



WHEREAS, there has been or will be a homeowners association created under the laws of the State of Texas, which association shall be governed through its Board of Trustees for the purpose of exercising the functions aforesaid, and whose Trustees will establish by-laws.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following assessments, conditions, covenants, easements, reservations and restrictions as hereinafter set forth, all of which are hereby adopted for and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each owner of any part of the Property.

## ARTICLE I

### DEFINITIONS AND WHAT ARE DEFINED TERMS?

The defined terms listed in Article I when used in this document shall have the meaning assigned to them. Defined terms are for the purpose of interpreting the intent and meaning through specificity thereby eliminating the multifarious context of common and ordinary usage that could be afforded said term.

Section 1.1 “Assessment or Assessments” shall mean and refer to those Assessments or Special Assessments as may be charged against an Owner and a Lot from time to time by the Association.

Section 1.2 “Association” shall mean and refer to the homeowner’s association that has been or will be incorporated under the laws of the State of Texas, its successors and assigns.

Section 1.3 “Board” shall mean and refer to the duly elected Board of Trustees of the Association.

Section 1.4 “Declaration” shall mean and refer to the covenants, conditions, and restrictions and all other provisions herein set forth in this entire document as they may be from time to time amended.

Section 1.5 “Declarant” shall mean and refer to Orr & Speights Development Co., L.L.C., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.6 “Federal Mortgage Agencies” shall mean and refer to those federal agencies, which have an interest in the properties, such as the Federal Housing Administration, the Veteran’s Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, or successors to their interests.

Section 1.7 “First Mortgagee” shall mean and refer to a lender who holds first deed of trust on a Lot.

Section 1.8 “Lot” shall mean and refer to any plot of land shown on any recorded subdivision map of the Property and any Building Site if comprised of one or more Lots or portions of Lots upon which there has been or will be constructed a single family residence, but shall not mean or include any Common Area.

Section 1.9 “Member” shall mean and refer to those persons entitled to membership in the Association as provided in the Articles of Incorporation of the Association, which shall consist of all Owners.

Section 1.10 “Notice” shall mean and refer to (i) written notice delivered personally or mailed to the last known address of the intended recipient, or (ii) notice published at least once each week for two consecutive weeks in a newspaper having general circulation in Galveston County, Texas.

Section 1.11 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.12 “Project” shall mean and refer to the residential subdivision of the Property.

Section 1.13 “Property” or “Properties” shall mean and refer to all real property described above and shown on the Plat of Forest Cove, Section II recorded under Film Code No 019-88-0782 in the Official Public Records of the County Clerk of Galveston County, Texas.

Section 1.14 “Related User” shall mean and refer to any person related to an Owner by blood or by marriage who resides with such Owner; guests and invitees of any Owner; and Occupants, tenants and contract purchasers residing in a Residence.

Section 1.15 “Residence” shall mean and refer to the single family dwelling structure constructed on any Lot and intended for primary occupancy by the Owner or Occupant.

Section 1.16 “Special Assessment” shall mean and refer to Assessments which may be levied from time to time against an Owner as provided in Section 5.17 hereof.

Section 1.17 “Subdivision Plat” shall mean and refer to the map or plat recorded under Clerk’s File No 2005013713 in the Official Public Records of the County Clerk of Galveston County, Texas, upon which Forest Cove, Section II is designated.

Section 1.18 “Architectural Control Committee” or “ACC” shall mean and refer to the Architectural Control Committee established for the Property as hereinafter set forth in Section 4.3 below.

Section 1.19 “Mitigation Plan” shall mean and refer to the efforts to assure that a small portion of the Property will be retained and maintained forever predominately in its natural vegetative and hydrologic condition as set forth in Section 2.4 below.

Section 1.20 “USACE” shall mean the United States Army Corps of Engineers, Galveston District, Regulatory Branch.

## ARTICLE II

### WHY WAS A GENERAL PLAN ESTABLISHED?

Section 2.1 General Plan and Declaration. This Declaration is hereby established as part of, pursuant to and in furtherance of the general plan of the Project for the improvement and sale of Lots within the Project and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project. Declarant, for itself, its successors and assigns, hereby declares that the Property of the Project, and each part thereof shall be owned, held, transferred, conveyed, sold, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions and restrictions, limitations, reservations, exceptions, equitable servitudes and others provisions set forth in this Declaration for the duration thereof. The Lots within the Project shall be subject to the jurisdiction of the Association.

Section 2.2 For Whose Benefit? The covenants, conditions and restrictions of this Declaration are hereby imposed as equitable servitudes upon each Lot within the Project as a servient estate for the benefit of each and every other Lot within the Project as the dominant estate.

Section 2.3 Do the Benefits Run With The Land? These restrictions shall run with the land in perpetuity and be binding on all future owners, heirs, successors, administrators, assigns, lessees, or other occupiers and users. The covenants, conditions and restrictions of this Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Property within the Project, including each Lot contained within the Project, and shall be binding upon and inure to the benefit of (a) the Project, (b) Declarant and its successors and assigns, (c) the Association and its successors and assigns, and (d) all person having or hereinafter acquiring any right, title or interest in all or any portion of the Property of the Project, and their heirs, personal representatives, successors and assigns.

