

FIRST AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
THE OAKS AT STONEY CREEK

WHEREAS, on or about May 30, 1995, Arrowhead Estates, Ltd., a Texas Limited Partnership, filed that certain Declaration of Covenants, Conditions and Restrictions for The Oaks at Stoney Creek which is recorded as Instrument No. 95-0037089 in the Real Property Records of Collin County, Texas, and Instrument No. 95-10702528 in Real Property Records of Dallas County, Texas hereinafter referred to as the ("Original Declaration"); and

WHEREAS, pursuant to Article V, Section 5.12 of the Original Declaration, the terms thereof may be amended by an instrument signed by Owners constituting not less than fifty-one percent (51%) of the total votes, in the aggregate, of the Association; and

WHEREAS, attached hereto are the signatures of Owners no less than fifty-one percent (51%) of the total votes, in the aggregate, of the Association approving the changes made to the Original Declaration as set forth in the First Amended restated Declaration of Covenants, Conditions, and Restriction for the Oaks at Stoney Creek; and

WHEREAS, the residents desire to maintain a neighborhood that is attractive, well maintained, and a desirable place to live, it is the intent of this Covenant to support these goals without undue infringement on personal ownership rights.

THEREFORE, the following terms, provisions, covenants, conditions, easements, liens, restrictions, reservations, uses, limitations and obligations shall run with title to the Property, and shall be a burden and benefit to all the Owners thereof and their respective heirs, legal representatives, successors and assigns, with the intent that the Original Declarations, shall have no further force or effect except as substantially restated herein, and shall be superseded and replaced by this restated Declaration. It has been deemed desirable for the enforcement of this restated Declaration and the continued efficient preservation of amenities within the property that the Oaks at Stoney Creek Homeowners' Association Inc., shall have and maintain the authority of administering and enforcing the terms, conditions, covenants, easements, liens, reservations and restriction of this Amended and Restated Declaration, including levying, collecting, and disbursing the assessments, for the purpose of exercising the functions aforesaid.

ARTICLE I

The following words when used in this Declaration of Covenants, Conditions and Restrictions (unless the context shall otherwise prohibit) shall have the following meanings.

- (a) "Articles of Incorporation" shall mean and refer to the articles of incorporation of the Association as may be amended from time to time.
- (b) "Association" shall mean and refer to The Oaks at Stoney Creek Homeowners' Association, Inc, a Texas non-profit corporation, which will have the power, duty and responsibility of maintaining and administering the Common Properties, and collecting and disbursing the assessments and charges hereafter prescribed, and will have the right to administer and enforce the covenants and restrictions contained in the Declaration.

- (c) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- (d) "Bylaws" shall mean and refer to the bylaws of the Association, as may be amended from time to time.
- (e) "Common Properties" shall mean and refer to (i) the entry way features into the Addition and any landscaping associated therewith; (ii) Screening Fence (as defined in Section 2.11) and any landscaping associated therewith; (iii) the easements associated with items (i), (ii) and (iv); and (iv) any areas of land, improvements or other property rights within the Properties which are known, described or designated or which shall subsequently become known, described or designated as Common Properties intended for or devoted to the common use and enjoyment of all improvements that are now or may hereafter be constructed thereon.
- (f) "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for The Oaks at Stoney Creek.
- (g) "Member" shall mean and refer to each Owner as provided in Article VII hereof.
- (h) "Owner" shall mean and refer to every person or entity who is a record Owner of a fee or undivided fee interest in any lot which is subject to the Declaration. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.
- (i) "Plat" shall mean and refer to the lot recorded in the Plat Records of Dallas County, Texas.
- (j) "Properties" shall mean and refer to all of that certain tract of land platted and described as The Oaks at Stoney Creek, an Addition to the City of Garland, Texas according to that Plat.

ARTICLE II  
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 2.1 Residential Use. All lots shall be used for single-family residential purposes only. No building shall be erected, altered placed or permitted to remain on any lot other than one (1) detached single-family residence per lot, which residence may not have a building height of more than thirty-five (35) feet or more than two (2) stories in height and a private garage as provided below.

Section 2.2 Single-Family Use. Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living and cooking together as a single housekeeping unit, together with any household servants.

