

Lot shall be entitled to only one (1) vote except as provided for in Section 8.2 and Section 15.6 herein.

(p) “Phase” shall mean and refer to each separately developed residential area or addition as set forth and more fully described on a Final Plat depicting real property that has been subjected to the Declaration.

(q) “The Enclave at the Lakes of Prosper.” or “Property” shall mean and refer to the real property described on Exhibit A, any improvements now or hereafter situated thereon, and any and all additional real property (and the improvements thereon) which Declarant hereafter subjects to this Declaration, in accordance with Article XIV hereof.

(r) “Supplemental Declaration” shall mean a recorded instrument which accomplishes one or more of the following purposes: (i) subjects additional real property to this Declaration, or (ii) imposes, expressly or by reference, additional restrictions, covenants, easements and/or rights and obligations on the land described.

ARTICLE II CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 2.1 Residential Use.

The Property shall be used for single-family residential purposes and home office only. No building or other structure 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 exceed three (3) stories in height, and a private garage as provided below. Any building or structure to be placed or constructed on a Lot is subject to approval in writing by the Architectural Control Committee under Article III.

Section 2.2 Single-Family Use.

Each residence may be occupied only by persons living and cooking together as a single housekeeping unit, together with any household employees. Except for families consisting of persons related by blood, adoption, or marriage, no more than two persons per bedroom may occupy the same dwelling on a regular and consistent basis.

Section 2.3 Garage Required.

Each residence shall have an enclosed garage and shall conform to the requirements set forth in the Design Guidelines. The garage shall conform in design and materials with the main structure.

Section 2.4 Driveways.

All driveways shall be surfaced with concrete.

Section 2.5 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, storage building, trailer or mobile home of any kind or any improvement of a temporary character shall be permitted on any Lot except (i) children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, which may be placed on a Lot subject to approval in accordance with Article III and provided no part of any such structure is visible from any front or side street, and (ii) 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 on that Lot or on a different Lot as agreed to between the Builder or contractor and Declarant and/or as otherwise set out in the Design Guidelines. 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) Except as otherwise provided in this Section, no vehicle may be parked or left upon any portion of a Lot except in a garage or on a driveway. Except as provided below, the following vehicles may not be parked on any street within The Enclave at the Lakes of Prosper and may be parked only in an enclosed garage or on a driveway which is accessed by an alley (provided there is at least one (1) additional space outside of the garage for parking in the rear of the Lot and provided such vehicles are twenty feet (20') or less in length): recreational vehicles, mobile homes, trailers, campers, stored vehicles, trucks with tonnage in excess of one (1) ton, commercial vehicles (including all vehicles with commercial lettering or logos), and unlicensed or inoperable vehicles. "Sports utility vehicles" and "mini-vans" (as such vehicles are commonly referred to, as determined in the Board's discretion) and pick-up trucks without commercial writing or logos shall be treated as automobiles and may be parked outside of enclosed garages. Boats may be kept or stored in a side or rear yard on a Lot if completely concealed from the view of any street (other than an alley). This Section shall not apply to parking, for purposes of emergency vehicle repairs or to construction, service, and delivery vehicles for periods necessary to perform the services or make a delivery.

Notwithstanding the above, for purposes of cleaning, loading, unloading [for a period of 24 hours prior to departure and upon return from a trip], and short-term and visitor parking, any vehicle may be parked outside of an enclosed garage temporarily and irregularly to accommodate such use. The Board, in its discretion, may enact additional rules governing such temporary, irregular use or, in the absence of specific rules, shall have discretion in determining what constitutes permissible parking under such circumstances.

As used in this Section, the term "vehicles" includes, without limitation, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles.

(c) No vehicle of any size which transports flammable or explosive cargo may be kept or parked on the Property at any time, except for use by or on behalf of Declarant in connection with the development of the Property or by a builder or contractor in connection with the construction of improvements on a Lot.

(d) No animals or livestock shall be raised, bred or kept on the Property for commercial purposes or for food. Dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, constitute a nuisance to the occupants of other Lots shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may, at its sole discretion, remove or otherwise provide for the removal of the pet. Notwithstanding anything contained herein to the contrary, the Board in its sole discretion and without incurring any further duty or obligation to owners and occupants within the Property, may decide to take no action and refer complaining parties to the appropriate municipal or governmental authorities for handling and final disposition. Pets shall be kept on a leash or otherwise confined inside a fenced area whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law and must be properly tagged for identification. It is the Owner's responsibility to keep the front of their Lot clean and free of pet debris and to pick up and properly dispose of their pet's waste wherever deposited. Notwithstanding anything seemingly herein to the contrary, no more than three (3) household pets will be permitted on each Lot.

(e) No Lot or other area on the Property shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind, including, without limitation broken or rusty equipment, disassembled or inoperative cars, other vehicles or discarded appliances and furniture. Trash, garbage or other waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or 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.

(f) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any wall or window of a residence. All air-conditioning equipment must be installed in the rear yard or on the side yard.

(g) The erection, construction, placement or installation of any television, radio or other electronic tower, serial, antenna, satellite dish or device of any type for the reception or transmission of radio or television broadcast signals or other means of communication upon a Lot or upon any improvement thereon is prohibited, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae.

To the extent that reception of an acceptable signal would not be impaired or the cost of installation would not be unreasonably increased, an antenna permissible pursuant to the Declaration or the rules of the Association may only be installed in a side or rear yard location, not visible from the street or neighboring property, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations, including zoning, land-use and building regulations.

(h) No Lot or improvement thereon shall be used for commercial or manufacturing purposes of any kind other than a small home office. Nothing in this subparagraph shall prohibit a builder's use of a residence as a sales office until such builder's last residence on the Property is sold and closed. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as a small home office, tutoring or giving lessons such as art or music, so long as such activities are consistent with the residential character of the Property, do not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of others within the Property, as determined in the Board's discretion, and do not materially increase the number of cars parked on the street.

(i) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three feet (3') and six feet (6') 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 feet (10') from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. 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.

(j) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment which specifically conform with the Design Guidelines and the requirements of Section 2.5 (a) herein, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.

(k) No sign of any kind shall be displayed to the public view on any Lot, except: (i) political signs which may be placed on the Lot no earlier than six (6) weeks prior to an election and which must be removed within two (2) weeks after the election for which such sign is displayed; (ii) one (1) professional security service sign of not more than one square foot; (iii) one (1) sign of not more than five square feet advertising the property for rent or sale during any period that the Lot actually is for rent or sale; or (iv) signs used by a Builder to advertise the Property during the construction and sales period, each of which shall, in any event, comply with all statutes, laws or ordinances governing same. The Board of Directors or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or otherwise in connection with such removal.

(l) The drying of clothes in public view is prohibited.

(m) Wood used for fireplace, barbeque, or other use must be stacked neatly and screened from public view. The Owner is responsible for ensuring that such wood stack is kept free of rodents.

(n) No Owner shall perform, fail to perform, or permit anything to be done or not done on such Owner's Lot which would violate any laws, statutes, ordinances or regulations of any kind or character.

Section 2.6 Minimum Floor Area.

The total air-conditioned living area of the main residential structure constructed on each Lot, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall in accordance with the City of Prosper Zoning and Subdivision Regulations but in no event shall be less than 1,800 square feet.

Section 2.7 Fences and Walls.

Any fence or wall must be constructed of masonry, brick, wood, or other material approved by the Declarant or the ACC. No chain link fences are permitted except on the Common Properties or any school property. No fence or wall shall be permitted to extend nearer to any street than the front of any residence. However, all side yard fencing on corner Lots shall run parallel to the curb and may be placed no nearer than five feet (5') inside the side Lot line and shall not extend beyond a point of five feet (5') behind the front of the residence on that side. Fences or walls erected by Declarant shall become the property of the Owner of the Lot on which the same are erected and as such shall be maintained and repaired by such Owner except as is provided in Article IV and Article IX. Any fence or portion thereof that faces a public street shall be so constructed so that all structural members and posts will be on the side of the fence facing away from the street so that they are not visible from any street. No portion of any fence shall extend more than six feet (6') in height.

Section 2.8 Building Materials.

The building materials to be used for each residence and other structure must conform to the requirements set out in the Design Guidelines. Allowed roofing materials shall be set forth exclusively in the Design Guidelines. The color of roofing shall be consistent throughout The Enclave at the Lakes of Prosper and shall otherwise conform to the Design Guidelines.

Section 2.9 Mailboxes and Address Blocks.

Mailboxes shall be standardized throughout The Enclave at the Lakes of Prosper and shall be constructed in accordance with the Design Guidelines. An address block shall be installed on the front facade or mailbox of each residence.

Section 2.10 Landscaping.