Section 2.4 Mitigation Plan. The Property is subject to the conditions of Department of the Army Section 404/Section 10, Permit Number 23567, dated March 4, 2005, or a revision thereof, a copy of which is attached hereto and incorporated herein as Addendum "A". One of the conditions of the referenced permit requires restrictions be placed on the deed for the Property for the purpose of providing compensation for adverse impacts to waters of the United States. All Owners or Owner's agents, representatives, guests, heirs, successors, administrators, assign, lessees, or other occupiers and users shall be prohibited from filling, excavation, mining or alteration of the Property that will adversely affect the natural vegetative and or hydrologic conditions of the Property. Activities which may in the future be conducted with the Property that will affect the natural vegetative and or hydrologic conditions outlined in the success criteria of the referenced permit must be coordinated with and approved by the United States Army Corps of Engineers (USACE), Galveston District, Regulatory Branch, prior to initiation. Onsite mitigation as set forth in the Mitigation Plan, Permit Number 23567, shall be preserved in perpetual deed restriction.

Section 2.5 Right of Access and Entry by USACE. The USACE shall have the right to enter and go upon the Property for purposes of inspection and to take actions, including, but not limited to, scientific or educational observations and studies ,and collection of samples.

Section 2.6 Enforcement of Mitigation Plan. In the event of a breach of the restrictions by the Owner, or a third party working with the permission of or under the direction of the Owner, the USACE must be notified immediately. If the USACE becomes aware of a breach of the Mitigation Plan, the USACE will

notify the Owner of the breach. The Owner shall have thirty (30) days after receipt of such notice to undertake actions that are reasonably calculated to swiftly correct the conditions constituting the breach. If the Owner corrects the conditions constituting the breach in a timely and reasonable manner, no further action is warranted or authorized. If the Owner fails to initiate such corrective action within thirty (30) days or fails to complete the necessary corrective action, the USACE may undertake such actions, including legal proceedings, as are necessary to effect such corrective action. Any forbearance on the part of the USACE to exercise its rights in the event of a breach of the restrictions shall not be deemed or construed to be a waiver of their rights hereunder in the event of any subsequent failure of the Property Owner to comply.

### ARTICLE III

#### WHO MANAGES AND OPERATES THE PROJECT?

**Section 3.1**    **Membership in Association.**            Every person or entity who is a record owner of any Lot shall be entitled to be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the Lot. Ownership of such Lot shall be the sole qualification of Membership.

**Section 3.2**    **Voting Rights.**            The Association shall have two (2) classes of voting Membership which are as follows:

- (1) **Class A.**    Class A Members shall be all Owners except Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be deemed to be a single Member as to that Lot. The exercise of the vote of such lot shall be as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.
  
- (2) **Class B.**    Declarant shall be the sole Class B Member and shall be entitled to three (3) votes for each Lot owned by Declarant. Declarant's status as a Class B Member in the Association shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:
  - (a) when the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership; or
  - (b) ten (10) years from the date of recordation of this Declaration; or
  - (c) at the option of Declarant by written Notice thereof to the Board. No Member other than Declarant shall be a Class B Member.

**Section 3.3**    **Who Manages the Association?**            The affairs of the Project shall be managed and administered by the Association. The Association shall have the power and obligation to provide for the maintenance, repair, replacement, administration, and operation of the Project as herein provided and as provided in the Association's Articles of Incorporation, By-Laws and Rules and Regulations. Without limiting the generality of the foregoing, the Association, acting through its Board, shall be entitled to enter into such contracts and agreements concerning the Project as the Board deems reasonable, necessary or appropriate to maintain and operate the Project, including, without limitation, the right to grant utility and other easements with respect to the Project or parts thereof for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby landowners, or entities representing such landowners, on matters of mutual interest such as maintenance, trash removal, traffic and repair.

The rights, powers and duties of the Association set out in this Declaration shall be exercised by the Board or its designees.

**Section 3.4** **Who are the Board of Trustees?** The number, term and qualification of the Trustees on the Board of Trustees of the Association shall be fixed in the Articles of Incorporation and/or By-Laws of the Association, and the Board of Trustees shall meet as set forth in said By-Laws. Any action or inaction by the Board made or taken in good faith shall not subject the Board, or any individual member of the Board, to any liability to the Association, its Members, or to any other party. In addition to its other powers conferred by law or hereunder, the Board shall be empowered to create procedures for resolving disputes between Members, Related Users or Occupants and the Board or the Association, including the appointment of committees to consider and recommend resolutions to any such dispute.

**Section 3.5** **What is an Assessment and its Purpose?** **(SEE ATTCHED AMENDMENT TWO).** The Assessments are levies by the Association and shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties, and for the enforcement of these covenants, conditions and restrictions for the mutual benefit of the Owners, Occupants and/or Members. The Assessment together with interest at the maximum allowable at law, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing contractual lien upon the Lot against which each Assessment is made. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such Assessment. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 3.6** **How may the Association levy an Assessment against a Member?** The Assessment may only be levied where preceded by (10) days written Notice delivered to such Member at the address of the Lot owned by such Member, and a hearing before the Board at which time the Member shall have an opportunity to explain to the satisfaction of the Board the conduct giving rise to the need for an Assessment and defense in answer thereto. Within five (5) days after such hearing, the Board shall deliver written Notice of its determination to such Member, and if an Assessment has, as a result of such hearing, been determined to be in the sole opinion of the Board, just and necessary, the Board shall charge such Assessment against the Member and against the Lot owned by the Member and the full amount of such Assessment shall be due and payable by such Member within thirty (30) days after the receipt of notice of determination of the Board, unless otherwise provided by the Board.