Section 2.3 Garages. Each residence shall have a garage suitable for parking not less than two (2) or more than three (3) standard size automobiles, which garage conforms in design and materials with the main structure. no garage shall open to the street unless it is set back a minimum of fifteen feet (15) from the front of the home and screened by a porte-cochere of architectural metal gate. Detached garages shall be constructed of the same material as the main structure. All

garage doors shall be closed at all times except as may be necessary for the entry and exit of vehicles and persons. No masonite garage doors shall be allowed.

Section 2.4 Restrictions on Re subdivision. None of the lots shall be subdivided into smaller lots.

Section 2.5 Driveways. All driveways shall be surfaced with concrete, or concrete aggregate or a similar substance approved by the Committee.

Section 2.6 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos, which may be placed on a lot only in places which are not visible from any street on which the lot fronts) shall be permitted on any lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a given lot during construction of the residence in the Addition (any such improvements shall be neatly landscaped). No building material of any kind or character shall be placed or stored upon the property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the lot upon which the improvements are to be erected.

(b) No boat, marine craft, hover craft, aircraft, recreational vehicle, pick up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of three-quarter (3/4) ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Addition except those used by a builder during the construction of improvements

(d) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Addition at any time.

(e) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house provided however, any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Addition, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Addition. No derrick or other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Addition.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Addition except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised bred or kept for

commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than four (4) pets will be permitted on each lot. Pets must be restrained or confined on the homeowner's back lot inside a fenced area or within the house. It is the pet Owner's responsibility to keep the lot clean and free of pet debris. All animals must be properly tagged for identification.

(h) No lot or other area in the Addition shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers in appropriate locations which may be specified by the Committee and, unless otherwise expressly permitted by the Committee, such containers shall be situated and enclosed or screened so as not to be visible from any residential street, private drive or adjacent lot. All incinerators or other equipment for the storage and other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may be stored on lots during construction so long as construction progresses without undue delay.

(i) No individual water supply system shall be permitted in the Addition.

(j) No individual sewage disposal system shall be permitted in the Addition.

(k) No antennas shall be permitted in the Addition except antennas for AM or FM radio reception and UHF and VHF television reception. All antennas shall be located inside the attic of the main residential structure except that, with the written permission of the Committee. Satellite dishes may be located on the lot so long as it is screened from public view as approved by the Committee. No use shall be made of any lot or structure thereof for any type of radio or television or similar broadcasting system.

(l) No lot or improvement shall be used for business, professional commercial or manufacturing purposes of any kind. No activity whether for profit or not, shall be conducted which is not related to single family residential purposes. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office until such builder's last residence in the Addition is sold. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowner's use and enjoyment of their residences and yard.

(m) No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way line with the edge of a private driveway. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(n) Except for children's playhouses, dog houses, greenhouses, and gazebos, no building previously constructed elsewhere shall be moved on to any lot, it being the intention that only new construction be placed and erected thereon.

(o) Within easements on each lot, no structures plantings or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels or which may obstruct or retard the flow of water through drainage channels.

(p) No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than six (6) square feet advertising the property for sale, or professional signs not exceeding thirty-two (32) square feet used by a builder to advertise the property during the construction and sales period. The Association shall have the right to advertise the property during the construction and sales period. The Association shall have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirement, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are subject to the approval of the Committee and may be required by the Committee to be removed if, in the sole judgment of the Committee, same are found to be inconsistent with the high standards of the Addition.

(q) The drying of clothes in full public view is prohibited. The Owners and occupants of any lot at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen, from public view, high equipment that is incident to normal single-family residences, such as clothes drying equipment, yard equipment and storage piles.

(r) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere within the Addition.

(s) No carport shall be permitted on a lot.

(t) No abandoned, derelict or inoperative vehicles may be stored or located on any lot unless visually screened from other lots and from any residential street.

Section 2.7 Minimum Floor Area and Minimum Lot Size and Width. The total air-conditioned living area of the main residential structure (for homes constructed on Block A, Lots 1 thru 37 and Block B, Lots 1 thru 28) as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory building, shall be not less than two thousand three hundred (2,300) square feet. In the event the structure is two (2) stories, the first (1<sup>st</sup>) floor shall not be less than one thousand eight hundred (1,800) square feet air-conditioned space.