Each Builder of a residence upon each Lot shall, upon or before the first occupancy of a house, sod grass in the front and sideyards, plant the minimum size and number of trees and minimum size and number of shrubs in the front yard against the foundation of the house as required by either the Design Guidelines. Thereafter, each Owner of a Lot shall have the

responsibility to properly maintain such trees and landscaping and, if necessary, shall replace such trees or landscaping in accordance with the Design Guidelines. The Declarant and/or the Association shall have the right but not the obligation, to be exercised at its sole option, to remove and replace dead trees and landscaping and charge the costs thereof to the Owner's account as a special individual assessment under Section 10.7 below.

Section 2.11 Design Guidelines.

In addition to any requirements set forth in this Declaration, all Owners are required to comply with the Design Guidelines in the construction of improvements within the Property and the installation, maintenance and replacement of trees and landscaping within the Property.

Section 2.12 Detention Pond.

The Property and Lots are subject to a Detention Pond and Drainage Easement Maintenance Agreement between TREJAX LP and CADG Prosper Lakes North, LLC, dated April 25, 2013, recorded on April 30, 2013, as Document No. 20130430000585200 in the Official Public Records, Collin County, Texas.

**ARTICLE III
ARCHITECTURAL CONTROL**

Section 3.1 Review Authority.

(a) General. Declarant and the Association will, in all likelihood engage the services of third-party professionals including architects, engineers, or other persons to perform and administer the submission, review and inspection process which may be required or necessary under this Article. Declarant reserves the right to implement and enforce additional application, permitting, review, testing and inspection requirements and procedures not contained herein relating to national or uniform codes pertaining to building, electrical, plumbing and any other aspect of construction or development as deemed necessary by Declarant.

(b) Declarant. Declarant shall have exclusive authority to administer, review and act upon all applications for architectural and other improvements within the Property until all planned Lots have been conveyed to persons other than Declarant or a Builder and have been improved with a dwelling for which a certificate of occupancy has been issued, unless Declarant earlier terminates its rights in a recorded instrument. Declarant may designate or engage one or more persons or entities to act on its behalf with respect to some or all matters coming within the purview of this Article III. In reviewing and acting upon any request for approval, Declarant or its designee act solely in Declarant's interest and owe no duty to any other person. Declarant is not required to hold meetings or keep minutes relating to its review under this Article.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to any other person, entity or committee, including the Architectural Control Committee. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior

jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(c) Architectural Control Committee. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ACC, shall assume jurisdiction over architectural matters. The ACC shall consist of at least three persons. Members of the ACC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The ACC members shall be designated, shall serve, and may be removed and replaced in the Board's discretion.

For so long as Declarant owns any portion of the Property (and unless the Declarant notifies the ACC in writing to the contrary), the ACC shall notify Declarant in writing, no less than thirteen (13) business days prior to communicating any action (*i.e.*, approval, partial approval, or disapproval) it intends to take under this Article. A copy of the application and any additional information that Declarant may require shall accompany the notice. During such time, Declarant shall have the right, in its sole and absolute discretion, to veto any ACC action; provided, Declarant's right to veto must be exercised within ten (10) business days after it receives notice of the ACC's proposed action. The party submitting the plans for approval shall not be notified of the ACC's proposed action until after Declarant's right to veto has expired.

The Board may create and appoint subcommittees of the ACC. Subcommittees may be established to preside over particular areas of review (*e.g.*, landscape plans) and shall be governed by procedures the Board or the ACC may establish. Any subcommittee's actions are subject to review and approval by Declarant, for as long as Declarant may review the ACC's decisions, and the ACC. Notwithstanding the above, neither the ACC nor Declarant shall be obligated to review all actions of any subcommittee, and the failure to take action in any instance shall not be a waiver of the right to act in the future.

Unless and until such time as Declarant delegates any of its reserved rights to the ACC or Declarant's rights under this Article expire or terminate, the Association shall have no jurisdiction over architectural matters.

(d) Reviewer. The entity having jurisdiction in a particular case, whether Declarant or its designee or the ACC, shall be referred to as the "Reviewer".

(e) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and shall require that such fees be paid in advance. If such fees or charges, including those set forth under Section 3.3 below, are not paid in advance, the Reviewer shall have no obligation whatsoever to review any such related application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Board may include the compensation of such persons in the Association's annual operating budget.

Section 3.2 Review Requirements.

No building, wall, pool or other structure (except fences) shall be commenced, erected, installed, placed, or substantially altered on any Lot, nor shall any exterior painting (other than repainting a structure the same or similar color) of, exterior addition to, or substantial alteration of, such items be made until all plans and specifications and a plot plan have been submitted to and approved in writing by the Reviewer.

The Reviewer is authorized and empowered to consider and review any and all aspects of construction and landscaping which may, in the reasonable opinion of the Reviewer, adversely affect the living enjoyment of one (1) or more Owners or the general value of the Property.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed exterior design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to judicial review so long as they are made in good faith and in accordance with the required procedures.

Section 3.3 Procedure for Approval.

PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION BY ANY PERSON OR ENTITY, THE BUILDER SHALL OBTAIN FROM THE REVIEWER A BUILDING PERMIT AND SHALL PAY, IN ADVANCE, ANY RELATED INSPECTION FEES AND FEES OWING OR TO BE OWED AS DETERMINED BY THE REVIEWER. THIS REQUIREMENT NOT ONLY APPLIES TO ORIGINAL CONSTRUCTION BUT TO POOL INSTALLATIONS, MODIFICATIONS OR ADDITIONS TO EXISTING STRUCTURES OF IMPROVEMENTS. FAILURE TO OBTAIN SUCH PERMIT OR PAY SUCH FEES PRIOR TO INITIATION OF CONSTRUCTION SHALL BE CAUSE FOR THE REVIEWER OR THE ASSOCIATION TO REQUEST AND OBTAIN EMERGENCY TEMPORARY RELIEF TO RESTRAIN ALL ASPECTS OF CONSTRUCTION.

In addition to the foregoing requirement, final plans and specifications shall be submitted in duplicate by certified mail, return receipt requested or hand delivery to the Reviewer. The plans and specifications shall show the nature, kind, shape, height, materials and location of all landscaping and improvements. The application shall specify in writing any requested variances from the requirements set forth in this Declaration, the Design Guidelines or any Community-Wide Standard. The Reviewer is authorized to request the submission of samples of proposed construction materials and such other information as they reasonably deem necessary to make their determination. At such time as the plans and specifications meet the approval of the Reviewer, one complete set of plans and specifications will be retained by the Association, for up to three (3) years only, and the other complete set of plans shall be marked "Approved", signed by a representative of the Reviewer and returned to the Lot Owner or his designated representative. If disapproved by the Reviewer, 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 representative of the Reviewer. Any modification of the approved set of plans and specifications must again be submitted to the Reviewer for its approval. The Reviewer's approval or disapproval, as required herein, shall be in writing. Any reliance upon a verbal approval of any plans by the Reviewer shall be wholly unjustified, at the risk of the Lot Owner and subject to any subsequent or otherwise conflicting written response by the Reviewer.

If the Reviewer fails to approve or disapprove any such plans and specifications or modification thereto within thirty (30) business days after the date of submission of all information the Reviewer requires, the submission shall be deemed to have been denied. Any Builder who is constructing residences on multiple Lots shall have the option of submitting a master set of final plans and specifications for all of the residences it intends to construct within the Property to the Reviewer in accordance with the provisions of this paragraph. Once the master set of plans has been approved, the Builder shall be allowed to construct residences in accordance with such approved plans and no further submittals shall be required unless material deviations have been made to such approved plans.

The Reviewer may, but is not obligated to, permit or require that plans be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission stage.

As part of any approval, the Reviewer may require that construction in accordance with approved plans commence within a specified time period. If construction does not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities. Once commenced, construction must be diligently pursued to completion. All construction work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action.

Also as a part of the review process, the Reviewer may require that the construction of any improvement be inspected on a periodic basis prior to completion for compliance with the plans, codes adopted by the Declarant and other matters relating to the quality or method of construction. The Association may conduct such inspections or, in the alternative, it may contract with third parties for such purposes. The Owner on whose Lot the construction is taking place shall be responsible for the payment of costs relating to any such inspection.

Section 3.4 Standards.

The Reviewer shall have sole discretion with respect to taste, design and all standards specified herein. One objective of the Reviewer is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built on the Property. The Reviewer shall have the authority to interpret and amend the Design Guidelines, subject to Declarant's approval for so long as Declarant or any Builder owns any portion of the Property and, thereafter, subject to the approval of the Board. The Reviewer 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.

Section 3.5 Requests for Variance.

Upon submission of a written narrative request for same, the Reviewer may, from time to time, in its sole discretion, permit Owners and Builders to construct, erect or install improvements which are in variance from the requirements of this Declaration or which may be contained in the Design Guidelines. In any case, however, such variances shall be in basic conformity and shall blend effectively with the general architectural style and design of the community. No member of the ACC or the Board, or the Association or Declarant shall be liable to any Owner or other person claiming by, through, or on behalf of any Owner, for any claims, causes of action, or damages arising out of the granting or denial of, or other action or failure to act upon, any variance request by any Owner or any person acting for or on behalf of any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Reviewer's right to strictly enforce the Declaration, the Design Guidelines or the against any other Owner. Each such written request must identify and set forth in narrative detail the specific restriction or standard from which a variance is sought and describe in complete detail the exact nature of the variance sought. Any grant of a variance by the Reviewer must be in writing and must identify in narrative detail both the standard from which a variance is being sought and the specific variance being granted.

Section 3.6 Liability of Reviewer.

Neither Declarant, the Board of Directors, the Architectural Control Committee, or any of their respective members, officers, employees, designees, contractors, administrators, inspectors and agents, shall have any liability whatsoever for decisions made in accordance with this Article so long as such decisions are made in good faith and are not arbitrary or capricious. The plans or the site plan submitted to the Reviewer shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Reviewer shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Declaration, or any codes, ordinances, regulations or other laws, whether statutory or not, and whether the same relate to Lot lines, building lines, easements or any other issue. Review and approval of any plans pursuant to this Article may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

THE ASSOCIATION HEREBY UNCONDITIONALLY AND PERPETUALLY INDEMNIFIES AND HOLDS DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, AND THEIR RESPECTIVE MEMBERS, EMPLOYEES, DESIGNEES, ADMINISTRATORS, INSPECTORS, CONTRACTORS, AND AGENTS HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITIES, LOSS, DAMAGE, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, IN CONNECTION WITH OR ARISING OUT OF ANY ACTIONS OR INACTIONS

TAKEN HEREUNDER BY THE REVIEWER, IRRESPECTIVE OF WHETHER OR NOT THE REVIEWER, ITS EMPLOYEES, CONTRACTORS, AGENTS AND OTHER INDIVIDUALS OR ENTITIES TO OR EMPLOYED BY THE REVIEWER ACTED NEGLIGENTLY OR WITH WILLFUL MISCONDUCT.

Section 3.7 Special Rights of Declarant.

Notwithstanding anything to the contrary contained herein, any Lot owned by Declarant or its successor or assign, shall not be subject to the provisions of this Article III and Declarant shall not be required to submit plans and specifications, etc. to the Architectural Control Committee nor obtain the consent, permission or approval of the Architectural Control Committee for the matters otherwise required pursuant to this Article III, and the consent, permission or approval of the Architectural Control Committee shall be deemed given for plans and specifications, plot plans and the like to be used by Declarant, or Declarant's assigns, in the construction of any residence on any Lot owned or sold to a Builder by Declarant. **DECLARANT ALSO RETAINS SPECIAL AND UNIQUE RIGHTS AND PRIVILEGES IN ARTICLE XII THAT TAKE PRECEDENCE OVER ALL OTHER ARTICLES OR SECTIONS IN THIS DECLARATION.**

**ARTICLE IV
SPECIAL FENCING AND LANDSCAPING**

Section 4.1 Fences, Walls and Screening Landscaping.

Declarant and/or the Association shall have the right, but not the obligation, to erect, install, maintain, repair and/or replace fences, walls and/or screening landscaping within that portion of any Lot situated along the perimeter of the Property or on Lots adjacent to Common Properties, as shown on a Final Plat. Any such fence, wall or sprinkler system shall be the property of the Owner of the Lot on which such fence, wall or sprinkler system is erected or installed, subject to the easements and rights of Declarant and the Association set forth below. With respect to any fencing installed within a Lot that is adjacent to a thoroughfare, the Association shall have the exclusive right to stain the exterior of such fence facing the thoroughfare whenever, in the Board's sole and absolute discretion, it deems necessary. The Design Guidelines shall contain all construction and materials requirements for the walls adjacent to the Common Properties and any thoroughfare.

Section 4.2 Landscaping.

Declarant and/or the Association shall have the right to grade, plant and/or landscape and maintain, repair, replace and/or change such grading, planting and landscaping on any portion of the Property not comprising any portion of a Lot and, without limitation whatsoever, to do all things necessary within the Property to obtain full compliance with applicable City ordinances.