

**CHIMNEY HILL IMPROVEMENT
ASSOCIATION**

Effective 2017

CHIMNEY HILL IMPROVEMENT ASSOCIATION

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FOURTH AMENDED AND RESTATED
SUBDIVISION RESTRICTIONS AND RESERVATIONS
CHIMNEY HILL (LOTS 1-50)
COLLEGE STATION, BRAZOS COUNTY, TEXAS

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This is the Fourth Amended and Restated Subdivision Restrictions and Reservations of Chimney Hill (Lots 1-50) Subdivision ("this Amendment"), made and agreed to by a majority of the owners of lots within Chimney Hill Subdivision, effective the date of filing of this instrument.

FACTS

A. J.A.C. Developers, Inc. was the developer of the subdivision in Brazos County, Texas known as Chimney Hill Subdivision ("the Subdivision") as recorded in Volume 476, Page 113, Deed Records, Brazos County, Texas.

B. Subdivision Restrictions and Reservations were filed as covenants running with the land within the Subdivision in Volume 482, Page 749, Deed Records, Brazos County, Texas; amended by First Amendment recorded in Volume 7165, Page 200, Deed Records, Brazos County, Texas; and by Second Amendment recorded in Volume 8620, Page 265, Official Records, Brazos County, Texas ("the Second Amendment"); and by Third Amendment recorded in Volume 11171, Page 185, Official Records, Brazos County, Texas ("the Restrictions").

C. Supplemental to, and not in limitation of, the Restrictions, Declaration of Covenants and Conditions were filed as covenants running with the land within the Subdivision in Volume 495, Page 797, Deed Records, Brazos County, Texas, along with any amendments thereto ("the Declaration").

D. When recorded, this Amendment fully restates, replaces, and supersedes the Restrictions.

E. This Amendment amends and restates only the Restrictions and is supplemental to, and not in limitation of, the Declaration.

F. All terms not defined herein shall be utilized with the same definitions provided in the Declaration.

The foregoing premises considered, in addition to the Declaration, it is hereby declared that (i) all of the property within the Subdivision shall be held, sold, conveyed and occupied subject to the following restrictions, covenants and conditions, which are for the purpose of preserving the value and desirability of, and which shall run with, the property within the Subdivision and shall be binding on all parties having any right, title, or interest in or to the property within the Subdivision or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and (ii) each contract or deed that may hereafter be executed with regard to the property within the Subdivision or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following restrictions, covenants and conditions, regardless of whether or not the same are set out or referred to in said contract, or deed.

RESTRICTIONS:

1. LAND USE AND BUILDING TYPE:

No lot shall be used for any purpose except residential. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two and one-half stories in height and a private garage or other structures which supplement the residence, and the use of which is compatible to the residence, such as fences, walls, pools, terraces, and similar landscaping features. Further, all garages must have automatic door opener/closers installed and functional. Open carports shall be allowed provided that they are constructed of decorative materials, are harmonious in design and are used exclusively for the storage of automobiles.

1.01 RESIDENTIAL USE

"Residential Use," as that term is used herein, shall mean: 1.) only a use as the private, personal residence of persons who are within the first, second, or third degree of relationship (affinity or consanguinity), plus no more than 1 other person, or 2.) only a use as the private, personal residence of the fee simple owner(s) of a Lot, or by persons who are children, grandchildren, parents, or a spouse of the fee simple owner(s); plus no more than 2 other persons. Any occupancy by persons not included within the list of persons named above shall be an impermissible use unless such use by all the particular occupants commenced before the date of the Second Amendment.

2. ARCHITECTURAL CONTROL

No improvement shall be begun, erected, placed, altered or permitted on any lot until the construction plans and specifications, and a plat showing the location of the proposed structure on the lot, have been approved by the Architectural Control Committee as to proposed quality of construction, harmony of external design, and location with respect to topography and finish grade elevations. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Before anyone shall commence the erection or placing of any building, wall, fence or other structure whatsoever in the subdivision, such person shall apply in writing to the Architectural Control Committee for approval of such proposed structure and such application shall include the supporting documents referenced above.