Section 2.8 Building Materials; Exterior Items and Surfaces. The total exterior wall area of the first floor of each building constructed or placed on a lot shall be not less than seventy-five (75%) percent brick, brick veneer stone, stone veneer, masonry or other material approved by the Committee. Windows, doors, and similar openings are excluded in the calculation of the total exterior wall area. No plywood shall be used on any exterior wall. No masonite of less than 7/16 inch shall be used on any exterior wall. Roofing shall be in earth tones or any other color approved by the committee and be composed of man-made slate, cedar shingles, wooden shakes, composition shingles or other materials acceptable to the City and the Committee. Composition shingles shall weigh at least 240 pounds per 100 square feet. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation, lights, mail chutes, mail boxes, exterior paint or stain, shall be subject to the prior approval of the Committee both as to design,

materials and location. Accessory Buildings (i.e. storage buildings, pool houses) shall be of same material as the main structure. Roof pitch shall be a minimum of 8/12.

Section 2.9 Side Line and Front Line Setback Restrictions. No dwelling shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the plat or required by the City. Subject to the immediately preceding sentence and except as approved by the Committee, no building shall be located on any lot (i) nearer than twenty (20) feet to nor further than thirty-five (35) feet from the front line; (ii) nearer than ten (10) feet to the rear lot line; or (iii) nearer than six (6) feet to any side lot line (interior lot line), except that structures on corner lots shall be no nearer than fifteen (15) feet to the side property line adjoining the street. For the purposes of these covenants, eaves, steps, and open porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

Section 2.10 Waiver of Front Setback Requirements. With the written approval of the Committee, any building may be located farther back from the front property line of a lot than provided above, where, in the opinion of the Committee, the proposed location of the building will add to the appearance and value of the lot, will not substantially detract from the appearance of the adjoining lots and will not be in violation of the plat or any applicable ordinances.

Section 2.11 Fences and Walls. Any screening fence or wall must be constructed of masonry, wood, architectural metal or other material approved by the Committee. No fence or wall shall be permitted to extend nearer to any street than the front building line of any residence. Common Area fences or walls are the property of the Association and, as such, shall be maintained and repaired by the Association. No portion of any fence shall extend higher than six (6) feet in height. No fences shall be allowed within the drainage easement. Fences along the creek shall be architectural metal, no greater than four (4) feet in height and shall extend to within fifteen (15) feet of the main structure rear projection line (or side projection if applicable). Except where common area is buffer between North Garland, Blackburn or Holford Roads, wood fences that match screening may be constructed.

Section 2.12 Sidewalks. All sidewalks shall conform to City specifications and regulations.

Section 2.13 Mailboxes. Mailboxes shall be constructed of brick, masonry or other material which shall be the same as the main dwelling and shall be approved by the Committee, and shall be of standardized construction and appearance, similar to other mailboxes in the Addition.

Section 2.14 Commencement of Construction. Each residence constructed on each lot and any other improvements thereto shall be commenced and completed with due diligence promptly after approval by the Committee of the plans and specifications prepared in connection with such construction.

Section 2.15 Utilities. Except as to special lighting or other aerial facilities which may be required by the City or which may be required by the franchise of any utility company - No aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in the Addition whether upon individual lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity (including, but not limited to, water, sewer, gas, electricity and telephone). These utilities shall be buried underground unless otherwise required by a public utility.

Section 2.16 Landscape Work. Each builder or Owner shall, not later than thirty (30) days after the substantial completion of the residence constructed on its lot, fully complete the landscaping of the front yard of the lot upon which such residence has been constructed, including, without limitation, the planting of grass, hedges and shrubs, at said Builder's or Owner's sole cost and expense. The plans for such landscaping shall be approved by the Committee prior to the commencement of such landscape work on a lot. In no event shall the landscaping for any lot be less than one (1) shrub on every two (2) feet of new frontage (to be at least 5 gallon size), fully planted front and side yards, and two (2) 3" to 4" caliper tree in the front yard. Lots with existing trees shall receive a credit for this tree requirement. The Builder or Owner shall install a sprinkler system to properly water the appropriate areas of the front, side and rear yards within one (1) calendar year of substantial completion of the residence.

Section 2.17 Compliance With All Zoning Ordinances. The Final Plat and Restrictive Covenants. Notwithstanding any provision contained herein to the contrary, all of the fences, landscaping and houses constructed on the lots shall be constructed in conformity with applicable zoning ordinances, the Plat and the restrictive covenants contained in this Declaration.