**Section 3.7** **Is the Lien for Assessment Subordinated to the Mortgage?** The lien of the Assessments provided for herein shall be subordinate to the lien of the First Mortgagee or Federal Mortgage Agencies. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof.

#### ARTICLE IV

#### WHAT IS THE ARCHITECTURAL CONTROL COMMITTEE?

**Section 4.1** **What is the Membership of this Committee?** There is hereby established an Architectural Control Committee (herein sometimes referred to as the "ACC"). Declarant or his assigns shall act as the ACC during

the Development Period, and shall retain all authority of the ACC as to initial construction of a residence upon each Lot which is commenced during the Development Period whether or not such initial construction is completed during or after the Development Period. Declarant shall not be required to obtain ACC approval regarding any of its developmental activities during the Developmental Period. The Architectural Control Committee shall consist of two (2) members. The initial members of such committee shall be appointed by the Declarant, and Declarant hereby appoints Trebie Orr and Michael Orr as the initial committee members.

**Section 4.2** **What is the Term of Office and Replacement of Members?** Each member of the Architectural Control Committee shall serve until his death or resignation. In the event of the death or resignation of any member or members of said committee, the remaining member or members shall appoint the successor member or members, and until the remaining member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted and to carry out such other powers and duties as provided in these Declarations, or to designate a representative with like authority for such purpose.

**Section 4.3** **What is the Term of Existence of the Committee?** The duties and powers of the Architectural Control Committee and of any designated representative shall cease upon the latter to occur of five (5) years after the date of recordation of this Declaration, sale of all Lots, or completion of the construction of the last Residence in or on the Project. Thereafter, all powers invested in said committee by these Declarations shall be assumed by the Board of the Association which shall appoint three (3) individuals, which shall be Owners of Lots within the Project but not necessarily members of the Board, to comprise the Architectural Control Committee thereafter. Each such member so appointed shall serve for a period of two (2) years and all successor members to the Architectural Control Committee shall be appointed by the majority vote of the members of the Association.

**Section 4.4** **Are there Minimum Construction Standards?** The Architectural Control Committee may from time to time promulgate, modify and delete such reasonable Architectural Guidelines to the Subdivision, including Lots and Community Properties, as it shall deem appropriate to maintain or enhance the architectural, environmental, or aesthetic standards of the Subdivision. Such authority shall include, but shall not be limited to, the right to specify:

- (i) Specific procedural guidelines for submission or request for, and plans, specifications, and other information necessary to obtain, ACC approval to commence, erect, or maintain any Regulated Modification, and procedural requirements for the conduction of all activities necessary to accomplish the same;
- (ii) Specific types of Regulated Modifications which may be commenced, constructed, erected, or maintained upon any Lot or anywhere within the Subdivision, as well as specific types of Regulated Modifications which shall not be permitted upon any Lot or within the Subdivision;
- (iii) Permissible uses of any Regulated Modification;
- (iv) A limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of Regulated Modifications;
- (v) Minimum setbacks;
- (vi) The location, height, and extent of fences, walls or other screening devices, walks, decks, patios, or courtyards;

- (vii) The orientation of structures and landscaping with respect to streets, walks, driveways and structures on adjacent properties; and
- (viii) The ACC shall approve all landscaping.

## ARTICLE V

### WHAT USE IS BEING RESTRICTED?

**Section 5.1** **What is the Land Use and Building Type?** All Lots shall be used for residential purposes only, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached, single family residential structure not to exceed two and one-half stories in height, a private garage for not less than two (2) nor more than four (4) standard sized automobiles, unless one bay of the garage is constructed for the purpose of accommodating a motor home or other utility vehicle of the like, and other outbuildings incidental to residential use.

After commencement of construction, the work thereon shall be prosecuted diligently to the end that the same shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof, and in event construction shall be substantially completed within one (1) year from the date of commencement of construction.

- A. The main Residence, if it is a one-story structure, shall be of a minimum of Two Thousand Four Hundred (2,400) square feet of living area, and if it is a two-story or two and one-half story structure, shall have no fewer than One Thousand Eight Hundred (1,800) square feet of total area located on the first story of such two-story or two and one-half story structure. The Residence shall not exceed forty-four feet (44') in height. All front entry door must be a minimum of eight (8') feet.
- B. As used herein, the term "residential purposes" shall be construed to prohibit the use of Lots for duplex houses, garage apartments, or apartment houses, and no Lot shall be used for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved onto any Lot, it being the intention that only new construction shall be placed and erected upon any Lot.
- C. Activities such as a home office that are consistent with use as residential property are permitted. Such use shall not create an imposition upon other property owners. Specific restrictions include:
  - 1. No commercial or business signs shall be displayed.
  - 2. The property shall not be available for unscheduled, business-related visits.
  - 3. Noise created by business-related activity shall not be heard past the property line.
  - 4. No commercial operations such as an auto repair shop, a boarding and/or grooming kennel or a commercial farming operation shall be maintained on any property.
- D. Outbuildings are permitted, provided that (i) the style, color and material of the roof and exterior walls of any outbuilding is in conformity with the style, color and material of the roof and exterior walls of the main Residence; (ii) such outbuilding does not encroach upon any building set-back line; and (iii) such outbuilding is no greater in height or number of stories of the main Residence. No outbuilding may be



used for residential purposes, only for purposes incidental to the use of the main Residence on any Lot excluding, servant quarters or mother-in-law quarters.

