

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BAY POINTE ESTATES ON LAKE CONROE

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BAY POINTE ESTATES ON LAKE CONROE

STATE OF TEXAS :
 COUNTY OF MONTGOMERY :

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("DECLARATION") is made on the date hereafter set forth by Southeast Texas Development Group, Inc. (DBA Benchmark Development Co.), (hereinafter referred to as "Declarant").

W I T N E S S E T H :

WHEREAS, the Declarant, is the owner of that certain real property known as Lots One (1) through Ten (10) along with the Perpetual Easement rights to the adjacent Lots 1A through 10A and Restricted Open Space Reserves "A" and "B" of the final plat of Bay Pointe Estates on Lake Conroe (herein referred to as Bay Pointe) located in the Montgomery County, Texas Map and Plat records in Cabinet K, Sheet 70, File # 9806334.

WHEREAS, it is the desire of the Declarant to provide for the preservation of the values and amenities in such subdivision, and provide for a uniform plan to develop the subdivision, and provide for orderly maintenance of same, including the Community Properties located therein as hereafter defined; and for such purposes, to conditions and restrictions set forth below, hereafter called the "Declaration", for the benefit, use, and convenience of each and every Owner of property within Bay Pointe.

NOW, THEREFORE, Declarant hereby declares that the above-described properties shall be developed, held, transferred, improved, sold, conveyed, and occupied subject to the easements, conditions, restrictions, and covenants hereinafter set forth; shall constitute covenants running with the Land, and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title, or interest therein or any part thereof, their heirs, personal representatives, successors and assigns. Declarant also declares that this Subdivision shall be subject to the jurisdiction of the "Association" (as herein defined).

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. **"ARCHITECTURAL CONTROL COMMITTEE"** shall mean the "Committee" enforcing and maintaining the Architectural Control Standards as hereafter described, in Lots 1-10 and their adjacent "A" Lots of the final plat of Bay Pointe Estates on Lake Conroe Subdivision, hereafter referred to as the "Committee".

SECTION 2. **"ASSOCIATION"** shall refer to Bay Pointe Estates on Lake Conroe Home Owners Association, Inc. a Texas non-profit corporation, its successors and assigns.

SECTION 3. **"BOARD OF DIRECTORS"** shall be the elected body of the "Association" having its normal meaning under Texas law.

SECTION 4. **"BUILDER"** shall refer to any person or entity undertaking construction on any lot through a contractual obligation with the Owner (as herein defined) of that lot.

SECTION 5. "RESTRICTED OPEN SPACE RESERVES" (herein referred to as "Reserves") and defined on the final plat as R.O.S.R. "A" and R.O.S.R. "B".

SECTION 6. "COMMON EXPENSES" shall mean and include the actual and estimated expenses of operating the Association, including any reserve, all as may be found to be necessary and appropriate by the "Board of Directors" pursuant to this Declaration, the By-Laws and the Articles of Incorporation of Bay Pointe Estates on Lake Conroe.

SECTION 7. "CORNER LOT" shall refer to a lot which abuts on more than one street.

SECTION 8. "DECLARANT" shall refer to Southeast Texas Development Group Inc. (DBA Benchmark Development Co.), a Texas Corporation, for Lots One (1) through Ten (10), and their adjacent "A" lots and Reserves "A" and "B" their successors or assigns, but shall not be construed in any way to mean any subsequent Owner (as herein defined) of any lot &/or home in the Subdivision.

SECTION 9. "DESIGN PLAN" shall refer to the construction plans and specifications submitted to the Committee by the Builder for approval.

SECTION 10. "EASEMENT" shall mean a right granted for the purpose of limited public or semi-public use across, over or under private land.

SECTION 11. "FENCE" shall be defined as a structure built for the purpose of separating or enclosing Lots or parcels of land for reasons of security, privacy, ornamentation, or other reason. A Fence connotes a structure which may serve as a visual screen or as a barrier. Please reference Architectural Control Supplement # 2 of this document for specific design standards for all Fences to be constructed by Owners of Lots in this subdivision.

SECTION 12. "HEDGEROW" shall be defined as row of shrubs, trees, bushes, or etc. which are planted and maintained to serve a function similar to a Fence or wall.

SECTION 13. "IMPROVEMENTS" shall mean all structures or other improvements to any portion of the properties of any kind whatsoever, whether above or below grade, including, but not limited to; structures, buildings, utility installations, storage, loading or parking facilities, walkways, driveways, landscaping, signs, site lighting, site grading, earth movement, and any exterior additions to homes or changes or alterations thereto.

SECTION 14. "LOT" shall refer to the ten (10) Lots and their adjacent "A" lots as shown on the final plat of Bay Pointe Estates on Lake Conroe including Reserves "A" and "B".

SECTION 15. "MEMBER" shall refer to the person or entity owning a Lot in the subdivision.

SECTION 16. "OCCUPANT" shall mean any person legally entitled to occupancy and use of all or a portion of the properties.

SECTION 17. "OWNER" shall refer to the one or more persons or entities who possess or hold fee simple title to any lot, but shall not refer to anyone holding a lien, easement, mineral interest or royalty interest burdening the title thereto.

SECTION 18. "PROPERTY OR PROPERTIES" shall mean any land or water within the recorded final plat of Bay Pointe Estates on Lake Conroe.

SECTION 19. "RESIDENCE" shall be defined as a detached dwelling for occupation by a single family, as well as by any servant(s) whom the family may retain.

SECTION 20. "SCREEN" shall mean any approved shrub, hedgerow, fence, or other device or improvement which blocks an area of view from view from another area.

SECTION 21. "STREET" shall refer to any street, drive, road, alley, lane or avenue located in the Subdivision as shown on the final recorded plat of Bay Pointe Estates on Lake Conroe, and the Reserves.

SECTION 22. "SUBDIVISION" shall refer to the ten (10) lots and their adjacent "A" lots and Reserves "A" and "B" of the final recorded plat of Bay Pointe Estates on Lake Conroe.

SECTION 23. " SUBDIVISION PLAT" shall refer to the final recorded plat of the ten (10) lots and their adjacent "A" lots and Reserves "A" and "B" of the final recorded plat of Bay Pointe Estates on Lake Conroe prepared and filed by the Declarant in Cabinet K, sheet 70, File # 9806334 of the map and plat records of Montgomery County, Texas.

SECTION 24. "WATERFRONT LOT" shall refer to any lot which abuts, joins, or is adjacent to any portion of the waterway of Lake Conroe.

SECTION 25 "WATERFRONT OR BACK PROPERTY LINE" shall mean the line as recorded on the final recorded plat of Bay Pointe Estates on Lake Conroe nearest to the waterway or back property line.

SECTION 26. "WATERWAY" shall mean any water area which is included in the waters of Lake Conroe.

Section 27. San Jacinto River Authority Perpetual Usage Easement- A large portion of the Lake Conroe Texas shoreline is owned in fee simple title by the San Jacinto River Authority (S.J.R.A.) with perpetual usage rights of the same property being granted back to the adjacent land owners for their usage and enjoyment subject to the terms and conditions of the particular instruments filed of record at Montgomery County, Texas. Please reference Note Numbers 3 A and 3 B on the recorded plat of Bay Pointe Estates on Lake Conroe for details. This footnote refers to the areas on the recorded plat designated as lots 1 A through 10 A as perpetual easement rights only and are subject to the terms and conditions of the perpetual usage easement agreement between the San Jacinto River Authority and Norman Eaton as recorded in film code No. 371-01-1101 Real Property Records of Montgomery County, Texas, and as referenced and renewed on December 18, 1996 instrument recorded under film code No. 219-00-1137 Real Property Records of Montgomery County, Texas.

ARTICLE II.
ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. CREATION, PURPOSE, AND DUTIES. There is hereby created a Committee which shall be composed of five (5) members and whose initial members shall be Paul Ryan, Doris Ryan, E.C. Medley, Louis Wernert and Don Wernert who shall serve until their resignation or removal in accordance with the terms hereof. The members shall have the responsibility and all necessary power and authority to approve or disapprove, in their sole discretion, the external design, size, quality and type of building materials, location on the site, finished grade elevation of any structure, and all other design or construction details, of any structure to be erected in the Subdivision. All decisions made by the Committee shall be final and absolute. The Committee is vested with the authority and responsibility to maintain strict architectural continuity and harmony within the Subdivision, to maintain suitable standards of construction consistent with the Declarant's intent to create a very exclusive residential subdivision and to insure construction is completed in accordance with this Declaration.

No member of the Committee may be removed, except with the unanimous consent of the Declarant. Upon removal, resignation or death of any Committee member, the remaining Committee members shall within ninety (90) days after such removal, resignation or death, designate a person to fill that vacancy or vacancies. Provided, however, until the vacancy or vacancies shall have been filled, the remaining members of the Committee, whether one or more, shall have full authority to act and perform all the duties of the Committee. Any changes in the members of the Committee shall be designated by an instrument in writing, executed by Declarant, and filed for record in the Real Property Records of Montgomery County, Texas.

No Committee member, past or present, shall be entitled to compensation for services performed, but shall be entitled to reimbursement for any reasonable and necessary expenses incurred in furtherance of the duties of the Committee. The Committee may employ as it sees fit, one or more architects, engineers, accountants, designers, secretaries or such other persons reasonably necessary to assist the Committee in carrying out its duties. Notwithstanding the foregoing, in the event of actual or threatened litigation, administrative hearings, or other advisory proceedings, the Committee members, past or present, shall be entitled to reasonable compensation for their time and to be reimbursed or have paid directly their reasonable and necessary Attorney's fees and other related expenses. All the foregoing cost and expenses shall be the expense of and be paid by the Association.

The Association shall and herewith agrees to protect, indemnify, and save the Committee and Declarant harmless from liability, and reasonable and necessary expenses incurred by the Committee in all matters related to the exercise of its functions hereunder and in the exercise of the broad discretionary powers vested in the Committee; save and except for acts of willful fraud or gross negligence.

