

3873

DECLARATION OF RESERVATIONS
HORSESHOE BAY APPLEHEAD ISLAND
A SUBDIVISION IN LLANO COUNTY, TEXAS

Declarant: Horseshoe Bay Applehead, Inc.
Date: July 18, 1983

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DECLARATION OF RESERVATIONS
HORSESHOE BAY APPLEHEAD ISLAND
COUNTY OF LLANO, TEXAS

This Declaration of Reservations ("Declaration") made this the 18th day of July, 1983, by Horseshoe Bay Applehead, Inc., a Texas corporation, having its principal office at Horseshoe Bay, Llano County, Texas ("Declarant").

WHEREAS, Declarant may at any time, and from time to time hereafter, commit, cause, or permit to be committed to this Declaration, certain land situated in Llano and Burnet Counties, Texas, as Declarant may elect in the exercise of its sole discretion; and

WHEREAS, in the event Declarant elects to commit, cause, or permit any such land to be committed to this Declaration, Declarant shall file, cause, or permit to be filed of record in Llano County, or in such other county in which the applicable land is situated, one or more plats meeting the formal requirements set forth in this Declaration; and

WHEREAS, this Declaration shall cover and be applicable only to such land which Declarant shall commit, cause, or permit to be committed to this Declaration by the filing of a plat or plats meeting the formal requirements set forth in this Declaration; and

WHEREAS, this Declaration shall not cover or be applicable to any land, including, without limitation, land now owned or hereafter acquired by Declarant, unless and until Declarant shall commit, cause, or permit the same to be committed to this Declaration by the filing of a plat or plats meeting the formal requirements set forth in this Declaration; and, in such event, this Declaration shall only cover and be applicable to the lands actually committed to this Declaration in such plat or plats and all prior and subsequent plats meeting the formal requirements hereof; and

WHEREAS, this Declaration shall never be deemed to obligate Declarant to commit, cause, or permit any land to be committed to this Declaration, unless and until Declarant, in the exercise of its sole discretion, elects to commit, cause, or permit the same to be committed hereto;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT Declarant hereby certifies and declares that Declarant has and does hereby establish as a general plan ("Plan") for the subdivision ("Subdivision") known as "HORSESHOE BAY APPLEHEAD ISLAND," the following conditions ("Conditions") for the protection, maintenance, development, and improvement of all land ("Subdivision Land") described in and covered by any plat or plats ("Plat" and/or "Plats"), which Declarant may at any time and from time to time hereafter file of record in Llano County, provided, each Plat shall meet the formal requirements ("Formal Requirements") set forth below:

I.

FORMAL REQUIREMENTS OF A PLAT

1.1 The Formal Requirements of a Plat filed under and pursuant to this Declaration and for the purpose of committing the land covered thereby to this Declaration are as follows:

(a) The Plat shall be executed by Declarant and/or any person or entity acting by, through, and under the authority of Declarant as set forth herein, and filed for record in Llano County and, if appropriate, any other county in which the land covered thereby is situated.

(b) The Plat shall contain the plat of a survey of the land covered thereby and shall be certified by a licensed public land surveyor or registered professional engineer of the State of Texas.

(c) The Plat shall contain the following legend:

"This Plat has been filed under and pursuant to that certain Declaration of Reservations ("Declaration") dated July 18, 1983 by Horseshoe Bay Applehead, Inc., a Texas corporation, which Declaration is filed in Llano County under County Clerk's File Number 3873 and is recorded in the Records of Llano County, Texas; and all land included in and covered by this Plat is hereby committed to the Declaration, which is incorporated herein by reference and made a part hereof for all purposes."

(d) The Plat shall subdivide the land covered thereby into one or more lots ("Lot" and/or "Lots"), which shall be restricted "R-1," "R-2," "R-4," and/or "C-2" or otherwise, as set forth in the Conditions of this Declaration; and/or into one or more tracts ("Tract" and/or "Tracts") which, subject to the provisions of Section 3.1 hereof, may be unrestricted at the time of filing of the Plat.

(e) The Plat may, but need not, dedicate to public or private use the applicable easements for roads, streets, or utilities, and any such dedication shall be in the sole discretion of Declarant.

(f) The Plat may, but need not, contain such other restrictions, limitations, and/or conditions as Declarant in its sole discretion deems advisable or appropriate and which do not otherwise conflict with this Declaration as same may be amended from time to time.

1.2 Any Plat meeting the Formal Requirements set forth above shall commit the land covered thereby to this Declaration, and such land shall then become and, subject to Section 3.1(f) and (h) of this Declaration, thereafter be part of the Subdivision Land, as herein defined.

1.3 All Subdivision Land shall be owned, held, leased, sold, and/or conveyed by Declarant, and any subsequent owner of all or any part thereof or any right, title, or interest therein, subject to this Declaration and the Conditions hereof. This Declaration and the Conditions hereof shall be binding upon and inure to the benefit of the Subdivision Land and/or any part thereof, including, without limitation, each and every Lot and/or Tract into which the same may be subdivided, and shall be binding upon and inure to the benefit of each and every Owner thereof, or any part thereof, or any right, title, or interest therein. This Declaration and the Conditions hereof shall constitute covenants running with the applicable Subdivision Land and/or any part thereof, including, without limitation, each and every Lot and/or Tract into which the same may be subdivided as provided herein, and shall constitute a mutual covenant and equitable servitude burdening each part of said Subdivision Land and inuring to the benefit of each other part thereof and burdening each Lot and/or Tract in favor of each other Lot and/or Tract.

1.4 The term "Owner" shall mean the owner of fee simple title to the Subdivision Land or any part thereof, including, without limitation, any Lot and/or Tract. The term Owner shall include Declarant if and to the extent Declarant is the owner of

fee simple title to the Subdivision Land or any part thereof including, without limitation, any Lot and/or Tract. In the event Declarant sells or conveys any Lot, Tract, or other part of the Subdivision Land pursuant to a vendor's lien deed, note, and deed of trust in a transaction wherein the cash down payment, if any, by the grantee is less than fifty percent (50%) of the total purchase price for said Lot, Tract, or other applicable part of the Subdivision Land, Declarant shall be deemed to be the Owner of the Lot or Land covered by said deed until the grantee, or the heirs, successors, assigns, or legal representatives of the grantee, shall have paid fifty percent (50%) of the purchase price, whereupon said grantee, or the heirs, successors, assigns, or legal representatives of the grantee, shall be deemed to be the Owner of said Lot, Tract, or other applicable part of the Subdivision Land.

1.5 As used herein, the term "Land" shall be synonymous with "Subdivision Land," and shall mean Lot and/or Tract, as the case may be.

II.

COMMITTEE OF ARCHITECTURE

2.1 Declarant shall appoint initially a Committee of Architecture ("Committee") consisting of three (3) members ("Members") who shall be natural persons.

2.2 The Members shall serve at the will of Declarant, and Declarant shall have the right and power at any time and from time to time to create and fill vacancies on the Committee.

2.3 Declarant shall have the right, at its election at any time, to transfer the power of appointment of the Committee to any person, association, or civic group. In such event, all rights and obligations of Declarant to appointment of the Committee shall thereupon terminate and shall thereafter be vested in the assignee of such power; provided, that in the event such assignee should at any time fail or refuse to exercise the power, Declarant shall have the right but not the duty to exercise the power of appointment of the Committee or to further assign the power of appointment.

2.4 It shall be the general purpose and duty of the Committee to provide for the maintenance of high standards of architecture and construction in the Subdivision in such manner as to enhance the aesthetic properties and structural soundness of the developed subdivision and to promote development in accordance with this Declaration.

2.5 The Committee shall be guided by and, except when in their sole discretion unique circumstances and good planning would dictate to the contrary, controlled by this Declaration. The judgment of the Committee shall be final, conclusive, and binding.

2.6 The Committee shall make available a copy of this Declaration to any Owner upon request, at the expense of such Owner.

