

COVENANTS, RESTRICTIONS AND CONDITIONS

177-97-1426

STATE OF TEXAS        §  
                                 §  
COUNTY OF HARRIS   §

This Declaration is made on the date hereinafter set forth by Fox & Jacobs, Inc., a Nevada corporation, hereinafter called "Declarant."

RECITALS:

The following facts exist:

A. Declarant is the owner of that certain property known as Pine Trails No. 9, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 299, Page 54, of the Map Records of Harris County, Texas.

B. Declarant desires to place certain restrictions, covenants, conditions, stipulations and reservations upon and against such property in order to establish a uniform plan for the development, improvement and sale of such property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of residential lots in said subdivision.

NOW, THEREFORE, Declarant does hereby adopt, establish and impose the following restrictions, reservations, covenants and conditions upon all lots, as defined herein, and owner's properties, as defined herein, which shall constitute covenants running with the title of said lots and owner's properties and which shall be binding upon and inure to the benefit of Declarant and each owner in the subdivision. The Pine Trails Community Improvement Association shall, in addition, have the right to enforce the restrictions, reservations, covenants and conditions herein set forth by any proceeding at law and/or in equity as may be deemed advisable or appropriate.

**ARTICLE I**

**DEFINITIONS**

Section 1. "Properties" shall mean and refer to the real property hereinabove described, and, where applicable, the real property which may hereafter be annexed into the jurisdiction of the Association in the manner hereinafter described.

Section 2. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision map or plat of the Properties, with the exception of (a) any portion of the Properties which is or may be hereafter designated or described on the Subdivision Plat as "Not Platted" or "Reserve" or with words of similar meaning and (b) land described in Exhibit A, if any, attached hereto and made a part hereof. Each Lot may be divided from the front to the rear lot line into two portions for purposes of constructing Paired Units thereon, with the dividing line between such portions located beneath the common wall between such Paired Units. "Owner's Property" shall mean and refer to each of such resulting portions of a Lot.

Section 3. "Declarant" shall mean and refer to Fox & Jacobs, Inc., or its successors and assigns, including, but not limited to, any person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which acquires all or substantially all of the Properties then owned by Fox & Jacobs, Inc. (or subsequent successors in interest), by conveyance or assignment from Fox & Jacobs, Inc., or by judicial or non-judicial foreclosure, for the purpose of development and/or construction on the Properties.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or portion thereof which is a part of the Subdivision, including contract Buyers, but excluding those whose interest is held merely as security for the performance of an obligation.

*Rt*  
SIRLEY C. JACOBS  
Fox & Jacobs  
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Houston, Tx 77040

CP 2-8 1981

Section 5. "Subdivision Plat" shall mean and refer to the map or plat of Pine Trails No. 9 Recorded in Volume 299, Page 54, of the Map Records of Harris County, Texas, or as such may be amended from time to time.

Section 6. "Association" shall mean and refer to Pine Trails Community Improvement Association, a Texas non-profit corporation, its successors or assigns.

Section 7. "Common Area" shall mean all real property which may be acquired by the Association for the common use and enjoyment of the Owners in this Subdivision and, where applicable, in any additional land annexed into the jurisdiction of the Association.

Section 8. "Unit" shall mean that portion of the structure which Declarant intends to construct and in fact constructs on a portion of a Lot for occupancy by one person or one family. "Paired Units" shall mean and refer to two Units constructed as a duplex on a Lot with a common wall and Common Structures, as hereinafter defined.

Section 9. "Common Structure" shall mean the party wall between Paired Units, the pipes, vents, outlets, plumbing, insulation, wiring and duct work within such party wall and the portions of the roof and foundation of Paired Units located between two imaginary planes formed by extension upward and downward of the surfaces of the party wall forming the interior walls of each Unit.

Section 10. "Subdivision" shall mean Pine Trails No. 9 as described in the Recitals above, and, where applicable, all prior and subsequent sections of Pine Trails subject to the jurisdiction of the Association.

## ARTICLE II

### PROPERTY RIGHTS IN COMMON AREA

Section 1. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(a) The right of the Association to charge reasonable admissions and other fees for the use of any recreational facility situated upon the Common Area; and

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Owner's Property remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility company for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that no such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment of the Common Area and facilities to the members of his family or to persons residing in the Unit under a lease or contract to purchase from the Owner.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership. Every Owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Unit which is subject to assessment. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Lot owned, unless Paired Units have been constructed, in which case the Owner of each Unit shall be entitled to one (1) vote. When more than one person holds an interest in any Unit, all such persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Unit.

**Class B.** Class B members shall be Declarant who shall be entitled to three (3) votes for each Lot owned by it. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding the Class B membership; or
- (b) January 1, 19 ~~96~~.