SECTION 2. POWERS OF THE COMMITTEE. Absolutely no building or other improvements shall be constructed in the subdivision, and no exterior alteration of any building or improvements shall be made until the site plan, schematic plan for landscaping and lighting, and final working plans and specifications have been submitted to and approved in writing by the Committee. The various aforementioned plans and specifications shall be considered approved by the Committee if it fails to disapprove the same (or subsequent amendments thereto) within thirty (30) days from the date of submission and actual delivery thereof to the Committee (the Submission Date); provided, however, as a condition precedent to said assumption of approval that the Committee has executed a receipt therefore, which receipt shall state the Submission Date and be signed by a majority rule appointed member of the Committee for receipt of plans.

The Committee shall have the right to specify architectural and aesthetic requirements for building sites; minimum setback lines; the location, design, height and extent of all fences or walls, the orientation, design, and size of all structures with respect to streets, walks, paths, and structures on adjacent or nearby property; and a limited number of acceptable exterior materials and finishes that may be utilized in the new construction or remodeling or repair of all improvements. The Committee shall have full power and authority to reject any plans and specifications that do not comply with this Declaration that do not meet its minimum construction or architectural design requirements or that might not be compatible with the overall character and aesthetics of the Subdivision. The Committee may from time to time issue supplements to these deed restrictions to further guide the intent of the requirement. Such supplements will be referred to as the "Architectural Control Standards".

The Committee shall have the right, exercisable at its sole discretion, to grant or deny variance to the restrictions in specific instances where the Committee in good faith deems that such variance may or may not adversely effect the architectural and environmental integrity of the Subdivision, without liability on their part in the exercise of this discretion.

In the event that a controversy arises as a result of the meaning or interpretation of these restrictions as they may apply to maintain architectural harmony and exclusiveness of this Subdivision, then the Committee will have full power and authority to make a ruling at its sole discretion for resolution of the particular controversy.

Disapproval of plans and/or specifications, including location and placement of proposed improvements, may be based by the Committee on any grounds including purely aesthetic conditions, which shall seem sufficient in the sole discretion of the Committee.

Any action taken by the Committee shall require a majority vote of the members of the Committee then sitting.

SECTION 3. DESIGN APPROVAL. The design for each structure to be constructed in the subdivision shall be submitted to the Committee as follows:

a. Preliminary Design Approval - a schematic design or drawing herein referred to as the "Preliminary Architectural Design" shall be submitted. This submission shall reflect, on a preliminary abbreviated basis, the site plan, roof plan, basic floor plan, all elevations and shall be drawn to a generally accepted architectural scale. Permitted, but not required, at this submission are exterior color and building material selections. The purpose of this submission is to make sure the applicant is not considering a particular plan and exterior elevations that are not conducive to the overall architectural harmony of the subdivision. The action of the Committee at this submittal is to be considered advisory only and its approval or disapproval of or comment upon the schematic design, color or material selection does not constitute approval of the final design, color, material or any other item requiring the approval of the Committee. The Committee shall have fifteen (15) days from the submission date of the Preliminary Architectural Design to act upon the same.

b. Final Design Approval- a detailed working set of plans and specifications herein referred to as the "Final Architectural Design" shall be submitted. This submission should include two (2) identical sets of construction plans and specifications for all proposed construction (initial or alterations or remodeling) to include, but not limited to, the following:

1. Working plans showing all floorplans, elevations of all sides of the exterior structure, framing plans, roof plans, electrical and mechanical plans

2. Plot Plan for the lot showing the location, dimensions or boundaries of all easements, lot lines, setback or building lines, foundations (with elevation thereof), walks, drives, fences, and any and all other improvements to be located thereon. This plot plan should include a pictorial of where the sanitary lines will run from the improvements to the trunkline and a plans for running all other utilities from the improvements to their predesignated connection points. This information is to be accompanied by a copy of the final recorded plat for Bay Pointe Estates on Lake Conroe and a copy of a current title commitment (less than thirty (30) days old) for the particular lot or lots submitted. The Plot Plan should show the location and dimensions of all structures and appurtenances on the lot.

3. Drainage Plan for the lot showing the actual drainage plan for the entire lot showing elevations where necessary and the proposed flow of stormwater from the lot. This Drainage Plan should be adequate enough for the Committee to clearly ascertain what the applicant's plans are for orderly containment via swales or underground pipe systems for stormwater runoff so as not to interfere with any adjacent property or the Declarant's overall drainage plan. This drainage plan should depict any retaining walls or other type of systems that are used to prevent erosion of ground soils due to rapid groundwater runoff. No drainage lines or any other type penetration may be through the existing bulkhead.

4. Foundation Plan designed by a licensed professional engineer showing the details of constructing an "Engineered Slab" for the particular loading imposed by the improvements to be constructed upon the soil conditions existing directly under the proposed improvements. This foundation plan would normally be accompanied by "Core Test Report" performed by a geotechnical firm specializing in this type testing. Applicant must show evidence that he will employ the services of the above professional engineer for actual on site inspections prior to pouring of pier holes or slabs and during the actual placement of all concrete in the pier holes or foundation. This engineer will certify that the all aspects of the slab construction were performed according to the plans and specifications.

5. Landscape Plan showing a pictorial drawing to scale showing the locations and type of all plants, shrubs, flowers, trees and all other vegetation to be used for visual enhancement of the applicant's property. The plan should clearly define what types of plants are to be used as well as a description of the size of plant (gallonage of container) or trunk size of trees to be planted. Every lot in Bay Pointe Estates will be required to have a total of at least six (6) trees (existing or new) with a caliper size trunk of at least six (6) inches in diameter or larger in the front and both sides of yard. The landscape plan should also depict all planned peripheral ingredients of the landscaping package including rocks, statues, fountains, timbers, containers, etc. where applicable.

Landscaping plays a very important role for the overall aesthetics of the subdivision and the Committee will be very stringent on what will be acceptable for a Landscape Plan. Please see ARTICLE VI, SECTION 14 for further discussion of landscaping requirements including minimum acceptable expenditures for the landscaping package.

6. Samples of exterior materials to be used for the construction of improvements including brick, stucco or other masonry systems, rock, cast stone enhancements, wood trim, siding, roof material and all paint colors must be submitted to the ACC.

7. Other items as the Committee may reasonably require in its review.

8. Please reference the Bay Pointe Estates Builder Package for applicable deposits, fees, fines that are required of all builders and/or owners.

Construction documents and appropriate materials shall be submitted to:

Don Wernert
C.O. Benchmark Development Co.
2204 Timberloch Place Suite 285
The Woodlands, Texas 77380

The Committee will make its final decision based upon the final submission of documents and materials. The Committee requires fifteen (15) days after final submission for the review of plans and specifications. Approval or rejection of all plans and specifications shall be in writing from the Committee. If plans are rejected, the Committee shall give a reason for the rejection and note the Article and Section of the Declaration on which the objection is based.

If plans and specifications are rejected, owner or builder must make necessary architecturally approved corrections and resubmit the same for final approval. If plans and specifications are approved, the Committee shall keep one approved set of plans and materials on file. The other approved set of plans shall be signed and returned to applicant by the Committee. Any changes which the Owner or Builder desire to make after the plans and materials have been approved by the Committee, affecting the exterior or roof line of residence, must be resubmitted in writing and approved by the Committee prior to making any changes on the job site. Owner must wait for a period not to exceed ten (10) days for the Committee to approve any changes before commencement of any changes. Any deviation from approved construction documents (without written approval of such deviations) constitutes a violation of the Deed Restrictions and is not permitted.

The Committee shall keep records of each submittal, and of each action taken by the Committee with respect to each submittal made by any Owner or proposed Owner hereunder. The Committee shall retain for such period as the Committee determines to be appropriate one set of plans and materials (if any) for each improvement and proposed improvement. No Owner or prospective Owner shall have any right of access to, or any right to inspect or reproduce, any portion of any submittal made by any other Owner or prospective Owner.

SECTION 4. DISCLAIMER. No review of plans, specifications, no publication or designation of architectural standards, plot plans, drainage plans, foundation plans, landscape &/or engineering plans or any other submittals to the Committee (whether approved or disapproved) shall ever be construed as representing or implying that such submittal will result in a properly designed structure or improvement or satisfy any legal or other regulatory requirement promulgated by any agency, entity, or other authority (local, county, state, or federal) having jurisdiction over such matters.

SECTION 5. NON-LIABILITY FOR COMMITTEE ACTION. No member of the Committee or any member of the Board of Directors of Bay Pointe Estates on Lake Conroe, or Declarant shall be liable for any loss, damage, or injury arising out of, or in any way connected with, the performance of the duties of the Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter submitted by an applicant, the Committee shall not be responsible for ascertaining whether or not the particular submission is in conformance with certain building codes and/or its conformance to any applicable safety codes.

SECTION 6. TRANSFER OF AUTHORITY TO THE ASSOCIATION. The duties, powers, and authority of the Committee may be assigned to the Association by a vote of the majority of the members of the Committee, after 90 percent of the lots in the subdivision have been completed with a single family residential dwelling erected thereon, and acceptance thereof by the Association's Board of Directors, or in the event of the demise of all members of the Committee, or their disability to such degree as to prevent all of them from performing their duties for thirty (30) consecutive days, the Association's Board of Directors shall have the responsibility, authority and power to perform the functions of the Committee, upon transfer of the Committee's authority as provided herein.

ARTICLE III
BAY POINTE ESTATES ON LAKE CONROE HOMEOWNERS ASSOCIATION, INC.

SECTION 1. ORGANIZATION Declarants have caused the Association to be incorporated as a non-profit corporation under the laws of the State of Texas. The principal purpose of the Association shall be to enforce and act in accordance with the terms and conditions of this Declaration for the betterment, maintenance and promotion of the Subdivision and the health and welfare of the residents thereof.