The Architectural Control Committee's approval or disapproval as required herein shall be in writing. If the Architectural Control Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after plans and specifications have been submitted to it, or in the event no suit to enjoin the construction has been commenced prior to the completion of the improvements, approval will not be required and the related covenants shall be deemed to have been fully satisfied.

The Architectural Control Committee shall be composed of three (3) members of the Chimney Hill Improvement Association (the "Association") selected by the Board of Directors of said Association. Succession on the Architectural Control Committee shall be as provided for in the First Amended Declaration of Covenants and Conditions of Chimney Hill (Lots 1-50), College Station, Brazos County, Texas.

3. LOT SIZES:

No building shall be erected or placed on any lot having a width of less than 50 feet at minimum building setback line or having an area less than 7,500 square feet.

4. DWELLING SIZE AND CONSTRUCTION:

The livable, heated area of each single story residential structure, exclusive of open porches, open terraces or garages shall not be less than two thousand (2,000) square feet. A minimum of one thousand (1,000) square feet on the ground floor for a multi-story residential structure shall apply and the total square footage minimum,

as above defined, shall be two thousand two hundred (2,200) square feet.

5. BUILDING LOCATION:

No building shall be located on any lot nearer to the front line or nearer to a side street than the minimum building setback line shown on the recorded plat. In any event, no building shall be located on a lot nearer than twenty-five (25) feet to the front lot line, or nearer than fifteen (15) feet to a side street line. No building shall be located nearer than seven and one-half (7-1/2) feet to any interior lot line. Eaves, steps, and driveways are not a part of the building.

6. MATERIAL REQUIRED:

The residential structures shall have not less than fifty-one percent (51%) of the exterior wall areas of brick or other masonry material. The Architectural Control Committee may modify this requirement when the design and appearance, as proposed, are deemed to be of such a nature as to be equally attractive and permanent.

7. EASEMENTS

Easements for the installation and maintenance of utilities are reserved as shown and provided for on the recorded plat. Said easements are also reserved as drainage easements, as needed, to permit the egress of water from adjacent lots in the direction of the original natural slope of the land.

A. SLOPE CONTROL AREAS: Slope control areas are reserved and shown as utility and drainage easements. Within these slope control areas no structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of lots and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

B. SIGHT DISTANCE AT INTERSECTIONS: No structure, hedge, or shrub planting which obstructs sight lines at elevation between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property and a line connecting them at points twenty-five (25) feet from the intersections of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

8. NUISANCES:

No noxious or offensive activity shall be permitted upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. The Architectural Control Committee designated in Paragraph Two shall have exclusive authority to determine what constitutes a nuisance to the neighborhood.

9. TEMPORARY STRUCTURES:

No structure of a temporary character -- basement, tent, shack, barn or other outbuilding -- shall be placed on any lot at any time except during periods of construction and then only to the extent actually used in the construction process.

10. SIGNS:

No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

11. OIL AND MINING OPERATIONS:

No oil drilling, oil development operations, oil refining, quarrying or mineral mining operations of any kind shall be permitted upon or in any lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

12. LIVESTOCK AND POULTRY:

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lots, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose and further provided that the keeping of such household pets does not constitute a nuisance to the neighborhood.

13. GARBAGE AND RECYCLING DISPOSAL:

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste and such waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean, sanitary condition.

A. Restrictions on Garbage and Recycling

At any time before or after the construction of improvements on a Lot or Unit, no refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any Lot or Unit except within an enclosed structure or appropriately screened from view, except that garbage and recycling containers (approved by the Association or the City of College Station) may be placed in a designated area for garbage and recycling pickup no earlier than 6 p.m. on the day preceding pickup of such garbage and recycling and shall be returned to an enclosed structure or an area appropriately screened from view no later than midnight on the day of pickup.

14. PARKING OF VEHICLES:

Overnight parking of vehicles or trailers owned by or under the control of residents or owners in said subdivision is prohibited on the public streets within such subdivision. Further, campers, trailers, boats, motor homes, commercial trucks, etc. shall not be parked or stored on a regular basis in the driveway or other place open to public view in the subdivision.