If at any time other areas of the 541.938 acre tract hereinafter referred to are duly annexed into the jurisdiction of the Association as hereinafter set out, the voting rights of the Class B membership, if same have previously automatically converted to one (1) vote per Lot (or Unit as aforesaid) owned, shall automatically revert to three (3) votes for each Lot (or Unit, as aforesaid) owned until such time as the total votes outstanding in the Class A membership throughout the Subdivision and any duly annexed areas collectively shall equal or exceed the total votes outstanding in the Class B membership throughout such total area or until January 1, 19 ~~96~~, whichever date occurs the earliest, at which time Class B voting Lots shall automatically be converted to one (1) vote for each Unit.

#### ARTICLE IV

#### RESTRICTIONS, COVENANTS AND CONDITIONS

#### USE RESTRICTIONS

**Section 1. Land Use and Building type.** All lots shall be known, described and used for residential purposes only and no structure shall be erected, altered, placed or permitted to remain on any Affected Lot other than one single-family residence or two connected Units composing Paired Units, not to exceed two (2) stories in height, and each residential Lot or, if Paired Units are constructed, each Owner's Property shall be provided with a minimum of two paved off-street parking spaces. "Residential purposes" shall be construed to permit, and Declarant specifically intends that such term include, duplex houses. As used herein, the term "residential purposes" shall be construed to prohibit the use of said property for garage apartments or apartment houses; and no Lot or Owner's Property shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind or character shall ever be moved onto any Lot or Owner's Property within the Subdivision, it being the intention that only new construction shall be placed and erected hereon subject to the provisions of Article IV, Section 8.

**Section 2. Architectural Control.** No building shall be erected, placed or altered on any Lot or Owner's Property until the construction plans and specifications and a plot plan showing the locations of the structure have been approved by the Architectural Control Committee, hereinafter established, as to quality of workmanship and materials, harmony or external design with existing structures, and as to location with respect to topography and finished grade elevation, in accordance with the procedures set forth in Article IX hereof.

**Section 3. Dwelling Size.** The ground floor area of each Unit, exclusive of open porches, shall be not less than 900 square feet for one-story Units, nor less than 800 square feet for the ground floor of one and one-half story dwelling with at least 600 square feet in the upper floor area nor less than 850 square feet for the ground floor of a full two-story dwelling with not less than 850 square feet in the upper floor area. The combined ground floor area of Paired Units shall be not less than 1,800 square feet. The ground floor area of a single family detached home shall not be less than 900 square feet.

**Section 4. Type of Construction, Materials and Landscape.**

(a) No residence shall have less than 51% brick or equivalent masonry construction on its exterior wall area, except that garages if built may have wood siding of a type and design approved by the Architectural Control Committee.

(b) The roof of any residence shall meet or exceed all Federal Housing Administration (FHIA) standards.

(c) Each kitchen in each dwelling or living quarters situated on any Lot or Owner's Property shall be equipped with a garbage disposal unit, which garbage disposal shall at all times be kept in a serviceable condition.

(d) No landscaping shall be done on the side of any dwelling facing a street in the Subdivision until the landscape layout and plans shall have first been approved by the Architectural Control Committee. Each dwelling shall have a tree of the size and type specified by the Architectural Control Committee, when and if specified by the Architectural Control Committee, such tree to be planted in the front yard of the Lot or Owner's Property at the time the dwelling is being completed and before occupancy.

(e) No window or wall-type air conditions shall be permitted to be used, erected, placed or maintained on or in any building on the front street side of the building, except in sales offices, as described hereinabove.

(f) No fence or wall shall be erected, placed or altered on any Lot nearer to the street than the minimum building set back lines as shown on the Subdivision Plat, and no fence or wall shall exceed six feet (6') in height above ground level unless otherwise approved by the Architectural Control Committee.

**Section 5. Building Location.** No building shall be located on any Lot nearer to the front lot line or nearer to the side street than the minimum building set back lines shown on the recorded plat. No building shall be located nearer than five feet (5') to any interior Lot line, except that a garage if built or other permitted accessory building located sixty-five feet (65') or more from the front Lot line may be located within three feet (3') of an interior Lot line; provided, however, that (a) a dwelling may be located as near as three feet (3') to any interior Lot line so long as the distance between any adjacent dwelling and the dwelling situated as close as three feet (3') to an interior Lot line is not less than ten feet (10') and (b) nothing contained herein shall be deemed to prohibit the construction of Paired Units as duplexes on any Lot as aforesaid and if Paired Units are constructed, no set back from the common property line shall be required; provided, further, the foregoing minimum side yard provision to the contrary notwithstanding, in no event shall the sum of the yard widths on any Lot (except in the case of a garage or other permitted accessory building set back 65 feet as above provided) be less than fifteen percent (15%) of the width of the Lot, measured (to the nearest foot) along the front set back line shown on the recorded plat. No main residence building nor any part thereof shall be located on any interior Lot or Owner's Property nearer than ten feet (10') to the rear Lot line. For the purposes of these restrictions, the front of each Lot or Owner's Property shall coincide with and be the property line having the smallest or shortest dimension abutting a street. Each main residence building will face the front of the Lot or Owner's Property. Minor variations in house locations not exceeding one foot may be granted by the Architectural Control Committee.