Section 2.18 Chimney Flues. Chimney flues on exterior walls shall be enclosed one hundred percent (100%) in brick.

### ARTICLE III ARCHITECTURAL CONTROL COMMITTEE

Section 3.1 Appointment: The Board shall designate and appoint an Architectural Control Committee (herein called the "Committee") composed of one or more, but not more than three individuals, each generally familiar with the residential community development design matters and knowledgeable about Declarant's the Association's concern for a high level of taste and design standards within the Addition. The Committee shall use its best efforts to promote and ensure a high level of taste, design quality, harmony and conformity throughout the Addition consistent with this declaration.

It shall also be the responsibility of the Committee to continually monitor the neighborhood for violations of the restrictive covenants. Any notification or other action to be taken against a homeowner will be done by the Committee. The Committee shall report its activities and recommendations to the Board of Directors.

Section 3.2 Successors. In the event of the death, resignation or removal by the Board of any member of the Committee, the remaining member(s) shall appoint a successor member. In default of such appointment, the Board shall have full authority to designate and appoint a successor. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this declaration.

Section 3.3 Authority. No building, fence, wall or other structure shall be commenced, erected, placed, maintained or altered on a lot, nor shall any exterior painting of, exterior addition to, or alteration of such items be made until all plans and specifications and a plot plan have been submitted to and approved in writing by a majority of the members of the Committee as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets:

(b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the parts of the proposed improvements and in relation to improvements on other lots in the Addition:

(c) location with respect to topography and finished grade elevation and effect of location and use on neighboring lots, improvements and drainage arrangements: and

(d) the other standards set forth within this declaration (and any amendments hereto) or matters in which the Committee has been vested with the authority to render a final interpretation and decision.

The Committee is authorized and empowered to consider, review and approve any and all aspects of construction and landscaping which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more lot Owners or the general value of lots in the Addition.

Section 3.4 Procedure for Approval. Final plans and specifications shall be submitted in duplicate to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all improvements. All roofing materials to be used on improvements constructed on lots shall be submitted to the Committee for approval. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this declaration.

The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans shall be marked as "Approved", signed by a majority of the Committee and returned to the lot Owner or his designated representative. If disapproved by the Committee, one set of such plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable statement of the reasons for disapproval, which statement shall be signed by a majority of the Committee. Any modification of the approved set of plans and specifications must again be submitted to the Committee. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, written approval of the matters submitted shall not be required and compliance with this Article shall be deemed to have been completed. In case of a dispute about whether the Committee responded within such time period, the person submitting the plans shall have the burden of establishing that the Committee received the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt.

Section 3.5 Standards. The Committee shall have the sole discretion with respect to taste, design and all standards specified herein. One objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built in the Addition. The Committee shall also have the authority to require roof slope, to specify that fireplaces and chimney flues be covered with brick or masonry, to prohibit the use of light-weight composition roof material, to require the use of anodized aluminum divided light windows, and generally to require that any plans to meet the standards of the existing improvements on neighboring lots. The Committee may from time-to-time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this declaration.



ARTICLE IV  
SPECIAL FENCING AND LANDSCAPING

Section 4.1 Fences, Walls and Sprinkler Systems. After the recording of this document, the Board shall have the right to erect, install, maintain, repair and/or replace fences, sidewalks, entry features, walls and/or sprinkler systems within the Common properties.

Section 4.2 Landscaping. The Board shall have the right to grade, plant and/or landscape and maintain, repair, replace and/or change such grading, planting and landscaping for the Common Properties.

Section 4.3 Easement. The Board shall have, and hereby reserves, the right and easement to enter upon the Common Properties for the purpose of exercising the discretionary rights set forth above.

ARTICLE V  
GENERAL PROVISIONS

Section 5.1 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. The Association reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. By acceptance of a deed to any lot, the Owner thereof covenants and agrees to mow weeds and grass and to keep and maintain, in a neat and clean condition, any easement which may traverse a portion of the lot.

Section 5.2 Recorded Plat or Zoning Ordinance All dedications, limitations, restrictions and reservations shown on the plat or contained in any applicable zoning ordinance are incorporated herein and shall be construed as being adopted in each contract or deed.