**Section 5.2 How do I get my Architectural Design and Plans Approved?** (SEE ATTACHED AMENDMENT NUMBER THREE)

No building, fence, wall or other structure shall be erected, placed or altered or permitted to remain on any Lot until the construction plans and specifications, including but not limited to, site layout, location, materials, colors, and elevations have been submitted to and approved in writing by the Architectural Control Committee as hereinafter provided. Approval of plans and specifications shall not cover or include approval for any other purpose, and specifically without limitation, shall not be construed as any representation as to or responsibility for the design of the improvement or the ultimate construction thereof. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be approved and the related covenants set out herein shall be deemed to have been fully satisfied.

**Section 5.3 Where May I Locate The Improvements?** No building shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback line for such Lot shown on the Subdivision Plat. Notwithstanding the foregoing, however, no building shall be located on any Lot nearer than thirty-five feet (35') to any side street line or thirty-five feet (35') to the front Lot line. The main residence (exclusive of detached garages and permitted outbuildings) shall be located no less than ten feet (10') from the rear property line of the Lot. No part of any Residence shall be located nearer than five feet (5') to the interior Lot line of the Lot. No building may angle more than forty-five degrees from the street. For the purposes of this covenant, eaves, steps and unroofed terraces shall not be considered as part of any building, provided, however, that this shall not be construed to permit any portion of any building on a Lot to encroach upon another Lot.

**Section 5.4 What Construction Materials and Landscaping are Permissible?**

- A. Roofs of all residences shall be constructed so that the exposed material is minimum 30 year composition shingles of a GAF Timberline type and design, or such other material which is compatible in quality and appearance as may be approved by the ACC. Any fiberglass or asphalt shingle roofs should have a covered valley, unless an uncovered valley is approved by the ACC. Tile and metal roofs will be allowed as approved by the ACC. Wood shingles of any type are prohibited on any residence building or structure.

Roofs may take a variety of forms; gabled and hipped roofs are preferable. Mansard roofs and other types of "exotic" roof forms may not be used unless by special written consent of the ACC. The minimum allowable roof pitch shall be a 9 in 12, except where a roof garden or deck is called for. Shed type roofs are specifically prohibited.

- B. The exterior materials for a single family residence and appurtenant structures constructed on a Lot must be brick, stone, or a traditional stucco exterior system. Any brick used on the exterior of a residence and appurtenant structures constructed on a Lot shall appear aged and traditional, and the specific brick to be used shall otherwise be expressly approved by the ACC. No more than 25% of the exterior of any home shall be composed of siding material and must be expressly approved by the ACC. All building materials, whether for initial or subsequent construction on any Lot, shall be of high quality as determined by the Architectural Control Committee guided by industry standards.

- C. A concrete sidewalk forty-eight (48) inches wide shall be constructed parallel to the curb and (36) inches from the back of the curb along entire fronts of all Lots. In addition thereto, forty-eight (48) inch wide sidewalks shall be constructed parallel to the curb and (36) inches from the back of curb along the entire side of all corner Lots. The plans for each Residence on each Lot shall include plans and specifications for such sidewalks and same shall be constructed and completed by the building of the Residence thereon before such Residence may be occupied.
- D. Each Lot shall contain a driveway constructed of concrete or other material as approved by the ACC. Placement of driveways must be approved by the ACC.
- E. No window, wall or exterior roof mounted type of air conditioner unit shall be permitted to be used, erected, placed or maintained in or on any building in any part of the Property without prior written approval of the Architectural Control Committee.
- F. The U.S. Post Office requires that Forest Cove install cluster box units (CBU) in lieu of mail boxes placed at each residence. Forest Cove has selected a particular style and manufacturer of mailboxes. Two (2) residences shall share a double mailbox mounted on one post. The Association shall obtain and install the mailbox, and the Owner shall be charged a special assessment payable to the Association to cover the cost.
- G. All fireplace chimneys shall be of brick, stone or stucco, as approved by the ACC committee.
- H. No pool may be installed or erected without approval of the ACC. Above ground pools are expressly prohibited. All pool service equipment shall be fenced and located in the rear yard adjacent to the residence and shall not be visible from any street.
- I. All construction of residences and appurtenant structures or other improvements, and all grading and all other work in relation thereto shall be performed in such manner as to prevent drainage from such Lot to another Lot or the Community Properties, and to such end gutters on roofs, drains, drainage lines and similar devices may be required by the ACC either upon initial construction or at any time thereafter when circumstances reasonably require.
- J. St. Augustine is the preferred grass for Forest Cove, but other permanent grass such as Bermuda may also be considered. All unplanted areas of the front yard, including the right of way, shall be planted with solid sod. All unplanted areas of the back yard shall be planted with solid sod and/or ground cover.
- K. All residences shall have an attractive landscape plan and owners shall present landscaping plans to the ACC for approval prior to planting.