**Section 6. Minimum Lot Area.** No Owner's Property shall be resubdivided, nor shall any building be erected or placed on any Lot having an area of less than 5,000 square feet nor on any Owner's Property having an area of less than 3,000 square feet; provided, however, that nothing herein contained shall be construed to prohibit the resubdivision of any Lot or Lots within said subdivision if such resubdivision increases the minimum Lot area as aforesaid of all building plats affected thereby, it being the intention of this restriction that no Lot nor Owner's Property within said subdivision shall contain less than the aforesaid respective minimum areas.

**Section 7. Annoyance or Nuisances.** No noxious or offensive activity shall be allowed on any Lot or Owner's Property nor shall anything be done thereon which may become an annoyance to the neighborhood.

**Section 8. Temporary Structures.**

(a) No structure of a temporary character, whether trailer, motor home, tent, shack, carport, barn, or other outbuilding shall be maintained or used on any Lot at any time as a residence or for any purpose; provided, however:

(i) Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling lots,

selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include but are not limited to sales and construction offices, storage areas, model units, signs and portable toilet facilities.

(2) Anything contained in these restrictions to the contrary notwithstanding, there shall be permitted on any Owner's Property the use of a dog house, so long as said dog house is not of unreasonable size, is so placed on an Owner's Property so as not to be visible from any street in the Subdivision, and is constructed and maintained in a manner consistent with these restrictions;

(3) Anything contained in these restrictions to the contrary notwithstanding, there shall be permitted on any residential Lot or Owner's Property the use of a storage building not to exceed seven feet (7') in height, eight feet (8') in width, and ten feet (10') in length, with 560 cubic feet of enclosed, roofed area, provided that said storage building is positioned on each Owner's Property in a manner such that the 5 1/2 feet of said building is screened from view from any street in the Subdivision by a fence duly approved by the Architectural Control Committee as provided herein and installed at or near the perimeter of the Lot or Owner's Property on which the storage building is located, and provided further, that said storage building is built and maintained in a manner consistent with these restrictions.

(b) No truck, camper, trailer, automobile, boat - whether powered or sail or otherwise - or other vehicle will be stored, parked or kept on any Lot or Owner's Property, or in any street for more than forty-eight (48) hours during a seventy-two (72) hour period, and no inoperative vehicle (inoperative defined herein as not in a running or usable condition) may be parked or stored on any Lot or Owner's Property or in any street at any time; provided, that nothing herein contained shall be construed to prohibit the storage of any unused or inoperative vehicle or any other vehicle or boat in the garage (if built) permitted in any Lot or Owner's Property covered hereby; provided, if further, however, that nothing contained in these restrictions shall be construed to prohibit the storage of all such vehicles or boats except inoperative vehicles, behind a solid wooden fence constructed on Owner's Property covered by these restrictions and constructed in accordance with other provisions of these restrictions, said fence to be constructed so that there are no gaps between the boards constituting said fence, said fence not to exceed six feet (6') in height, and the height of permitted vehicles and boats so stored behind such fence shall not exceed the height of such fence by more than three feet (3').

Section 9. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected on any Lot or Owner's Property except one sign of not more than ten (10) square feet in surface area advertising the property for sale or rent. Billboards may be used by Declarant to advertise property during construction and sales period and the same shall be constructed so as not to create a hazardous situation.

Section 10. Oil and Mining Operations. No oil drilling or development 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 excavations 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 other minerals shall be erected, maintained or permitted upon any Lot.

Section 11. Storage and Disposal of Garbage and Refuse. No Lot or Owner's Property shall be used or maintained 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 sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition provided, further, that no Lot or Owner's Property shall be used for the open storage of any materials whatsoever which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot or Owner's Property may be placed upon such property at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed or stored in a suitable enclosure.

**Section 12. Visual Obstructions at the Intersections of Public Streets.** No object, plant or thing shall be placed, planted or permitted on any corner Lot which object, plant or thing obstructs reasonably safe and clear visibility of pedestrian or vehicular traffic through sight lines parallel to the ground surface at elevations between two feet (2') and six feet (6') above the roadways, which object, plant or thing lies within a triangular area on any corner Lot described by connecting with a line two points, each such point respectively established at the edge of the paving abutting said corner Lot, twenty-five feet (25') back along the curb on streets abutting said Lot, measured from the center of the corner curb curve abutting said Lot.