A. Storage of Vehicles or Equipment

No motor vehicle (including, without limitation, commercial trucks and recreational vehicles) or non-motorized vehicle, boat, trailer, camper, marine craft, machinery or equipment of any kind may be parked or stored for longer than five (5) days or on a semi-permanent or daily basis on any part of any Lot or Unit, private or public road or street, easement, right-of-way, or Common Area unless such vehicle or object (i) is completely concealed from public view inside a garage or approved enclosure or (ii) is owned by an overnight guest of the Owner and such use does not extend for more than five (5) days. Notwithstanding the five (5) day parking restriction and guest parking exception, there shall be no overnight parking (between the hours of 12:00am and 6:00am) on any road or street. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that are in operating condition, having current license plates and inspection stickers, and that are in regular use as motor vehicles on the streets and highways of the State of Texas are exempt from the five (5) day parking restriction only as it pertains to parking of vehicles on the driveway portion of any Lot or Unit. No vehicle shall be parked in a yard or in the street or along

the side of a street so that it blocks the flow of traffic. No vehicle may be repaired on a Lot or Unit unless such vehicle is concealed inside a garage or other approved enclosure during the repair thereof, or the repairs are completed within 24 hours.

15. YARD, LOT, AND UNIT APPEARANCE:

All Lots, including yards, sidewalks, and driveways, and Units shall be kept at all times in a neat, attractive, healthful and sanitary condition. The Owner or occupant of all Lots and Units shall keep all weeds and grass thereon cut and shall in no event use any Lot or Unit for storage of materials or equipment except for normal residential requirements or incident to construction of Improvements thereon as herein permitted, or permit the accumulation or burning of garbage, trash or rubbish of any kind. All sidewalks and driveways shall remain clear with the exception of approved motor vehicles in driveways. All clothes lines, yard equipment, woodpiles, landscaping materials, containers, or storage piles shall be kept screened by a service yard or other similar facility as herein otherwise provided, so as to conceal them from view of adjacent Units, streets, or other property.

A. Remedy for Default

In the event of any default by the Owner or other occupant of any Lot or Unit in observing the yard, lot, and unit appearance restrictions, which default is continuing after ten (10) days written notice thereof to Owner or occupant, as applicable, the Declarant, or the Association or their designated agents may, without liability to the Owner, Contractor, or any occupants of the Lot or Unit may trespass or otherwise, enter upon (or authorize one or more others to enter upon) said Lot or Unit, to cut, or cause to be cut, such weeds and grass and remove, or cause to be removed, such garbage, trash and rubbish, so as to place said Lot or Unit in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot or Unit for the cost of such work and removing such associated materials. The cost of such work and removal shall constitute a Reimbursement Assessment.

B. Rainwater collection

Rainwater collection equipment shall be compliant with city ordinances, covered to hinder mosquito breeding, and kept screened so as to be concealed from street view.

16. FENCES:

No chain link fence shall be permitted upon any lot and no fence of any type shall be permitted forward of the front lot set back line.

17. MAINTENANCE OF VACANT LOTS:

Grass, vegetation and weeds on each lot shall be cut as often as may be necessary in order to maintain the same in a neat and attractive condition. If the owner of any lot fails to do so, the Architectural Control Committee shall have authority to secure such maintenance, and the owner shall be obligated to pay the cost of such work, which amount will become a lien on the property if not timely paid by the owner. Likewise, all drainage ditches shall be maintained in the same manner and shall be unobstructed at all times.

A. MAINTENANCE OF THE STRUCTURES

All structures located within the subdivision, including houses, garages, fences, gazebos, landscape-structures and outbuildings, shall be kept well maintained and in good repair. Each owner shall maintain structures on such owner's lot in a clean and attractive condition and keep structures painted and in good repair. Roof surfaces shall be well maintained and capable of protecting structures from dilapidation and rot. Brick, stone and other masonry surfaces shall be maintained. The board of the Association, through its Architectural Committee, shall have the authority to establish policies and standards and to review and inspect properties within the subdivision, for the purpose of requiring owners to maintain structures within the subdivision in compliance with the provisions of this section by using any

and all enforcement powers set out in the Restrictions or granted by law.

18. FIREARMS:

The use or discharge of pistols, rifles, shot guns, air guns, or other firearms or fireworks is expressly prohibited on any part of the subdivision and hunting is prohibited.