**Section 5.5**    **What Activities are Prohibited?**    No illegal, noxious or offensive activity shall be permitted or carried on in or on any Lot, nor shall anything be permitted or done thereon which is or may become a nuisance or source of embarrassment, discomfort or annoyance to the neighborhood. No motorcycles, minibikes, all terrain vehicles, motor scooters or similar motorized vehicles may be operated on the streets of the Subdivision or in the common areas unless said motorized vehicle is in accordance with the motor vehicle code. Excluding professional offices, no activity for profit shall be carried on in or on any Lot except for sales offices, construction offices and/or storage facilities for a period of time commensurate with the home construction/sales program of the Project.

**Section 5.6 What are My Limitations as to Erecting Fences, Walls and Hedges? (SEE ATTACHED AMENDMENT NUMBER FOUR)**

No fence, freestanding fence type wall, gate, post, planter or hedge shall exceed eight feet (8') in height. Side yard fences on corner lots shall not be located nearer to the property line of such Lot than the building setback line shown on the recorded Subdivision Plat. Lots 20 through 28, inclusive, shall be required to have wrought iron/aluminum or vinyl fencing that will not obstruct any view to the bayou.

**Section 5.7 What is the Minimum Lot Area for Constructing a Building?** No building may be erected or placed upon less than a full Lot within the Property.

**Section 5.8 Are Temporary Structures Permitted?** No structure of a temporary character, whether trailer or recreational vehicle, no basement, tent, shack or other outbuilding shall be used or maintained on any Lot as a residence are for any other purpose, provided however, Declarant reserves the exclusive right to erect, place or maintain such facilities in or upon any portion of the Property as in its sole discretion it determines may be necessary or convenient while selling Lots, selling or constructing Residences and constructing other improvements upon the Property. Such facilities may include, but are not limited to sales and construction offices, storage areas, model units, signs and portable toilet facilities.

**Section 5.9 Is the Storage of Automobiles, Boats, Trailers, Other Vehicles and Equipment Permissible?**

No automobiles, boats, trailers, campers, motorcycles, buses, trucks, tractors, recreational vehicles, inoperative vehicles of any kind, equipment or machinery of any kind, camp rigs off truck, boat rigging or any item deemed offensive by the Architectural Control Committee, shall be stored permanently or semi-permanently on any public street, right-of-way or driveway. Permanent or semi-permanent storage of such vehicles or items must be screened from public view either within the garage or behind a solid fence constructed as permitted by these restrictions on a Lot. Semi-permanent storage is defined as the storage without movement for a period of not less than forty-eight (48) hours.

**Section 5.10 Where may Roof Ventilators be Located? (SEE ATTACHED AMENDMENT ONE)**

All roof ventilators (other than ridge ventilators) shall be located to the rear of the roof ridgeline and /or gable of any structure on any Lot and shall not extend above the highest point of such structure, so as not to be visible from any public street. The Architectural Control Committee shall have the right to approve exceptions to the foregoing in cases where energy conservation and heating/cooling efficiency require ventilators that, because of a particular roof design, cannot be hidden from public view.

**Section 5.11 Is there a Prohibition Against the Use of Signs, Advertisements and Billboards?**

No sign, advertisement, billboard or advertising structure of any kind shall be displayed, erected, permitted or maintained on any Lot except one (1) sign of not more than five (5) square feet to identify the entity responsible for any construction or remodeling of a structure on a Lot during the period of actual construction thereon. Declarant or its assignee and the Board shall have the right to remove any sign, advertisement, billboard or advertising structure which is in violation of the foregoing, and in doing so shall not be subject to liability for trespass in connection therewith or arising from such removal. In no event shall any sign, advertisement, billboard or advertising structure other than as specifically prescribed in this Section be erected, permitted, maintained or displayed on any Lot without the express written consent of the Architectural Control Committee. Declarant hereby reserves for itself and its successors and assigns the right to construct and maintain such signs, billboards or advertising devices as are customary in connection with the general sale of property within the Project notwithstanding the aforementioned restrictions on the numbers and sizes of signs.

**Section 5.12 Are Oil and Mineral Operations Prohibited?** No oil, gas or mineral drilling or developmental operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas or any other mineral shall be erected, maintained, or permitted to be placed or remain on any Lot.

**Section 5.13 Is there a Prohibition Against Certain Types of Animal Husbandry?** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other common household pets provided that they are not kept, bred, or maintained for commercial purposes or in unreasonable numbers as determined in the sole discretion of the Board. All permissible household pets shall be kept restrained in or on the Lot of the Owner of such pets. However, in the event that a Lot is in excess of 2.5 acres Section 5.13 shall not apply. If any such permitted animal shall, in the sole and exclusive opinion of the Developer or the Association become dangerous or an annoyance or nuisance to the Development, neighborhood, other Lots or nearby Property or destructive to wildlife, it may not thereafter be kept in or on the Lot.