Section 5.3 Lot and Entrance Maintenance. The Owner and occupant of each lot shall cultivate an attractive ground cover or grass on all yards visible from the street, shall maintain the yards in a sanitary and attractive manner and shall edge the street curbs that run along the property line. Grass, weeds, and vegetation on each lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street. No Owner shall permit weeds or grass to grow to a height of greater than six (6) inches upon his property. If after ten (10 ) days prior written notice, an Owner of a lot shall fail to: ( a) control weeds, grass and/or other unsightly growth ; (b)remove trash, rubble building and construction debris ; ( c) exercise reasonable care and conduct to prevent or remedy an unclean, untidy or unsightly condition; or (d) otherwise satisfy the aforesaid maintenance requirements, then the ~~Declarant~~ or Association shall have the authority and right but not the obligation to go onto the subject lot for the purpose of mowing and cleaning said lot or to otherwise affect the aforesaid maintenance requirements and shall have the authority and right to assess and collect from the Owner of said lot the amount so expended by the Association in connection with mowing, cleaning or maintenance.

Section 5.4 Maintenance of Improvements. Subject to the provisions of Article IV, each lot Owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot

in good condition and repair and shall replace worn and rotten parts, and shall regularly repaint, all painted surfaces and shall not permit the roofs, rain gutters, down spouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.

Section 5.5 Mortgages. It is expressly provided that the breach of any of the foregoing conditions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said conditions shall be binding thereto as to lots acquired by foreclosure, trustee's sale or otherwise, as to any breach occurring after such acquisition of title.

Section 5.6 Term. The foregoing covenants and restrictions shall run with and bind the land and shall remain in full force and effect for a term of twenty five (25) years after this Declaration is recorded. They shall be automatically extended for successive periods of five (5) years unless amended as provided herein or as allowed by applicable.

Section 5.7 Severability If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

Section 5.8 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Addition, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the Owner of the land except land in the Addition and the same shall inure to the benefit of Owners of land except land in the Addition and the Association. This instrument, when executed, shall be filed on record in the deed records of the County so that each and every Owner or purchaser of any portion of the Addition is on notice of the conditions, covenants, restrictions and agreements contained herein.

Section 5.9 Enforcement. The Owner of any lot in the Addition shall have the easement and right to have each and all of the foregoing restrictions, conditions and covenants herein faithfully carried out and performed with reference to each and every lot in the Addition, together with the right to bring suit or undertake any legal process that may be proper to enforce the performance thereof, it being the intention hereby to attach to each lot in the Addition, without reference to when it was sold, the right and easement to have such restrictions, conditions, and covenants strictly complied with, such right to exist with the Owner of each lot and to apply to all other lots in the Addition whether owned by the undersigned, its successors and assigns, or others. Failure by any Owner, including the Association, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5.10 Other Authorities. If other authorities, such as the City or County, impose more demanding, expensive or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

Section 5.11 Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as a Member or owner on the records of the Association or the Committee

shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the address shown opposite the signature of the Declarant below or to such other address as is specified by the Association pursuant to an instrument recorded in the deed records of the County.

Section 5.12 Amendment. The covenants, conditions and restrictions set forth herein may be amended with the consent of fifty-one percent (51%) of the then Owners of the lots (with one vote to be cast for each lot so owned ) evidenced by a document in writing bearing each of their signatures.

These Declarations may be amended without a vote of the Association to incorporate a change in the event that these Declarations do not comply with the laws of the City of Garland, Dallas/Collin County, State of Texas or Federal law.

#### ARTICLE VI FORMATION OF HOMEOWNERS ASSOCIATION

Deleted

#### ARTICLE VII MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 7.1 Membership Every Owner of a lot shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to the Declaration. Each member shall be entitled to one ( 1 ) vote for each lot in which they hold the interest required for membership .

Section 7 .2 Quorum. Notice and Voting Requirements.

(a) Subject to the provisions of Paragraph (c) of this Section, an action taken at a meeting of the Members shall require the assent of the majority of all of the votes of those who are voting in person or by proxy at a meeting duly called, written notice of which shall be given to all Members not less than ten (10) days nor more than fifty ( 50 ) days in advance .

(b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows :

The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, ten per cent (10%) of the votes of all Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Bylaws or the Declaration or as provided by the laws of the State of Texas. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirement herein set forth, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) As an alternative to the procedure set forth above, any action referred to in Paragraph (a) of this Section may be taken without a meeting if a consent in writing, approving of the action to be taken, shall be signed by all Members.