19. TERM:

These covenants and restrictions are to run with the land and shall be binding on all owners of lots in Chimney Hill, and all persons claiming under them for twenty-five (25) years after which time said covenants and restrictions shall be automatically extended for successive period of ten (10) years unless an instrument signed by a majority of the then owners of the lots is filed for recording the Brazos County, Texas, altering, rescinding or modifying said covenants and restrictions in whole or in part.

20. RIGHTS OF MORTGAGEES:

Any violation of these easements, agreements, restrictions, reservations or covenants shall not have the effect of impairing or affecting the rights on any mortgagee, guarantor, or trustee under any mortgage or deed of trust outstanding against a lot, at the time that the easements, agreements, restrictions or covenants are violated.

21. ENFORCEMENT:

The covenants, reservations, easements and restrictions set out herein are for the benefit of the undersigned, its successors and assigns, and for the benefit of any subsequent owner of any lot in Chimney Hill, and his heirs, executors, administrators, and assigns. Accordingly, all of the covenants, restrictions, easements and reservations contained herein shall be construed to be covenants running with the land, enforceable at law or equity, by any one or more of said parties.

21.01 Enforcement and Fines:

A. In the event of any violation by a lot owner in Chimney Hill of the Declarations and/or Restrictions, or any amendments thereto, the Board of Directors or an agent acting on its behalf shall first contact the owner or resident via phone, email, or personal contact to give notice of the violation. If the violation has not been cured within ten (10) days, then the Board of Directors or an agent acting on its behalf shall give certified written notice of the violation to the lot owner.

B. If the lot owner has not cured the violation within thirty (30) days after written notification from the Board of Directors, or commenced curing the violation within such time period and acts continually until cured thereafter, the Board of Directors shall levy a fine of \$50.00 per day (or such other amount as provided below) against the lot owner until cured.

C. The total amount of any unpaid fines shall constitute an assessment against the lot owner, and the assessment lien created in the Declaration and/or Restrictions shall arise against the lot of the violating lot owner. Annually, on or before February 1 of each calendar year, the Board of Directors should establish the daily fine amount for the following calendar year. The Board of Directors may increase or decrease the daily fine amount, as the Board in its sole discretion deems appropriate.

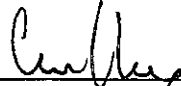
D. Attorneys Fees and Costs of Court. In the event violations by a lot owner in Chimney Hill results in enforcement action that requires the Board of Directors acting on behalf of the Association or any lot owner to employ an attorney, whether by suit or otherwise, the attorneys fees incurred by the Association and any costs of court shall be recoverable by the Association from the violating lot owner in the event the Association

prevails in such action.

22. SEVERABILITY:

The invalidity, abandonment or waiver of any one of these covenants, reservations, easements and restrictions shall in no way affect or impair the other covenants, reservations, easements and restrictions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Secretary of Chimney Hill Improvement Association, an owner of a lot within the Subdivision, personally states and attests to having obtained or coordinated the obtaining of all signatures set forth on Exhibit "A" attached hereto and made a part hereof, and hereby executes this Fourth Amended and Restated Subdivision Restrictions and Reservations of Chimney Hill (Lots 1-50) Subdivision as of this 19 day of JULY, 2017.




GRETA CLEARY, Secretary of Chimney Hill Improvement Association

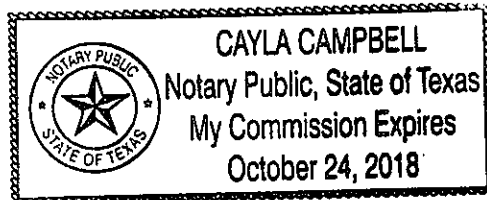
STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on the 19 day of JULY, 2017, by GRETA CLEARY, Secretary of Chimney Hill Improvement Association.



Notary Public, State Of Texas





**BYLAWS OF THE CHIMNEY HILL IMPROVEMENT ASSOCIATION
AN UNINCORPORATED ASSOCIATION**

**ARTICLE 1
MEMBERS**

Membership

Section 1.01. Every person or entity who is record owner of a fee or undivided fee interest in any lot or residential unit located, lying and being situated in the lots one through fifty (1-50), inclusive, designated on the final plat of Chimney Hill, a subdivision in the City of College Station, Brazos County, Texas, said plat being recorded in Volume 476, Page 113 of the Deed Records of Brazos County, Texas ("Chimney Hill"), shall be a member of the Chimney Hill Improvement Association ("Association"). Provided, however that any such person or entity who holds such interest merely as security for the performance of any indebtedness or obligation shall not be a member. Owners of property located contiguous to Chimney Hill may apply for membership in the Association. Their acceptance is contingent on the approval of the Board of Directors.