2.7 The Committee shall determine whether the Conditions contained in this Declaration are being complied with; however, no act, failure, or refusal of the Committee to initiate action to challenge a real or threatened violation of this Declaration or the Conditions or otherwise to act on its own initiative shall be deemed to constitute a waiver of any right or duty of the Committee at any time or from time to time thereafter to initiate such action and/or enforce compliance with this Declaration and the Conditions. The Committee may act or refuse to act with respect to any real or threatened violation of this Declaration or the Conditions, all in the exercise of its sole discretion.

2.8 The Committee shall adopt reasonable rules, regulations, and procedures for the conduct of its duties. In this connection, without limitation, the Committee may fix the time and place for its regular meetings, and for such special meetings as may be necessary. The Committee shall by a majority vote elect one of its members as Chairman and one of its members as Secretary, and the duties of such Chairman and Secretary shall be such as usually pertain to such offices. Any and all rules, regulations, and procedures adopted by the Committee regulating its procedure and the conduct of its affairs may be changed by the Committee from time to time by majority vote and none of the rules, regulations, or procedures shall be deemed to be any part of said Conditions.

2.9 In approving any architectural plans and/or specifications submitted for its review, the Committee shall not be responsible for the adequacy thereof; the sole responsibility for the adequacy of any such plans and/or specifications shall remain with the architect, builder, and/or engineer selected by the Owner, and the approval by the Committee of such plans and/or specifications shall never be deemed to discharge said responsibility.

III.

CONDITIONS

The additional conditions ("Conditions") of this Declaration are as follows:

3.1 PLATTING, LOT CLASSIFICATION, EASEMENTS:

(a) Each Plat shall subdivide the land covered thereby into one or more Lots which shall be identified by letters and/or numbers and/or into one or more Tracts which shall be identified by letters and/or numbers and in addition designated as "Tract."

(b) Each Lot shall be restricted "R-1," "R-2," "R-4," or "C-2" or otherwise as permitted herein, by an appropriate identification on the face of the Plat and/or by a separate instrument filed of record by the Declarant, filed in the appropriate county at the time the Plat is filed of record in such County.

(c) Each Tract shall constitute land committed to this Declaration but not subdivided into a Lot or Lots, and shall not be restricted at the time of filing of the Plat. Each Tract shall be deemed to be classified "R-1" unless otherwise classified by Declarant. Declarant shall have the right, but not the obligation, at any time and from time to time thereafter to file of record a Plat or Plats subdividing any Tract or Tracts or any part thereof into one or more Lots and/or Tracts and restricting, classifying, and/or reclassifying the same as set forth above.

(d) Each Plat shall identify the land covered thereby as "Horseshoe Bay Applehead Island, Lots _____ through and including _____," and/or "Horseshoe Bay Applehead Island, Tracts _____ through and including _____," or similar identification, in order to eliminate confusion and/or duplication of the identification of Lots and/or Tracts in the subdivision.

(e) Each Lot shall be restricted to one of the following classifications ("Classifications"):

- R-1 - Single Family Residential District
- R-2 - Two Family Residential District
- R-4 - Multiple Residential District
- C-2 - Commercial District

(f) Declarant may at any time and from time to time add additional Classifications by executing and recording one or more supplements to this Declaration, designating and defining such Classification, provided, such supplement is filed at or prior to the use of such additional Classification.

(g) Each Classification shall be binding as to the use of a Lot and/or Tract, subject to the other provisions as set forth in this Declaration and the Conditions.

(h) Declarant reserves the right at any time and from time to time to resubdivide, reclassify, and/or withdraw from this Declaration any or all Lots and/or Tracts which are then owned by Declarant, if and to the extent Declarant deems such action desirable, in the sole discretion of Declarant. In such event, Lots and/or Tracts shall be deemed to be resubdivided, reclassified, or withdrawn when Declarant files an amended Plat reflecting such resubdivisions, withdrawal, and/or redesignation in Llano County or in such other county as may be applicable. Declarant may exercise the right to resubdivide, reclassify, and/or withdraw Lots and/or Tracts which are then owned by Declarant even though Declarant shall have previously sold and/or contracted to sell other Lots, Tracts, or Land in the Subdivision. In addition to all other reservations stated herein, Declarant reserves the right at any time and from time to remove in its sole discretion any or all restrictions on any Lot, Tract, and/or Land owned by Declarant, such removal to be accomplished by the filing of an amended plat or by the filing of a separate instrument in the appropriate county. This subsection shall never be deemed to authorize Declarant to resubdivide, reclassify, and/or withdraw any Lot or Tract owned by Declarant which is subject to an outstanding contract for deed or similar instrument in favor of a third party.

(i) Declarant hereby reserves a right-of-way and easement fifteen (15) feet wide along each lot line fronting a street, ten (10) feet wide along each back lot line and five (5) feet wide along each side lot line, together with an unobstructed easement above the same for any or all utilities and drainage, including, without limitation, television and/or communication cables; provided, that where said utility and drainage easements are shown on the applicable Plat with different widths and/or locations, the width and location of such easements as shown on the Plat shall control.

(j) Declarant further reserves an easement under and above all roads and streets in the Subdivision for the purpose of installing, operating, and maintaining any and all improvements in connection with the utility and drainage easements.

(k) Declarant reserves the right to abandon, assign, dedicate, and/or convey said utility and/or drainage easements and any rights and interests therein at any time and from time to time in Declarant's sole discretion.

This Declaration shall never be deemed to obligate Declarant to furnish, construct, or maintain or cause to be furnished, constructed, or maintained any road, street, utility, and/or drainage facility, and/or any improvements on any of the foregoing.

Owners shall have no cause of action against Declarant, its successors or assigns, employees and/or agents, either at law or in equity, for any damage, expense, and/or injury caused by the installing, operating, maintaining, repairing, and/or replacing of the above utility and/or drainage easements and/or any improvement thereon.

3.2 IMPROVEMENT STANDARDS

The following provisions shall be applicable to all Subdivision Land regardless of classification.

A(1) Structural/Materials/Etc.

No building, fence, patio, boat dock, or other structure shall be erected, altered, added to, placed, or permitted to remain on any Lot, Tract, or Land until and unless the architectural plans and specifications showing floor areas, external design, structural details and a plot plan showing the ground location of the intended structure have been first delivered to the Committee and approved in writing and a building permit has been issued by the Committee as to, but not limited to, (i) the external design, including color and quality, (ii) the conformity and harmony with existing or proposed structures in the Subdivision, (iii) the height of the structure insofar as it may obstruct the view of the surrounding Lots, Tracts, and/or Land, (iv) the location of the structure on the Lot, (v) the quality and type of materials and the aesthetic qualities thereof. The architectural plans and specifications submitted to the Committee in support of an application for a permit shall include a detailed drainage plan and a landscaping plan, including an automatic sprinkler system for landscape watering. No alterations in the exterior appearance of an existing building or structure shall be made without the prior written approval of the Committee. The foregoing requirements also extend to boat docks, ornamental structures, fences, walls, and piers, including but not limited

to the location, design, height, length, and type of construction, and also to any and all structures over or in the water, any bulkheads or moving of soil in, or out of the water, or on land, which in the sole opinion of the Committee is a significant moving of soil. No natural or existing drainage shall be changed, altered, or diverted, without the prior written approval of the Committee. The Committee may require a reasonable fee prior to reviewing architectural plans and specifications submitted for approval. The Committee may also require a fee for the issuance of a building permit, the amount of such building permit fee to be determined from time to time in the sole discretion of the Committee. On any structure submitted for approval, the Committee may require changes, deletions, or revisions in order that the architecture and general appearance of all such buildings and grounds be in keeping with the architecture and character of the neighborhood and otherwise comply with the Conditions and this Declaration. All structures shall conform to the requirements of the Uniform Building Code as published by the International Conference of Building Officials, current edition, and the requirements of the National Electrical Code, as published by the National Fire Protection Association, current edition, as a guide to sound construction and electrical installation practices, and shall comply with all applicable laws, ordinances, rules, and regulations of the governmental authorities having or asserting jurisdiction, including, without limitation, appropriate departments of the county in which the property is located and the State of Texas, whichever are the more restrictive.