**Section 13. Maximum Height of Antenna.** No radio or television aerial wires or antennae shall be maintained on any portion of any Lot or Owner's Property forward of the front building line nor shall the top of any free standing antenna of any style, exclusive of masts, be permitted to extend more than twenty feet (20') above the roof of any Unit. All amateur radio operation shall be conducted so as to cause no electronic interference with surrounding households.

**Section 14. Animal Husbandry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or Owner's Property, except no more than two (2) common household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

**Section 15. Burning and Burned Houses.** No person shall be permitted to burn anything outside the main residential building. In the event that any residence has burned and is thereafter abandoned for at least thirty (30) days, the Association may, after ten (10) days' written notice to the record owner of the residence, cause the burned and abandoned residence to be removed and the Lot or Owner's Property cleared, the expense of such removal and clearing to be charged to and paid by the record owner. In the event of such removal and clearing by the Association, the Association shall not be liable in trespass or for damages, expenses, costs or otherwise to Owner for such removal and clearing.

**Section 16. Underground Electric Distribution System.** An underground electric distribution system will be installed in that part of Pine Trails No. 9 designated underground Residential Subdivision, which underground service area shall embrace all Units in Pine Trails No. 9. The Owner of each Unit 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 meter on consumer'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 Unit 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 Property. For so long as underground service is maintained, the electric service to each Unit in the Underground Residential Subdivision, shall be uniform in character and exclusively of the type known as a single phase 120-240 volt, three wire, 60 cycle, alternating current.

#### ARTICLE V

##### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

**Section 1. Recorded Subdivision Plat of the Properties.** The Subdivision Plat of the Properties dedicates for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon and establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat of the Properties 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 2. Easements.** Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat of the Properties for the purpose of construction, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, sewers, cable television or any other utility Declarant sees fit to install in, across and/or under the Properties. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Neither Declarant nor any utility company of or authorized political subdivision using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or any other property of the Owner of the land covered by said easements. All easements, as filed on record, are reserved for the mutual use and accommodations of garbage collectors and all utility companies desiring to use same. Any utility company shall have the right to remove and keep all or part of any buildings, fences, trees, shrubs or other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective utility system on any easement strips, and any utility company shall, at all times, have the right of egress and ingress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or any part of its respective utility system without the necessity at any time of procuring the permission of anyone.

**Section 3. Installation of Paving.** Declarant reserves the right, during installation of paving of the streets as shown on the Subdivision Plat, to enter onto any part of the Properties for the purpose of disposing of street excavation, including the removal of any trees, if necessary, whether or not the Properties have been conveyed to and/or contracted for sale to any other Owner or Owners.

**Section 4. Title Subject to Easements.** It is expressly agreed and understood that the title conveyed by Declarant to any of the Properties shall be subject to any easement affecting same for roadways, access, drainage, water, gas, sanitary sewer, storm sewer, electric light, electric power, telegraph, telephone or cable television purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant or any easement owner or agents through, along, or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties, and the right to maintain, repair, sell or lease such appurtenances to any municipality, governmental agency, public service corporation or to any other party is hereby expressly reserved in Declarant.

**Section 5. Existing Liens.** Violation or failure to comply with the foregoing restrictions, covenants and conditions shall in no way affect the validity of any mortgage, loan or bona fide lien which may, in good faith, be then existing on any Lot.

**Section 6. Exclusions.** These restrictions shall not extend to or cover any portion of the Properties which is or may hereafter be designated or described (i) on the Subdivision Plat with the terms "Not Platted" or "Reserve," or with words or terms of similar meaning or (ii) in Exhibit A, if any, attached hereto and made a part hereof for all purposes. Moreover, these restrictions shall not extend to or cover any portion of the Properties upon which no private dwelling is constructed within five (5) years of the date hereof and which property is thereafter, at any time, restricted for uses other than residential. Said Reserves shall be used for purposes harmonious with the residential character of the remainder of the Properties and such uses may include, but not by way of limitation, multi-family sites, water well site, shops or facilities for the sale of food, beverages, clothing, services and other items for personal uses, professional offices or clinics, automobile service stations or facilities of a similar nature.

**Section 7. Composite Building Site.** Subject to the approval of the Architectural Control Committee, any Owner of adjoining Lots or portions thereof may consolidate such Lots or portions into one building site with the privilege of placing or constructing improvements on such resulting site in which case set back lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building set back line of not less than the minimum frontage of the Lots or Owner's Property in the same block.

**Section 8. Encroachments; Overhang Easement.**

(a) Declarant hereby reserves for itself and each Owner an easement and right to overhang each Owner's Property with the roof of any Unit as any such roof is originally constructed or substantially repaired by necessity, but not otherwise.

(b) With respect to those Lots on which Paired Units have been constructed, if any portion of any Paired Unit or any carport now encroaches upon any Owner's Property other than that of the Owner of such Paired Unit, or if any Paired Unit hereafter constructed encroaches upon any Owner's Property other than that of the Owner of such Unit, or if any such encroachment shall occur hereafter as a result of settling or shifting of the building, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the building shall stand. In the event any Unit shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and then rebuilt, encroachment easements due to such rebuilding shall exist for such encroachments for so long as the building shall stand to the same extent and degree as such initial encroachment.

