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AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS AND RESTRICTIONS
CUTTEN GREEN

As of August 1, 1998

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County Clerk
HARRIS COUNTY, TEXAS

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AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS AND RESTRICTIONS

CUTTEN GREEN

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SECRETARY'S CERTIFICATE OF FILING

I, JOHN VEATCH, certify that:

I am the duly qualified and acting secretary of Cutten Green Homeowners Association, Inc., a duly organized and existing Texas non-profit corporation.

The attached instrument is an original Amendment To and Restatement of Covenants, Conditions and Restrictions Cutten Green Homeowners Association, Inc., a Dedicatory Instrument as that term is defined by Section 202.001 of the Texas Property Code, pertaining to Cutten Green Homeowners Association, Inc.

The attached instrument is being presented for recording in the Official Public Records of Real Property of Harris County, Texas, pursuant to Section 202.006 of the Texas Property Code.

Dated: 12/19/05

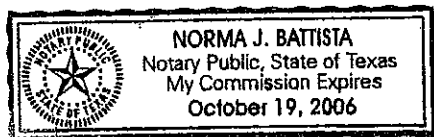
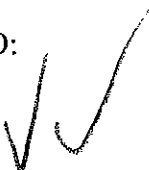
John Veatch
JOHN VEATCH
Secretary, Cutten Green Homeowners Association, Inc.

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 19th day of December, 2005, by John Veatch, Secretary of Cutten Green Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

Norma J. Battista
Notary Public in and for The State of Texas

AFTER RECORDING, RETURN TO:
Walter E. Spears
Bartley & Spears, P.C.
14811 St. Mary's Lane, Suite 270
Houston, Texas 77079



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**AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS AND RESTRICTIONS
CUTTEN GREEN**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, under County Clerk's File No. F436962 and recorded under Film Code No. 184-15-2369 of the Real Property Records of Harris County, Texas, there has been recorded the Declaration of Covenants, Conditions and Restrictions, Cutten Green, Section One (I); and

WHEREAS, under County Clerk's File No. H091216 and recorded under Film Code No. 192-85-1761 of the Real Property Records of Harris County, Texas, there has been recorded a First Amendment to Declaration of Covenants, Conditions and Restrictions, Cutten Green, Section One (I); and

WHEREAS, under County Clerk's File No. J994753 and recorded under Film Code No. 013-65-0002 of the Real Property Records of Harris County, Texas, there has been recorded an Amendment to Declaration of Covenants, Conditions and Restrictions, Cutten Green, Section One (I); and

WHEREAS, under County Clerk's File No. G760511 and recorded under Film Code No. 171-93-2177 of the Real Property Records of Harris County, Texas, there has been recorded a Declaration of Covenants, Conditions and Restrictions, Cutten Green, Section Two (II); and

WHEREAS, under County Clerk's File No. P685019 and recorded under Film Code No. 199-47-2365 of the Real Property Records of Harris County, Texas, there has been recorded a First Amendment to Declaration of Covenants, Conditions and Restrictions, Cutten Green, Section Two (II); and

WHEREAS the undersigned, representing the Owners of seventy-five percent (75%) of the Lots in Cutten Green Section I and Cutten Green Section II, as more particularly described in the maps or plate thereof recorded in Volume 260, Page 6 and Volume 298, Page 3, respectively, of the Map Records of Harris County, Texas, which instruments are incorporated herein for all purposes; and

WHEREAS, said Restrictions were created and filed of record for the benefit of all members of the Cutten Green Homeowners Association, Inc.; and

WHEREAS, due to current and projected social and economic circumstances unforeseen by the developers and individual homeowners at the times of initial development, the aforementioned Restrictions and any corrections thereof are deficient in relation to the future needs of the subdivisions; and

WHEREAS, because each of these sections is part of a common scheme of development and each has been, and is, and desires to remain under the operational control of the Association and be a part of the greater "Cutten Green Subdivision," uniformity in the operative documents is a necessity which is beneficial to all parties involved therein;

NOW, THEREFORE, the undersigned agree to amend and restate change the "Restrictions" of Cutten Green Subdivision, Section I and Section II, as amended, to read as follows:

ARTICLE I

DEFINITIONS

The following words, when used herein, shall have the following meanings:

Section 1. "Association" shall mean and refer to the Cutten Green Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Common Areas" shall refer to any properties, real or personal, hereafter conveyed to or otherwise acquired by the Association for the common use and enjoyment of the of the Owners.