SECTION 2. OFFICERS AND BOARD OF DIRECTORS The Association shall act through its duly elected officers and Board of Directors whose duties and terms of office shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

SECTION 3. ARTICLES OF INCORPORATION AND BYLAWS The Articles of Incorporation and By-Laws of the Association, as from time to time amended and restated, are incorporated by this reference into this Declaration with the same force and effect as if they had been recited verbatim herein. Accordingly, the Articles of Incorporation and By-laws, as from time to time amended and restated, shall have the same force, effect and dignity as the provisions of this Declaration. Every reasonable effort shall be made to construe the Articles of Incorporation, the By-laws and this Declaration, as from time to time amended, supplemented and restated, consistently. However, if any irreconcilable conflict shall arise among the documents, to the extent as provided by law the provisions of this Declaration shall control.

SECTION 4. MEMBERSHIP. Subject to the provisions of the following Section 6, every owner of a lot in the Subdivision shall be a member of the Association, until such ownership ceases. Membership shall be appurtenant to, and may not be separated from, ownership of the land which is subject to assessment by the Association and shall automatically pass with the title to any subsequent Owner of the Lot. Provided, however, that it shall be the duty of every Owner of a Lot to keep the Association informed of the name and street address of each party qualifying as an Owner and any change thereto as may be specified in its By-Laws.

SECTION 5. COMMITTEE. The Association shall have the authority to establish, at any time and on such terms as the Board in its discretion may adopt, such committees as the Board may desire to carry out the purposes of the Declaration. Each committee established by the Board shall have such membership, rights, powers, authorities and limitations, shall perform such functions and services, and shall exist for such period of time, as the Board in its discretion may determine consistent with the Act. Without in any way limiting the generality of the foregoing, the Board is expressly authorized and empowered to establish one or more committees which may have up to the same right, power and authority of the Association as permitted by the Governing Documents and the Act with respect to specific categories of property; for example, a committee with jurisdiction over the office and institutional portions of the Subdivision, a committee with jurisdiction over the industrial portions of the Subdivision and a Committee over the Reserves.

SECTION 6. VOTING AND MEMBERSHIP LIMITATIONS. The Association shall have two (2) classes of voting membership:

- (a) Class "A". CLASS "A" members shall be Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each lot owned by such member in the Subdivision; provided, however, when more than one person holds an interest in any lot, all such persons shall be members, and the single vote for such lot shall be exercised by the one (1) natural person named by them as they among themselves determine from time to time by written notice executed by them, given to the Association in the manner prescribed by it from time to time, but in no event shall more than one (1) vote be cast with regard to any lot. Any member failing to give the above prescribed notice shall not be entitled to vote and shall be disqualified in that respect unless waived by the Association by an instrument in writing duly executed by it.
- (b) Class "B". Class "B" members (the Declarant) members shall be allowed six (6) votes for each lot in the Subdivision in which the Declarant qualifies as the Owner thereof. Class "B" membership shall cease and be converted to Class "A" membership when all lots in the Subdivision have been sold to Owners other than Declarants.

No member, Class "A" or Class "B" shall be entitled to vote at any meeting of the Association unless member's assessments and other charges, if any, are paid current.

For purposes of this Declaration, a "member in good standing" shall mean an Owner which has, not less than seven days prior to the date established by the Association for casting of votes, fully paid all sums due by it to the Association.

SECTION 7. TITLE TO RESTRICTED OPEN SPACE RESERVES The Declarant may retain title to the Reserves in the Subdivision until such time as improvements have been completed thereon and until such time as, in the judgement of the Declarant, the Association is able to operate and maintain the same. Until title to such reserves has been conveyed to the Association by Declarant, Declarant shall be entitled to exercise all rights and privileges relating to such Reserves granted to the Association in this Declaration.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant for each lot within the Subdivision, hereby conveys, and each owner of any Lot by acceptance of a Deed therefor, whether or not expressed in the Deed or other evidence of the Conveyance, and however acquired by a subsequent Owner, shall be deemed to convey and agree to pay the Association the following:

- (a) Annual assessments; and
- (b) Special assessments ;

Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with such interest thereon, cost of collection thereof, and Attorneys fees, shall be a charge on the land and shall be secured by a continuing Vendors's lien upon the Lot against which such assessments or charges are made. Each such assessment, together with such interest at the highest rate permitted by law, costs, and reasonable attorney's fees for collection thereof shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment fell due. Each assessment shall be a charge on the Lot and a continuing lien upon the Lot against which each such assessment is made, and shall not be affected by any change of ownership thereof.

SECTION 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the residents of the Subdivision, and any other purpose authorized or permitted by this Declaration. Without limiting the foregoing, assessments may be used for payment of costs and expenses of the Committee, contract security, operating costs and maintenance of the water and wastewater systems (both onsite and offsite), taxes and insurance premiums on property of the Association for repairs, maintenance, lighting, maintenance of waterways and all Reserves, paths, parks, parkways, and esplanades in the Subdivision; collecting and disposing of garbage, rubbish and materials of a similar nature; payment of legal fees, police or security service; fogging and furnishing other general insecticide services; providing for the planting and upkeep of trees, grass, and shrubbery in the Reserves, easement maintenance; acquiring and maintaining any amenities, including recreational facilities, that are to be operated for the benefit of the owners and residents; and the establishment of a maintenance reserve. Subject to the provisions of Sections 3 & 4 of this Article IV, the judgment of the Board of Directors of the Association in establishing annual assessments and special assessments, and with respect to the accumulation and expenditure of said funds, shall be final and conclusive unless said judgment is exercised in bad faith.

SECTION 3. BASIS AND MAXIMUM LEVEL OF ANNUAL ASSESSMENTS. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant, the annual assessment shall be FIVE HUNDRED DOLLARS (\$ 500.00) per Lot. Annual assessments for the year in which a Lot is sold by the Declarant to an Owner, as well as the annual assessment due for next succeeding calendar year of annual assessment, shall be due and payable in advance upon the sale of such lot. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15 %), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for all- Urban Consumers, published by the U.S. Department of Labor (or a generally accepted replacement should such index no longer be published).

From and after January 1 of the year immediately following the conveyance of the first lot, to an Owner the maximum annual assessment may be increased above the rates specified in this Section 3, by a vote of two-thirds (2/3) of each class of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose. Such increase shall become effective on the date specified in the document evidencing such approval, and shall be filed for record in the Official Public Records of Real Property in Montgomery County, Texas. Assessments for any year in which a Lot is sold By Declarant shall be prorated to the date of closing, and assessments shall be due from the Owner thereof from that date forward.

SECTION 4. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of a particular capital improvement located within the platted area of Bay Pointe Estates on Lake Conroe including the necessary fixtures and personal property related thereto or for any other purpose consistent with the provisions of this Article IV.

SECTION 5. RATES OF ASSESSMENT. Both annual and special assessments on all lots shall be fixed at uniform rates (.i.e., the same for each lot); provided, however, that such assessments shall not commence with regard to any lot until such Lot is conveyed to an owner other than Declarant, notwithstanding any provision contained in this Declaration to the contrary.

SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENT; REMEDIES OF THE ASSOCIATION. Any assessments which are not paid when due shall be delinquent and bear interest at the highest non-usurious rate permitted by law, or if no limitation is imposed, then at the rate of eighteen percent (18 %) per annum from thirty (30) days after the due date until paid. If any assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the owner personally obligated to pay the same, and/or foreclose the Vendor's Lien herein retained against the Lot. Interest, costs of court, and reasonable Attorney's fees (when placed with an attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its representative the right and power to institute and maintain an action against such Owner personally for the collection of such assessments and charges as a debt and to enforce the Vendor's Lien by any methods available for the enforcement of such liens at law and in equity, including, without limitation, foreclosure by non-judicial action as provided in Section 51.002 of the Real Property Code of the State of Texas, and such Owner expressly grants to the Association, the power of sale and judicial foreclosure in connection with the Vendor's Lien. No Owner may waive or otherwise escape said Vendor's Lien and liability for the assessments provided for herein by abandonment or divestiture of ownership of a lot for any annual or special assessment which became due and payable during the time when such Owner owned the lot.

SECTION 7. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise), or any proceeding in lieu thereof, shall become 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, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

SECTION 8. EXEMPT PROPERTY. All properties dedicated to, and accepted by a local public authority exempt from taxation by the laws of the State of Texas, and all Reserves shall be exempt from assessments and charges herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessment and charges and the Vendor's Lien herein securing payment hereof.

ARTICLE V
PROPERTY RIGHTS IN THE OPEN SPACE RESERVES

SECTION 1. OWNER'S RIGHT TO ENJOYMENT. Every member shall have the right to look at and enjoy the natural environment created by the designated Restricted Open Space Reserves (Reserves) as delineated on the final recorded plat of Bay Pointe Estates on Lake Conroe. However, no Owner shall have the right of entry to these Reserves. Their purpose is to create a natural, undisturbed environment for the overall enhancement of the Subdivision. These rights shall be appurtenant to and shall pass with the title to every lot, subject to the following:

- (a) The Board of Directors of the Association shall have the authority and power of keeping the natural integrity of the Reserves intact. The Association shall have the power to enforce the no entry provision as described in Article V, Section 1. The Association will have the power to impose fines and/or bring legal action against violators of this provision whether or not the violators are members or nonmembers. The Association will have the right to give entry into the Reserves to any party it deems necessary for cleanup, care of trees or vegetation, or any and all other functions it deems necessary for the perpetual care and preservation of the Reserves.
- (b) Upon approval by the Board of Directors, the Association shall have the right to transfer, assign, or convey all or any part of the Reserves to any public authority for such purposes as it deems necessary for the enhancement of the Subdivision, however, this provision shall not be construed to limit the right of the Declarant or the Association to grant or dedicate public or private utility easements in portions of the Reserves or transfer title to any waterline, wastewater line, lift station, or any other like facilities, situated on any part of the Reserves owned by the Association, to any utility company rendering or to render service to the Subdivision or any part thereof.

