lakes, in order to (a) temporarily flood and back water upon and maintain water over such portions of Grayson Lakes; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas; and (d) install, maintain, repair, and replace bulkheads or other structures to make shorelines more attractive or to prevent or slow the rate of erosion of shorelines or changes in lake edges. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements.

**Notwithstanding the rights and easements established in this Section, nothing herein shall be construed to make Declarant, the Association, or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences, nor shall it be construed to create any obligation to install any bulkhead or other structure to make shorelines more attractive, or to prevent or slow the rate of erosion of shorelines or changes in lake edges. However, the Association shall be responsible for maintaining, as part of the Area of Common Responsibility, any such bulkhead or other structure which has been installed by Declarant or the Association. Each Owner is on notice that lake levels will rise and fall with rainfall events and that the shoreline or edge of lakes and ponds may be affected.**

11.7. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Grayson Lakes, including Units, and a perpetual, nonexclusive easement of access throughout Grayson Lakes to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

**Article XII Limited Common Areas**

12.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of particular Units. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area primarily serving a limited area. All costs associated with ownership, maintenance, repair, replacement, management, operation and insurance of a Limited Common Area shall be a Service Area Expense allocated among the Owners in the Service Area to which the Limited Common Area is assigned.

12.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area upon approval of (a) the Board, (b) Members entitled to cast a majority of the total Class "A" votes in the Association, and (c) Members entitled to cast a majority of the Class "A" votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

12.3. Use by Others.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

**Article XIII Party Walls and Other Shared Structures**

13.1. General Rules of Law to Apply.

Each wall, fence, driveway or similar structure built as a part of the original construction on the Units that serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2. Maintenance; Damage and Destruction.

Except to the extent that responsibility for maintenance or repair is assigned to or assumed by the Association or any Neighborhood Association pursuant to any applicable Supplemental Declaration or written agreement, the Owners of the Units separated by a party fence shall each be responsible for maintaining that side of the fence facing such Owner's Unit. To the extent that any necessary repair or replacement of a party fence or any other party structure affects both sides the fence or other structure, it shall be the joint responsibility of the Owners of both Units and either Owner may perform the necessary maintenance or repair and, within 30 days after receipt of written evidence of the total cost incurred, the other Owner shall reimburse the Owner who has incurred such cost for one half of the reasonable cost he or she has incurred in performing such maintenance or repair.

Notwithstanding the above, if maintenance or repairs to a party structure are necessitated by the conduct of the Owners, occupants or guests of only one of the Units which share such party structure, then the Owner of such Unit shall be responsible for the necessary maintenance or repairs.

In the event that any Owner installs, constructs, or erects a fence on the common boundary line such Owner's Unit and an adjacent Unit, and the owner of the adjacent Unit thereafter attaches another section of fence to it or otherwise makes use of such fence for the purpose of enclosing all or a portion of the adjacent Unit, then such fence shall become a party fence for the purpose of each Owner's responsibility for contributing to the maintenance, repair, and replacement of such fence. However, nothing herein shall confer any ownership interest in or right to remove any such fence on the Owner of the adjacent Unit.

In the event that either Owner fails to provide necessary maintenance or repairs to a party structure within 10 days after the date of written notice from the Association advising of the need for such maintenance or repairs, the Association or any Neighborhood Association having jurisdiction over the Units shall have the right to provide the necessary maintenance or repairs and assess the costs incurred against the responsible Owner(s) and his (or their) Unit(s).

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

## **PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY**

*The growth and success of Grayson Lakes as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.*

### **Article XIV Dispute Resolution and Limitation on Litigation**

#### **14.1. Agreement to Encourage Resolution of Disputes Without Litigation.**

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Grayson Lakes without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "**Claim**" shall refer to any claim, grievance or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents; or

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within Grayson Lakes, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner; and

(ii) any suit by the Association to enforce the Governing Documents after providing notice to the violator and an opportunity for a hearing in accordance with the By-Laws; and

(iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

#### 14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If

requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Houston, Texas metropolitan area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall share equally all fees charged by the mediator.

#### **Alternative Dispute Resolution Process**



(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

#### **14.3. Initiation of Litigation by Association.**

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period; or
- (b) initiated to enforce the provisions of the Governing Documents, including collection of assessments and foreclosure of liens; or
- (c) initiated to challenge ad valorem taxation or condemnation proceedings; or
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

#### **Article XV Mortgage Provisions**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in Grayson Lakes. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

##### **15.1. Notices of Action.**

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates (thereby becoming an "Eligible Mortgage Holder"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of Grayson Lakes or which affects any Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or
- (b) Any delinquency in the payment of assessments or charges owed for a Unit subject to the Eligible Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days; or
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders.