Section 3. "Corner Lot" shall refer to a Lot which abuts on more than one Street.

Section 4. "Amendment" shall refer to this Amendment to the Declaration of Covenants and Restrictions.

Section 5. "Lot" shall refer to any of the numbered lots shown on the Subdivision Plats as referenced hereinabove.

Section 6. "Owner(s)" shall refer to the owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not refer to any person or entity holding a lien, easement, mineral interest or royalty interest burdening the title thereof.

Section 7. "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue or any thoroughfare as shown on the Subdivision Plats as referenced hereinabove.

ARTICLE II

CUTTEN GREEN HOMEOWNERS ASSOCIATION, INC.

Section 1. Organization. The principle purposes of the Association are the collection, expenditure and management of the maintenance charge funds, enforcement of the Declaration of Covenants and Restrictions, as well as any Amendments thereto, or Restatements thereof, providing for the maintenance, preservation and architectural control within the Subdivision, the general overall supervision of all of the affairs and well-being of the Subdivision and the promotion of the health, safety and welfare of the residents of the Subdivision.

Section 2. Board of Directors. The Association acts through a Board of Directors, which manages the affairs of the Association as specified in the By-Laws of the Association.

Section 3. Membership. Every Owner of a Lot shall be a member of the Association. Lot ownership is the sole requirement for membership and no Owner shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association and shall automatically pass with the title to the Lot.

Section 4. Voting. All Owners shall be entitled to one (1) vote for each Lot owned. When more than one (1) individual or entity holds an ownership interest in a Lot, all such persons shall be members, but in no event shall they be entitled to more than one (1) vote with respect to that particular Lot.

Section 5. Suspension of Voting Rights. The Association shall have the right to suspend the voting rights and enjoyment rights of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days. In the event any assessments have been or are being expended to provide services for the Owners (for example, garbage collection services), the Association

shall have the right to terminate or cause to be terminated such services for any Member during the period said Member is in default in excess of thirty (30) days in the payment of any assessment against said Member's Lot.

ARTICLE III

ARCHITECTURAL CONTROL

Section 1. Creation, Purpose and Duties. No building, fence, wall, swimming pool, gazebo, structural flagpole, satellite dish, windmill, solar panel, exterior light, slab or any other structure or improvement, as herein specifically provided, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereon be made, until the plans and specifications showing the nature, kind, shape, heights, materials, colors and locations of the same shall have been approved in writing, as to harmony with external design and location in relation to surrounding structures and topography and compliance with all pertinent Deed Restrictions by (I) the Board of Directors of the Association, or (II) an Architectural Control Committee (ACC) composed of representatives appointed by the Board. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will have been deemed to have been complied with in full; however, a mere failure to respond within thirty (30) days shall not serve to allow the placement of any structure(s) on any Lot in violation of any other provision(s) in the restrictions applicable to Cutten Green. The decision of the Architectural Control Committee, if appointed, may be appealed directly and in person to the Board of Directors at the regular Board Meeting of the Association following the Committee's rejection.

Section 2. Approvals. The Architectural Control Committee shall have the right to specify architectural and aesthetic requirements for building sites, minimum setback lines, the location, height and extent of fences, walls, poles or other screening devices, the orientation of structures with respect to streets, walks, paths and structures on adjacent property, and a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The Architectural Control Committee shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed, or that do not meet its minimum construction or architectural design requirements, or that might not be compatible with the overall character and aesthetics of the Subdivision.

Section 3. Variances. The Architectural Control Committee shall have the right, exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision or the common scheme of development. All variances granted shall be in writing, addressed to the Owner requesting the variance, describing the applicable restrictions to which the variance is granted, listing conditions imposed on the granted variance and listing specific reasons for granting of the variance. Failure by the Architectural Control Committee to respond within thirty (30) days to a request for a variance shall operate as a denial of the variance.

Section 4. No Waiver of Future Approvals. The approval of the Architectural Control Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such

Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval and consent.

Section 5. No Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Architectural Control Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Owner, the Association, the Board of Directors, any committee or any member of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any structure.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot which shall be or thereafter become assessable by acceptance of a Deed therefor, whether or not it shall be express in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges; and
- (b) Special assessments for capital improvements.