SECTION 2. PARKING. No parking of vehicles, trailers, boats or etc. is allowed on Bay Pointe Lane or in the cul-de-sac or any of the Reserves at any time. These vehicles will be towed at owners expense at no liability to the Association whatsoever and will be strictly enforced.

ARTICLE VI
USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every lot is hereby restricted to a residential dwelling for single family use only, hereinafter referred to as "Residential Use". No business, professional, commercial or manufacturing use, nor any other use except said Residential Use shall be made of any of said Lots, even though such business, professional, commercial, or manufacturing use be subordinate or incident to use of the premises for Residential Use. No structure other than one single family residence and its outbuilding shall be constructed, placed or permitted to remain on any lot in the subdivision. As used herein, the term "Residential Use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments, or apartment houses for rental purposes.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind such as, but not limited to, sheep, horses, cattle, swine, poultry, or dangerous animals (as determined to be such at the sole discretion of the Committee) shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs (cats) or other household pets may be kept on a Lot (which shall include in the aggregate not more than three (3) such adult animals), provided that they are not kept, bred or maintained for business purpose and do not cause a nuisance. No Owner shall permit any dog, cat, or other household pets to leave Owner's Lot unless leashed and accompanied by a member of each Owner's household. Household pets shall be subject to the rules and regulations adopted by the Association through its Board of Directors which may by declaration impose stricter standards than those contained in this Section 2 of article VI.

SECTION 3. NUISANCES. No noxious or offensive trade or activity including, but not limited to, any trailer houses and trailer parks, junk or scrap metal yard, waste material business, any dumping, disposal, incineration or reduction of garbage or refuse, any fire, bankruptcy or auction sale or garage sale operation shall be carried out upon the Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision. The Committee or the Board of Directors of the Association is hereby authorized to determine what constitutes a nuisance. Activities especially prohibited include, but are not limited to the following:

(a) The performance of work on automobiles or other vehicles upon the Lot or in driveway or streets abutting lots

(b) The use or discharge of firearms, firecrackers or other fireworks within the subdivision

(c) Storage of any type of flammable liquids in excess of five gallons.

(d) Activities which may be offensive by reason of odor, fumes, dust, smoke, vibration, or pollution which are hazardous by reason of excessive danger, fire, or explosion.

SECTION 4. STORAGE AND REPAIR OF VEHICLES. No aircraft, boat, mobile home, tractor, trailer, motor home, marine craft, recreational vehicle, camping unit, boat rigging, truck larger than a three-quarter (3/4) ton pickup, bus, unused or inoperable automobile, towable or self-propelled machinery or equipment, or other offensive object of any kind shall be parked or kept in the street in front of, on the side of, or otherwise on any Lot, unless such vehicle is stored within a garage or totally screened, but in any event, completely out of sight from streets, waterfront or waterways, and all residences, except for marine craft in private boat slips owned by a resident of Bay Pointe Estates. No boats, canoes, personal watercraft or etc. can be stored in the backyards (out of the confines of private boat slips) of any Lot located in the Subdivision. No owner of any Lot in the Subdivision or any visitor or guest shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a very temporary nature. As used in this Section 4., the term "temporary" shall mean that the vehicle shall not remain in the driveway for more than twenty-four (24) hours.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION AND CONSTRUCTION WORKER LIMITATIONS. Except in an emergency, or when unusual circumstances exist, as determined by the Committee, outside construction work or other noisy construction work shall be permitted only between the hours of 7:00 a.m. and 9:00 p.m. No construction workers should be allowed to play loud music or use loud language in performing their particular job. No Construction worker will be allowed to consume any type of alcoholic beverage at any time on the platted boundaries of the Subdivision. All construction workers are to use good judgement and prudent behavior so as not to offend in any way the residents of the Subdivision. The building contractor and his construction workers are to keep their particular construction site (and corresponding street frontage) neat, clean and orderly at all times.

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris or offensive material of any kind including, but not limited to grass cuttings, leaves and tree limbs, shall be kept or allowed on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials, nor shall any such material be buried on site or be placed or dumped into the storm sewer system. All such material shall be placed in sanitary refuse containers constructed of metal, plastic, or masonry materials with tight fitting covers or lids and placed in a designated area adequately screened, by landscaping and/ or fencing, from the streets, waterfronts, other residences, and the Reserves. Compost piles, for use as fertilizer, may be maintained provided they are kept in a sanitary manner (no offensive odors) and properly screened and located so that are not visible from any streets, waterfronts, other residences, or Reserves within the Subdivision.

Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and sanitary waste disposal. In a manner consistent with good housekeeping, the Owner shall remove such prohibited matter from his Lot at regular intervals, at his expense. No burning of leaves, brush, limbs, rubbish, or trash at any time. No storage area shall be permitted between any residence or building on Lot and the street.

All builders during the construction of homes will be required to use one centralized portable container for the containment of all non-usable building materials (scrap) and trash. All scrap and trash is to be placed in this container on as-needed basis so as not to allow any accumulation of these materials inside or outside the house being constructed at any time. These containers must be cleaned out at timely intervals so as not to allow for any overflow of trash.

SECTION 7. CONSTRUCTION USE. No temporary or portable building or other structure shall be moved onto any Lot without written permission from the Committee, and any such building or structure (if allowed) will be promptly removed upon completion of construction work. No stumps, trees, underbrush, or any refuse of any kind or scrap material from improvements being erected on any Lot or building site shall be placed on any streets or easements or on other lots or building sites. All such material, if not disposed of immediately, shall be removed from the property and disposed of immediately upon completion of said improvements. In order to receive permission from the Committee, temporary structures used as building offices or for other related purposes during the construction period must be inconspicuous and sightly and should be keep neat, clean, and orderly at all times. No portion of construction of one Lot shall encroach upon another Lot.

SECTION 8. STORAGE OF BUILDING MATERIALS. No Lot shall be used for the storage of any building materials whatsoever, except that material to be used in construction of improvements erected upon a Lot may be placed upon such Lot at the time construction is commenced, and then such material shall be placed within the property lines of the lot or building site upon which improvements are to be erected. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time such materials shall be removed from the Lot. Under no circumstances shall building materials be placed or stored on the street.

SECTION 9. MINERAL PRODUCTION. No drilling of any type (including water wells), developing operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot or Reserves, nor shall oil and gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot. Declarant waives its right to use of the surface of the Subdivision for the exploration, development or production of oil, gas or other minerals from the mineral estate, if any owned and retained by Declarant.

SECTION 10. INDUSTRIAL USE. Industrial use of the properties is prohibited. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise, pollution, or other undesirable affect, or which is hazardous by reason of excessive danger of fire or explosion.

SECTION 11. EXCAVATIONS. No excavations shall be made and no sand, gravel or soil shall be removed from the properties except in connection with a grading and/or building plan (as approved by the Architectural Control Committee).

SECTION 12. TREES. No live tree (above a four inch caliper) shall be cut or felled except as required for construction work with the approval of the Committee. In order for the Committee to approve the loss of a tree or trees, another approved tree or trees shall be planted to replace same such loss.

SECTION 13. SATELLITE DISH AND ANTENNA USE- RESIDENTIAL OR COMMERCIAL ANTENNA. No exterior television, radio, or other electronic antenna or device shall be erected, constructed, placed, or permitted on or to remain on any Lot or any of the residences, buildings, structures or other improvements constructed on any Lot in the Subdivision unless the same shall have been approved in writing by the Committee. All of the foregoing items shall be wholly concealed in the attic space of the residence.

SECTION 14. LANDSCAPE USE. Landscaping is vitally important for the overall character and aesthetics of the Subdivision. A minimum variable amount of Fifteen Thousand Dollars (\$ 15,000.00) or six percent (6%) of the building cost whichever amount is larger, shall be allotted for landscaping. This money should be spent on foundation planting, entryways, yard planting, sod, walkways and etc. - not the total amount or a large portion of the amount on just the planting of large trees. All front and side yards (any-thing visible from the street) shall be sodded (not sprigged or plugged) with St. Augustine, Soyia Grass, Tif-Grass or other similar grass (no Bermuda) and approved by the Committee. All foundation planting shall be five (5) gallons or larger.

All landscaping shall compliment the architectural design of the residence and should blend harmoniously with the natural surroundings both on the Owner's Lot as well as the surrounding Lots and platted Reserve areas. Please reference ARTICLE II, SECTION 2, paragraph (b.4.). for further description of the landscaping requirements and submittals thereof.

All landscaping shall be completed within sixty days of completion of the residence as evidenced by move-in of the Owner. The Committee may extend this date for extenuating circumstances such as weather. All such extensions are to be requested by Owner in writing to the Committee prior to the expiration date for completion of landscaping as described above.

SECTION 15. STORAGE. No lot shall be used for the storage of commercial products, liquid, or otherwise, except the "Building Materials " as described in Section 8 of this Article VI.

SECTION 16. RESTRICTED OPEN SPACE RESERVES. These areas shall only be for the "aesthetics" or for the overall appearance of the subdivision. The Association, acting through the Board of Directors, shall have the right and power to enforce use restrictions in these areas.

SECTION 17. MISCELLANEOUS. No privy, cesspool or septic tank shall be placed or maintained in the Subdivision. Whenever a residence is established on any Lot, all toilets and other sewage outlets shall be connected with the provided central sewer service. The outdoor drying of clothes or other materials is prohibited.

SECTION 18. WINDOW AIR CONDITIONERS OR HEATERS. No window or wall type air conditioners or heaters shall be permitted to be used, erected or maintained on or in any building in any part of the Lot, except that the Committee may, at its discretion, permit window or wall type air conditioners or heaters to be installed if such units, when installed, shall not be visible from public view, such permission to be granted in writing.