(d) Except as otherwise specifically set forth in the Declaration, notice, voting and quorum requirements for all actions to be taken by the Association shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

ARTICLE VIII  
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 8.1 Easement for Fences, Landscaping and Sprinkler Systems. In addition to the easements and rights reserved in Article IV, the Association hereby reserves an easement ("Fence Easement") extending from two (2) feet inside of the fence on the affected lots and extending to the respective rights-of-way of Holford, Blackburn Road and N. Garland Ave. to erect, install, maintain, repair, landscape and/or replace fences, walls and/or sprinkler systems which comprise the masonry, metal or wooden screening fence and features associated with such fencing.

Section 8.2 Members' Easements of Enjoyment. Subject to the provisions of Section 8.3 of this Article, every Member and tenant of every Member, who resides on a lot, and each individual who resides with either of them, respectively, on such lot shall have a non-exclusive right and easement to use and enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title of every lot; provided, however such easement shall not give such person the right to make alterations, additions or improvements to the Common Properties.

Section 8.3 Extent of Members' Easements. The rights and easements of enjoyment created by Section 8.2 shall be subject to and limited by the following:

(a) The right of the Association to prescribed regulations governing the use, operation and maintenance of the Common Properties.

(b) The right of the Association to enter into and execute contracts with parties/party for the purpose of providing maintenance for all or a portion of the Common Properties or providing materials or services consistent with the purposes of the Association;

(c) The right of the Association, as may be provided in its Bylaws, to suspend the voting rights of any member and to suspend the right of any individual to use any of the common Properties for any period during which any assessment against a lot owned by such individual remains unpaid, and for an period not to exceed sixty (60) days for an infraction of its rules and regulations;

(d) The Association shall have the right and option to alter, improve, landscape and/or maintain the Common Properties.

ARTICLE IX  
COVENANTS FOR ASSESSMENTS

Section 9.1 Creation of the Lien and Personal Obligation of Assessments. Each purchaser of any lot by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of the lot), to pay to the Association (or to an entity or collection agency designated by the Association) the annual maintenance assessments or charges (as specified in section 9.3 hereof),

such assessments to be fixed, established and collected from time to time as herein provided. The annual maintenance assessments described in this Section 9.1 (hereinafter, the "Assessment" or the "Assessments"), together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each lot against which any such Assessment is made. The Assessments, together with interest thereon, attorneys' fees, court costs, and other costs of collection thereof shall also be the continuing personal obligation of the Owner of such lot at the time when the Assessment fell due. Further, no Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Commons Properties or abandonment of his lot. Existing obligations of an Owner to pay Assessments and other cost and charges shall not pass to bona fide first lien mortgages which become Owners by reason of foreclosure proceedings or an action at law subsequent to the date the Assessment was due; provided however, any such foreclosure proceeding or action at law shall not relieve such new Owner of such lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent Assessment.

Section 9.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for (i) improving, repairing, landscaping and maintaining the common properties, (ii) paying the cost of labor, equipment and materials required for, and management and supervision of, the Common Properties; (iii) carrying out the power and duties of the Board of Directors of the Association as set forth in this Declaration and the Bylaws; (iv) carrying out the purposes of the Association as stated in its Articles of Incorporation; and (v) carrying out the powers and duties relating to the Architectural Control Committee

### Section 9.3 Annual Maintenance Assessments

(a) The Board of Directors shall determine the amount of the annual maintenance assessments for each year, which assessments may include a reserve fund for working capital and for maintenance, repairs and replacements of the Common Properties.

(b) Subject to the provisions of Section 9.3 (c) hereof, the rate of annual maintenance assessments may be increased by the Board. The Board may, after consideration of current maintenance, operational and other costs and the future needs of the Association, fix the annual maintenance assessments for any year at a lesser amount than that of the previous year.

(c) An increase in the rate of the annual maintenance assessments as authorized by Section 9.3 (b) hereof in excess of twenty-five percent (25%) of the preceding year's annual maintenance assessments must be approved by the Members in accordance with Section 7.2 hereof.

(d) When the annual maintenance assessment is computed for lots, such annual maintenance assessment shall be payable to the Association by the Member as provided in Section 9.5 hereof.