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

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and acquisition expenses incurred by the Association and, at the option of the Board of Directors of the Association, for any and all of the following purposes: lighting, improving and maintaining streets, alleyways, sidewalks, paths, parks, parkways and esplanades in the Subdivision; collecting and disposing of garbage, ashes, rubbish and materials of a similar nature; payment of legal and all other expense(s) incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of the Declaration of Covenants and Restrictions of Cutten Green and any and all Amendments thereto, employing policemen or watchmen and/or a security service; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees, grass and shrubbery on esplanades and easements and in the Community Properties; acquiring and maintaining any amenities or recreational facilities that are or will be operated in whole or in part for the benefit

of the Owners; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision in neat and good order, or which they consider of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance and other charges as specified herein. The judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Basis and Maximum Level of Annual Assessments. Until January 1 of 1997, the maximum annual assessment shall be Three Hundred Thirty Dollars and No Cents (\$330.00) per Lot, which rate is hereby ratified and adopted as of the Special Meeting of the Members of the Association in November 6, 1986. From and after the first day of January of the year immediately following the date of commencement of the first annual assessment, the maximum annual assessment may be increased by the Board of Directors of the Association, effective the first day of January of each year, by an amount not to exceed a ten percent (10%) increase over the prior year's assessment, without a vote of the Members of the Association. The maximum annual assessment may be increased more than the above-mentioned percentage increase with the assent of a two-thirds (2/3) majority of the Members of the Association who are voting in person or by proxy at a meeting duly called for this purpose. This increase shall become effective on the date specified in the document evidencing such approval only after such document has been filed for record in the Office of the County Clerk of Harris County, Texas. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Owners.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment for capital improvements applicable to that year only. The purpose of the special assessment for capital improvements is for defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a particular capital improvement located upon the Community Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of the Owners as set forth in Section 3 above.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 or Section 4. Written notice of any meeting for the purpose of taking any action authorized under Section 3 or Section 4 of Article IV shall be sent to all Members not less than twenty (20) days, nor more than sixty (60) days, in advance of the meeting, setting forth the purpose of the meeting. At the called meeting, the presence of Members entitled to cast, or proxy votes entitled to cast, seven percent (7%) of the votes of the Membership shall constitute a quorum for any action except as otherwise provided in the Declaration or Articles of Incorporation.

Section 6. Rates of Assessment. Both annual and special assessments on all Lots shall be fixed at uniform rates provided, however, the rate applicable to Lots that are not occupied as residences shall be equal to one-half (1/2) of the full assessment as set by the Board of Directors of the Association. The rate of assessment for each Lot shall change as the character of ownership and the status of occupancy changes.

Section 7. Date of Commencement and Determination of Annual Assessment. The annual assessment provided for herein shall commence as to all Lots on a date fixed by the Board of Directors of the Association. The first annual assessment shall be adjusted according

to the number of months remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is not binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the Vendor's Lien herein retained against the Lot. Interest accruing on past due assessments at the maximum rate permitted by law, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the Vendor's Lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the Association either judicially or non-judicially by power of sale, and such Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Vendor's Lien. Non-judicial foreclosure shall be conducted by notice and posting of sale in accordance with the then applicable laws of the State of Texas. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Community Properties or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. As hereinabove provided, the title to each Lot shall be subject to the Vendor's Lien securing the payment of all assessments and charges due the Association, but the Vendor's Lien shall be subordinate to any valid purchase money lien or valid lien securing the cost of construction of home improvements. Sale or transfer of any Lot shall not affect the Vendor's Lien provided, however, the sale or transfer of any Lot pursuant to a judicial or non-judicial foreclosure under the aforesaid superior liens shall extinguish the Vendor's Lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from the liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, at the discretion of its Board of Directors, may subordinate the Vendor's Lien herein retained to any other mortgage, lien or encumbrances, subject to such limitations, if any, as the Board of Directors may determine.

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

Section 11. Insurance.