SECTION 19. LOT USE. Lots in the Subdivision may not be re-subdivided into smaller building sites. Whole Lots may be combined so as to create a single residential Lot or homesite or multiple building sites of a size greater than any one of the combined lots and the entire area resulting from any such combination shall be treated as a single residential Lot, as if originally platted as such on said map or plat of this Subdivision, and in such cases, the side Lot lines between the Lots or fractions of Lots combined shall not be deemed to be side Lot lines for building setback purposes, such combinations being permissible only if whole Lots are combined with adjoining or contiguous whole Lots.

SECTION 20. RESTRICTED OPEN SPACE RESERVES. "A" and "B" are on the recorded plat and are referred to as R.O.S.R. "A" and R.O.S.R. "B".

SECTION 21. FIREARMS. No Owner shall use any portion of the Subdivision, or permit its Lot to be used, for hunting purposes, or discharge from any portion of the Subdivision, or permit to be discharged from its Lot, any rifle, shotgun, pistol or other firearm, or any bow and arrow, or any other device or weapon designed to fire or shoot any projectile for the purpose of injuring or killing.

SECTION 22. OPEN FIRES. No Owner shall build in the Subdivision, or permit to be built on its Lot, any open fires; provided, however, that this Section 22 shall not prohibit the use by any Owner or Occupant of a residence of an interior fireplace or of a small and safe outdoor firepit, fireplace or outdoor cooking facility, but only (i) within the Owner's or Occupant's Lot or such areas as may, from time to time, be designated for such purpose by the Association, and (ii) in strict compliance with the instructions as may be provided in the manufacturer's or vendor's manuals for such cooking facilities.

ARTICLE VII.
ARCHITECTURAL RESTRICTIONS

All architecture shall be contiguous with the design of the Subdivision. All architectural controls set forth in this Declaration or created by the Committee in Architectural Control Standards shall be enforced.

SECTION 1. TYPE OF RESIDENCE. Only one detached single family residence may be constructed on each Lot or combination thereof, but no more than three (3) stories above the flood plain elevation according to the Federal Flood Plain F.I.R.M. (Flood Insurance Rate Map) in existence at the time construction of such building commences. Nothing herein shall be construed to prohibit the use of the attic space in any residence for additional living area. All residences shall have a garage area for at least two (2) cars. Carports on Lots are prohibited unless approved in writing by the Committee in conjunction with an aforementioned garage. All structures shall be of new construction, and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

SECTION 2. GARAGES All residences shall have a garage area for at least two cars. The following rules apply to all garages:

(a) No front entry garages will be allowed without the construction of a "porte-cohere" type (open garage) structure placed directly in front of the front entry garage. The portcohere type structure must be designed to be in direct harmony with the architecture of the main house. No porte-coheres will be allowed to be built in lieu of a garage.

(b) No garage shall face the lake.

(c) All detached garages shall have a covered walkway or patio leading to the main house.

SECTION 3. Outbuildings Any structure other than the main house, garage, or portcohere will be herein defined as an outbuilding. Not more than one (1) out-building in addition to a "detached garage" may be built or placed on any Lot, and no out-building of any type shall be used or occupied as living quarters except by domestic servants engaged on the premises or an integral part of the family. No garage or other out-building shall be built or placed on any Lot unless the same is done at the same time or after the construction of the main residence. All materials used in constructing any outbuilding shall be in architectural harmony with the main residence. All outbuildings shall strictly conform to all rules and regulations as set out in Article VII, Section 6 and as supplemented in Architectural Control Supplement # 1.

SECTION 4. LIVING AREA REQUIREMENTS. The interior living area of the residential structure (exclusive of porches, decking, terraces, patios, driveways, or living quarters for bona fide domestic servants and garages) satisfying the minimum square footage requirements of 3500 square feet for one lot and 4000 square feet for two or more lots. Building Area, exclusive of outdoor swimming pool and outdoor tennis courts, shall not exceed thirty-five percent (35%) of the Lot area unless approved by the Committee. Any area on the ground level of the residential structure shall be constructed in compliance with all federal, state and local regulations and standards. No area below the minimum elevation requirements may be used or occupied for habitable purposes. The Committee will have the authority to approve the minimum square footage of the first floor of the residence.

SECTION 5. MINIMUM ELEVATION. The buildings placed or erected on any Lot for use and occupancy as a dwelling shall be constructed in compliance with all federal, state, and local regulations and standards, and satisfy all mandatory minimum elevation requirements as to the interior living area of the residential structure. Provided, however, in no event shall the elevation of the interior living area of the residential structure (exclusive of porches and decking), measured to the top of the lowest interior living area floor, be less than 207.0 feet above Mean Sea Level.

SECTION 6. LOCATION OF RESIDENCE. All setback lines and easements are recorded on the final plat. The Committee has the authority to require that all improvements on Lots be staked out and that such staking be approved by the Committee before any tree cutting is done or any construction site work is begun. No building shall be located on any Lot nearer to the bulkhead, bank, or shoreline of Lake Conroe than the minimum building setback line shown on the recorded plat unless approved in writing by the Committee. Exceptions to this rule will be granted on Lots One (1) through Five (5) only and on a case by case basis. (Ref. rear building line alternate on Recorded Plat of Bay Pointe Estates on Lake Conroe)

No part of a permanent residence be closer than thirty-five (35) feet from the bulkhead. Unless otherwise approved by the Committee in writing, all residences, especially those on corner Lots, shall face the street on which they front.

SECTION 7. TYPE OF CONSTRUCTION. Unless otherwise approved by the Committee, at least eighty percent (80%) of the exterior wall area of all residences, gables, and door openings, must be of masonry construction. "Masonry", as used herein, shall include brick, brick veneer, glass or windows, stone, stone veneer, stucco, concrete, weather-proofed plaster, or combination thereof. "Hardie-Plank" or "Hardie-Panel" brand or similar brand is not considered to be Masonry type material. The remaining area can be of wood shake, vertical grain wood siding, vinyl siding or hardboard. This remaining area can not exceed twenty (20%) of the total outside area of the residence. Stucco may be used with approval of the Committee, who also has the right to require that the stucco be painted. Synthetic stucco systems are not allowed unless they are what is known in the industry as "One Coat Systems".

No garage or accessory building shall exceed in height the dwelling to which it is appurtenant without the written consent of the Committee. Every garage and permitted accessory building (except a greenhouse) shall correspond in style and architecture with the dwelling to which it is appurtenant. Greenhouses must be approved by the Committee. No structure of any kind or character which incorporates wood construction on the exterior shall be erected on any Lot unless such structure receives at least two (2) coats of paint, stain or finish at the time of construction (and is thereafter maintained), unless the exterior is of redwood, cedar or other material, which also may require treatment, approved by the Committee in writing. Any light-colored exterior surfaces must be maintained so that mold, mildew, soil or other discolorations, especially of the lowest few vertical feet of the exterior, does not remain discolored. Failure to maintain will be enforced under Section 25 of Article VII of this Declaration.

SECTION 8. WATERFRONT IMPROVEMENTS. Are defined as any improvements performed on the lake side of the rear building line (either the regular or alternate rear building lines) Any waterfront improvements constructed hereof, must comply with all applicable rules, regulations, requirements (including, without limitation, such restrictions as health, safety or zoning codes or ordinances collectively, "Legal Requirements") of any special district, city, county, state, federal or other governmental or quasi-governmental agency, board, bureau, commission, court, department, or other authority ("Governmental Authority") having jurisdiction over the construction, ownership or operation of improvements on the Lots. Only one (1) pier may be constructed on each individual Lot unless approved by the Committee. Any waterfront improvement not conforming with the specifications outlined in Architectural Control Supplement # 4 or all Legal Requirements will be removed by the Association and the cost of removal will be assessed against the Lot upon which the pier was located.

Any and all necessary permits, governmental authority consents, qualifications, classifications, approvals, and other related matters including but not limited to the San Jacinto River Authority, Army Corp of Engineers, U.S. Coast Guard, etc. must be presented to the Association for review ten (10) days prior to the commencement of construction. Any pier damaged or destroyed by a storm, Act of God or any other manner out of the control of the Lot Owner, must be repaired to its original condition or completely removed to the satisfaction of the Committee or the Committee shall have repairs made as deemed necessary and the cost of such repairs or removal of the pier shall be assessed to the individual Lot Owner. This repair or removal must occur within sixty (60) days of date of sustained damage. Please reference Supplement (1) of this Declaration for additional limitations on waterfront improvements.

SECTION 9. DRIVEWAYS. On each Lot, the Builder shall construct, after the construction of the slab, and owner shall maintain at owner's expense, the driveway from the garage to the front or the side street, including the portion of the driveway in the street easement, and the Builder or owner shall repair at their own expense any damage occasioned by connecting the driveway to the street. All driveways shall be reinforced aggregate concrete with a patterned surface consisting of brick, pavestone, Bomanite or similar surfacing or constructed in panels with borders of these type materials. The design and color of these type materials must be approved by the Committee. Plain concrete, washed gravel surfacing or asphalt paving is not acceptable. Please reference Architectural Control Supplement # 3 for conformity of driveways.

SECTION 10. BULKHEADS. As used in this Declaration, the term "bulkhead" shall mean the vertical retaining wall for erosion control installed along the waterfront Lots. Notwithstanding the foregoing, the bulkhead shall be constructed uniformly along with the waterfront Lots, and shall take such form or shape and be constructed of such materials as shall be acceptable to the area. The bulkheads located on the Lots and properties have been placed and constructed thereon for the purposes of creating, defining and protecting the waterfront boundaries of the Lots, all respectively being situated in, on, about, adjacent to or forming a part of the Subdivision. The bulkheading is appurtenant to the Lots of the Subdivision to which they are adjoined or attached. Each owner shall maintain and or replace the bulkhead, to the standards as installed in the original development. Replacements must meet the approval of all necessary agencies and the Committee. An affirmative duty is imposed upon each owner, for himself, his family members, his tenants, and his contract purchasers who reside upon the property, and for each of their guests and invitees on their property, to maintain a clean and safe area in, on and around the bulkhead on his Lot, to neither damage nor harm the bulkhead through intentional misuse, neglect, negligence or construction to, on or around the bulkhead and not to cut, split, divide, separate or detach any part of the bulkhead in any manner. Upon purchase of a lot, the lot owner assumes the full and complete responsibility for the care, upkeep and replacement of the bulkheading abutting his lot.