Notwithstanding any other provisions of this Declaration, it is and shall remain the right, prerogative, and authority, and shall be within the jurisdiction, of the Committee to review applications and to grant approvals and building permits for such exceptions to and variations from this Declaration and the Conditions as the Committee may permit in accordance with the standard stated herein: Exceptions to and variations from this Declaration and the Conditions, and, in general, other forms of deviations from the restrictions imposed by this Declaration may be made when and only when such exceptions, variances, and deviations do not in any way detract from or impair the appearance of the premises, and are not in any way detrimental to the public welfare or to the property of other persons located in the vicinity thereof, all in the sole judgment of the Committee. Any exception and/or variation made or permitted by the Committee shall apply only to the specific instance for which such exception or variation is made or permitted, and shall not be deemed to apply to any other similar situation and shall never be deemed to constitute an amendment to or waiver of the provisions of this Declaration. Without limitation, the designated maximum building height and maximum yard requirements and/or any other provision herein may

be waived in a particular case by the Committee, when in their opinion, such structures relate to sound architectural planning and conform to the over all design and pattern of the development

A(2) Air Conditioning Units and Television Antennae

No air conditioning unit, evaporative cooler, or other object, which in the opinion of the Committee is unsightly, shall be placed upon or above the roof of any dwelling or other building except and unless the same is architecturally concealed from view in plans submitted to and approved by the Committee and then only when, to the satisfaction of the Committee, the same is not aesthetically objectionable and is otherwise in conformity with the overall development of the Subdivision.

Unconcealed outside television antennae shall be allowed hereunder, unless aesthetically objectionable or not in conformity with the overall development of the subdivision to the satisfaction of the Committee, until such time as cable television is available, at which time outside television antennae shall be not permitted, and all such outside television antennae shall be promptly removed. Notwithstanding the foregoing, no "dish-type" satellite television receiving antenna shall be placed on any Lot, Tract, or Land, or upon any building or structure constructed thereon.

A(3) Moorings, Piers, or Docks

No mooring, pier, dock, or other device for swimming or boating shall be erected or installed except with the approval of the Committee, in accordance with the requirements of appropriate lake authorities, and subject to the other terms and conditions of this Declaration. The maintenance, repair, and/or removal of any such device or installation shall at all times be subject to the requirements of the Committee and applicable authorities. This Declaration shall never be deemed to authorize the construction of a mooring, pier, dock, or other device when such construction or use is in violation of the property rights of others and/or the laws, rules, or regulations of applicable governmental authorities.

A(4) Building Exterior

With the exception of buildings and structures constructed by Declarant, all structures must have exterior walls of at least fifty percent (50%) masonry on the street fronting walls and shall not have less than thirty percent (30%) masonry covering on

the total of all exterior walls. The exterior portion of all walls that are not masonry shall be painted or stained immediately upon completion or shall have color mixed in the final structural application, excepting acceptable woods that are commonly used without such finishes, so that all such materials shall have a finished appearance. No plywood, pressboard, particle board, or similar type of material shall be used on any exterior wall of any structure.

A(5) Tanks, Butane, Etc.

No liquified petroleum gas, propane, or butane container or other tank used for the storage of gases or liquids for fuel shall be placed on any Lot, Tract, or Land unless the same is architecturally concealed from view. In the event natural gas is made available to any Lot, Tract, or Land, then the Owner thereof shall promptly connect to the source of natural gas, discontinue the use of butane gas, and remove the container or tank from the Owner's Lot, Tract, or Land.

A(6) Fences, Walls, and Hedges

No fence, wall, or hedge shall be constructed on any Lot, Tract, or Land nearer to any front street than is permitted for the house or building on said Lot, Tract, or Land, nor nearer at any point than thirty (30) feet from the 825-foot contour line of Lake Lyndon B. Johnson. The height, construction material, and style of each fence or wall shall be subject to approval of the Committee, provided no fence or wall exceeding 7 feet in height shall be built on any Lot, Tract, or Land. Prior to construction of any wall, fence, or gate, detailed plans and specifications showing the design, materials, and location thereof shall be submitted to the Committee for approval. With the exception of fences constructed by Declarant, no chain-link, "Cyclone" or "Hurricane type" fence shall be constructed on any Lot or Land.

A(7) Elevated Structure Design

Other than buildings and structures constructed by Declarant, no structure on any Lot, Tract, or Land shall be constructed or placed upon "stilts," pilings, piers, or similar supports, unless same are enclosed with walls of continuity of design and material conforming with the principal structure. This Section does not cover moorings, piers, docks, and similar structures which are covered by Section A(3) hereof.

A(8) Yard Lighting

Structures constructed on all Lots, Tracts, or Land will be required, before completion, to place at a point near the street serving the Lot, Tract, or Land a decorative electric yard light. The type and location of light shall be selected and controlled by the Committee. Such light shall not exceed 6-1/2 feet in height and shall be controlled by a light sensitive switch. Each yard light and light sensitive switch for same shall be maintained by the Owner in a manner so that the light shall burn all night every night.

A(9) Utilities

All utilities and utility services on all Lots, Tracts, or Land shall be installed underground and no above-surface utility wires will be installed on any Lot, Tract, or Land outside any structure, unless otherwise provided on any Plat or Plats filed of record covering such Lot or Land. This limitation shall not be applicable to the utilities and utility services of Declarant.

A(10) Clothes Lines

No Clothes Lines shall be installed or permitted to remain on any Lot, Tract, or Land.

A(11) Plumbing and Sewerage

All structures shall have completed and approved plumbing and sewerage installations before occupancy. Such plumbing shall conform to the requirements of the Uniform Plumbing Code as published by the Western Plumbing Association, current edition, as a guide to sound plumbing practices, and shall comply with all laws, ordinances, rules, and regulations of governmental authorities having and asserting jurisdiction.

Where a central sanitary sewerage system is made available to any Lot, Tract, or Land on which a structure is located or being constructed, it is required that the structure be connected to and use such system. Where a central sanitary sewerage system is not available to the Lot, Tract, or Land, the Owner may install a septic tank provided such septic tank and attached drain fields are acceptable to and meet the requirements of the Committee and the proper governmental authorities having or asserting jurisdiction with respect thereto. Any malfunction of any septic tank and/or drainage field system, after being reported to the Owner by

Declarant or the appropriate authority, and not repaired within the time designated by such authority or seven (7) days, whichever occurs first, shall be cause for termination of water service to such Owner and/or the applicable Lot, Tract, or Land until such repairs are effected.

A(12) Drainage Structures

Drainage structures under private driveways shall always have a net drainage opening area of sufficient size, in the opinion of the Committee, to permit free flow of water without backwater.

A(13) Roof Construction

Other than buildings constructed by Declarant, no building constructed on any Lot, Tract, or Land shall be designed and constructed so that at any point the horizontal and level distance from the outside of the exterior walls to the nearest point on the perimeter line of the roof (the "roof overhang") is less than twelve inches (12"), unless the Committee determines that a lesser distance for the roof overhang is not aesthetically objectionable and is otherwise in conformity with the overall development of the Subdivision. Other than on buildings and structures constructed by Declarant, all roofs on buildings and structures on any Lot, Tract, or Land shall be either clay or concrete tile, hand-split thick butt shakes, or standing seam metal, and shall be properly installed on a suitable slope, and asphalt, asbestos, and/or fiberglass shingles shall not be permitted. The type and color of all roof material must be approved by the Committee prior to installation. Other than on buildings and structures constructed by Declarant, no flat roofs and/or tar and gravel roofs shall be permitted on any building or structure constructed on any Lot, Tract, or Land, unless the Committee determines that such construction is not aesthetically objectionable and is otherwise in conformity with the overall development of the Subdivision.