**Section 5.14 Is it Necessary to Provide Visual Screening?** The drying of clothes in public view is strictly prohibited, and the Owner or Occupant of any Lot which is located at the intersection of streets or adjacent to parks, playgrounds, or other facilities shall screen clothes drying from public view.

**Section 5.15 What about Storage and Disposal of Garbage and Refuse?** No Lot shall be used or maintained in whole or in part as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with tightly fitting sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. All Lots shall at all times be kept in a sanitary, healthful, safe and attractive condition, including the cutting of weeds and grass. No Lots shall be used for the open storage of any materials whatsoever, which storage is visible from any street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the commencement of construction and may be maintained thereon for a reasonable time during construction so long as the construction progresses without undue delay, until the completion of the improvements, after which all materials not used in the actual construction of a structure shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No Owner or Occupant shall permit the accumulation of garbage, trash or rubbish of any kind and shall not burn any garbage, trash or rubbish on any Lot. All yard equipment, woodpiles, storage piles and trash containers shall be screened so as not to be visible from any public street.

**Section 5.16 How is Lot Maintenance Enforced?** **(SEE ATTACHMENT AMENDMENT NUMBER FIVE)**  
The Owner of each Lot shall, at his/her own expense, keep his/her Lot free of tall grass, undergrowth, dead trees, dangerous and/or dead tree limbs, weeds, trash and rubbish, and shall keep such Lot at all times in a neat and attractive condition. The Owner of each undeveloped Lot shall maintain said Lot in a neat, sanitary and attractive condition, including without limitation, periodic removal of trash and debris therefrom and mowing of grass and other vegetation thereon as necessary to prevent growth to more than twelve (12") inches in height. In the event of default on the part of an Owner of any Lot or such Owner's Occupant in observing the requirements for Lot maintenance and the storage and disposal of garbage and refuse, and if such default continues after three (3) days written Notice thereto to such Owner, Declarant or its assignees or the Board may, without liability to such Owner or Occupant in trespass or otherwise, enter onto the Lot and cut, or cause to be cut, such weeds and grass, and to remove or cause to be removed such garbage, trash and rubbish, and to do any other things necessary to secure compliance with these restrictions, so as to place the Lot and any structures thereon in an attractive, healthful, safe and sanitary condition, and shall be

entitled to charge the Owner of the Lot for the costs of such work, which charge shall be a Special Assessment which shall be a contractual lien upon the Lot. The Owner agrees by the purchase or occupation of the Lot to pay such charge immediately upon receipt thereof. To secure the payment of such charges in the event of non-payment, a continuing contractual lien is hereby retained in favor of the Declarant or its assignees or the Association as a Special Assessment lien.

**Section 5.17 What if a Building is Partially Destroyed?** If all or any portion of a Residence is damaged by fire or other casualty, it shall be the duty of the Owner, with all due diligence, to rebuild, repair or reconstruct such building in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction will be undertaken within three (3) months after the damages occur and will be completed within six (6) months after the damages occur unless prevented by causes beyond the control of the Owner.

**Section 5.18 What Type of Exterior Lighting may be Installed?** In general, the addition of exterior lighting is both acceptable and desirable. This includes ground level lighting, stand-alone lampposts, and lighting mounted on a house or approved structure. Such lighting fixtures must be compatible with the general tone and design of the neighborhood. In all cases stand-alone lighting fixtures must not be higher than the highest point of the house. Preferential approval will be given to those who have obtained verbal consent from neighbors prior to applying to ACC approval.

**Section 5.19 Where and what are the Requirements for Antennas; Satellite Dishes?** Antennas must be installed behind the roof ridge so as not be visible from the fronting streets or located at the rear of the house on interior Lots. Antennas installed on corner Lots must be hidden from view on fronting and siding streets. No TV satellite dish apparatus will be approved unless it is not higher than the highest point of the house, installed in rear of residence, and cannot be viewed from perimeter streets or adjacent Lots.

**Section 5.20 What Exterior Colors are Permissible?** Colors selected to paint the wood, trim, shutters and gutter area of homes and garages will be limited. No attempt will be made to control painting activities in cases where the Owner is repainting with the same color as the original used. If the Owner wished to paint an area that has not been previously painted or wishes to change the color, approval by the ACC will be required. Owners may change the paint used on their home if, in the opinion of the ACC, the new color is compatible with both the individual home and the neighborhood.

**Section 5.21 May I Change the Height of the Grade of my Lot?** Owners may not change the grade height of any Lot without the approval of the ACC. Owners may change the height of the grade, if in the opinion of the ACC, it will not be detrimental to the neighbors and neighborhood. No Owner may excavate, fill or otherwise alter such Owner's Lot in any manner that alters the drainage patterns established as part of the Development.

**Section 5.22 Basketball Goals and Hoops:** Basketball goals must be pole mounted adjacent to the driveway of houses with detached garages. The goal must be behind the centerline of the house. No goals may be mounted on the garage or house structure. Goals may be placed in rear (back) yards subject to setback and easement restrictions. Portable basketball goals will not be allowed in the unfenced portion of the yard. Corner lots need approval on a case-by-case basis.