SECTION 11. ROOF MATERIAL. 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 Committee. Roof materials may be standing seam metal (factory finished steel, MIN264A tarne metal or copper), metal shingles, marble, clay tile, slate, or a minimum 30 yr, fiberglass or asphalt, shingles in a black blend or dark brown color range. All composition shingles shall contain a factory installed "fungi-guard" type protectant. Any fiberglass or asphalt roofs should have a covered valley, unless an uncovered valley is approved by the Committee. The minimum allowable roof pitch shall be 5 in 12, except where a roof garden or deck is called for. Shed type roofs are prohibited. All roof ventilators (other than ridge vents) shall be located to the rear of the ridgeline &/or gable of any structure and shall not extend above the highest point of such structure, so as not to be visible from any subdivision street. All roof vents, galvanized roof valleys and other similar roof items to be painted to match the roof material.

SECTION 12. FENCES. The erection of chain link fence or wood fence is prohibited. All fences shall be masonry and wrought iron or all wrought iron, built in accordance with the Architectural Control Supplement # 2, and shall strictly conform to this Supplement in regards to size, shape, color, and height, and shall be consistent in appearance with those used on the boundary of the Subdivision. All hedgerows or shrubs serving the same purpose as fences shall conform to height limitations for fences.

SECTION 13. GRASS, SHRUBBERY, AND FENCING. The owner of each Lot as a part of construction thereon shall sod with St. Augustine (or other sod approved by the Committee) the area between the front of the residence (and also the side of the residence if a corner Lot) and the curb line of the abutting street(s) unless otherwise approved by the Committee. Before and after construction, all Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut. Dead or damaged trees on each Lot shall be promptly removed or repaired by the Owner thereof upon written request from the Association. The Committee or Association, without liability to the Owners, may cause such trees to be repaired or removed at Owner's expense if Owner fails to do so upon written request. Declarant may designate fill areas into which materials specified by Declarant may be placed with approval of the Committee. The Committee may require plants or other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall maintain any landscaping placed on any public right-of-way adjacent to the subdivision by Declarant or the Association. The Association shall have the right to enter upon the Lots to plant, install, maintain and replace such shrubbery or other screening devices if the Owner fails to do so, which shall constitute an obligation secured by a lien on said Lot in the same manner as provided in Section 25 of Article VII.

SECTION 14. SIGNS and BILLBOARDS. No signs, billboards, posters of any character shall be erected, permitted or maintained on any Lot or plot without the express written consent of the Committee. All signs, billboards, posters and other advertising devices shall conform to the Committee predetermined sign policy. The Committee shall have the right to remove any sign not complying with the above referenced policy and in so doing, shall not be liable and are expressly relieved from any liability for trespass or other tort in connection therewith or rising from such removal. The right is reserved by the Declarant and its designated agent to construct and maintain such signs, billboards, or advertising devices as is customary with the general sale of the property. Such sign or billboard shall not be more than two feet by three feet in size advertising the property for sale or rent, or signs used by a builder or manufacturer to advertise the property during construction and sale period. The Declarant and the Association shall have the right to erect identifying signs at the entrance, to, within the subdivision, and on the waterfront.

SECTION 15. SIDEWALKS. No sidewalks can be placed parallel to the front curb. Only interior sidewalks will be allowed from drive to house or for the street to the house. Materials for construction of sidewalks must match the materials and surface treatment of the driveway and conform to overall appearance of the subdivision. Please reference Architectural Control Supplement # 3 on conformity of driveways, walks, and mailboxes. All sidewalk designs and surfaces must be approved by the Committee.

SECTION 16. SWIMMING POOLS No swimming pool may be constructed on any lot without the prior written consent of the Committee. Two sets of plans and specifications must be submitted, including sub-surface drainage and pool perimeter drainage plans, all pool and landscape related decking, plumbing layout including location of required backflow prevention device, proposed access routes, walls, waterfalls, and any other information about lighting, elevations, depths, and pool location that is related to the completion of the pool project.

All pool backwash drains must discharge into the sanitary sewer system at connections approved by the Committee and/or the MUD.

Swimming pool sub surface drains dedicated to removing surface water from the pool area (via sub-surface rigid PVC pipe, not flex pipe) shall either be piped into the lake, storm sewer or the street in front of the lot. In no case, shall the street curb be broken or cut to facilitate a pool drain without prior written consent of the Committee.

No waterfalls, water features, columns, rockcroppings, activity areas, raised decks, etc. will be approved if they are more than four feet in height above the pool waterline, or would in any way obstruct the view of the adjacent property owners. This includes pool and/or water slides.

All pool pumps, filters, mechanical equipment and any other associated pool equipment must be housed or otherwise hidden from view by approved landscaping or fencing.

The pool shall be elevated above the surrounding grade to a sufficient grade to prevent an inflow of storm or lake water.

During pool construction, all building sites shall be kept clean and materials shall be stored in an orderly manner. All trash and debris must be hauled outside the subdivision and be taken to a licensed land-fill.

At time of excavation, the soil removed from the swimming pool must be hauled to site outside of the subdivision.

All pools must be fenced with appropriate self locking gates to preclude entry by children. All pool fences must be installed according to all rules and regulations issued by local or national codes.

SECTION 17. MAILBOXES AND ADDRESS NUMBERS. Mailboxes and similar installations in the Subdivision, must be harmonious with the subdivision's overall character and aesthetics, and must conform to the guidelines of the Committee. Please reference Architectural Control Supplement # 3 for details. Address numbers shall be displayed in a standard design created by the Committee. All mailboxes to be lighted and all lighting systems to be standardized throughout the subdivision.

SECTION 18. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a Lot, and are not owned by a governmental entity or a public utility company, shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Committee.

SECTION 19. FOUNDATIONS. All foundations shall be designed by a certified professional engineer. All drawings should be duly stamped and certified by a licensed, professional engineer. Plans must show the depth of piers along with detailed drawing of beam construction with specifications listing quantity, type, grades and placement of material to be used in the foundation. Detached garage foundations will be subject to review on an individual basis, depending upon their location of the affected Lot. All foundations under construction, shall be inspected by a licensed professional engineer or his duly appointed agent prior to, and during actual placement of all concrete in main slab and in any pier holes or other type support structures. Written verification of this inspection should be turned in to the Committee within ten (10) calendar days after completion of the foundation.

SECTION 20. VISUAL APPEARANCE. Any part of a residence which abuts a corner or any street shall have an appearance as attractive as that of the front of the residence.

SECTION 21. CHIMNEYS. All fireplace chimneys shall be of brick, stone or stucco, of traditional design.

SECTION 22. TEMPORARY BUILDINGS. Temporary buildings or structures shall not be permitted on any Lot, with the following exception: Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and sale of residences. Builders in the Subdivision may use garages as sales offices for the time during which such Builders are marketing homes within the Subdivision. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must have been reconverted to a garage.

SECTION 23. TRAFFIC SIGHT AREAS. No fences, shrubs, or other obstructions shall be allowed on any Lot within the subdivision to impair proper safety of sight.

SECTION 24. MISCELLANEOUS. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition. There shall be no decorative appurtenances placed on front lawns or wherever visible from the street or from the water including, but not limited to, landscape timbers, railroad ties, planter bed edging, sculptures, bird baths, birdhouses, fountains or other decorative embellishments, unless such specific items have been approved in writing by the Committee.

SECTION 25. LAWN SPRINKLER SYSTEMS. Lawn sprinkler systems are recommended, but design must be submitted for approval by the Committee. Lawn sprinkler systems must be installed in such a manner that they do not destroy the root systems of a major tree and must be installed by a licensed irrigator of the State of Texas.

SECTION 26. FRAMING. All framing and structural related material, such as grades, types, design and patterns, including spacing and placement of subject materials, will be submitted to the Committee for approval.

SECTION 27. ENFORCEMENT OF ARCHITECTURAL CONTROL STANDARDS AND ARCHITECTURAL RESTRICTIONS. In the event of a violation of any covenant herein by any Owner, or his Builder, or occupant of any Lot, and continuance of such violation after ten (10) days written notice thereof, which in the opinion of the Committee or the Association is detrimental to the enjoyment of the adjoining property or is unattractive or is a health or safety hazard, the necessity for repairing or painting improvements, or the doing of all other things necessary or desirable, in the opinion of the Committee or the Association, consistent with the Restrictions, or in the event the Owner or occupant has not proceeded with due diligence to commence and thereafter complete appropriate repairs and maintenance to improvements after such notice, the Committee and the Association, or either one of them, shall have the right (but not the obligation) to repair, maintain, and restore the Lot and the exterior of the residence and any other improvement located thereon. To the extent necessary to prevent or to remedy rodent or insect infestation, diminish fire hazards or otherwise accomplish any of the above needed repairs, maintenance and restoration, the Committee or the Association shall have the right, through its representatives, to enter any residence or improvements located upon such Lot and may within its discretion remedy the same, rendering a statement to the Owner of such Lot who shall be liable to the Committee or the Association for the cost of work with respect thereto, together with interest thereon from thirty (30) days after the due date until paid at the highest non-usurious rate permitted by law, or if no such limitation is imposed, then at the rate of eighteen percent (18%) per annum and reasonable Attorney's fees for the collection thereof regardless of whether suit is instituted. The Owner agrees by the purchase of the Lot to pay such statement immediately within thirty (30) days from notice thereof. If such Owner shall fail to reimburse the Declarant, Committee, or Association within thirty (30) days after receipt of a statement for such work, then the amount of such charge shall constitute a lien on the residence and Lot on which the work was performed. Such lien on the residence and Lot on which the work was performed shall be enforceable as any other assessment lien as provided in this Declaration. The Declarant, Committee, and Association, and their representatives, shall not be liable, and are hereby expressly relieved from any liability, for the performance of the foregoing.