Voting Rights

Section 1.02. The Association shall have one (1) class of voting membership.

"Owner" as used and referred to herein shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any lot or residential unit situated in or upon the property described in Section 1.01 hereof. However, it shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to a foreclosure or any proceeding in lieu of foreclosure.

Transfer of Membership

Section 1.03 Membership in this Association is not transferable or assignable except by transfer and conveyance in fee simple of the lot or residential unit in the said subdivision by proper and legally binding instrument.

ARTICLE 2 MEETINGS OF MEMBERS

Annual Meeting

Section 2.01. An annual meeting of the members for the purpose of electing Directors and for the transaction of other business as may come before the meeting shall be held each January. If the election of Directors shall not be held in the month designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as possible.

Special Meetings

Section 2.02. Special meetings of the members may be called by the President, the Board of Directors, or not less than one-fourth (1/4) of the members having voting rights.

Place of Meeting

Section 2.03. The Board of Directors may designate any place in Brazos County, Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors, but if all of the members shall meet at any time and place, either within or without the State, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting, any association action may be taken.

Notice of Meetings

Section 2.04. Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than ten (10) nor more than thirty (30) days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting.

In case of a special meeting or when required by statute or these bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid.

Informal Action by Members

Section 2.05. Any action required by law to be taken at a meeting of the members or any action which may be taken at a meeting of the members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

Quorum

Section 2.06. The members holding forty (40%) percent of the votes, which may be cast at any meeting shall constitute a quorum at such meeting.

Proxies

Section 2.07. At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No

proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Voting by Mail

Section 2.08. Election of officers and directors and the determination of actions of activities which require approval of two-thirds (2/3) of the members may be conducted by mail in such manner as the Board of Directors shall determine.

ARTICLE 3 BOARD OF DIRECTORS

General Powers

Section 3.01. The affairs of the Association shall be managed by its Board of Directors.

Number, Tenure, and Qualifications

Section 3.02. The number of Directors shall be at least three (3) persons but may be increased to any number not to exceed nine (9) by vote of the members at any annual meeting. Each Director shall hold office until the next annual meeting of members and until his successor shall have been elected and qualified.

Regular Meetings

Section 3.03. A regular annual meeting of the Board of Directors shall be held within thirty (30) days of the annual meeting of members. The Board of Directors may provide by resolution the time and place, within Brazos County, Texas for the holding of additional regular meetings of the Board.

Special Meetings

Section 3.04. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call

special meetings of the Board may fix the place for holding any special meetings of the Board called by them.

Notice

Section 3.05. Notice of any meeting of the Board of Directors shall be given at least seven (7) days prior thereto by written notice delivered personally or sent by mail to each Director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of such meeting, unless specifically required by law or by these bylaws.

Quorum

Section 3.06. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board.

Manner of Acting

Section 3.07. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these bylaws.

Vacancies

Section 3.08. Any vacancy occurring in the Board of Directors shall be filled by the Board of Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Informal Action by Directors

Section 3.09. Any action required by law to be taken at a meeting of Directors, or any action which may be taken at a meeting of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Directors.

ARTICLE 4 OFFICERS

Officers

Section 4.01. The officers of the Association shall be a President, one or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers, including one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the office of President and Secretary.

Election and Term of Office

Section 4.02. The officers of the Association shall be elected annually by the Board of Directors at its regular annual meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New officers may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified.

Removal

Section 4.03. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby.

Vacancies

Section 4.04. A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

President

Section 4.05 The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the members and of the Board of Directors. The President shall sign any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws or by statute to some other officer or agent of the Association; and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Vice President

Section 4.06. In the absence of the President or in the event of the President's inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in order of their election) shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the

restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to by the President or Board of Directors.