In addition, no torn nets, rusty poles, worn out backboards, or bent rims will be allowed. To the greatest extent possible, basketball goals, posts, backboards, nets and hoops will be colors that are not offensive to the landscaping of the neighborhood.

## ARTICLE VI

### EASEMENTS AND UTILITIES.

**Section 6.1**    **Dedication**    The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat further establishes certain restrictions applicable to the Property including, without limitation, minimum building setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof 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 Declarant, conveying said Property or any part thereof, whether specifically referred to therein or not.

**Section 6.2**    **Reservation of Easement**    Declarant reserves for itself, its successors or assigns, without further assent or permit from purchaser, his/her heirs or assigns or successors in title, to grant to any public or private utility company, municipality or water company the right to erect and lay or cause to permit to be erected, laid, maintained, moved or repaired in any way, any roads, streets, avenues or ways on which said above-described Lots abuts or upon any part of said Lot or tract. At the election of the Declarant, electric lights, telephone and telegraph poles and wires, water, sewer, gas pipes and appurtenances which may from time to time in the opinion of Declarant or any public or private utility or municipality or water company be deemed necessary to effectuate the foregoing purposes. Any claims for damages, if any, by the construction, maintenance, repair thereon on account of temporary or other inconvenience caused thereby against the Declarant or any public or private utility company or municipality or any other agent or servants, are hereby waived by the purchaser and his/her successors in title.

**Section 6.3**    **Electrical Service**    Texas-New Mexico Power Company will provide electrical services, whereby service shall be single phase alternating current, approximately 60 Hertz, and 120/240 volts. Wiring installation should conform to the requirements of the National Electrical Codes issued by the National Board of Fire Underwriters, all state and municipal requirements in force at the time installation is made, and Texas-New Mexico Power Company standards as to service, wiring, meter location and height.

**Section 6.4**    **Natural Gas Service**    Declarant has entered into a Predevelopment Gas Main Extension Contract with CenterPoint Energy that requires the Owner of any Residence completed in a subdivision to utilize, at a minimum, both gas water, heating and gas central heating appliances. If, however, any Residence completed in a subdivision does not utilize both gas water heating and gas central comfort heating, then Owner shall pay to Association a non-utilization of gas facilities charge of \$600.00 for each such non-utilizing Residence. The Assessment for non-utilization may be enforced pursuant to Section 3.5 and or as a Special Assessment, Section 3.6

## ARTICLE VII

### GENERAL PROVISIONS

**Section 7.1**    **Enforcement.**    The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 7.2**    **Regulations.**            Reasonable rules and regulations concerning the appearance and use of the Land may be made and amended from time to time by the Declarant or the Association as successor to the Declarant in the manner provided by the Articles of Incorporation and By-Laws.

**Section 7.3**    **Severability.**            Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been included in the Declaration.

**Section 7.4**    **Amendment.**            The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any Amendment must be recorded. All Amendments to this Declaration shall be recorded with the Galveston County Clerk and a copy of the recorded Amendment shall be provided to the United States Army Corps of Engineers, Galveston District, Regulatory Branch within thirty (30) days of recording.

**Section 7.5**    **Books and Records.**    The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any Member. The Articles of Incorporation, By-Laws and this Declaration shall likewise be available for inspection by any Member at the office of the Association.

**Section 7.6**    **Notices.**                    Any Notices required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage-paid to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

**Section 7.7**    **Exceptions.**                Exceptions will be made in unusual cases to comply with federal, state and local laws. An example would be to permit a structure that does not conform to be built for the special needs of a handicap resident. In all cases, the Owner will be granted the variance on a temporary basis for only that period in which the handicapped person resides in the home. In addition, a lien must be placed on the home at the Owners expense that prohibits the home from being sold or transferred until the violating structure has been either removed or brought into conformance. Exceptions will not be made for reasons of economic convenience or hardship.

**Section 7.8**    **Section Headings.**        The section headings contained herein are provided for the sole and express purpose of convenience of reference, and shall not be considered in the construction of any Section.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, and being holders of over Fifty Percent (50%) of the voting Power of the Owners of Lots within the Project, has hereunto set its hand and seal this 24<sup>th</sup> day of June, 2005

ORR & SPEIGHTS DEVELOPMENT, CO., L.L.C.  
d/b/a M&M DEVELOPMENT CO.

BY: TREBIE ORR  
TREBIE ORR, MANAGING MEMBER

BY: MICHAEL ORR

MICHAEL ORR, MANAGING MEMBER

(Notary Seal)

**AMENDMENTS TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR FOREST COVE, SECTION II  
A SUBDIVISION IN DICKINSON, GALVESTON COUNTY, TEXAS**



**FIRST AMENDMENT TO THE REFILED DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
FOREST COVE, SECTION II  
A SUBDIVISION IN DICKINSON, GALVESTON COUNTY, TEXAS**

STATE OF TEXAS                    )  
  )  
COUNTY OF GALVESTON        )

Pursuant to Article III Section 7.4 of the REFILED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FOREST COVE, SECTION II, Block 1, Lots 1 through 28 inclusive, and Block 2, Lots 1 through 23 inclusive, a subdivision in Dickinson, Galveston County, Texas, according to the Map thereof recorded under Film Code No. 019-88-0782 in the Public Record of Real Property of the County Clerk of Galveston County, Texas, filed of record under recording number GAC2005044545 in the Public Records of Real Property of the County Clerk of Galveston County, Texas, effective June 25, 2005, Article V, Section 5.10, is amended, and as amended shall hereafter read as follows:

**“Section 5.10            Where may Roof Ventilators be located? All roof ventilators (other than ridge ventilators) shall be located on the rear roof slope (behind the roof ridgeline and/or gable) or on a side roof slope of any structure on any Lot and shall not extend above the highest point of such structure, and shall be painted to match the color of the roof material of the structure. No roof ventilator (other than ridge ventilators) shall be placed on a roof slope facing the street side of any structure on any Lot. The Architectural Control Committee shall have the right to approve exceptions to the foregoing in cases where energy conservation and heating/cooling efficiency require ventilators that, because of a particular roof design, cannot be hidden from public view, but shall not permit a variance of the requirement that any roof ventilator, irrespective of its placement, shall be painted the color of the roof material of the structure.”**

This amendment has been approved by no less than 90% of the Lot Owners as evidenced by the signatures of the Lot Owner(s) affixed hereto and made a part hereof, and is effective as of the date hereafter stated being the date the requisite number of signatures was affixed hereto.

**Effective: April 14, 2008.**

**SECOND AMENDMENT TO THE REFILED DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
FOREST COVE, SECTION II**

**A SUBDIVISION IN DICKINSON, GALVESTON COUNTY, TEXAS**

STATE OF TEXAS                    )  
  )  
COUNTY OF GALVESTON        )

Pursuant to Article III Section 3.5 of the REFILED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FOREST COVE, SECTION II, Block 1, Lots 1 through 28 inclusive, and Block 2, Lots 1 through 23 inclusive, a subdivision in Dickinson, Galveston County, Texas, according to the Map thereof recorded under Film Code No. 019-88-0782 in the Public Record of Real Property of the County Clerk of Galveston County, Texas, filed of record under recording number GAC2005044545 in the Public Records of Real Property of the County Clerk of Galveston County, Texas, effective June 25, 2005, Article III, Section 3.5, is amended, and as amended shall hereafter read as follows:

**“Section 3.5. What is an Assessment and its Purpose? The Assessments are levies by the Association and shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties, and for the enforcement of these covenants, conditions and restrictions for the mutual benefit of the Owners, Occupants and/or Members. The Annual Assessment shall be due and payable no later than January 31<sup>st</sup> of the current year. For example, Assessments for 2011 would be due no later than January 31, 2011. After the due date, the Assessment, together with interest at a rate of six per cent (6%) per annum, compounded monthly, will accrue beginning April 1<sup>st</sup> of the current year. After April 1<sup>st</sup> of the current year, the Assessment together with accrued interest, costs and reasonable attorney’s fees shall be a charge on the land and shall be a continuing contractual lien upon the Lot against which each Assessment is made. The Declarant for each Lot owned within the Properties hereby covenants, and each Owner of any Lot located in Forest Cove, Section II, Dickinson, Galveston County, Texas, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such Assessment. Each Assessment together with interest, costs and reasonable attorney’s fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.”**

This amendment has been approved by no less than 90% of the Lot Owners as evidenced by the signatures of the Lot Owner(s) affixed hereto and made a part hereof, and is effective as of the date hereafter stated being the date the requisite number of signatures was affixed hereto.

**Effective: October 7, 2010.**



**FOURTH AMENDMENT TO THE REFILED DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
FOREST COVE, SECTION II  
A SUBDIVISION IN DICKINSON, GALVESTON COUNTY, TEXAS**

STATE OF TEXAS                    )  
  )  
COUNTY OF GALVESTON        )

Pursuant to Article V Section 5.6 of the REFILED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FOREST COVE, SECTION II, Block 1, Lots 1 through 28 inclusive, and Block 2, Lots 1 through 23 inclusive, a subdivision in Dickinson, Galveston County, Texas, according to the Map thereof recorded under Film Code No. 019-88-0782 in the Public Record of Real Property of the County Clerk of Galveston County, Texas, filed of record under recording number GAC2005044545 in the Public Records of Real Property of the County Clerk of Galveston County, Texas, effective June 25, 2005, Article V, Section 5.6, is amended, and as amended shall hereafter read as follows:

**“Section 5.6. What are my limitations as to erecting Fences, Walls and Hedges? No fence, freestanding fence type wall, gatepost, planter or hedge shall exceed eight (8’) in height. Fences of chain link construction are strictly prohibited. Fences shall not extend beyond the front of the home located on that Lot. Nor shall any fence be located nearer to the front property line of any Lot than the building setback line shown on the recorded Subdivision Plat. Side yard fences on corner Lots shall not be located nearer to the property line of such Lot than the building setback line shown on the recorded Subdivision Plat. Lots 20 through 28, inclusive, shall be required to have wrought iron/aluminum fencing that will not obstruct any views to the creek/bayou.”**

This amendment has been approved by no less than 90% of the Lot Owners as evidenced by the signatures of the Lot Owner(s) affixed hereto and made a part hereof, and is effective as of the date hereafter stated being the date the requisite number of signatures was affixed hereto.

**Effective: October 7, 2010.**