ARTICLE VIII.

EASEMENTS

SECTION 1. EXISTING EASEMENTS. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and the Subdivision Plat also established dedications, limitations, reservations and restrictions applicable to the Lots. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and all grants and dedications of easements and related rights heretofore made by Declarant and Declarant's predecessors in title affecting the Lots are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant and each Owner conveying any part of the Lots.

SECTION 2. CHANGES AND ADDITIONS. Until such time as this subdivision has permanent homes on at least ninety (90) percent (%) of the lots, the Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. Further, Declarant reserves the right, without the necessity of the joinder of any owner or other person or entity, to grant, dedicate, reserve or otherwise create easements for public utility purposes (including, without limitation, gas, electricity, telephone, cable television, security and drainage) in favor of any person or entity furnishing or contracting to furnish utility services to any of the Lots or the Subdivision as a whole, along and on either or both sides of any side Lot line, as well as along the back Lot line, which such easements shall have maximum width as set out in the plat or in the document granting the easement.

SECTION 3. INSTALLATION AND MAINTENANCE.

Until such time as this subdivision has permanent homes completed on at least ninety (90) percent (%) of all the lots, there is hereby created a blanket easement upon, across, over and under all of the property within the subdivision for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities including, but not limited to, water, storm and sanitary sewer, telephones, electricity, cable television, security, gas and appurtenances thereto. Also, there is hereby created a blanket easement upon, across, over and under all of the property within the Subdivision for the ingress and egress for purpose of maintaining building exteriors and landscapes, shrubs and grass. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install, affix, and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on above, across, and under the Lots within the utility easements from time to time existing and from service lines situated within such easements to the point of service to any structure. Notwithstanding the provisions in this paragraph, no appurtenances thereto may be installed or relocated on the Lots until approved by Declarant or the Association's Board of Directors; provided that no approval of any owner other than Declarant shall be required. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Subdivision Plat or herein granted, and to trim overhanging trees and shrubs located on portions of the Lot abutting such easement.

SECTION 4. EMERGENCY AND SERVICE VEHICLES. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection in the performance of their duties. Further, an easement is hereby granted to Declarant, the Committee and the Association, and their respective officers, agents, employees and management personnel to enter the Lots to inspect and render any lawful service.

ARTICLE IX.
GENERAL PROVISIONS

SECTION 1. NO WAIVER. The Declarant, Association, Committee and any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions and restrictions contained herein. Failure by any such party to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. DURATION. These covenants shall run with the land and shall be binding upon all parties 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 each, unless an instrument signed by a two-thirds (2/3) majority of the then Owners of the Lots has been recorded, agreeing to change or terminate the covenants herein, in whole or in part, prior to the respective renewal period and filed for record in the Office of the County Clerk of Montgomery County, Texas.

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants by judgment or other Court order shall in no way affect any other provisions, which shall remain in full force and effect, except as to any terms and provisions which are invalidated.

SECTION 4. GENDER AND GRAMMAR. The singular, wherever used herein, shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to the provisions hereof apply either to corporations (or other entities) or individuals, male or female, and shall in all cases be assumed as though in each case fully expressed.

SECTION 5. TITLES. The titles of this Declaration contained herein are for convenience only and shall not be used to construe, interpret or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. AMENDMENT. This Declaration may be amended by an instrument executed by the owners of two-thirds (2/3) of the Lots.

SECTION 7. EXECUTION BY THE ASSOCIATION. The Association, by joining in the execution hereof, agrees to be bound by all of the terms and provisions of this Declaration.

SECTION 8. ENFORCEMENT. The terms and provisions of this Declaration shall run with and bind the land in Bay Pointe Estates on Lake Conroe and shall inure to the benefit of and be enforceable by Declarant, the Association, the Committee, and the Owner of any Lot, and by their respective legal representatives, heirs, successors, and assigns, if qualifying as an Owner pursuant to Section 17 of Article I. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any provision hereof, to enjoin or restrain violation or to recover damages, and against the property to enforce any lien created by this Declaration. Failure of Declarant, the Association, and Committee or any owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

SECTION 9. INCORPORATION. The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed or conveyance hereafter executed by Declarant conveying all or any part of the land in the Subdivision, whether or not referred to herein, and all estates conveyed therein and warranties of the title contained therein shall be subject to the terms and provisions of this Declaration.

SECTION 10. INSURANCE. The Association shall have the right, power and authority to obtain and maintain policies of insurance covering such risks, issued by such companies, upon such terms and with such deductibles as the Board may from time to time determine. Such insurance may include, but shall not be limited to, general liability insurance for bodily injury and property damage, contractual liability, host liquor liability and other coverages found in broad form liability endorsements, fidelity insurance, non-owned automobile insurance and officers and directors liability. The Association shall also have the right, power and authority to obtain and maintain fidelity bonds covering those Persons who have access to the funds of the Association. The Association shall have the right, power, and authority to adjust and settle any claim insured against under, and to receive and disburse any insurance proceeds payable pursuant to, any policy obtained by the Association in such manner as the Board may determine.

SECTION 11. LIABILITY. Notwithstanding anything to the contrary, neither Declarant, the Committee or the Association, nor any person acting on their behalf with regard to the matters set forth in this instrument including, but not limited to, the Board of Directors of the Association, any of their Committee members or any person engaged by them to act hereunder, as well as their successors and assigns, shall have any liability hereunder to any third party, including the Owners, with respect to any act of commission or omission except for gross negligence or willful fraud. To the fullest extent permitted by law, each Owner and every person claiming by, through, or under them, waives rights of subrogation with respect to any policy of insurance to the fullest extent permitted by law, but only to the extent that the same does not invalidate the applicable insurance policy, such subrogation rights being waived as against Declarant, the Committee and the Association, or any person acting on their behalf with regard to the matters set forth in this instrument including, but not limited to, the Board of Directors of the Association, any of their Committee members or any person engaged by them to act hereunder, as well as their respective successors and assigns.

SECTION 12. NOTICES. Any notice to any member or Owner under the provisions of this Declaration shall be deemed to have been properly given when hand delivered or mailed, postpaid to the last known address of the person who appears as a member or Owner on the records of the Association at the time of such notice.

SECTION 13. INTERPRETATION. If any disagreement shall arise between Members as to the interpretation or application of this Declaration or any other Documents relating thereto, the disagreement shall be resolved by the Board and the determination of the Board shall be final and binding upon all Members unless the determination was fraudulently induced or arbitrarily or capriciously rendered.

SECTION 14. OMISSIONS. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

SECTION 15. AMENDMENTS BY DECLARANT. The Declarant shall have and reserves the right at any time and from time to time with the consent of the Committee to amend this Declaration by an instrument in writing duly signed acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, or other changes, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of this Subdivision as evidenced throughout this Declaration and shall not impair or affect the vested property or other rights of any Owner or such Owner's mortgagee.

SECTION 16. DECLARANT'S USES. Declarant may and hereby reserves the right to, conduct its administrative activities and marketing program for the Subdivision from any location within the Subdivision, whether from permanent or temporary facilities.

SECTION 17. VARIANCES. The Committee, at its sole discretion, is hereby permitted to approve deviations in all use and architectural restrictions concerning building area, location of improvements on the Lots, and building materials used in construction on the Lots in instances where in The Committee's sole judgement and discretion, such deviation will result in a more common beneficial use and or provide more continuity to the overall character and aesthetics of the Subdivision. Such approvals will be granted on a case by case basis and must be granted in writing by the Committee and when granted will automatically amend such restrictions, only insofar as the restrictions apply to the Lot for which the variance was requested. The Committee is under no obligation to consider or grant variances. However, all variances shall comply with Legal Requirements.

Upon request by a Lot Owner, the Committee shall have thirty (30) days to consider such request and if the Committee does not respond within thirty (30) days of receipt of such written request, the Committee shall be deemed to have denied the request.

ARTICLE X
ANNEXATION AND ADDITIONS

SECTION 1. ANNEXATION OF AFFILIATED SECTIONS OR SUBDIVISIONS WITHOUT CONSENT OF CLASS "A" MEMBERSHIP. As the Owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time until thirty (30) years from the date this Declaration is recorded in Declaration and the jurisdiction of the Association, whether in fee simple or leasehold, by filing in the Montgomery County Real Property Records, a supplemental amendment annexing such property. Such supplemental amendment to this Declaration shall not require the vote of members or approval by any person. Any such annexation shall be effective upon the filing for record of such supplemental amendment, unless otherwise provided therein.

Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property.

SECTION 2. ANNEXATION OF AFFILIATED SECTIONS OR SUBDIVISIONS WITH APPROVAL OF CLASS "A" MEMBERSHIP. Subject to the written consent of the Owner thereof, upon the written consent of affirmative vote of a majority of the number of the Class "A" votes of the Association present or represented by proxy at a meeting duly called such purpose, the Association may annex real property, and following the expiration of the right in Section 1 hereof, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Montgomery County Real Property Records, a supplemental amendment shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing, unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Class "A" members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meetings, as the case may be.

SECTION 3. ADDITIONS BY DECLARANT. The Declarant, his successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development (including, without limitation, subsequent sections of Bay Pointe Estates on Lake Conroe.