A(14) Exterior Colors

Other than on buildings and/or structures constructed by Declarant, all exterior colors, stains, and/or finishes must be approved by the Committee prior to application of such exterior colors, stains, and/or finishes on any building or structure constructed on any Lot, Tract, or Land.

A(15) Fireplaces

Other than on buildings constructed by Declarant, the exposed exterior surface of all fireplaces and/or chimneys shall be of masonry construction, and no wood or metal exteriors shall be permitted.

3.3 LAND USE - GENERAL

The following provisions shall be applicable to all Subdivision Land regardless of Classification:

B(1) Advertising

No sign, advertisement, billboard, or other advertising structure of any kind (including but not limited to signs, advertisements, billboards, or other advertising structures stating the availability for purchase of any Lot, Tract, or Land) shall be erected or allowed on any unimproved Lot, Tract, or Land and no sign shall be erected or allowed to remain on any Lot, Tract, or Land, improved or unimproved, except as expressly provided in the Uses Permitted section of the particular type of Classification, and except as erected by or approved in writing by Declarant. In addition and without limitation, no sign, advertisement, billboard, or other advertising structure of any kind (including but not limited to signs, advertisements, billboards or other advertising structures stating the availability for purchase of any Lot, Tract, or Land) shall be erected or allowed on any right of way or easement, whether dedicated for public use or not, without the prior written approval of the Committee and Declarant, which approval may be withheld for any reason or without reason. It shall be the duty of the Committee and/or Declarant to remove or cause to be removed (and the right of the Committee and/or Declarant to thereafter dispose of or destroy) any sign, advertisement, billboard, or other advertising structure erected or allowed in violation of these restrictions, and neither Declarant, the Committee, nor any designee or agent shall ever be liable for the cost of any such sign, advertisement, billboard, or other advertising structure, or be obligated in any way to return same to the owner thereof; provided further that the Committee or Declarant shall never in any event be deemed liable for failing or refusing to exercise said duty.

B(2) Building Area

No Lot shall be resubdivided or reclassified; provided Declarant may resubdivide and/or reclassify Lots and/or Tracts as

provided in Section 3.1 hereof. No structure shall be erected, placed, or maintained on any portion of any Lot, which portion has an area of less than a full Lot as designated on the applicable Plat. If one structure is constructed on an area consisting of more than one Lot, the combined area, for the purpose of set back requirements, shall be considered one Lot.

B(3) Garages and Carports

All Land classified as ("R-1") Single Family and ("R-2") Two Family shall provide for at least one garage of no less than 250 square feet per dwelling unit and such structure shall be connected to the main structure. The connection may be by a breezeway. Each garage shall be equipped with a garage door acceptable to the Committee. No unsightly storage shall be permitted which is visible from the street. No trucks, unsightly vehicles, or other matter shall be stored or kept for any purposes, including repair, on any Lot, Tract, or Land or in any driveway thereto. Such storage must be in enclosed garages or storage facilities protected from the view of the public and streets within the Subdivision and other residents of the Subdivision. This Section does not apply to buildings and facilities of the Declarant.

B(4) Water Supply

No individual water wells shall be allowed on any Lot, Tract, or Land where water is made available to such Lot, Tract, or Land from a central water system. The Owner of a Lot, Tract, or Land shall use the water from a central water system where the system is made available to such Lot, Tract, or Land from the central water system supply. Nothing herein contained shall be construed as prohibiting the Declarant from drilling a well or wells or permitting the drilling of same, on the reserved areas of said Subdivision, for the purpose of supplying water to the Owners of any Lot, Tract, or Land in said Subdivision, or for Declarant's sole use.

B(5) Occupancy, Parking and Mobile Occupancy

No mobile home, camper, trailer, tent, lean-to, shack, or other temporary structures of any nature shall be used for occupancy, or placed upon any Lot, Tract, or Land or road or street that is not specifically designated for such use by Declarant. No garage, servant's quarters, or guest cottage shall be constructed on any Lot prior to the construction of the main residence, residences, or commercial structures. No building material of

any kind or character shall be placed or stored upon any Lot, Tract, or Land until the plans and specifications for the proposed improvement have been approved by the Committee, the Owner has obtained a building permit from the Committee, and construction has commenced, and then such materials must be stored entirely within the Lot lines.

No house trailer, camper, mobile home, or any such vehicle designed for living or camping shall be parked within the Subdivision, nor shall any such vehicle remain overnight in the Subdivision, except in areas as provided above by Declarant for this purpose. No boat and/or boat trailer shall be permitted to remain overnight on any street or driveway exposed to public view.

Both prior to and after occupancy of a dwelling on any Lot, the owner shall provide appropriate space for off-the-street parking for his vehicle or vehicles.

B(6) Private Boats

No boat or vessel which in the opinion of the Committee is unsightly or which detracts from the appearance of the Subdivision shall be permitted to remain docked or moored at any pier, dock, or mooring constructed for or used in connection with any Lot, Tract, or Land in the Subdivision.

B(7) Dust and Erosion Control

Under no circumstances shall the Owner of any Lot, Tract, or Land disturb the natural soil or grasses unless the Owner immediately thereafter constructs on, paves, gravels, or replants such disturbed areas with ground cover approved in advance by the Committee.

B(8) Easements

Easements for the installation, operation, maintenance, repair, and replacement of utilities, drainage, and landscaping, including the trimming and/or removal of trees and brush, are reserved as shown on the applicable Plat and/or as set out in this Declaration. Within these easements, no structure, fence, planting, or other material shall be placed or permitted to remain which might damage or interfere with the installation and maintenance of utilities, drainage, and landscaping, or which might change the direction of flow of drainage channels in the easements

or which might obstruct or retard the flow of water through drainage channels. The easements include, without limitation, the rights of ingress and egress thereon at reasonable times for construction, maintenance, repair, and replacement purposes, without the consent or approval of the Owner of the applicable Lot, Tract, or Land and without compensation or redress to the Owner of said Lot, Tract, or Land by reason of such construction, maintenance, repair or replacement. Any improvements placed in the easement area by the Owner of any Lot, Tract, or Land may be removed by the Declarant and/or any person or entity having any right, title, or interest in the easement, including, without limitation, any public authority or utility company, all without liability to Declarant, the Committee, or such public authority or utility, and at the sole expense of the Owner of said Lot, Tract, or Land. The easement area of each Lot, Tract, or Land and all improvements thereon shall be maintained continuously by the Owner of the Lot, Tract, or Land covered by said easement, except for those improvements which are owned by the beneficiary of the Easement such as the applicable public authority, utility company, or by Declarant. All Lots, Tracts, and Land in the Subdivision are subject to any and all easements and rights-of-way of record or provided for herein, and are further subject to natural drainage easements.

B(9) Electrical Power

No source of electrical energy shall be brought to any Lot, Tract, or Land or used upon any Lot, Tract, or Land unless and until the Committee has approved plans and specifications for the erection of the permanent improvements to be located on said Lot, Tract, or Land. The Owner of such Lot, Tract, or Land shall pay for all connecting charges imposed by the utility company, including service drops, individual or semi-individual transformers, and/or meters as may be required.

B(10) Occupancy of Structures

No structure shall be occupied or used for the purpose for which it is designed or built or for any other purpose until the exterior shall have been completed and the structure connected to an acceptable sanitary sewer which has been approved by the Committee and a certificate to that effect shall have been issued by the Committee. With reasonable diligence, and in all events, within twelve (12) months from the commencement of construction, unless an extension of this time is specifically approved in writing by the Committee, any structure commenced shall be completed as to its exterior and all temporary structures shall be

removed, and within thirty (30) days thereafter, all materials stored or used for construction, including the contractor's temporary offices, chemical toilets, construction debris, and related facilities shall be removed.

B(11) Hunting and Firearms

No hunting shall be allowed in the Subdivision and any discharge of firearms is strictly prohibited except in such area or areas as Declarant may designate or construct facilities suitable for such purposes.