15.2. Special FHLMC Provision.

If any condominium within Grayson Lakes is approved by the Federal Home Loan Mortgage Corporation for the purchase of mortgages in such condominium, the following provisions apply in addition to and not in lieu of the foregoing:

(a) Unless at least 67% of the first Mortgagees or Members entitled to cast at least 67% of the total Association vote consent, the Association shall not:

(i) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection); or

(ii) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (any decision or action in accordance with the provisions of this Declaration or any Supplemental Declaration subsequently Recorded on any portion of Grayson Lakes resulting in the levy of Service Area Assessments shall not be subject to this provision); or

(iii) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision); or

(iv) Fail to maintain insurance, as required by this Declaration; or

(v) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

(b) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

15.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

15.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

15.5. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

15.6. Construction of Article XV.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Texas law for any of the acts set out in this Article.

**Article XVI Additional Relationships and Disclosures**

16.1. Special Tax District.

All or portions of Grayson Lakes may be located within Fort Bend County Municipal Utility District No. 130, and, in such cases, may be subject to all assessments, charges and ad valorem taxes imposed by such District, in addition to such assessments as the Association may impose pursuant to this Declaration.

16.2. Safety and Security.

**Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Grayson Lakes and each of them assumes all risks of personal injury and loss or damage to their property, including Units and their contents, resulting from acts of third parties.**

**The Association may, but shall not be obligated to, maintain or support certain activities within Grayson Lakes designed to enhance the level of safety or security that each person provides for himself and his property. However, no representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Grayson Lakes or any portion thereof, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Neither the Association, the Declarant, the Builders, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall in any way be considered insurers or guarantors of safety or security within Grayson Lakes, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.**



16.3. Natural Conditions.

(a) Grayson Lakes contains a number of manmade, natural and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including insects, venomous and non-venomous snakes and other reptiles, coyotes, alligators and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Unit, and every person entering Grayson Lakes (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or through Grayson Lakes; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within Grayson Lakes. Neither the Association, the Declarant, any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in Grayson Lakes, nor shall they have any liability for any injury resulting from the presence, movement or propagation of any plant or wildlife within or through Grayson Lakes.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Unit shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the Association's or Declarant's prior written approval.

16.4. Use of Adjacent Properties; Cattle Grazing.

Property situated adjacent or in close proximity to residential areas of Grayson Lakes may be used for cattle grazing. Such areas may be enclosed by an electric fence that could cause injury to persons or pets or damage to property coming in contact with it. Neither the Declarant, the Association, nor any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any liability for personal injury or property damage resulting from contact with such electric fences or entry into areas where cattle are grazing.

16.5. Irrigation Using Treated Effluent.

Each Owner and occupant of a Unit, and their respective guests and invitees, are hereby advised that the water used to irrigate property within or adjacent to Grayson Lakes, including the Area of Common Responsibility and other landscaped areas adjacent or in close proximity to Units, may be treated effluent. Although treated effluent is considered safe for irrigation and limited contact, it is not suitable for human or animal consumption and should not be used for drinking, bathing, swimming, or any purpose other than irrigation.

16.6. High Voltage Power Lines; Radio and Telecommunication Towers.

Every Owner and occupant of a Unit is hereby advised that there are high voltage power transmission lines and radio towers located within or in the vicinity of Grayson Lakes. While various studies have failed to establish any causal relationship between living in proximity to

high voltage power transmission lines or radio towers and cancer or other diseases, there remains some speculation that such a relationship may exist. Every Owner and occupant of a Unit must evaluate such risk for themselves prior to making a decision to purchase or occupy a Unit. Neither Declarant, Builders, the Association, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall be liable for any damage or injury to any Person or any property arising out of or related to proximity to high voltage power transmission lines and/or radio towers.

Every Owner and occupant of a Unit is further advised that telecommunication towers and related equipment may also be built within or in the vicinity of Grayson Lakes. Neither Declarant, Builders, the Association, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing shall be liable for any damage or injury to any Person or any property arising out of or related to the construction, installation, maintenance and operation of any such towers that may now or hereafter be located in or in the vicinity of Grayson Lakes.

16.7. Noise from Water and Sewer Operations.

(a) The Association may make use of multiple wells, pumps, pipes and lines for pumping and transport of water. Water lines and pipes may be located within easements for such purpose on Units. The pumping and transport of water from such wells may generate noise which is audible to occupants of Units and other persons in the vicinity of such wells, pumps, pipes or lines. Likewise, the sewage system serving Grayson Lakes may require the installation and operation of sewer lift stations at various points which may generate motor noise when operating that may be audible to occupants of Units and other persons in the vicinity of such lift stations. Neither Declarant, Builders, the Association, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to abate such noise nor shall any of them be liable for any claim of damages or injury to any Person or property arising out of or related to noise resulting from such water or sewer facilities, equipment or operations.