Section 9. Ingress and Egress by Owner onto Paired Unit Owner's Property.

Each Owner of a Paired Unit shall have an easement, which is hereby reserved by Declarant in his behalf, over and upon the adjoining Owner's Property for the maintenance and repair of (a) the Common Structures, (b) other improvements adjacent to such adjoining Owner's Property and (c) pipelines connecting each Unit with water and sewer mains; provided that any such entry upon the adjoining Owner's Property shall be made with as little inconvenience to the Owner thereof as practical, and any damage caused thereby shall be repaired at the expense of the Owner using this easement.

Section 10. Water, Sewer and Drainage.

Declarant hereby reserves for itself the right to place connecting lines for all utility and sewer systems, including water, gas (if any) and sewer main connections, and drainage facilities on or under any Lot for service to and drainage of such Lot and other Lots. An easement shall exist on any Lot for such connecting lines and common drainage facilities as the same are installed and Declarant hereby reserves an easement on any Lot on which connecting lines and common drainage facilities are installed for their use and maintenance in favor of the Owner of any Property which is served by or drains into such facilities, provided that any entry upon the Property on which the connecting lines or common drainage facilities are located shall be made with as little inconvenience to the Owner thereof as practical. For purposes of determining the sharing by Owners of costs incurred in the clearing, maintenance and repair of common drainage facilities, such facilities shall be considered to be Common Structures.

**ARTICLE VI**

**MAINTENANCE CHARGE AND COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant for each Unit owned within the Properties hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Annual Assessment or Charge. Each Lot or, if Paired Units are constructed, each Owner's Property in the Subdivision is hereby subjected to an annual maintenance charge and assessment for the purpose of creating a fund to be designated and known as the "maintenance fund," which maintenance charge and assessment will be paid by the Owner or Owners of each Owner's Property within said Subdivision (and any area annexed under the jurisdiction of the Association) in advance in monthly, quarterly or annual installments, commencing as to all Owner's Properties on the first day of the month following the conveyance of the first Owner's Property by Declarant to an Owner. The rate at which each Owner's Property will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined annually by the Board of Directors of the Association at least thirty (30) days in advance of each annual assessment. Said rate and when same is payable may be adjusted from year to year by said Board of Directors as the needs of the Subdivision may in the judgment of the



Directors require. The assessment for each Owner's Property shall be uniform except that (a) as long as there is a Class B membership, the Board of Directors may charge and collect a fraction of the annual assessment on each Owner's Property owned by Declarant until the conveyance of said Owner's Property by Declarant, provided that any such fractional charge to Declarant shall not be less than fifty percent (50%), and (b) such assessment for each Owner's Property shall be equal to the assessment imposed by the Board of Directors for each Lot in the Pine Trails Nos. 1 through 8 (inclusive) subdivisions which are also subject to the jurisdiction of the Association. The due dates shall be established by the Board of Directors. The Association shall upon demand and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Owner's Property have been paid. The Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of said Subdivision, as well as those of all prior and subsequent sections of Pine Trails annexed as hereinafter set forth. Such uses and benefits to be provided by said Association may include, by way of clarification and not limitation, any and all of the following: constructing and maintaining parks, parkways, rights-of-way, easements, esplanades and other public areas; supervising and contracting for the collection and disposition of garbage, ashes, rubbish and the like; maintenance of any Common Area; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting said property to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing policemen and watchmen, caring for vacant lots and doing any other thing or things necessary or desirable in the opinion of the Association to keep the property in the Subdivision neat and in good order, or which is considered of general benefit to the Owners of property in the property, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

**Section 3. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 4. Notice and Quorum for any Action Authorized Under Sections 2 and 3.** ~~Written notice of any meeting called for the purpose of taking any action authorized under Section 2 or Section 3 shall be sent to all members, or delivered to their residences, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.~~

**Section 5. Effect of Non-payment of Assessments: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Property.

**Section 6. Subordinated Lien to Secure Payment.** To secure the payment of the maintenance charge and assessment established hereby and to be levied on individual Owner's Properties as above provided, there shall be reserved in each Deed by which the Owner (the present and any subsequent owners) shall convey such Properties, or any part thereof, the Vendor's Lien for the benefit of the said Pine Trails Community Improvement Association, said lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens, present and future, given, granted, and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot; and further provided that as a condition precedent to any proceeding to

enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, said beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage lienholder by prepaid U. S. Registered Mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. Sale or transfer of a 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 assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 7. Duration.** The above maintenance charge and assessment will remain effective for the full term (and extended term, if applicable) of the within covenants.