Treasurer

Section 4.07 If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of the Treasurer's duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipt for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article 6 of these bylaws; and in general perform all the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors.

Secretary

Section 4.08. The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose; give all notices in accordance with the provisions of these bylaws or as required by law; be custodian of the Association's records; keep a register of the post-office address of each member which shall be furnished to the Secretary by each member; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board of Directors.

Assistant Treasurers and Assistant Secretaries

Section 4.09. If required by the Board of Directors, the Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Treasurers and Assistant Secretaries in general shall perform such duties as shall be assigned by the Treasurer or the Secretary or by the President or the Board of Directors.

ARTICLE 5 COMMITTEES

Committees of Directors

Section 5.01. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of two or more Directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the Board of Directors in the management of the Association. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing the bylaws; electing, appointing, or removing any member of such committee or any Director or officer of the Association; authorizing the sale, lease, exchange, or mortgage of any of the property and assets of the Association; authorizing the increase or decrease of any dues or maintenance assessments; authorizing the voluntary dissolution of the Association or revoking proceedings therefore; adopting a plan for the distribution of the assets of the Association or amending, altering, or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual Director of any responsibility imposed upon him by law.

Other Committees

Section 5.02. Other committees not having and exercising the authority of the Board of Directors in the management of the Association may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, the members of such committee shall be members of the Association and appointed by the Board of Directors. Any members thereof may be removed by the persons authorized to appoint such member whenever in their judgment the best interest of the Association shall be served by such removal.

ARTICLE 6 MAINTENANCE ASSESSMENTS

Personal Assessments

Section 6.01. Each member agrees to pay to the Association monthly assessments or charges. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of members of the Association and in particular for improvements and maintenance of properties, services and facilities devoted to this purpose and related to lots or residential units owned by the members.

Obligation of Lien

Section 6.02. The monthly and/or special assessments together with any interest thereon and the costs of collection thereof as hereinafter provided shall be a personal obligation of each member of the Association and shall be a charge and assessment upon the land, lot and residential unit which each member owns and shall be continuing lien against said land, lot and residential unit.

Basic and Maximum Monthly Assessments

Section 6.03. The monthly assessments on each lot or residential unit shall be Ten and No/100 Dollar (\$10.00), beginning on the first day of the month following the date of transfer and purchase by a person or entity of a lot or residential unit. Monthly assessments may be increased by a vote of the membership of this Association for the next succeeding three (3) years and at the end of such period of three (3) years for each succeeding period of three (3) years.

Provided however, the Board of Directors may after consideration of current maintenance costs and further needs of the Association, fix actual assessment for any period at a lesser amount. For the purpose of figuring the amount of assessment, for a single family residential unit which is constructed on more than one (1) lot (as lot is shown by recorded plat) in the subdivision, such unit shall be for purpose of assessment, considered one (1) lot, and the owner of such unit shall not be entitled to more than one (1) vote.

Change in Basis and Maximum Monthly Assessment

Section 6.04. Subject to Section 6.03 hereof, and for the period herein specified, the Association may change the maximum and basis of the assessments fixed by Section 6.03 hereof for any period. Provided however, any such change shall have the consent of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice shall be sent to all members at least thirty (30) days in advance setting forth the purpose of the meeting.

Quorum for Any Action Authorized Under Section Section 6.04

Section 6.05. At the first meeting called, as provided in Section 6.04 hereof, the presence at the meeting of the members, or of proxies entitled to cast forty (40%) percent of

all votes of membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called subject to the notice requirement set forth in Section 6.04 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Evidence of Payment

Section 6.06. The Association shall upon demand at any time furnish to any member liable for said assessments, or title company, 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.

Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; Remedies of the Association

Section 6.07. If assessment is not paid on the date when due as heretofore specified, then such assessment shall become delinquent and such assessment, together with any interest thereon, and cost of collection shall thereupon become a continuing lien and shall bind the Lot, Residential Unit or Property in the hands of the then owner-member, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the member to pay such assessment shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency, at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the member personally obligated to pay the same as well as foreclose the lien against the member's property so assessed. There shall be added to the amount of such assessment the costs of

preparing and filing the complaint in such action, and in the event a judgment is obtained, such shall include interest on the assessment as above provided and reasonable attorney's fee to be fixed by the Court together with the costs of the action.