**PART SEVEN: CHANGES IN THE COMMUNITY**

*Communities such as Grayson Lakes are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Grayson Lakes and its Governing Documents must be able to adapt to these changes while protecting the things that make Grayson Lakes unique.*

**Article XVII Changes in Ownership of Units**

17.1. Resale and Compliance Certificate.

(a) No Owner shall transfer title to a Unit unless and until it has obtained a resale certificate signed by a representative of the Association pursuant to Section 207.03(b) of the Texas Property Code ("**Resale Certificate**") signed on behalf of the Association certifying that, as of the date of such certificate: (A) all assessments (or installments thereof) and other charges against the Unit due and payable through the date of the certificate have been paid; and (B) that

no violations of the Governing Documents are known to the Board of Directors that have not either been cured or waived in writing by the Association. Any transfer or attempted transfer of title to a Unit prior to issuance of a Resale Certificate shall be null and void.

(b) The Association shall deliver a Resale Certificate, along with a current copy of the Governing Documents, within 10 days after the Association's receipt of a written request from an Owner or Owner's agent, or a title insurance company acting on behalf of an Owner. If the Resale Certificate indicates that there are any past due assessments or other charges against the Unit or any areas in which the Unit is known not to be in compliance with the Governing Documents, the Owner shall pay all past due amounts and cure all such violations and may thereafter request an updated Resale Certificate in accordance with the above procedure.

17.2. Administrative Transfer Fee.

Upon acceptance of title to a Unit, the new Owner of the Unit shall pay to the Association an "**Administrative Transfer Fee**" to cover the administrative expenses associated with updating the Association's records. Such Administrative Transfer Fee shall be reasonably determined by the Board to cover its costs, including, but not limited to, any fees charged for updating records by a management company retained by the Association.

**Article XVIII Changes in Common Area**

18.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. The Board may convey Common Area under threat of condemnation only upon the written direction of Members entitled to cast at least 67% of the total Class "A" votes in the Association, the Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and such additional approval, if any, as may be required under Section 18.3.

Any condemnation award or proceeds from a conveyance in lieu of condemnation shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Members entitled to cast at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.4(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

18.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action seeking the partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration, subject to such approval as may be required under Section 18.3.

18.3. Transfer, Dedication, and Mortgaging of Common Area.

The Association may dedicate portions of the Common Area to Fort Bend County, Texas, or to any other local, state, or federal governmental or quasi-governmental entity, or may encumber the Common Area with a mortgage or deed of trust as security for a loan, only with approval of Members entitled to cast more than 50% of the total Class "A" votes and, so long as the Declarant owns any property described on Exhibits "A" or "B" to this Declaration, the consent of the Class "B" Member.

**Article XIX Amendment of Declaration**

19.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose except as otherwise provided in Section 15.2. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any unilateral amendment by Declarant pursuant to this Section shall not materially adversely affect the title to any Unit unless the Owner shall consent in writing.

19.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members entitled to cast 75% of the total Class "A" votes in the Association and Declarant's consent, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

19.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

19.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration that refer to such exhibits.

[continued on next page]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Amended and Restated Declaration as of this 18 day of NOVEMBER, 2005.

**DECLARANT:** NNP-GRAYSON LAKES, LP, a Texas limited partnership

By: NNP-TV COMMUNITIES, LP, a Texas limited partnership, its general partner

By: NNP-TV Management, LLC, a Delaware limited liability company, its general partner

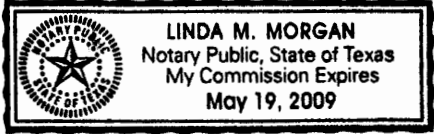
By: [Signature]  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

~~By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_~~

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS   §

Before me, the undersigned authority, on this day personally appeared LISA CHAHIN and \_\_\_\_\_, personally known to me ~~or proved to me~~ on the oath of \_\_\_\_\_ to be the persons whose names are subscribed to the foregoing instrument, and known to me to be the ASST. V.P. and \_\_\_\_\_ of NNP-TV Management, LLC, a Delaware limited liability company, and acknowledged to me that they executed the same for the purpose and consideration therein expressed and as the act of said limited liability company.

GIVEN under my hand and seal of office this 18<sup>th</sup> day of NOVEMBER, 2005.  
[Signature]  
Notary Public

[Notarial Seal] 

My commission expires: \_\_\_\_\_