**Section 8. Annexation.** Pine Trails No. 9 is part of a 541.938 acre tract and the remainder thereof or portions thereof as well as other lands adjacent thereto may hereafter be annexed into the jurisdiction of the Association in the manner hereinafter described. If annexed, the Owners of Lots or Owner's Property in each future section of Pine Trails so annexed as well as all Owners subject to the jurisdiction of the Association shall be entitled to the use and benefit of any Common Areas as may become subject to the jurisdiction of the Association as a result of such annexation and the facilities thereon, and shall be entitled to the use and benefit of the maintenance fund hereinabove set forth, provided that each future section of Pine Trails must be annexed subject to an annual maintenance charge and assessment on a uniform, per Lot basis (or, if Paired Units are constructed, the assessment for each Owner's Property shall equal that for each Lot), equivalent to the maintenance charge imposed hereby, and further such sections shall be made by recorded restrictions subject to the jurisdiction of the Association, and such shall have been accepted into such jurisdiction by resolution of the Board of Directors of the Association. Additional land within the areas containing 541.938 acres described in deed recorded under Film Code No. 170-34-2196 of the Official Public Records of Real Property of Harris County, Texas, may be annexed by Declarant without the resolution of the Board of Directors of said Association as aforesaid and without the consent of the members of said Association within eight years of the date of execution of this instrument by Declarant, provided that the FHA or the VA determine that the annexation is in accord with the general plan heretofore approved by them. Any adjacent land or any of the said 541.938 acres after the five (5) year period may be annexed only by a two-thirds (2/3rds) vote of approval by both classes of membership.

## ARTICLE VII

### MAINTENANCE, REPAIRS AND IMPROVEMENTS

**Section 1. Unit Exterior and Lot Maintenance.** Each Owner shall maintain the exterior of his Unit in an attractive manner and shall not permit the paint, roof, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of his Unit to deteriorate in an unattractive manner. Without limiting the generality of the foregoing obligations for exterior maintenance, each Owner shall repair and maintain in sound condition:

- (a) The exterior paint on his Unit so that no portion thereof peels, scales or chinks excessively and all painted portions remain neat;
- (b) the windows on his Unit so that no caulking thereon is chipped or cracked and no window panes are broken;
- (c) all awnings (if any) installed on his Unit so that they are securely affixed to the exterior walls, gables, eaves or roof (as the case may be) and all holes are patched, stitched or otherwise repaired;
- (d) the exterior woodwork on his Unit, including all doors and windowsills, so that it remains whole, sound and neat;
- (e) the roof on his Unit so that all shingles are properly secured and no worn areas or holes are permitted to remain;

- (f) the rain gutters and downspouts on his Unit so that all are properly painted or treated to prevent rust and corrosion, properly secured to roof, eaves, gables or exterior walls (as the case may be) and maintained without holes;
- (g) the concrete areas of his Lot, so that all cracks are appropriately patched or surfaced as they appear; and
- (h) all fences or walls erected on his Lot so that all holes and cracks are repaired as they appear and no wooden portion thereof is permitted to decay beyond normal weathering.

The Owner shall at all times keep all weeds and grass on his property cut in a sanitary, healthful and attractive manner, and no Owner shall permit weeds or grass to grow to a height greater than twelve inches (12") upon any Lot or Owner's Property including all parkways. Vegetables in excess of twelve inches (12") in height shall not be grown in the front yard except within four feet (4') of any main residential building. In no event shall an Owner use any Lot or Owner's Property for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted or permit the accumulation of garbage, trash or rubbish of any kind thereon. The drying of clothes in front yards is prohibited and the Owner of any Lot at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen from public view the drying of clothes, yard equipment, and woodpiles or storage piles which are incident to the normal residential requirements of a typical family.

In the event of default on the part of the Owner in observing the above requirements or any of them, and the continuance of such default after thirty (30) days' written notice thereof, the Architectural Control Committee without liability to the Owner in trespass or otherwise shall have the right to enter upon said Lot or Owner's Property and cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said Lot or Owner's Property and the improvements situated thereon in a neat, attractive, healthful and sanitary condition and may render a statement of charge to the Owner of said Lot or Owner's Property for the cost of such work in accordance with Article IX, Section 2(e) hereof. The Owner agrees by the purchase or occupation of his property to pay such statement immediately upon receipt thereof, and such obligation shall be secured by the lien referred to in Article VI hereof.

#### Section 2. Common Structures.

(a) All reasonable costs of necessary restoration, repair and maintenance of Common Structures shall be shared by the Owners of Paired Units in proportion to the use each such owner makes of the Common Structure repaired and the costs of restoration, repair and maintenance of elements of a Common Structure serving only the Owner of one Unit in a Paired Unit, including, but not limited to, the costs of restoration, repair and maintenance of all plumbing, wiring, insulation, ducts and interior finish which services one Owner's Unit, only, shall be borne in their entirety by such Owner. Nothing contained herein shall prevent or prohibit an Owner from seeking a larger contribution than would otherwise be due hereunder if larger contribution would be due under any rule of law regarding liability for negligence or willful acts or omissions.