Conflict of Provision

Section 6.08. Should any provision of this Article VI of the Bylaws conflict with any provision of that certain First Amended Declaration, recorded in Volume ____, Page ____ of the Official Records of Brazos County, Texas, then such provision or provisions in such Declaration and its amendments, if any, shall prevail.

ARTICLE 7 BOOKS AND RECORDS

Section 7.01. The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the principal office, a record giving the names and addresses of all members entitled to vote. All books and records of the Association may be inspected by any member or his authorized agent or attorney for any proper purposes at any reasonable time.

ARTICLE 8 FISCAL YEAR

Section 8.01. The fiscal year of the Association shall begin on the first day of January and end on the last day in December in each year.

ARTICLE 9 WAIVER OF NOTICE

Section 9.01. Whenever any notice is required to be given hereunder, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE 10
AMENDMENTS TO BYLAWS

Section 10.01. These bylaws may be altered, amended, or repealed and new bylaws may be adopted by a majority of the Directors present at any regular meeting or at any special meeting, if at least seven (7) days written notice is given of an intention to alter, amend, or repeal these bylaws or to adopt new bylaws at such meeting.

**FIRST AMENDED
DECLARATION OF COVENANTS AND CONDITIONS
OF CHIMNEY HILL (LOTS 1-50)
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

WHEREAS, J.A.C. DEVELOPERS, INC., a Texas corporation, prepared certain Declaration of Covenants and Conditions of Chimney Hill (Lots 1-50), College Station, Brazos County, Texas (referred to hereinafter as "Declaration of Covenants"), which Declaration of Covenants was recorded on September 30, 1981 at Volume 495, Page 797 of the Deed Records of Brazos County, Texas; and

WHEREAS, the undersigned owners of two-thirds (2/3) of the lots or residential units in the Subdivision desire to change said Declaration of Covenants in accordance with Article VII, Section 1;

NOW, THEREFORE, the Declaration of Covenants is hereby deleted and in their place and stead, the following Declaration of Covenants and Conditions is hereby adopted.

W I T N E S S E T H:

PREAMBLE

WHEREAS, the Owners desire to provide for the preservation of the value and amenities in their residential community, and to this end, desires to subject the real property described hereinabove, together with any such additions as may hereafter be made thereto, to the covenants, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, these Covenants and Conditions are supplemental to, and not in limitation of, those certain Subdivision Restrictions duly recorded Volume 482, Page

749, Deed Records of Brazos County, Texas, as amended by Amendment recorded at Volume ___, Page ___ of the Official Records of Brazos County, Texas, with respect to the same property made the subject hereof;

WHEREAS, the Owners have deemed it desirable, for the efficient preservation of the value and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and conditions and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Owners have established an unincorporated, non-profit association known as "The Chimney Hill Improvement Association" ("the Association"), for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Owners declare that the real property described hereinabove, and such additions thereto as may hereafter be made, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, charges, and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. The following words when used in this Declaration shall mean:

- (a) "Association" shall mean and refer to The Chimney Hill Improvement Association.
- (b) "ByLaws" shall mean and refer to the ByLaws of the Chimney Hill Improvement Association as the same currently exists or as they may be subsequently amended.
- (c) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration.

- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of any Common Properties as heretofore defined.
- (e) "Residential Unit" shall mean and refer to a building situated upon The Properties designated and intended for use and occupancy as a residence by a single family.
- (f) "Single Family" shall mean one family unit related by blood or by marriage, or not more than two unrelated individuals.
- (g) "Owner" shall mean and refer to the record owner, whether one (1) or more entities, of the fee simple title to any Lot or Residential Unit situated upon The Properties but, notwithstanding any applicable theory of mortgage, shall not mean or refer to a mortgage unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (h) "Members" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the State of Texas, County of Brazos, and is particularly described above.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity being a record owner of a fee or undivided fee interest in any lot or Residential Unit which is subject by covenants of record to assessment by the Association shall be a Member of the Association, provided that such person or entity which holds such interest merely as security for the performance of any obligation shall not be a Member.