- A. It is specifically provided that each Owner shall be responsible for obtaining his own personal insurance on his residence, as well as its contents, against the risks of fire and other hazards.
- B. The Board of Directors shall obtain and continue in effect property insurance to insure the buildings and other properties in the Common Areas against risk of loss by fire or other similar hazards and shall obtain comprehensive public liability insurance, in such limits as it shall deem advisable, insuring the Association, its Board of Directors, agents and employees, and each Owner from and against liability in connection with the Common Areas.
- C. Each Owner shall be responsible at his own expense and cost for obtaining his personal insurance on the contents of his own residence, garage, parking space or other covered areas, including decorations, furnishings and personal property therein, and elsewhere on the Property, and his own personal liability not covered by liability insurance for all Owners obtained as part of the common expense.
- D. In the event of damage or destruction by fire or other casualty to any house or other property covered by insurance written in the name of the individual Owner, said Owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds contract to repair or rebuild such damaged or destroyed portions of such house or other property in a good workmanlike manner in conformance with the plans and specifications of the property prior to the casualty or to plans and specifications approved by the Architectural Control Committee of the Association, or at Owner's mortgagee's option to level and clear such property to a condition where it does not constitute a safety or health hazard and does not constitute a nuisance. Repair, rebuilding or leveling of the property once commenced will be continuous until completion. If, for any reason whatsoever, such Owner should refuse to fail to so begin to repair, rebuild or level the property within ninety (90) days after the casualty, regardless of whether or not the insurance proceeds are sufficient to pay all costs of repairing, rebuilding or leveling, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to remove, repair or rebuild any such property to the condition stated above. The Owner then shall repay promptly the Association the amount actually expended for such repairing, rebuilding or leveling, plus interest at the maximum rate permitted by law, and the Association shall have a lien securing payment of such amount, this lien to be identical to that provided in Section 8 securing the assessment, and non-payment of this lien shall subject the property to foreclosure as herein provided. Although the Board is authorized to remove, repair or rebuild any such property as stated above, the Board is not obligated to do so.
- E. Should any mortgagee fail to concur in the application of the insurance proceeds or the cost of repairing, rebuilding or leveling, then such proceeds shall be applied first to the sums secured by the first mortgage, with the excess, if any, applied to the cost of repairing, rebuilding or leveling of the aforesaid property.

- F. All costs, charges and premiums for all insurance that the Board of Directors authorizes as provided herein, except on individual houses, shall be a common expense of all Owners and be a part of the maintenance assessment.
- G. Notwithstanding any provision of this Section 11, the Association shall maintain the right to seek a mandatory injunction or any other legal remedy to enforce an Owner's obligation to timely repair, rebuild or abate a nuisance.

Section 12. Taxes. Each Owner shall render directly for taxation his own Lot and improvements and property thereon and shall pay, at his own cost and expense, directly all taxes levied or assessed against or upon his Lot and improvements and property thereon. The Association shall render for taxation and, as part of the common expense of all Owners, shall pay all taxes levied and assessed against or upon the Common Areas and the improvements and property pertaining thereto.

ARTICLE V

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Owner's Easement for Access and Enjoyment. Subject to the provisions herein stated, every Member shall have an easement of access and a right and easement of enjoyment in the Community Properties, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

- A. The Association shall have the right to borrow money and in aid thereof to mortgage the Common Areas upon approval by a majority of two-thirds (2/3) of the votes cast by each Owner at a Meeting of Owners. Seven percent (7%) of the votes of the Membership shall constitute a quorum for any action except as otherwise provided in the Declaration or Articles of Incorporation. In the event of a default under or foreclosure of any such mortgage, the rights of the lender or foreclosure sale purchaser shall be subject to the easement of enjoyment of the Owners.
- B. The Association shall have the right to take such steps as are reasonably necessary to protect the Community Properties against foreclosure of any such mortgage.
- C. The Association shall have the right to establish reasonable rules and regulations. The Association shall have the right to delegate such rules and regulations. The Association shall have the right to delegate management of the Community Properties.
- D. Upon approval by a two-thirds (2/3) majority of the votes cast by each Owner at a Meeting of Owners, the Association shall have the right to transfer or convey all or any part of the Community Properties, or interests therein, to any public authority for such purposes and subject to such conditions as may be approved by said two-thirds (2/3) majority of the Owners provided, however, this provision shall not be construed to limit the right of the Association to grant or dedicate public or private utility easements in portions of the Community Properties.
- E. The Association shall have the right, but not the obligation, to contract, on behalf of all Lots, for garbage and rubbish pickup and to charge the Owner of each Lot for his pro rata share to be determined by dividing the number of Lots

being served into the total cost of providing garbage and rubbish pickup and such cost to be in addition to, should the Association so elect, the assessments described herein.