(b) Notwithstanding any other term of this Article to the contrary, any Owner who by his negligence or willful acts causes a Common Structure to be exposed to the elements shall bear the whole cost of furnishing the necessary restoration and protection from the elements.

(c) To the extent not inconsistent with these Restrictions, the general rules of law regarding party walls and liability for property damage due to an Owner's negligence or willful acts or omissions with respect to Common Structures shall apply thereto.

Section 3. Additions and Exterior Improvements. No Owner of any Paired Unit shall make any addition to, modification of or alteration of the exterior of his Unit, substantial change of the landscaping of his Unit or any change in the color of any part of the exterior of his Unit unless such addition or change has been approved in writing by the Owner of the Unit with which such Owner's Unit is paired and by the Architectural Control Committee as provided in Article IX hereof.

## ARTICLE VIII

## INSURANCE AND CASUALTY LOSSES

**Section 1. Insurance.** Each Owner of any Paired Unit shall maintain insurance against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of all repairs and/or reconstruction work in the event of damage to or destruction of the Unit from any hazard.

**Section 2. Repair or Reconstruction of Single Unit.** In the event of damage to or destruction of a single Unit of a pair by fire or other casualty, the Owner thereof shall, with the concurrence of the mortgagee (if any), upon receipt of the insurance proceeds paid on account of such loss contract to repair such damaged portion of the Unit or rebuild such Unit to as good condition as such portion or such Unit was in prior to the casualty in question, unless the Owner of the damaged or destroyed Unit and the Owner of the Unit with which it is paired shall mutually agree otherwise.

**Section 3. Repair of Paired Units.** In the event of damage to both Paired Units by common casualty, the Owner of each Unit shall, with the concurrence of the mortgagees (if any), upon receipt of the insurance proceeds paid on account of such loss, contract to repair the damaged portion of his Unit to as good condition as such portion was in prior to the casualty in question, unless the Owners of the damaged Paired Units shall mutually agree otherwise. Repair of common structures shall be governed by Article VII hereof.

**Section 4. Common Foundation.** Declarant contemplates constructing Paired Units, with both Paired Units to be constructed on a single post-tension slab foundation. No Owner shall alter the portion of such slab foundation under his Unit in such a way as to affect, damage or impair the portion of such slab under the adjoining Unit (such as by severing a post-tension cable). If the portion of such slab foundation under a Unit is damaged or destroyed by casualty or other involuntary means, the repair thereof shall be made with due regard for the structural integrity of the entire slab, including the portion under the adjoining Unit.

## ARTICLE IX

## ARCHITECTURAL CONTROL COMMITTEE

**Section 1. Composition of Committee.** The initial Architectural Control Committee shall be composed of six members, the initial members hereby appointed being Dennis Sheridan, Sandy Gingles, Jim DeLaPlaine, and three (3) members to be appointed by the Board of Directors of the Association, each of whose address for purposes hereof is Post Office Box 40450, Houston, Texas 77040. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any initial or successor member of the Committee, the remaining member or members shall have full authority to designate a successor or successors, subject to the provisions of Section 2(a), below. In the event of the death or resignation or continued absence or failure to function of all members of the Committee, the Association shall have full authority to appoint a new Committee. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed hereunder.

**Section 2. Functions.**

(a) The Committee shall be divided into two subcommittees, the New Construction Subcommittee (composed of Dennis Sheridan, Sandy Gingles and Jim DeLaPlaine) and the Alterations and Additions Subcommittee (composed of those three [3] members to be appointed by the Board of Directors of the Association in accordance with Section 1 hereof). The New Construction Subcommittee shall have sole and exclusive jurisdiction over approval of the buildings to be constructed by Declarant and the appointment of members to such subcommittee, if required, and no other member of the Committee shall be entitled to vote on such matters. At the time Declarant has completed construction of all buildings it intends to construct in the Subdivision, the New Construction Subcommittee shall automatically terminate, and the Committee shall thereafter be composed of three (3) members, only. The Alterations and Additions Subcommittee shall have sole and exclusive jurisdiction over all other functions of the Committee, and no other member of the Committee shall be entitled to vote on such matters.

(b) No building, fence, wall or other structure shall be commenced, erected or maintained upon any Owner's Property, nor shall any exterior addition to, or change or alteration therein (including, but not limited to, changes of the kind specified in Article VII, Section 3 hereof), be made, nor shall any landscaping of any Owner's Property be undertaken until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted by certified mail, postage prepaid, return receipt requested to, and approved in writing by, the Committee as to harmony of external design and location in relation to surrounding structures and topography. In the event that any plans and specifications are submitted to the Committee as provided herein, and the Committee shall fail either to approve or reject such plans and specifications within a period of sixty (60) days following the Committee's receipt of such submission, such failure shall be deemed to be an approval by the Committee for all purposes.