Section 2. Voting Rights. Members shall be all those owners as defined in Section 1. Members shall be entitled to one (1) vote for each Lot or Residential Unit in

which they hold the interests required for membership by Section 1. When more than one (1) person holds such interest or interests in any Lot or Residential Unit all such persons shall be Members, and the vote for such Lot or Residential Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot or Residential Unit.

For purposes of determining the votes allowed under this Section when Residential Units are counted, the Lot or Lots upon which such Residential Units are situated shall not be counted.

Section 3. Members Meeting.

- (a) There shall be an annual meeting of the Members of the Association. Annual meetings will be determined by the Board of Directors of the Association and provided for in the Bylaws.
- (b) The initial Board of Directors shall serve until said annual meeting, at which time a new Board will be elected by majority vote of Members voting. The Board of Directors shall consist of at least three (3) persons, and not more than nine (9), as will be determined by Members voting at the first annual meeting, and subsequently, as will be provided in the Bylaws of the Association.
- (c) The Board of Directors shall be responsible for the affairs of the Association and shall adopt such Bylaws and regulations as necessary to carry out its functions, but cannot adopt Bylaws or regulations which are contrary to provisions as set out herein.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot or Residential Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association; (1) monthly assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereafter provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of any Common Properties and of the homes situated upon The Properties.

Section 3. Basis and Maximum of Monthly Assessments. The monthly assessments on each Lot belonging to a Member shall be determined in the manner specified in the ByLaws.

The Board of Directors of the Association may, after consideration of current maintenance costs and further needs of The Association, fix the actual assessment for any period.

For the purpose of figuring the amount of assessment, where a single family residential unit is constructed on more than one Lot, (as Lot is shown by recorded plat), then and in that event, such unit shall be, for the purpose of assessment, considered as one lot, and the Owner of such unit shall not be entitled to more than one vote.

Section 4. Change in Basis and Maximum Monthly Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof (prospectively) for any such period provided that any such change shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Quorum for Any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof, shall be as follows:

At the first meeting called, as provided in Section 4 hereof, the presence at the meeting of Members, or of proxies, entitled to cast forty (40%) percent of all the votes of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Verification of Payment of Assessment. The Association shall upon demand at any time furnish to any Owner liable for said assessments 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.

Section 7. Effect of Non-Payment of Assessments: The Personal Obligation of the Owner; The Lien; Remedies of the Association. If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

Section 8. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon The Properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE V
ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of exterior design and location in relation to surrounding structures and topography.

Section 2. Membership. The Architectural Control Committee shall be composed of three members selected by the Board. The Committee members or their appointed Successors shall continue in office for a period of three (3) years from date of appointment. Any two members will constitute a quorum and the vote of any two will control the action of the committee. In the event of death or resignation of any member of the committee, the Board of Directors shall have full authority to designate a successor.

Section 3. Responsibility. If the Committee, or a designated representative, fails to give written approval or disapproval within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion of the improvements, approval will not be required and the provisions of this Article will be deemed to have been fully complied with.

ARTICLE VI

Section 1. Duration. The Covenants and Conditions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association; or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-owners of two-thirds (2/3) of the Lots or Residential Units has been recorded, agreeing to change said Covenants and Conditions in whole or in part. For purpose of meeting the two-thirds (2/3) requirement, when Residential Units are counted, the Lot or Lots upon which such Residential Units are situated shall not be counted. Provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices to Members. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, 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 mailing.

Section 3. Enforcement. Enforcement of these Covenants and Conditions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant or Condition, either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants; and failure by the Association or any Owner to enforce any Covenant or Condition herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these Covenants or Conditions by judgment or court order shall in no wise effect any other provision which shall remain in full force and effect.

Section 5. Notices to Association. Any notice to the Association shall be deemed to have been properly sent when hand delivered or mailed by certified mail, return receipt requested to the sitting President or Treasurer. Any notice to the Architectural Control Committee shall be deemed to have been sent on the day it is personally delivered to any sitting member of the Architectural Control Committee or mailed by certified mail, return receipt requested to Architectural Control Committee, Chimney Hill Improvement Association, in care of Kathy Lees, 200 Lampwick Circle, College Station, Texas 77840, or the current President or Treasurer of the Association, or such other address as may be recorded in the Official Records of Brazos County, Texas.