B(12) Storage of Tools and Trash

The storage of tools, landscaping instruments, household effects, machinery or machinery parts, trailers, empty or filled containers, boxes or bags, trash, materials, or other items that shall, in the sole opinion of the Committee, in appearance detract from the aesthetic appearance and values of the Subdivision, shall be placed and stored so as to be concealed from view of all streets and the Owners of other Lots, Tracts, or Land. Trash for collection may be placed in enclosed sanitary containers at the street right of way line on regular collection days for a period not to exceed twelve hours prior to pickup. Trash, garbage, or other waste and debris shall at all times be kept in enclosed sanitary containers. Any incinerator or other equipment for the storage or disposal of such material shall be kept in a clean, sanitary, and sightly condition. Storage of junk, inoperative or unlicensed motor vehicles, and other unsightly objects on any Lot, Tract, or Land is expressly prohibited; Declarant and the Committee are hereby empowered to remove and destroy any junk, inoperative or unlicensed motor vehicles, and any other unsightly objects on any Lot, Tract, or Land without liability of any kind to the owner thereof.

B(13) Grass and Weeds

The Owner of each Lot, Tract, and Land shall keep grass, weeds, and vegetation (except as part of the landscaping plan and as approved by the Committee), trimmed or cut so that the same shall remain in a neat, trimmed, and attractive condition. Upon any failure of the Owner to comply with this requirement, within thirty (30) days after notice by the Declarant and/or the Committee to said Owner of such condition, Declarant and/or the Committee or its agent may enter upon said Lot, Tract, or Land to perform said requirement at the sole expense of the Owner, provided that

the same shall not exceed one hundred dollars (\$100.00) per Lot per each notice, which amount may be increased from time to time at the sole discretion of the Committee. Notwithstanding the foregoing, Declarant, the Committee, and/or Horseshoe Bay Applehead Island Property Owner's Association, Inc. may, but shall not be obligated to, dispense with said notice to the Owner of any sold unimproved Lot, Tract, or Land and undertake at its own expense to maintain said sold unimproved Lot, Tract, or Land in a neat, trimmed, and attractive condition.

B(14) Drilling and Mining

No water well, oil, gas, or mineral mining, exploring, drilling, development, refining, quarrying, or other operations of a related nature shall be permitted upon or in any Lot, Tract, or Land without the prior written authorization of the Committee.

B(15) Mineral Rights

The Subdivision Land is subject to outstanding mineral and/or royalty interests, if any, relative thereto, as reflected of record. Declarant makes no reservation unto itself of any minerals on, in and under any Lot, Tract, or Land constituting part of the Subdivision Land.

B(16) Motor Bikes and Motorcycles

No motor bikes, motorcycles, or any other two-wheeled or three-wheeled motor vehicle shall be permitted in the Subdivision under any circumstance.

B(17) Trees, Shrubs, and Other Vegetation Planted by Declarant

No trees, shrubs, or other vegetation, specifically including but not limited to palm trees, planted by Declarant, and located on any Lot, Tract, or Land, shall be removed, moved, or replanted except with the prior written approval of Declarant. In the event that Owner desires to relocate such a tree, shrub, or other vegetation in order to accommodate construction on Owner's Lot, Tract, or Land, such relocation shall be at the sole cost and expense of Owner, shall in all events be subject to the prior written approval of Declarant, and shall occur only at a place, time, and in the manner specified by Declarant, and under the supervision of Declarant. Any damage to or destruction to any such tree, shrub, or other vegetation planted on any Lot, Tract,

or Land by Declarant which is caused by Owner or Owner's agents, employees, contractor, or subcontractor shall be the responsibility of Owner, who shall promptly pay Declarant for the cost of repair or replacement of the tree, shrub, or other vegetation.

3.4 LAND USE--RESIDENTIAL AREAS

In addition to the preceding provisions, the following shall be applicable to all Land classified R-1, R-2, and R-4 as defined herein.

C(1) Livestock, Poultry and Pets

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, Tract, or Land, except that dogs, cats, or other household pets may be kept provided they are kept on owner's property and not allowed to "run free" and are not kept, bred, or maintained for any commercial purposes and are not kept in quantities which create an annoyance or nuisance to the neighborhood.

C(2) Landscaping

No trees, plants, shrubs, or foliage shall be planted, kept, or maintained in such a manner as, in the opinion of the Committee, to create a serious potential hazard to the other residents of the area or to be inconsistent with the architectural character or aesthetic objectives of the Subdivision.

C(3) Spaces Between Building--Passageways

Where more than one building or multiple dwelling is located on any Lot, Tract, or Land, the following spaces and passageways shall be provided and maintained:

(a) There shall be at least ten (10) feet between every one family dwelling, two family dwelling, multiple dwelling and any other building on the same Lot or Tract. These regulations do not apply to required spaces between accessory building and other buildings on the same Lot or Tract, which requirements are otherwise provided for by the provisions of C(4) hereof.

(b) There shall be a passageway at least ten (10) feet in width extending from a street to one entrance

of each dwelling unit in a multiple dwelling, unless there is an entrance to the dwelling unit open onto the street or into a hallway opening onto the street.

(c) Where dwellings or group dwellings arranged around a court, the average width of the court shall not be less than twenty (20) feet. Such court may serve as the passageway for rear buildings or as the space between buildings.

C(4) Accessory Buildings

The accessory buildings and structures necessary to such use may occupy not more than fifty (50) percent of a required rear yard, may not be more than fifteen (15) feet in height, and must be located at least ten (10) feet from the nearest part of a main building. No accessory building shall be erected closer than fifteen (15) feet to the line of an abutting Lot to the rear and no such building shall occupy any portion of a required front or side yard.

Except for boat houses, if located at the water's edge or over the water on waterfront Lots, all garages, guest houses, servant's quarters, structures for storage, boat storage structures, and other buildings erected on any Lot or Lots in conjunction with any one residence, must be attached to the main residence by a common wall or by covered breezeway or passageway.

C(5) Side Yard Setback--Reverse Corner Lots

In the case of a reversed corner Lot, there shall be a side yard setback on the street side of the corner Lot of not less than the front yard requirements for the Lots in the rear of such corner Lot.

3.5 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

The following uses and regulations shall apply in the R-1 Single Family Residential District unless otherwise provided in these reservations:

D(1) Uses Permitted

- (a) A one family dwelling;
- (b) The accessory buildings and structures necessary to such use located on the same Lot;

(c) Maintaining mail address for commercial, professional, and business license purposes only. No commercial, professional, or business use shall be permitted. Without limitation, no stock in trade, supplies, nuisance producing apparatus, or equipment shall be kept on the premises, and no employees or assistants shall be engaged for said services on the premises. Except as otherwise provided in this Section, no signs shall be displayed;

(d) A temporary sign not to exceed six (6) square feet in area giving the names of the contractors, engineers, and architects may be erected during construction period. The design, color, and content of any such sign must be approved by Declarant.

D(2) Maximum Building Height

Two levels not to exceed twenty-five (25) feet above highest natural contour line of the applicable Lot.

D(3) Minimum Yard Requirements

Except as specified to the contrary on the Plat, which specification shall control, the following shall apply:

(a) Front yard setback shall conform to a minimum depth of twenty-five (25) feet from the front property line to the closest structural projection, including porches, but not including eaves, overhangs, planters or fireplaces;

(b) A principal structure shall provide total side yards of not less than fifteen (15) feet with not less than five (5) feet on one (1) side. Corner Lots shall maintain a minimum setback of twenty-five (25) feet from the side street line.

(c) Except as provided below, a rear yard shall be maintained of at least fifteen (15) feet from the property line to the nearest building line.

(d) Structures on any Waterfront Lot may be located at the 825' contour.

D(4) Maximum Area of Dwelling

Notwithstanding uses otherwise permitted herein, no more than sixty percent (60%) of the total Lot area shall be used for the dwelling and other structures.

D(5) Minimum Dwelling Unit Size

All residences shall require not less than 3,000 square feet of living area, excluding carport, garage, covered porches, covered contiguous patios or other similar appendages, unless otherwise provided in these reservations.