SECTION 4. MERGERS. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

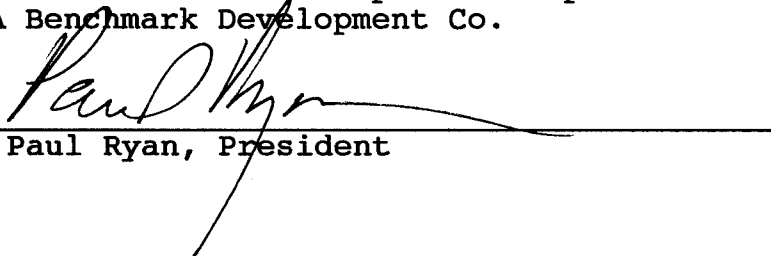
SECTION 5. OTHER ASSOCIATION PRIVILEGES. The Declarant or the Board of Directors of the Association may negotiate and contract in the name of the Bay Pointe Estates Homeowners Association, Inc. for the use of properties or facilities of other Associations or Subdivisions including, but not limited to, swimming pools and tennis courts. All members shall abide by any such contract, and the rules and regulations of that Association or Subdivision as they relate to the properties or facilities to be used. Said contract shall not affect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

IN WITNESS HEREOF, this Declaration is executed as of the 12th day of March, 1998

DECLARANT:

Southeast Texas Development Group Inc.
DBA Benchmark Development Co.

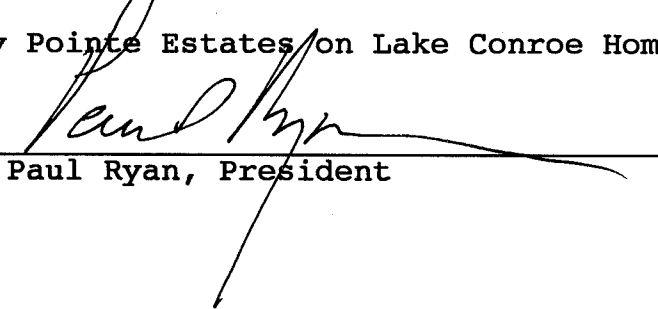
BY


Paul Ryan, President

ASSOCIATION:

Bay Pointe Estates on Lake Conroe Homeowner's Association, Inc.

BY


Paul Ryan, President

ACKNOWLEDGMENT

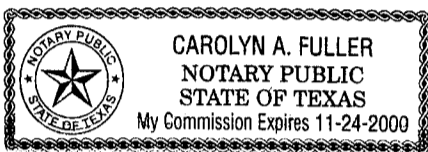
THE STATE OF TEXAS :

COUNTY OF MONTGOMERY :

This instrument was acknowledged before me this 12th day of March, 1998, by Paul Ryan, President of Southeast Texas Development Group, Inc. (DBA Benchmark Development Co) a Texas Corporation, on behalf of said Corporation.

Carolyn A. Fuller

Notary Public in and for the STATE OF TEXAS



Notary's printed name

Carolyn A. Fuller

ACKNOWLEDGMENT

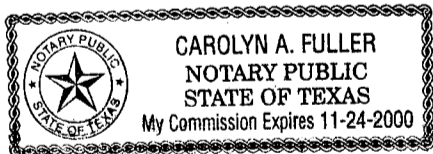
STATE OF TEXAS :

COUNTY OF MONTGOMERY :

This instrument was acknowledged before me this 12th day of March, 1998, by Paul Ryan, President of Bay Pointe Estates on Lake Conroe Homeowners Association, Inc., a Texas Non-Profit Corporation, on behalf of said Corporation.

Carolyn A. Fuller

NOTARY REPUBLIC in and for the STATE OF TEXAS



Notary's printed name

Carolyn A. Fuller

SUPPLEMENT # 1.

Architectural Control Standards

PLACEMENT OF OUTBUILDINGS AND WATERFRONT IMPROVEMENTS

As per Article 2, SECTION 2., the Committee does hereby issue this supplement to further clarify the Architectural Restrictions as described in Article VII, SECTIONS 3 and 8 that deal with the placement of OUTBUILDINGS AND WATERFRONT IMPROVEMENTS respectively.

Views to and from Lake Conroe are encouraged and are very protected by the Declarant throughout these Restrictions, so that each view can become a positive addition to the environment of the Properties in the entire Subdivision. Therefore, the construction of boathouses, shade structures, gazebos, bathhouses or other similar structures to be located on the Lake side of the rear building line are limited so as not to substantially obstruct views by all parties to and from the lake.

Any improvements in these areas will be carefully reviewed by the committee on a case-by-case basis to make certain that all improvements are designed and built in such a way as to not obstruct views as well as abide by any and all regulations imposed by any regulatory authority having jurisdiction over such improvements.

Please reference Supplement # 4 for further information regarding Boathouse Structures.

All improvements must be approved by the Committee in writing prior to beginning said improvements.

SUPPLEMENT # 2.

Architectural Control Standards

FENCE DESIGNS

As per Article 2, SECTION 2, the Committee does hereby issue this supplement to further clarify Article VII, SECTION 12., FENCES, as stated in the body of these restrictive covenants:

For purposes of this supplement, each individual lot will consist of two zones.

- (1) Front Zone – will be defined as that portion of the lot that extends from the front property line (per the recorded subdivision plat of Bay Pointe Estates on Lake Conroe to an imaginary line drawn parallel to the back of the residence). Any fence constructed in this zone must be of a combination of wrought iron with masonry type columns with the same center spacing. The wrought iron must exactly match the shape, size, spacing, etc. of the wrought iron in the front of the subdivision. The masonry columns will match exactly to the size, shape and center line spacing of the front subdivision fence and must be built with the exact same color and size brick (or other acceptable masonry product) that is installed on the residence. Any fence constructed in this zone must be a minimum of five feet high from the ground and a maximum of six feet from the ground. Columns may extend up to one foot higher than the main body of the fence.
- (2) Back Zone – will be defined as that portion of the lot that extends from the end of the front zone (an imaginary line drawn parallel to the back of the residence) to the end of the property termination at waters edge. Any fence constructed in this zone must be built of wrought iron only. Again, the wrought iron must exactly match the front zone wrought iron and in turn both zones will match the front subdivision fence (with no masonry post). This fence will be allowed to have square steel support type posts (3 or 4 inches wide) on 8 foot centers to provide structural integrity. The main body of any fence constructed in this zone must be a minimum of four feet high and a maximum of five feet high from the ground.

On a case-by-case basis the Committee will have the right to approve the use of short spans of cedar fences for selective shielding of unsightly devices (garbage cans, pool equipment, etc.), or the use of short spans of cedar fencing for privacy purposes on exposed bathroom windows, etc. All cedar must be Standard or better grade, and be coated with a stain for consistent coloring.

All fences in either zone must be approved by the Committee in writing prior to construction.

SUPPLEMENT # 3.

Architectural Control Standards

DRIVEWAYS, SIDEWALKS, MAILBOXES, AND ETC.

As per Article 2, SECTION 2, the Committee does herein issue this supplement to further clarify ARTICLE VII, SECTIONS 9, 12, and 17 respectively.

In order to continue the architectural harmony created by the consistency of the outdoor fencing both on the front subdivision perimeter and individual residences, tight but consistent standards for landscaping, and carefully designed and patterned concrete streets coupled with the construction of state-of-the-art custom homes will be enforced. It is the desire of the Declarant to carry a consistency of this design elegance to all driveways, walks, mailboxes and other front yard appurtenances. The following are intended to be guidelines of the overall design of these items:

- (1) Driveways – all driveways shall be reinforced concrete with a patterned surface consisting of brick, brick pavers, pavestone, Bomanite, patterned and/or colored concrete, or similar surfacing materials. Also, acceptable will be plain brushed surface concrete with borders (6 to 12 inches wide) of the same type materials inlaid at all expansion joints and outer edges. All materials used for the patterns or borders, as the case may be, must conform with the color and type of materials used on the main residence. All materials used for the patterns or borders must blend architecturally with the concrete patterns and/or colors found in the construction of Bay Pointe Lane.
- (2) Sidewalks – all sidewalks must conform exactly to the particular driveway installed at each residence and conform to the overall appearance and design of the subdivision.
- (3) Mailboxes – all mailbox pedestals must be of masonry construction and consisting of the same size and color of brick or masonry used on the exterior of the residence. The exact size and shape of the pedestal and location in the front yard is depicted in the builder handout package. All mailbox pedestals and their location will be consistent on all residences within the subdivision. All mailbox pedestals will contain the house numbers of the residence and all house numbers will be consistent in size and design and are to be obtained through the Declarant. All mailbox pedestals and house numbers to be lighted with the fixture obtained through the Declarant. House numbers and light fixtures will be identical throughout the subdivision.

All driveways, sidewalks, and mailbox pedestal designs must be approved in writing by the Committee.

SUPPLEMENT # 4

Architectural Control Standards

DOCKS AND BOATSLIPS

As per Article 2, SECTION 2, the Committee does herein issue this supplement to further clarify ARTICLE VII, ARCHITECTURAL RESTRICTIONS.

No dock, boatslip, or other structure may be installed or constructed without the approval of the Committee. No homemade type dock, boatslip, boat cover, or bulkheading will be allowed. Request to construct any such structure shall be in writing to the Committee and must be accompanied by a complete set of plans and specifications. No Boathouse/Stalls are to be constructed until construction of the residence has started.

Any boatslips or piers to be constructed, must first be permitted by the San Jacinto River Authority. No pier shall extend more than 25 feet into the Lake and shall be 6 feet or less in width. Only one pier per residence will be permitted. Only one dock system per residence, containing storage space for more than two boats, will be permitted.

To protect the view of adjoining lots, only low profile boat covers may be placed over aforementioned boat slips. All boat covers to be of a green color as approved by the Committee and shall be no higher than 6 feet above the existing bulkhead.


No house boat may be semi-permanently or permanently moored adjacent to the rear of any waterfront lot.

All docks and boatslips must be approved in writing by the Committee.

FILED FOR RECORD
98 MAR 13 PM 12:02
MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS
[Signature]
DEPUTY

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the official Public Records of Real Property of
Montgomery County, Texas

MAR 13 1998


Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

*Ret
Stewart + Stewart
400 W. Phillips
Conroe TX 77301*