Section 2. Delegation of Use. Each Owner shall have the right to extend his rights and easements of enjoyment to the Community Properties to the members of his family, to his tenants who reside in the Subdivision and to such other persons as may be permitted by the Association.

Section 3. Playground and Recreational Facilities. Any playground or other recreational facility or area or equipment furnished by the Association or erected with the Common Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to the use thereof.

ARTICLE VI

USE RESTRICTIONS

Section 1. Residential Use. Each and every Lot is hereby restricted to residential dwellings for single family residential use only. No business, professional, commercial or manufacturing use shall be made of any of said Lots, except as herein specifically addressed in **Article VI, Section 9**. No structure other than one single family residence and its outbuildings shall be constructed, placed on or permitted to remain on any Lot in the Subdivision. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes or apartment houses.

Section 2. Animals, Livestock and Exotic Animals.

a. Except as otherwise expressly provided in this section, no animal, livestock, swine, poultry, fowl or exotic animals of any kind shall be raised, bred, or kept on any Lot. Exotic animals include but are not limited to wolves, hybrid-wolves, bears, foxes, lions, tigers, leopards, jaguars, cheetahs, bobcats, mountain lions, cougars, ocelot, raccoons, skunks, armadillos, peacocks, deer, poisonous snakes, any snake in excess of six feet, emu, llamas, camels, primates, and squirrels. Other animals specially not allowed include horses, cows, sheep, goats, chickens, ducks, and geese.

b. Consistent with its use as a residence, dogs, cats, household birds, hamsters, gerbils, guinea pigs, rabbits, non-poisonous snakes under six feet in length, lizards under three feet in length or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business purposes and further provided that no more than three (3) such pets shall be kept on a Lot. All animals or pets must be leashed or restrained within an adequate enclosure.

c. The Board of Directors of the Association shall have the power to define exotic animals.

Section 3. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance to residents of the Subdivision.

Section 4. Storage and Repair of Vehicles. No boat, mobile home, trailer, boat riggings, truck larger than a three-quarter (3/4) ton pickup, bus or unused or inoperable motorized vehicle shall be parked or kept in the Street in front of, or at the side of, any Lot or on any Lot, unless such vehicle is stored within a garage. No Owner of any Lot in the Sub-

division or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or Streets other than work of a temporary nature. For the purposes of the foregoing term, "temporary" shall mean that the vehicle shall not remain in driveways or on Streets in excess of forty-eight (48) hours.

Section 5. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 AM and 10:00 PM.

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

Section 7. Building Materials. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction or remodeling of the residences by Builders in the Subdivision, building materials may be placed or stored upon a Lot. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay, after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the street paving.

Section 8. Mineral Production. No drilling, developing operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

Section 9. Business Use. No business, professional, commercial or manufacturing, may be conducted in or from any Lot, except that an Owner or his tenant may conduct business activities within the Lot or building thereon so long as:

- A. The existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot;
- B. The business activity conforms to all zoning requirements for the Properties;
- C. The business activity does not involve commercial vehicles coming to the Properties or door-to-door solicitation of residents of the Properties;
- D. The business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board;
- E. No sign is to be used;
- F. The use will not tend to destroy the residential character of the neighborhood. The Lot and any building(s) thereon must be used primarily as a residence, with not more than ten percent (10%) used for business; and,

- G. A Home Occupation Permit Application must be completed and approved by the Association or their designee. Home Occupation Permits will be valid for a period of two (2) years. No home business may operate without an approved permit. Non-compliance with any of the aforementioned provisions of **Section 9 of Article VI** will result in revocation of the Permit.

Section 10. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types regardless of size.

ARTICLE VII

ARCHITECTURAL RESTRICTIONS

Section 1. Type of Residence. Only one (1) detached single family residence of not more than two (2) stories shall be built or permitted on each Lot. All residences shall have an attached or detached enclosed garage with minimum interior floor space necessary to accommodate two full-sized automobiles. Carports on Lots are prohibited. All structures shall be new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

Section 2. Living Area Requirements. The ground floor area of any one-story family dwelling, exclusive of open porches and garages, shall contain no less than 1,600 square feet. The total living area of any one and one-half story or two-story single family dwelling, exclusive of open porches and garages, shall also contain not less than 1,600 square feet.