3.6 R-2 TWO-FAMILY RESIDENTIAL DISTRICT

The following uses and regulations shall apply in the R-2 Two Family Residential District unless otherwise provided in these reservations:

E(1) Uses Permitted

- (a) Any use permitted in the R-1 area;
- (b) Two-family dwelling or two (2) one family dwellings;
- (c) The accessory buildings and structures necessary to such use located on the same Lot;
- (d) Maintaining mail address for commercial, professional, and business license purposes only. No commercial, professional, or business use shall be permitted. Without limitation, no stock in trade, supplies, nuisance producing apparatus, or equipment shall be kept on the premises, and no employees or assistants shall be engaged for said services on the premises. Except as otherwise provided in this Section, no signs shall be displayed;
- (e) A temporary sign not to exceed six (6) square feet in area giving names of the contractors, engineers, and architects may be erected during construction period. The design, color, and content must be approved by Declarant.

E(2) Maximum Building Height

Two levels not to exceed twenty-five (25) feet above the highest natural contour line of the applicable Lot.

E(3) Minimum Yard Requirements

Except as specified to the contrary on the Plat, which specifications shall control, the following shall apply:

(a) Front yard setback shall conform to a minimum depth of twenty-five (25) feet from the front property line to the nearest structural projection, including porches, but not including eaves, overhangs, planters or fireplaces.

(b) A side yard setback shall be maintained of at least five (5) feet in depth from all side property lines to the building line of any structure. Corner Lots shall maintain a minimum setback of twenty-five (25) feet from the side street line.

(c) A rear yard shall be maintained of at least fifteen (15) feet from the property line to the nearest building line, excepting fences, walls and hedges when constructed as provided for in the preceding provisions.

E(4) Maximum Area of Dwelling

Notwithstanding uses permitted herein, no more than sixty percent (60%) of the total Lot area shall be used for the dwellings and other structures.

E(5) Minimum Dwelling Unit Size

All two family residences shall require not less than fifteen hundred (1,500) square feet of floor area for each of the two (2) units, excluding carport, garage, covered porches, covered contiguous patios, and similar structures, with a minimum area of fifteen hundred (1,500) square feet for enclosed living area in the dwelling portion of each of the two (2) units; provided that if such two family residence is located on an R-2 Lot that is situated contiguous to "Island Drive", then, and in such event, the enclosed living area in the dwelling portion of each of the two (2) units shall be no less than seventeen hundred (1,700) square feet.

3.7 R-4 MULTIPLE RESIDENTIAL DISTRICT

The following uses and regulations shall apply in the R-4 Multiple Residential District unless otherwise provided in these reservations:

F(1) Uses Permitted

- (a) Any use permitted in the R-1 and R-2 areas;
- (b) Multiple family dwellings, apartment houses, townhouses, and/or cottages individually owned or in condominium;
- (c) The accessory buildings and structures necessary to such use located on the same Lot;
- (d) Maintaining mail address for commercial, professional, and business license purposes only. No commercial, professional, or business use shall be permitted. Without limitation, no stock in trade, supplies, nuisance producing apparatus, or equipment shall be kept on the premises, and no employees or assistants shall be engaged for said services on the premises. Except as otherwise provided in this Section, no signs shall be displayed;
- (e) One (1) professionally made unlighted sign not to exceed six (6) square feet in area containing only the name of the apartment or dwelling structure. The design, color, and content must be approved by Declarant;
- (f) Temporary sign of not to exceed six (6) square feet in area giving the names of the contractors, engineers, and architects during the construction period. The design, color and content must be approved by Declarant.

F(2) Maximum Building Height

Two levels not to exceed thirty-five (35) feet from the highest natural contour line of the applicable Lot.

F(3) Minimum Yard Requirements

Except where there is specifically called out on the Plat, which specification shall control, the following shall apply:

(a) Front yard setbacks shall conform to a minimum depth of twenty-five (25) feet from the front property line to the closest structural projection, including porches, but not including eaves, overhangs, planters or fireplaces;

(b) A side yard setback shall be maintained of at least five (5) feet in depth from all side property lines to the building line of any structure. Corner Lots shall maintain a minimum setback of twenty-five (25) feet wide from the side street line;

(c) Except as provided below, a rear yard shall be maintained to at least fifteen (15) feet from the property line to the nearest building line;

(d) Structures on any waterfront Lot may be located at the 825' contour.

F(4) Maximum Area of Dwelling

Notwithstanding uses permitted herein, no more than sixty five percent (65%) of the total Lot area shall be used for the dwelling and other structures.

F(5) Minimum Automobile Parking Requirements

One and one-half (1-1/2) off-street parking spaces for each two (2) bedroom or more dwelling units or one (1) off-street parking space for each one (1) bedroom unit or bachelor apartment. A full parking space shall be provided in each instance where a fractional space would otherwise be required. Under no circumstances will any parking be permitted within the setback areas adjacent to streets or on the streets.

F(6) Minimum Dwelling Unit Size

Each and every dwelling unit on the premises shall consist of at least twelve hundred and fifty (1,250) square feet of living area for structures having less than 20 living units. For structures containing over twenty (20) dwelling units, the Committee will set, in each individual instance, the minimum square footage area required for each dwelling unit.

3.8 C-2 GENERAL COMMERCIAL DISTRICT

In addition to the preceding provisions, the following uses and regulations shall apply in the C-2 General Commercial District:

H(1) Uses Permitted

(a) Retail or wholesale stores or businesses not involving any kind of manufacture, processing, or treatment of products other than that which is clearly incidental to the retail or wholesale business conducted on the premises;

(b) Automobile parking areas;

(c) Such other types of retail and wholesale businesses shall be permitted where, in the sole opinion and exclusive judgment of the Committee, such businesses are compatible with the uses permitted above and with other businesses conducted or planned for the immediately adjacent areas;

(d) The accessory buildings and structures necessary to such use located on the same Lot or Land.

H(2) Maximum Building Height

Two levels of twenty-five (25) feet above highest natural contour of the applicable Lot or Land.

H(3) Storage of Materials

The storage of supplies and equipment, boxes, refuse, trash, materials, machinery or machinery parts, or other items that shall in appearance detract from the aesthetic values of the property, shall be so placed and stored to be concealed from view of the general public.

H(4) Maximum Area of Building

Building area shall not exceed sixty percent (60%) of the Lot or Land area.

IV.

SPECIAL PROVISIONS

4.1 LAKE BOTTOM

Declarant states that the lake bottom of Lake Lyndon B. Johnson abutting the Subdivision Land up to the 825-foot contour line (the "Adjacent Lake Bottom") is privately owned by third parties and is not owned by Declarant. The Adjacent Lake Bottom is further subject to a recorded easement in favor of the Lower Colorado River Authority for flooding purposes and, unless otherwise specified on the applicable recorded Plat, is further subject to a non-exclusive use easement recorded in favor of Declarant, its successors and assigns, covering a strip thirty (30) feet wide lakeward from the 825-foot contour for the limited purposes of providing access to the water and for the construction of docks, piers, and the like, subject to the conditions stated in said easement. The Adjacent Lake Bottom is subject to further rights in favor of the Lower Colorado River Authority shown of record in the Real Property Records of Llano County, Texas. Subject only to the foregoing, the owner of the Adjacent Lake Bottom has reserved all rights and privileges of ownership relative to the Adjacent Lake Bottom, including, without limitation, the right to construct structures on and over the Adjacent Lake Bottom. The rights of Declarant and each Owner are and shall be expressly subject to the foregoing.

4.2 HORSESHOE BAY AMENITIES AND CLUB MEMBERSHIP

The Horseshoe Bay Yacht Club, Ram Rock Golf Course, Slick Rock Golf Course, Marina, Stables, Pro Shop, parks, and related facilities in the Horseshoe Bay Subdivision, Horseshoe Bay, Texas (hereinafter referred to as the "Horseshoe Bay Amenities") are not owned by Declarant, are not located on land owned by Declarant, and are not within the Subdivision created by this Declaration or otherwise located on Subdivision Land. This Declaration shall never be deemed to require Declarant, or its successors or assigns, to provide Owners of Subdivision Land with any right of access or use with respect to the Horseshoe Bay Amenities, and Owners of Subdivision Land have no such right of access or use pursuant to this Declaration or by reason of their ownership of Subdivision Land.

Subject to the foregoing, Declarant is a party to that certain Agreement of even date herewith by and between Declarant, Lake LBJ Investment Corp., and certain other parties, which provides that Owners of Subdivision Land who apply and are accepted for

membership in the Horseshoe Bay Country Club by the membership committee thereof shall not be required to pay the initiation fee required of new members, but will otherwise be required to pay all fees, dues, and other charges assessed members of the Horseshoe Bay Country Club. The above-described Agreement does not ensure or guarantee in any way that an Owner of Subdivision Land will be accepted for membership in the Horseshoe Bay Country Club, and an invitation to membership in the Horseshoe Bay Country Club is extended in the sole and complete discretion and judgment of the membership committee of the Horseshoe Bay Country Club. Declarant is not a member of the membership committee of the Horseshoe Bay Country Club and does not participate in the decision to extend an invitation to membership in the Horseshoe Bay Country Club. Declarant makes no representation or warranty that the above-described Agreement will continue in force and effect, or that said Agreement will not be revoked, rescinded, or terminated, and Declarant hereby reserves the right to amend or modify said Agreement at any time and from time to time in its sole discretion.

4.3 NUISANCES

No noxious or offensive activities shall be carried on upon any Lot, Tract, or Land, nor shall anything be done thereon which may become an annoyance or nuisance to Declarant, other Owners, or the Subdivision.

4.4 MAINTENANCE FEES AND ASSESSMENTS

(.1) Certain Definitions. As used in this Section 4.4, the following terms shall have the meanings given below:

i. "Assessment Association" shall mean Horseshoe Bay Applehead Island Assessment Association, Inc., a Texas non-profit corporation formed by Declarant, having the rights, duties, and obligations stated herein. Each person or entity being the Owner of any Lot or Tract, or any dwelling unit thereon, shall be a member of the Assessment Association. Members of the Assessment Association shall be entitled to one (1) vote for each Lot, Tract, or dwelling unit thereon of which such member is Owner. Declarant, and its successors and assigns, may be members of the Assessment Association. The powers, duties, and functions of the Assessment Association shall be strictly limited to those authorized in this Declaration.

ii. "Property Owner's Association" shall mean Horseshoe Bay Applehead Island Property Owner's Association, Inc., a Texas non-profit corporation formed by

Declarant, having the rights, duties, and obligations stated herein. Each person or entity being the Owner of any Lot or Tract, or any dwelling unit thereon, shall be a member of the Property Owner's Association. Members of the Property Owner's Association shall be entitled to one (1) vote for each Lot, Tract, or dwelling unit thereon of which such member is Owner. Declarant, and its successors and assigns, may be members of the Property Owner's Association.

(.2) Maintenance Fees and Assessments. Each Lot and/or Tract designated "R-1 Single Family Residential" shall be subject to an annual maintenance fee (the "Base Maintenance Fee"), whether or not any single family residence has been constructed thereon, the amount thereof determined as hereinafter provided, payable in advance each year on January 1. Each Lot and/or Tract designated "R-2 Two Family Residential" shall be subject to an annual maintenance fee equal to two (2) times the Base Maintenance Fee, whether or not a two-family residence has been constructed thereon, payable in advance each year on January 1. Each Lot and/or Tract designated "R-4 Multiple Residential" shall be subject to an annual maintenance fee equal to four (4) times the Base Maintenance Fee, payable in advance each year on January 1, whether or not a multiple family dwelling has been constructed thereon; provided, however, that after construction of a multiple family dwelling thereon, the annual maintenance fee for the applicable Lot and/or Tract shall be equal to the product of (a) the number of dwelling units on the applicable Lot or Tract, times (b) the Base Maintenance Fee, but in no event less than an amount equal to four (4) times the Base Maintenance Fee. All maintenance fees levied pursuant to this Declaration are hereinafter referred to as the "Maintenance Fee" or "Maintenance Fees." In addition to the Maintenance Fee, each Lot and Tract shall be subject to any special assessment ("Assessment") levied as provided for herein, which shall be payable in advance each year on January 1, or payable in advance on such other date as is established in accordance with the provisions hereof.

(.3) Determination of Base Maintenance Fee and Assessments. The Base Maintenance Fee and all Assessments shall be established by Declarant, its successors or assigns, and all Maintenance Fees and Assessments shall be collected and expended by Declarant, its successors or assigns, upon and subject to the terms and conditions of this Declaration.

(.4) Initial Base Maintenance Fee. Declarant hereby establishes the initial Base Maintenance Fee at One Thousand Dollars (\$1,000.00). The Base Maintenance Fee established by the Declarant shall continue in effect unless and until increased by the Assessment Association pursuant to the terms hereof.

(.5) Powers and Duties of the Assessment Association. The Assessment Association shall perform the following described function ("Assessment Function"), and the Assessment Association shall have the right to exercise any or all of the functions included in the Assessment Function at any time and from time to time. The Assessment Function shall mean the right to perform any of the following functions when the Assessment Association deems such performance to be in the best interests of the Subdivision:

(a) increase but not reduce the dollar amount of the Base Maintenance Fee;

(b) levy special Assessments for capital improvements pursuant to Section 4.4(.9).

The right of the Assessment Association to perform the above functions is expressly subject to the following terms, conditions and limitations:

(1) Any increase in the dollar amount of the Base Maintenance Fee shall be uniform as to all Lots and Tracts, excluding properties which are not subject to Base Maintenance Fee as provided herein.

(2) Any increase in the dollar amount of the Base Maintenance Fee which shall be adopted by the Assessment Association shall become effective on January 1 after such adoption.

(.6) Collection Function of the Assessment Association. The Assessment Association shall serve as a collection and enforcement agency with respect to the Maintenance Fees and Assessments. Pursuant to the authority granted in Section 5.4 of this Declaration, Declarant has assigned to the Assessment Association, the duty and obligation of Declarant hereunder to collect and enforce payment of the Maintenance Fees and Assessments. The Assessment Association shall collect and enforce payment of all Maintenance Fees and Assessments established pursuant to this Declaration. The Assessment Association shall have the duty to distribute the proceeds of its collection of Maintenance Fees in accordance with the requirements of this Declaration. With respect to Lots and Tracts designated "R-2" or "R-4," the Assessment Association shall have the right, but not the obligation, to collect Maintenance Fees and Assessments directly from the owner of any dwelling unit

thereon, rather than from the Owner of the applicable Lot or Tract, and the owner of such dwelling unit shall in any event be directly liable for his pro rata share of the Maintenance Fees and Assessments for the applicable Lot or Tract, with such liability secured by a lien on such dwelling unit in accordance with Section 4.4(.11) hereof.

(.7) Powers of the Property Owners Association. The Property Owners Association shall be entitled to perform any and all functions provided for in this Declaration to be exercised by the Property Owners Association; provided, however, that the Property Owners Association shall never exercise the Assessment Function.

(.8) Automatic Base Maintenance Fee Increases and Decreases. Commencing on January 1, after the date of this Declaration, and on January 1 of each and every consecutive calendar year thereafter, the Base Maintenance Fee shall be increased or decreased automatically if and to the extent the application of the formula set forth below results in any such increase or decrease. The adjusted amount of the Base Maintenance Fee shall be computed by multiplying the dollar amount of the Base Maintenance Fee during the preceding calendar year by a fraction the numerator of which shall be X amount and the denominator of which shall be Y amount. X amount in said fraction shall be equal to the Index Figure for January 1 of the calendar year for which the Base Maintenance Fee is assessed and payable. Y amount in said fraction shall be equal to the Index Figure for January 1 of the preceding calendar year. In the event Y amount exceeds X amount, the Base Maintenance Fee shall be decreased in such calendar year by application of this Section. In the event Y amount is less than X amount, the Base Maintenance Fee shall be increased in such calendar year by application of this Section.