(e) The annual maintenance assessments shall include reasonable amount, as determined by the Members of the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Properties. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited in a separate bank account to be held in trust for the purposes for which they were

collected and are to be segregated from and not commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of regular annual maintenance assessments.

Section 9.4 Uniform Rate of Annual Maintenance Assessments. Annual maintenance assessments must be fixed at a uniform rate for all lots, and be payable as set forth herein.

Section 9.5 Date of Commencement of Assessments: Due Dates: No Offsets. The annual maintenance assessments provided for herein shall commence on the date fixed by the Board of Directors to be the date of commencement and, except as hereinafter provided, shall be payable monthly, quarter-annually, semi-annually or annually, in advance, on the first day of each payment period there after, as the case may be and as the Board of Directors shall direct. The first annual maintenance assessment shall be made for the balance of the calendar year in which it is levied. The amount of the annual maintenance assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual maintenance assessment provided for in Section 9.5 hereof as the remaining number of months in that year bears to twelve; provided, however, that if the date of commencement falls on other than the first day of a month, the annual maintenance assessment for such month shall be prorated by the number of days remaining in the month. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason.

Section 9.6 Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors shall fix the date of commencement and the amount of the annual maintenance assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of all assessments shall be delivered or mailed to every owner subject thereto. Such notice shall be sent to each Owner at the last address provided by each Owner, in writing, to the Association.

(c) The omission of the Board of Directors to fix the assessments within the time period set forth above for any year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

(d) The Board of Directors shall upon demand at any time furnish to any Owner liable for said assessment a certificate signed by an officer or agent of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable Charge may be made by the Board for the issuance of such certificates.

Section 9.7 Non-Payment Assessment.

(a) Delinquency. Any Assessment, or installment thereof, which is not paid in full when due shall be delinquency on the day following the due date (herein, "delinquency date") as specified

in the notice of such Assessment. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. Acceptance of partial payment shall not be waiver of the Owner's obligation to make full payment of the Assessment. If any Assessment or part thereof is not paid within ten (10) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from and after the delinquency date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum lawful rate delinquency date

(b) Lien. The unpaid amount of any Assessment not paid by the delinquency date shall, together with the interest thereon as provided in Section 9.7 (a) here of and the cost of collection thereof, including reasonable attorneys' fees, become a continuing lien and charge on the lot of the non-paying Owner, which shall bind such lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. The lien shall be superior to all other liens and charges against the lot, except only for tax liens and the lien of any bona fide first mortgage or first deed of trust now or hereafter placed upon such lot. A subsequent sale or assignment of the lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. The Board shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. Such power shall be entirely discretionary with the Board. As herein before stated, the personal obligation of the Owner incurred at the time of such Assessment to pay such Assessment shall remain the personal obligation of such Owner and shall not pass to such Owner's successors in title unless expressly assumed by them in writing. Liens for unpaid Assessments shall not be affected by any sale or assignment of a lot and shall continue in full force and effect. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his lot.

To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the owner of the lot covered by such lien and a description of the lot covered by such lien such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk of Dallas/Collin County, Texas.

(c) Remedies. The lien securing the payment of the Assessment shall attach to the lot belonging to such non-paying Owner with the priority set forth in this Section. Subsequent to the recording of a notice of the lien, the Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- (i) the interest provided in this Section,
- (ii) the costs of preparing and filing the complaint in such action,
- (iii) the reasonable attorneys' fees incurred in connection with such action, and
- (iv) any other costs of collection; and in the event a judgment is obtained, such judgment shall and in the event a judgment is obtained, such judgment shall and in event a

judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

Each Owner, by acceptance of a deed to a lot, hereby expressly vests in the Association or its agents or trustees the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner here by expressly grants to the Association the private power of sale in connection with said liens. The Association may also suspend the Association membership and voting rights of any Owner who is in default in payment of any Assessment in accordance with the Declaration and/or the Bylaws.

Each Owner hereby grants and conveys in trust to the person serving as president of the Association (as the person filling such office changes from time to time), as Trustee (the "Trustee"), the Lot owned by such Owner. The Association may appoint in writing a substitute or successor trustee succeeding to all rights and responsibilities of Trustee.

In the event of default by such Owner in payment of the Assessment as provided herein, the Association may request Trustee to foreclose this lien and may purchase the Lot at any foreclosure sale of offering the highest bid and having the bid credited on the delinquent Assessments.