Section 3. Location of Residence on Lot. Unless otherwise approved by the Committee, all residences on each Lot shall face the lot line having the shortest dimension abutting a Street (front lot line). Residences on Corner Lots shall maintain frontage on each Street on which they face which is in accordance with the guidelines for Residences which are not located on a Corner Lot. Each attached or detached garage shall, unless otherwise directed or permitted by the Committee, face either upon the front lot line or upon a line drawn perpendicular to the front lot line. Driveway access will be provided from the front lot line only, except for Corner Lots which may have driveway access from a side street. No residence shall be located on any Lot nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the Subdivision Plat. No residence shall be located on any utility easement. The main residential structure (exclusive of detached garages and outbuildings) shall be located no nearer than fifteen (15) feet from the rear property line. No part of the house building shall be located nearer than five (5) feet to an interior lot line.

A detached garage or other permitted accessory building may be a minimum distance of three (3) feet from an interior lot line. For the purposes of this covenant, eaves, steps and unroofed terraces shall not be considered a part of a building provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot.

Section 4. Type of Construction. Unless otherwise approved by the Committee, at least fifty-one percent (51%) of the exterior wall of all residences (excluding detached garages), excluding gables, windows and door openings, must be of masonry or brick veneer. No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and permitted accessory building

(except a greenhouse) shall correspond in style, color, and architecture with the dwelling to which it is appurtenant. No structure of any kind or character which incorporates frame construction on the exterior shall be erected on any Lot unless such structure receives at least two (2) coats of paint at the time of construction or the exterior is of redwood or cedar material. A maximum of two (2) colors of paint shall be used on the exterior and must be harmonious with the overall character and aesthetics of the Community.

Section 5. Temporary Buildings. The Association may permit temporary toilet facilities, sales and construction offices, and storage areas to be used in connection with the construction and sale of residences. Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Subdivision. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must have been reconverted to a garage.

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

Section 7. Roof Material. Roofs of all residences shall be constructed so that the exposed material is either tile, aluminum or plastic with wood or shingle appearance, composition shingles of a wood-tone color, or such other color as may be approved by the Committee, and which are warranted for twenty-five (25) years or better, and with a high definition style, which has an appearance of raised wood shingles.

Section 8. Fences. No fence or wall shall be erected on any Lot nearer to the Street than the building setback lines as shown on the Subdivision Plat. All fences, where permitted to be built, shall be no higher than eight (8) feet. All fences shall be made of wood, wrought iron, masonry or like material. No fence within public view shall be made of chain link, wire or like non-solid material.

Section 9. Grass, Shrubbery and Fencing. The Owner of each Lot used as a residence shall spot sod or sprig with grass the area between the front of his residence and the curb line of the abutting Street. The grass shall be of a type and within standards prescribed by the Association. Grass and weeds shall be kept mowed to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons within the Subdivision, shall be promptly removed or repaired, and if not removed by Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. Vacant Lots shall be mowed and maintained in appearance by the Owner and shall not be used as dumping grounds for rubbish, trash, rubble or soil. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain and replace such shrubbery or other screening devices. Owners of residences shall construct and maintain a fence or other suitable enclosure to screen from public view the drying of clothes, yard equipment, wood piles and/or storage piles.

Section 10. Signs. No signs, billboards, posters or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Association, other than one (1) sign of not more than six (6) square feet advertising the particular Lot on which the sign is situated for sale or rent, and/or a security placard no larger than 144 square inches.

Section 11. Traffic Sight Areas. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the Street shall be

permitted to remain on any Corner Lot within the triangular area formed by the two (2) lot lines abutting the Street and a line connecting them at points twenty-five (25) feet from their intersection, or within the triangular area formed by the lot line abutting a Street, the edge line of any driveway or alley pavement and a line connecting them at points ten (10) feet from their intersection.

Section 12. Exterior Antennae. No television antennae, citizens band antennae, satellite dish or antennae of any type whatsoever may be affixed or placed upon any land or improvement anywhere within the Subdivision within public view. Nothing herein shall be construed to conflict with any local, state or Federal government regulation concerning antennas.

Section 13. Curb Ramps. If required by applicable federal, state or local law, curbs with accompanying sidewalks shall have curb ramps (depressions in the sidewalk and curb) at all crosswalks to provide safe and convenient movement of physically handicapped persons confined to wheelchairs. Such curb ramps will be provided at the time of construction of any sidewalks and shall be constructed in accordance with specifications provided by the applicable governmental authority.

Section 14. Protective Screening Fences. Except as otherwise provided herein, fences or walls utilized in protective screening areas as shown on the Subdivision Plat or as required pursuant to this instrument, shall be maintained to form an effective screen for the protection of the Subdivision throughout the entire length of such areas by the Owners of the Lots adjacent thereto at their own expense.

Section 15. Minimum Lot Size in Relation to Residence. No residence shall be erected on any Lot or combination of Lots having a lot width at the front of the Lot less than the shortest lot width at the front of any Lot as shown on the Subdivision Plat; and no residence shall be erected on any Lot or combination of Lots having a lot area less than 6,500 square feet.

Section 16. Mailboxes. Mailboxes, house numbers and similar matter used in the Subdivision must be harmonious with the overall character and aesthetics of the community.

Section 17. Disposal Units. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

Section 18. Air Conditioners. No window or wall-type air conditions visible from any Street shall be permitted.

Section 19. Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility company, shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

ARTICLE VIII

ENFORCEMENT OF EXTERIOR MAINTENANCE

Every Owner of a Lot, by acceptance of a deed for the same or by acceptance of title as devisee or heir, covenants that he will not permit the Lot or any improvements (including, but not limited to, the grass, shrubs, trees, driveways, walks and fences) thereon to be otherwise maintained than in good repair and in safe, neat and attractive condition. In the event that any Member shall fail to so maintain his Lot and such neglect, in the judgment of the Board of Directors of the Association, should result in a condition of unsightliness tending to adversely affect the attractiveness, value or enjoyment of neighboring Lots or should it constitute a hazard

to persons or property, the Board of Directors of the Association or Architectural Control Committee may give notice of such conditions to the Owner of the Lot, demanding that such conditions be abated within thirty (30) days from the date that the notice is sent by United States Certified Mail, Return Receipt Requested. If the Owner of the Lot does not rectify the condition by the end of that period the Association may cause work to be performed as is necessary upon the Lot and the cost of such services shall be charged against the Lot upon which such services were performed and shall be added to and become part of the annual maintenance assessment or charge to which such Lot is subject under Article IV hereof, except that payment for any work performed pursuant to this Section shall be due upon presentation to the Owner, either in person or by regular United States Mail, of the Association's invoice thereof. Default in prompt and full payment within thirty (30) days from the date the invoice is sent to the Owner shall entitle the Association to interest on the amount unpaid from the date of the invoice, at the maximum rate permitted by law, which interest also shall constitute a lien upon the Lot and an obligation of the Owner thereof. Any such costs shall be collectible as if same were Maintenance Assessment as provided in Article IV hereof.

Repeated occurrence(s) of the same violation do not require notice as described above before corrective action may be initiated.

ARTICLE IX

EASEMENTS

Section 1. Existing Easements. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and the Subdivision Plat further establishes dedications, limitations, reservations and restrictions applicable to the Lots. Further, the Association in title have heretofore granted, created and dedicated by several recorded instruments certain other easements and related rights affecting the Lots. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and all grants and dedications of easements and related rights heretofore made by the Association in title affecting the Lots are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of the Association conveying any part of the Lots.

Section 2. Changes and Additions. The Association reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Further, the Association reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public utility purposes (including, without limitation, gas, electricity, telephone and drainage) in favor of any person or entity furnishing or to furnish utility services to the Properties, along and on either or both sides of any side lot line, which such easements shall have a maximum width of five (5) feet on each side of such lot line.

Section 3. Cable TV. The Association reserves the right to hereafter enter into a franchise or similar type agreement with one or more Cable Television Companies and the Association shall have the right and power in such agreement or agreements to grant to such Cable Television Company or Companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility

easements or rights-of-way reserved and dedicated herein and in the plat referenced above, and the Association does hereby reserve unto itself, its successors and assigns, the sole and exclusive right to obtain and retain all income, revenue and other things of value paid or to be paid by such Cable Television Companies to the Association pursuant to any such agreements between the Association and such Cable Television Companies.