(c) If in the opinion of the Committee the exterior of any dwelling is in need of repair or maintenance, the Committee may notify the Owner thereof in writing of the need of such repairs or maintenance and if such repairs or maintenance are not accomplished within thirty (30) days of said notice, then the Committee may proceed to have such repairs or maintenance work done for the account of and payment by the Owner, and the Owner shall pay upon demand the Committee's cost, together with interest at the rate of ten percent (10%) per annum until such payment is made, and reasonable attorneys' fees if referred to any attorney for collection and the lien referred to in Article VI shall secure the Owner's obligation to repay such sum, as provided in Article VII, Section 1.

(d) In the event a dispute arises between the Owners of Paired Units in any matter for which the consent of one, or the mutual agreement of both, or the allocation of costs of repair or maintenance between Owners of Paired Units is required, such Owners shall submit the dispute to the Committee for resolution prior to resorting to arbitration as provided in Article X, Section 7 hereof or to a court of competent jurisdiction. The factual controversy shall be determined and the dispute resolved by the Committee within thirty (30) days after presentation of the matter to the Committee, or as soon thereafter as the Committee can reasonably act. The determination of the Committee in such circumstances shall be final and conclusive upon the parties.

## ARTICLE X

### GENERAL PROVISIONS

**Section 1. Term.** These covenants are to run with the land and shall be binding upon all parties hereto and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years; however, the covenants and restrictions of this Declaration may be amended during the first thirty (30) 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 a majority of the Lot Owners. Any amendment must be recorded in the Official Public Records of Real Property of Harris County, Texas.

**Section 2. Adjacent Property.** No obligation is created hereby with respect to property adjacent to or adjoining the Properties and which is part of the larger tract of land owned by Declarant. While Declarant may subdivide other portions of its property, or may subject same to a declaration such as this Declaration, the Declarant shall have no obligation to do so. Any Subdivision Plat or Declaration executed by Declarant with respect to any of its other property may be the same or similar or dissimilar to the Subdivision Plat covering the Properties or any part thereof, or to this Declaration.

**Section 3. Enforcement.** If any person shall violate or attempt to violate any of the covenants herein, it shall be lawful for any Owner situated in said Properties, including Declarant, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages for such violation.

**Section 4. Severability.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the provisions which shall remain in full force and effect.

Section 5. Amendment by Declarant. Declarant reserves the right in its sole discretion and without joinder of any Owner at any time so long as it is Owner of any Affected Lot, or portion thereof, in the Properties, to amend, revise or abolish any one or more of the foregoing restrictions by instrument duly executed and acknowledged by it as the developer and filed in the Deed Records of Harris County, Texas.

Section 6. Disputes. In the event a dispute arises between the Owners of Paired Units in any matter for which the consent of one, or the mutual agreement of both is required, and such Owners agree that the provisions of Article IX, Section 2(d) shall not apply, such Owners shall submit the dispute to arbitration in accordance with the rules of the American Arbitration Association, and the result thereof shall be binding and conclusive upon the parties. Upon the written request of either party to the dispute, each party to the dispute shall appoint one person as an arbitrator to hear and determine the dispute and if two arbitrators so chosen shall be unable to agree, then they shall select a third arbitrator whose decision shall be final and conclusive upon the parties. The expenses of such arbitration shall be borne by the losing party, or in such proportion as the arbitrators shall decide. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association.

ARTICLE XI

PROTECTIVE SCREENING AND SIDEWALKS

Section 1. Protective Screening. A protective screening fence is required along the southside property lines of Lot 1, Block 1; Lots 1, 11, 12, 23, 24, 35, 36, and 47, Block 2. Except as otherwise provided herein regarding street intersections under "Visual Obstructions at the Intersections of Public Streets", the fence shall be maintained by the Owner or Owners of the lots at their own expense to form an effective screen for the protection of the residential area. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utilities and drainage facilities. At time of Annexation of Section Nine into the Pine Trails Community Improvement Association, the Association may assume maintenance of the screening fence. Assumption of fence maintenance by the Association will be evidenced by the passage of a resolution to this effect by the Board of Directors of the Association.

Section 2. Sidewalks. A concrete sidewalk four feet (4') wide will be constructed immediately behind the curb on the following lots: across the front of lots 1, 2, 3, 4, 5, 42, 43, 44, 45, 46, and 47, Block 2; on the North side of lots 5, 6, 17, 18, 29, 30, 41, and 42, Block 2; the East side of lot 26, Block 1.

EXECUTED this 28<sup>th</sup> day of January, 1981.

ATTEST

FOX & JACOBS, INC. *for*

Sonia Roberts  
Root, Secretary

By: Jim P. S. Plaine  
 Its Law Manager