If requested by the Association to foreclose this lien, Trustee shall, either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code; sell and convey such Lot to the highest bidder for cash with a general warranty binding such Owner, subject to prior liens and to other exceptions to title and warranty; and from the proceeds of the sale, pay, in this order:

1. expenses of foreclosure, including a commission to Trustee of up to 5% of the bid;
2. to the Association, the full amount of the unpaid Assessments, interest attorney's fees, and other charges due and un paid;
3. payment of prior liens on the Lot;
4. any amounts required by law to be paid before payment to the Owner; and
5. any balance to such Owner.

If any Lot is sold pursuant hereto, its Owner shall immediately surrender possession to the purchaser. If such Owner fails to do so, such Owner shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

Recitals in any Trustees's deed conveying the property will be presumed to be true.

Proceeding under this power of sale, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

(d) Notice to Mortgages. The Association may, and upon the written request of any mortgage holding a prior lien on any part of the Properties, shall report to said mortgage any Assessments remaining unpaid for longer than thirty (30) days after the delinquency date of such Assessment.

Section 9.8 Subordination of the Lien to Mortgages. The lien securing the payment of the Assessment shall be subordinate and inferior to the lien of any bona fide first lien mortgage or deed of trust now or hereafter recorded against any lot; provided, however, that such subordination



shall apply only to the Assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve the new Owner of such lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent assessment.

Section 9.9 Exempt Property. All properties dedicated and accepted by the local public authority and devoted to public use shall be exempted from the assessments, charges and liens created in Section 9.3.

Section 9.10 Estoppel Information from Board with Respect to Assessments. The Board shall upon demand at any time furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid.

Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates.

ARTICLE X  
GENERAL POWERS AND DUTIES  
OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 10.1 Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors. The Board of Directors shall be selected in accordance with the Articles of Incorporation and

Bylaws of the Association and shall have the powers and duties as set forth in this Declaration, the Articles of Incorporation and the Bylaws

ARTICLE XI  
USE OF COMMON PROPERTIES

The Common Properties may be occupied and used as follows:

Section 11.1 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Properties which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increase of any insurance carried by the Association. No waste shall be committed in or on the Common Properties.

Section 11.2. Damage to the Common Property. Each Owner shall be liable to the Association for any damage to the Common Properties caused by the negligence or will for misconduct of the Owner or such Owner's family, guests, pets, tenants or invitees.

Section 11.3 Rules of the Board. All Owners and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorney's fees, incurred by the Association in connection therewith.

Section 11.4 Maintenance of Common Properties. All landscaping and improvements placed or erected on the Common Properties shall be owned and maintained by the Association.

ARTICLE XII  
EASEMENTS

Section 12.1 Ingress and Egress by the Association. The Association shall, at all times, have full rights of ingress and egress over and upon each lot for the maintenance and repair of each lot and the Common Properties in accordance with provisions hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any lot shall be made with as little inconvenience to the Owner as practical, and any damage caused by the Association's entry, other than damages caused by the Owner, shall be repaired by the Association at the expense of the Association .

Section 12.2 Reservation of Easements. Easements over the Common Properties for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by the Association together with the right to grant and transfer same.

ARTICLE XIII  
GENERAL PROVISIONS

Section 13.1 Enforcement by the Association. The Covenants and Restrictions of the Declaration shall inure to the benefit of and be enforceable by the Association, its legal representatives, heirs, successors and assigns, failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.2 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 13.3 Notices to Mortgagees. If a holder of a mortgage on a lot shall notify the Association of its address and the identity of the lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by the Declaration.

Section 13.4 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions for the Declaration or the Bylaws of the Association shall be determined by the Board of Directors, whose determination shall be final and binding upon all Owners.

I, the undersigned, do hereby certify: THAT, I am the duly elected and acting president of The Oaks at Stoney Creek Homeowners Association, Inc., a Texas non-profit corporation and That the foregoing Declarations constitute the First Amended Declarations of said Association, and That the foregoing Declarations have been authorized and approved in accordance with Article V Section 5.12 of the Original Declaration.

Association;  
The Oaks at Stoney Creek HOA

\_\_\_\_\_  
President

THE STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, Debra Roberts, President of The Oaks at Stoney Creek Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS