

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

### Preamble

This Declaration of Covenants, Conditions, and Restrictions is made on July 25, 2000, at San Angelo, Tom Green County, Texas, by CITY OF SAN ANGELO, a Texas municipal corporation ("Declarant"), whose mailing address is P.O. Box 1751, San Angelo, Texas 76902-1751.

### Recitals

1. Declarant is the owner of all that certain real property ("the Property") located in Tom Green County, Texas, described as follows: See Exhibit "A", attached hereto and incorporated by reference.

2. The Declarant has devised a general plan for the entire Property as a whole, with specific provisions for particular parts and parcels of the Property. This general plan provides a common scheme of development designed to protect and safeguard the Property over a long period.

3. This general plan will benefit the Property in general, the parcels and lots that constitute the Property, the Declarant, and each successive owner of an interest in the Property.

4. Therefore, in accordance with both the doctrines of restrictive covenant and implied equitable servitude, the Declarant desires to restrict the Property according to these covenants, conditions, and restrictions in furtherance of this general development plan.

NOW, THEREFORE, it is declared that all of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions.

### ARTICLE 1

#### Definitions

1.01. "Association" means the entity consisting of all Owners of the Property. Each Owner shall become a member of the Association contemporaneously with acquiring a Lot, without any further documentation of any kind.

1.02. "Board" means the Board of Directors of the Association.

1.03. "Developer" means Declarant and its successors and assigns.

1.04. "Director" means a person who is a member of the Board.

1.05. "Lot" means any of the plots of land shown on the plat and subdivision map recorded in Cabinet E, Slides 148 -149, 153 -156, 159-160, 166-172, and 181-183, Plat Records of Tom Green County, Texas (the "Map"). Developer may add or annex additional real property (from time to time) to the property subject to this Declaration provided said property borders Lake Nasworthy or any canal connected to Lake Nasworthy, by filing of record in Tom Green County, Texas a Supplemental Declaration of Covenants, Conditions and Restrictions which shall extend this Declaration of Covenants, Conditions and Restrictions to said property.

1.06. "Owner" means the record owner or owners of the fee simple title to any Lot or portion of a Lot in the Property. "Owner" includes contract sellers and any holder of a lease

from the City of San Angelo to any Lot or portion of a Lot in the Property who has voluntarily elected in writing to join the Association and to subject the leasehold estate to these Covenants, Conditions and Restrictions. "Owner" excludes persons having only a security interest and the City of San Angelo.

## ARTICLE 2

### Architectural Control

**2.01. Architectural Control Committee.** The Association shall designate and appoint an Architectural Control Committee consisting of not less than five (5) directors, who shall serve at the pleasure of the Association.

**2.02. Approval of Plans and Specifications.** A majority of the Architectural Control Committee must review and approve in writing all of the following projects on the Property:

(a) Construction of any building, fence, wall, satellite disk, exterior antenna (including, but not limited to, ham radio antennas), or other structure.

(b) Any exterior addition, change, or alteration in any building, fence, wall, or other structure.

(c) Any landscaping involving plant or materials over four feet (4') in height or grading of any Lot or Lots.

**2.03. Application for Approval.** To obtain approval to do any of the work described in Paragraph 2.02, an Owner must submit an application to the Architectural Control Committee showing the plans and specifications for the proposed work. Such plans and specifications shall detail the nature, shape, height, materials, colors, and location of the proposed work.

**2.04. Standard for Review.** The Architectural Control Committee shall review applications for proposed work in order to (1) ensure conformity of the proposal with these covenants, conditions, and restrictions and (2) ensure harmony of external design in relation to surrounding structures and topography. An application can be rejected for providing insufficient information. The Committee shall have broad, discretionary authority to interpret and apply these standards. In rejecting an application, the Committee should detail the reasons for rejection and suggest how the applicant could remedy the deficiencies.

**2.05. Failure of Committee to Act.** If the Architectural Control Committee fails either to approve or reject an application for proposed work within thirty (30) days' after submission, then Committee approval shall not be required, and the applicant shall be deemed to have fully complied with this Article.

**2.06. Right of Appeal.** Any Owner whose application has been rejected in whole or in part shall have a right to appeal such decision to the full Board following such procedures as the Board may adopt.

## ARTICLE 3

### Exterior Maintenance

**3.01.** If an Owner of any Lot fails to maintain the premises in a neat and orderly manner, the Architectural Control Committee shall have the right (but not the obligation) and after reasonable notice to the Owner, through its agents and employees, to enter the Lot in order to repair, maintain, and restore the Lot, including landscaping, and the exterior of any buildings and other improvements located on the Lot, all at the expense of the Owner.

## ARTICLE 4

### Use Restrictions and Architectural Standards

**4.01. Property Use.** All Lots must comply with City zoning ordinances.

**4.02. Type of Buildings Permitted.** No dwelling, exclusive of accessory buildings incidental to and used in connection with the dwelling, shall be erected, altered, or permitted on any Lot other than one detached dwelling. No building on any Lot shall exceed thirty five feet (35') in height from ground elevation.

Only new construction may be placed upon the Lots. No trailer, trailer-house, manufactured home, or mobile home shall be placed on any Lot for residential purposes.

**4.03. Setbacks.** No building shall be located on any Lot nearer than seventy five feet (75'), or in the case of Lots located on a canal, fifty (50'), measured horizontally from standard Lake elevation 1,872.2 feet (above mean sea level NAD 27) of Lake Nasworthy unless said building is an open-sided boathouse or structure or is four feet (4') or less in height and otherwise complies with City zoning requirements.

No building shall be located closer to front, side or rear property lines than allowed by City zoning requirements. For purposes of enforcing those requirements, front property lines shall be the property line(s) most closely opposite the shoreline, and side property lines shall be those property line(s) intersecting the shoreline.

The above setback lines shall not apply to existing structures for which a variance was previously granted by the Lake Board, Zoning Board of Adjustment or City Council of the City of San Angelo. For purposes of this covenant, eaves, steps, and uncovered porches shall not be considered as a part of the building.

**4.04. Resubdivision.** No Lot shall be resubdivided.

**4.05. Easements.** An access and flowage easement, a blanket avigation easement, and a blanket easement for maintenance of existing utility lines and drainage facilities are reserved in Developer's Deed to Owner and are further shown on the Map. No utility company, water district, political subdivision, or other authorized entity using these easements shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, flowers, or to other property of the Owner situated in these easements. Owner shall be responsible for maintaining all easements, including but not limited to Lake Nasworthy shoreline, and any costs incurred in connection with said maintenance.

**4.06. Land near Lake Nasworthy.** No Lot shall be extended or enlarged by adding fill dirt, soil sediment or rock of any kind beyond the property lines as established by Developer's Deed to Owner.

**4.07. Noxious or Offensive Activities Prohibited.** No noxious or offensive activity, lighting or sound shall be permitted on any Lot that may be or may become an annoyance or nuisance to the neighborhood. No chemicals, petroleum products, sewage or other items specifically prohibited by any state or federal law shall be discharged onto the Lot or into Lake Nasworthy.

**4.08. Prohibited Residential Uses.** Unless approved for residential use by the Architectural Control Committee, a structure (including but not limited to trailers, mobile homes, motor homes, basements, tents, shacks, garages, and other outbuildings and accessory structures), shall not be used on any Lot at any time as a residence, either temporarily or permanently.

No camping, vacation or travel trailers, motor homes or other recreational vehicles, and no inoperative automobile, truck or other motor vehicle, may be kept or stored upon any Lot or between any Lot and the public street for a period longer than twenty (20) days, except in a garage or within a fenced area of the Lot, provided that the fence shall be constructed of such materials, and shall be of such a height as shall be sufficient to screen the stored property so that it is not visible from the street, Lake or other Lots.

**4.09. Oil Development and Mining Prohibited.** No oil well drilling, development, or refining, and no mineral quarrying or mining operations of any kind shall be permitted on any Lot. No oil well, tank, tunnel, mineral excavation, or shaft shall be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any Lot.

**4.10. Rubbish, Trash and Garbage.** No Lot shall be used or maintained as a storage area or dumping ground for rubbish, trash, or junk or inoperative vehicles. All garbage and other waste shall be kept in sanitary containers.

**4.11. Chemical Use and Storage.** No chemicals of any kind shall be stored nearer than seventy-five feet (75') measured horizontally from standard Lake elevation 1,872.2 feet (above mean sea level NAD 27) of Lake Nasworthy; provided however, gasoline for boat use may be stored therein in accordance with all laws, ordinances, rules and regulations, whether promulgated by the City of San Angelo, the State of Texas or the U.S. government.

The placement of propane gas tanks must meet all state and federal regulations and shall be appropriately landscaped to reduce visibility of the tank.

**4.12. Fences.** No fence in excess of four feet (4') in height shall be placed or permitted to remain, on any Lot nearer than seventy-five feet (75'), or, in the case of Lots located on a canal, fifty feet (50'), measured horizontally from standard Lake elevation 1,872.2 feet (above mean sea level NAD 27) of Lake Nasworthy unless a variance was previously granted by the Lake Board or City Council of the City of San Angelo.

No vine, shrubbery or other vegetation which may obstruct a view shall be allowed to grow where a privacy fence would be prohibited.

**4.13 Waiver.** The Architectural Control Committee shall have the right to grant a variance from the restrictions contained in paragraphs 4.03 and 4.12 provided it does not violate City zoning ordinances. Any variance shall be based upon an evaluation of Lot size, visibility, dimensions, grade elevation, natural drainage, water table depth and aesthetics. Prior to granting a variance, the Architectural Control Committee shall give fifteen (15) days' written notice to the adjoining Lot owners or leaseholders within 300 feet (300') of the Lot requesting the variance.

## ARTICLE 5

### Association

**5.01. Creation.** The Owners (as defined in Article I) shall constitute the Association. Each Owner of a Lot, excluding Developer, shall automatically be a member of the Association.

**5.02. Transfer of Membership.** Association membership can be transferred to the grantee of a conveyance of a Lot in fee. Membership shall not be assigned, pledged, or transferred in any other way. Any attempt to make a prohibited transfer shall be void.

**5.03. Management of Association.** The Association shall be incorporated as a nonprofit corporation. The Association shall be managed by the Board pursuant to the procedures set forth in the Association's articles of incorporation or bylaws, subject to this declaration.

**5.04. Membership Voting, Elections, and Meetings.** Each Owner (one Owner per Lot) shall have one vote. There shall be at least one meeting of the membership each year. At that meeting, the Owners entitled to vote shall elect a Board, vote on any other matters the Board chooses to place before the membership, and discuss any matter of Association business that the Board or any Owner wishes to bring before the entire membership. Written notice of the meeting date, place and agenda shall be given to each Owner.

**5.05. Duties and Powers of Board.** Through the Board, the Association shall have the following powers and duties:

(a) To adopt rules and regulations to implement this Declaration and the Association's bylaws.

(b) To enforce this Declaration, the bylaws, its rules and regulations.

(c) To elect officers of the Board and select members of the Architectural Control Committee.

(d) To delegate its powers to committees, officers, or employees.

(e) To prepare a balance sheet and operating income statement for the Association and deliver a report to the membership at its annual meeting.

(f) To establish and collect assessments as necessary to defray expenses attributable to the Association's duties, to be levied against each Owner, excluding Developer.

(g) To establish and collect special assessments for capital improvements or other purposes, including promoting the health, recreation, safety and welfare of the Owners and of carrying out the duties of the Association.

(h) To file liens against unit owners because of nonpayment of assessments duly levied and to foreclose on those liens.

(i) To receive complaints regarding violations of this Declaration, the bylaws, or the rules and regulations.

(j) To give reasonable notice to all Owners of all annual meetings of the membership and all discipline hearings.

(k) To hold regular meetings of the Board at least quarterly.

## ARTICLE 6

### General Provisions

**6.01. Enforcement.** The Developer or the Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by this Declaration. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

6.02. **Severability.** Invalidation of any one of these covenants or restrictions by Judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

6.03. **Covenants Running With the Land.** These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Lot, and each Lot Owner.

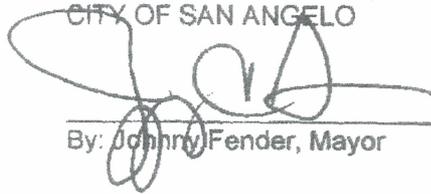
6.04. **Duration and Amendment.** The covenants, conditions, and restrictions of this Declaration shall be effective for a term of 20 years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for successive period of 10 years subject to termination by an instrument signed by more than 50 percent of the Owners. The covenants, conditions, and restrictions of this Declaration may be amended by an instrument signed by more than 66 percent of the Owners. Neither any amendment nor any termination shall be effective until recorded in the Official Public Records of Tom Green County, Texas, and all requisite governmental approvals, if any, have been obtained.

6.05. **Attorneys' Fees.** If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

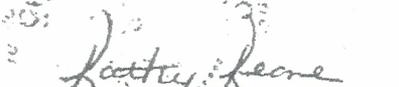
6.06. **Liberal Interpretation.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

This Declaration is executed this 6th day of December, 2000, at San Angelo, Tom Green County, Texas.

CITY OF SAN ANGELO

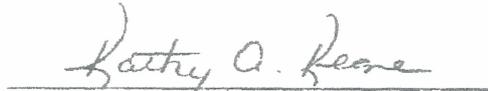
  
By: Johnny Fender, Mayor

ATTEST:

  
By: Kathy Keane, City Clerk

STATE OF TEXAS           §  
  §  
COUNTY OF TOM GREEN §

This instrument was acknowledged before me on the 6th day of December, 2000, by Johnny Fender, Mayor of the CITY OF SAN ANGELO, a Texas home-rule municipal corporation, on behalf of said corporation.

  
Notary Public, State of Texas

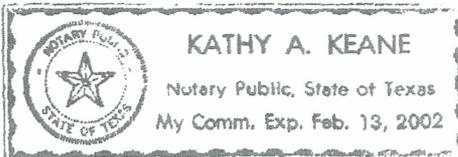


Exhibit "A"  
to  
Declaration of Covenants, Conditions, and Restrictions

This Declaration of Covenants, Conditions, and Restrictions, pertains to all of the real property situated in the Lake Nasworthy Addition, an addition to the City of San Angelo, Tom Green County, Texas, and further situated within the following Groups, according to the maps or plats of said addition recorded in the office of the County Clerk of Tom Green County, Texas: Groups 1, 2, 4, 7, 9, 10, 13, 14, 16, 20, Lincoln Park, Red Bluff, Fisherman's Road, and South Concho.

15<sup>00</sup> City  
Legal Dept

FILED FOR RECORD  
2000 DEC -6 PM 1:34  
JUDITH HAWKINS  
COUNTY CLERK  
COUNTY OF TOM GREEN, TEXAS

STATE OF TEXAS }  
COUNTY OF TOM GREEN }

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED in the Official Public Records of Real Property of Tom Green County, Texas on



DEC 07 2000  
*Judith Hawkins*  
JUDITH HAWKINS COUNTY CLERK  
TOM GREEN COUNTY, TEXAS