

59669

1983-221

AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS

COUNTY OF COLLIN

This Declaration is made on the date hereinafter set forth by General Homes Corporation, a Texas corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain property in Heatherwood I, more particularly described as follows:

Being all of Lots 16-29, 31, 32, 34, 35, Blk. G; Lots 21-28, 30-35, 37-50, Blk. H; Lots 1-7, 9-16, Blk. I; Lots 2-13, Blk. J; out of Heatherwood I, an addition ("Addition") to the City of Plano, as recorded by that certain Plat ("Plat") in Cabinet D, Page 91, of the Plat Records of Collin County, Texas, and

WHEREAS, Declarant is also the owner of that certain property in Heatherwood II, more particularly described as follows:

Being all of Lots 2-15, Blk. A; Lots 1-24, Blk. B; Lots 1-4, Blk. C; Lots 1-8, Blk. D; Lots 1-32, 34-42, Blk. E; Lots 1-23, 25-49, Blk. F; Lots 1-6, 8-10, Blk. G; Lots 1-39, Blk. H; Lots 1-18, Blk. I; out of Heatherwood II, an addition ("Addition") to the City of Plano, as recorded by that certain Plat ("Plat") in Cabinet D, Page 192, of the Plat Records of Collin County, Texas.

WHEREAS, it is the desire of Declarant to place certain covenants, conditions, restrictions, stipulations and reservations upon and against the Property (hereinafter defined) in order to establish a uniform plan for the development, improvement and sale of such Property, and to insure the preservation of such uniform plan for the benefit of both the present and future Owners (hereinafter defined) of Lots in the Addition;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the Lots, and declares the following covenants, conditions, restrictions, stipulations and reservations (collectively, the "Restrictions") applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property, and all of which shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall insure to the benefit of each Owner thereof.

#### ARTICLE I

##### DEFINITIONS

Section 1. "ACC" shall mean and refer to the Architectural Control Committee.

Section 2. "City" shall mean and refer to the City of Plano, Texas.

Section 3. "FHA" shall mean and refer to the Federal Housing Administration.

Section 4. "GHC" shall mean and refer to General Homes Corporation.

Section 5. "Lot" shall mean and refer to any lot of land in the Addition.

Section 6. "Owner" shall mean and refer to the record owner, including contract sellers and whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, but excluding those persons or entities having such interest merely as security for the performance of an obligation.

Section 7. "Property" shall mean and refer to any (or all of the) Lot(s) in the Addition, subject to the Restrictions set forth herein and in the Plat of the Addition, and any additional Property made subject to the terms hereof pursuant to the provisions set forth herein.

Section 8. The "Association" shall mean and refer to the Heatherwood of Plano Homeowner's Association.

Section 9. "VA" shall mean and refer to the Veterans' Administration.

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ARTICLE II

RESERVATIONS, EXCEPTIONS AND DEDICATIONS

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Section 1. Recorded Plat of the Addition. The recorded Plat dedicates for use, subject to the limitations set forth therein, the streets and easements shown thereof, and such recorded Plat further establishes certain restrictions applicable to the Addition including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the recorded Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by or on behalf of any Lot Owner conveying such Property or any part thereof, whether specifically referred to therein or not.

Section 2. Easements. Declarant reserves for the public use the easements and rights-of-way as shown on the recorded Plat for the purposes of constructing, maintaining and repairing a system or systems of streets, alleys, electric light, electric power, telegraph, telephone, water distributions, sewers, cable television, garbage collection or any other utility Declarant sees fit to install in, across and/or under the Property. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements, but such changes and additions must be approved, if required, by the City, FHA and VA. Neither Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, or employees, to fences, shrubbery, trees, flowers or any other improvements on the land covered by such easements.

Section 3. Title Subject to Easements. It is expressly agreed and understood that the title conveyed by any Lot Owner to any of the Property, by contract, deed or other conveyance, shall be subject to any easement affecting same for streets, alleys, electric light, electric power, telegraph, telephone, water distribution, sewers, cable television, garbage collection, or other purposes. The Owners of the respective Lots shall not be deemed to separately own pipes, wires, conduits or other service lines running through their property which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

ARTICLE III

USE RESTRICTIONS

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Section 1. Single Family Zero Lot Line Residential Construction. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single family zero lot line dwelling used for residential purposes only, and not to exceed two (2) stories in height. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots, or the use of such Lots for garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind, with the exceptions of one for lawn equipment storage, children's playhouses, or other uses that may be approved by the Architectural Control Committee ("ACC"), shall ever be moved onto any Lot within the Addition. A minimum of fifty percent (50%) of the first floor wall area to the top of the first floor window height and exclusive of openings shall be masonry, masonry veneer, or stucco construction unless otherwise approved in writing by the ACC, or unless further restricted by City ordinances.

Section 2. Minimum Square Footage within Improvements. The Lots are restricted to a detached zero lot line dwelling with a minimum of one thousand two hundred (1,200) square feet of livable area, exclusive of open porches and garages or carports, unless further restricted by City ordinances.

Section 3. Sidewalks. A concrete sidewalk four (4) feet wide shall be constructed along the fronts of all lots. In addition thereto, four (4) foot wide sidewalks shall be constructed along the entire side of all corner lots. Sidewalks shall be constructed in conformance with City, FIA and VA specifications and regulations, and the plans for each residential building on each Lot shall include plans and specifications for such sidewalks, and the same shall be constructed and completed before the main residence is occupied.

Section 4. Location of the Improvements upon the Lot. No structure shall be located on any Lot nearer to the front line or nearer to the street side line than

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the minimum building setback line shown on the recorded plats or replats, unless approved by the City and the ACC. Subject to the provisions of Section 5 below, one wall of the building, carport or garage shall be located on one side lot line on interior lots if the dwelling is a single-family detached zero lot line dwelling. However, this wall shall not have any windows, doors, or other such related openings. The other wall of the building, carport, or garage shall be a minimum of ten (10) feet to an interior lot line or ten (10) feet to an exterior lot line on a corner lot. In no instance shall a building be located nearer than twenty (20) feet to the front property line or nearer than (10) feet to the rear property line. For the purposes of this covenant, eaves, steps and unroofed terraces shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot.

Section 5. Composite Building Site. Subject to the approval of the ACC, any Owner of one or more adjoining Lots or portions thereof may consolidate or redivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case the front footage at the building setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the recorded Plat. Any such resulting building site must have a frontage at the building setback line of not less than forty-four (44) feet and must be approved by the City through replatting. Notwithstanding anything herein, any applicable City ordinances supersede, where applicable, these restrictions.

Section 6. Prohibition of Offensive Activities. No activity, whether for profit or not, shall be conducted on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood. This restriction is waived in regard to the normal sales activities required to sell homes in the Addition and the lighting effects utilized to display the model homes.