Section 4. Title to Easements and Appurtenances Not Conveyed. Title to any Lot conveyed by the Association by contract, deed or other conveyance shall not be held or construed in any event to include the title to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereof, constructed by or under the Association or its agents through, along or upon any Lot or any part thereof to serve said Lot or any portion of the Lots, and the right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in the Association.

Section 5. Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Lots for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, telephones, electricity, gas and appurtenances thereof. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Lots within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this paragraph, no sewer, electrical lines, water lines or other utilities or appurtenances thereto may be installed or relocated on the Lots until approved by the Association or the Association's Board of Directors. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Subdivision Plat, and to trim overhanging trees and shrubs located on portions of the Lots abutting such easements.

Section 6. Emergency and Service Vehicles. As easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles and other service vehicles to enter upon the Lots in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees and management personnel to enter the Lots to render any service.

Section 7. Underground Electrical Distribution System. An underground electric distribution system will be installed within the Subdivision which will be designated an Underground Residential Subdivision and which underground service area shall embrace all Lots in the Subdivision. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the

meter of such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three-wire, 60-cycle, alternating current.

The electric company will install the underground electric distribution system in the Underground Residential Subdivision at no cost to the Association (except for certain conduits, where applicable) upon the Association's representation that the Underground Residential Subdivision is being developed for residential dwelling units which are designed to be permanently located here originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent.

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

ARTICLE X

ENFORCEMENT

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

ARTICLE XI

GENERAL PROVISIONS

Section 1. Term. These covenants and restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date this Amendment is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots has been recorded agreeing to terminate the covenants and restrictions herein.

Section 2. Severability. Invalidation of any one of these covenants and restrictions by judgment or other court order shall in no way affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

Section 3. Gender and Grammar. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities)

or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 4. Titles. The titles of this Declaration contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

Section 5. Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 6. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provisions shall be supplied by inference.

Section 7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 8. Replatting. The Association shall have the right, but shall never be obligated, to re-subdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the property contained within the outer boundaries of the Subdivision Plat and such Lots as replatted shall be subject to these restrictions as if such Lots were originally included herein.

Section 9. Amendment. This Declaration may be amended by an instrument executed by a sixty percent (60%) majority of the Owners of the Lots.

The Association shall have and reserve the right at any time and from time-to-time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by the Declaration and any Supplemental Declarations taken collectively, and shall not impair or affect the vested property rights of any Owner or his mortgage.

ARTICLE XII

ANNEXATION

Additional property may be annexed into the jurisdiction of the Association by recorded restrictions so stating upon the consent of a majority of the Owners of Lots. The Owners of lots in such annexed property, as well as all other Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Community Properties that may become subject to the jurisdiction of the Association, provided that such annexed property shall be impressed with and subject to at least the annual maintenance assessment improved hereby.

Upon a merger or consolidation of the Association with another Association, the Association's properties, rights and obligations may be transferred to the surviving or consolidated Association, or alternatively, the properties, rights and obligations of another Association may be added to the properties, rights and obligations of the Association as a

surviving corporation pursuant to a merger. The surviving or consolidated Association shall administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions applicable to the properties of the other Association as one scheme. However, such merger or consolidation shall not effect any renovation, change or addition to the covenants and restrictions established by this Declaration and no merger or consolidation shall be permitted except upon approval of a simple majority of the Owners.

ARTICLE XIII

NOTICE REQUIREMENTS, MANAGEMENT

AGREEMENTS, LEASES & DELEGATIONS

Section 1. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Lot, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Lot hereunder, including payment of assessments notwithstanding the transfer of title to the Lot.

Section 2. Leases. The Association shall require that all leases of any house must:

- A. Be in writing;
- B. Provide that such leases specifically are subject to the provisions of the Declaration, the Articles of Incorporation and the By-Laws of the Association and that any failure of the lessee to comply with the terms of these documents shall be a default under such leases. Additionally, each Owner shall furnish his tenant(s) with a current copy of these Deed Restrictions on or before the effective date of the lease. Other than the foregoing, there shall be no restrictions on the right of the Owner to lease his house.

IN WITNESS WHEREOF, this Declaration is executed this _____ day of

_____, 19____.