As used herein, the term "Index Figure" shall mean the Consumer Price Index "All items" United States, popularly known as the Cost of Living Index, published by the United States Department of Labor, Bureau of Labor Statistics, 1967=100, for the last month for which the Index Figure has been reported immediately preceding the applicable dates specified above. If the Department of Labor, Bureau of Labor Statistics shall cease to publish its Consumer Price Index, the index published by any successor agency or other agency of the federal government which may take over such publication shall be used. In the event a new base for the Consumer Price Index is established, the calculation of any increase or decrease in the Base Maintenance Fee shall be adjusted to conform to the new base so that calculations as above set forth shall yield the same results as if made on the said Consumer Price Index, 1967=100. If the index shall hereafter be converted to a different base or otherwise revised, the determination of the increase or decrease, if any, in the Base Maintenance

Fee, shall be made by utilizing such conversion factor, formula, or table for converting the index as may be published by the Bureau of Labor Statistics, or if the said Bureau shall not publish a conversion factor, formula or table, then with the use of such factor, formula or table as may be published by Prentice-Hall, Inc., or other nationally recognized publisher. Should publication of the Consumer Price Index by the U.S. Department of Labor, Bureau of Labor Statistics cease, and should its successor agency which may undertake the publication of an index cease to publish its substitute index, Declarant, or its successors or assigns, may designate another substitute index and formula which will produce approximately the same results as would the application of the above-described Consumer Price Index.

(.9) Assessment: The Assessment Association may establish the Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties of the Subdivision, including the necessary fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two thirds in interest of the Owners of Lots and Tracts, or dwelling units thereon, in the Subdivision, voting in person or by proxy, at a meeting duly called for such purpose. Written notice of any such meeting shall be given to all members of the Assessment Association in the manner provided for in the By Laws of the Assessment Association at least thirty (30) days in advance and shall set forth the purpose of the meeting. An assessment may be made applicable to up to a total of five (5) calendar years, one of which shall be the calendar year in which the Assessment is established. The Assessment shall be uniform as to all Lots and Tracts, or dwelling units thereon, in the Subdivision excluding the properties which are not subject to the Assessment as provided herein.

(.10) Property Owner's Association Fund: Each January 1, promptly upon receipt thereof, the Assessment Association shall pay the proceeds of its collection of Maintenance Fees for that year to the Property Owner's Association; provided, however, the Assessment Association may withhold from the Maintenance Fees to be paid to the Property Owner's Association an amount equal to the reasonable actual direct cost and expense incurred by the Assessment Association in the collection and enforcement of the Maintenance Fees, together with a reasonable amount budgeted by the Assessment Association for collection expenses anticipated to be incurred during the coming year, subject to adjustment at year's end for the reasonable direct costs and expenses in fact incurred, determined on a cash basis, with any surplus to be paid to the Property Owner's Association and any deficit to be funded from Maintenance Fees collected by the Assessment Association during the next year. In addition, the Assessment Association

shall pay to the Property Owner's Association, upon receipt thereof, any Assessment, less the reasonable cost and expense of collection and enforcement, as herein provided.

On or before sixty (60) days after the end of each calendar year, the Assessment Association shall furnish to Declarant and the Property Owner's Association an annual revenue and expense statement for the immediately preceding year and such further information regarding the operations of the Assessment Association as Declarant or the Property Owner's Association may reasonably request. The Assessment Association shall maintain separate books, records, and accounts with respect to the Maintenance Fees and any Assessments. Such books, records, and accounts shall be available for inspection and copying by Declarant or the Property Owner's Association during normal business hours. Upon request of Declarant or the Property Owner's Association, the Assessment Association shall cause said books, records, and accounts to be audited annually at the expense of the party requesting such audit; provided that in the event the audit reflects a material irregularity, the Assessment Association shall pay for the cost of the audit.

The Maintenance Fees and Assessments, less costs and expenses of collection and enforcement as herein provided, payable to the Property Owner's Association by the Assessment Association are hereinafter referred to as the "Property Owner's Association Fund."

The proceeds of the Property Owner's Association Fund shall be deposited by the Property Owner's Association in a special account to be maintained and used by the Property Owner's Association for the purpose of paying and/or reimbursing the Property Owner's Association for the cost and expense of performing the Property Owner's Association Function herein defined. The term "Property Owner's Association Function" shall mean improving and maintaining streets, swimming pools, parks, parkways, and easements, security protection, owning, maintaining, and operating all land and improvements now owned or hereafter acquired by the Property Owner's Association; owning, leasing, maintaining, and operating all vehicles, machinery, and equipment necessary or appropriate in the sole discretion of the Property Owner's Association to perform its function and all other functions reasonably incident to maintenance of the safety, health, welfare, and recreation of the property owners and residents of the Subdivision. The term "owning" shall embrace all functions associated with ownership of the applicable land, improvement, machinery, equipment, and the like, including, without limitation, maintenance, repair, removal, addition, and replacement.

in a special account to be maintained and used by the Property Owner's Association for the purpose of paying and/or reimbursing the Property Owner's Association for the cost and expense of the capital improvements for which the Assessment was established. The Property Owner's Association Fund and the Assessment Fund shall be separate funds and shall be maintained, administered, and accounted for as separate funds.

On or before 120 days after the end of each calendar year, the Property Owner's Association shall furnish an annual statement to Declarant and the Assessment Association relative to the Property Owner's Association Fund and Assessment Fund for the prior calendar year.

The Property Owner's Association shall maintain separate books, records, and accounts with respect to the Property Owner's Association Fund and Assessment Fund. Said books, records, and accounts shall be available for inspection and copying to Declarant and its representatives at reasonable times during normal business hours. Upon request of Declarant, the Property Owner's Association shall cause said books, records, and accounts to be audited annually at the expense of the party requesting such audit; provided that in the event the audit reflects a material irregularity by the Property Owner's Association, the Property Owner's Association shall pay for the audit.

Subject to the terms and conditions hereof, the Property Owner's Association shall have the right, in its sole discretion, to assign its rights, privileges, duties, and obligations hereunder in whole or in part at any time and from time to time to any third party or parties; provided such assignment shall never relieve the Property Owner's Association from its duties or liabilities hereunder.

It shall be the duty of the Property Owner's Association to expend all moneys in the Property Owner's Fund in the performance of the Property Owner's Function, other than such moneys as are required for reasonably necessary reserves.

(.11) Lien to Secure Maintenance Fee: The obligation to pay the Maintenance Fee and Assessments, whether or not it shall be so expressed in any contract, deed, or conveyance, shall be a charge and lien on each Lot, Tract, and dwelling unit thereon, and shall be a continuing lien on each such Lot, Tract, and dwelling unit thereon in favor of Declarant and its assignee, the Assessment Association, but it is expressly provided that such lien shall in all respects be subordinate and inferior to any and

all liens previously or subsequently voluntarily placed on said Lots, Tracts, or dwelling units thereon, provided any foreclosure of said voluntary liens by judicial or nonjudicial foreclosure shall be expressly subject to the liens securing the Maintenance Fees and Assessments provided for herein and provided such judicial or nonjudicial foreclosure shall never extinguish or be deemed to extinguish the lien securing any Maintenance Fee or Assessment which may then be due or may become due thereafter. Each such Maintenance Fee and Assessment together with interest thereon and the cost of collection thereof as hereinafter provided shall also be the personal obligation of the person or entity who was the Owner of such Lot, Tract, or dwelling unit thereon at the time the Maintenance Fee or Assessment becomes due, (i.e., January 1 of each calendar year), subject to the applicable provisions of this Section 4.4.

(.12) Miscellaneous Provisions: The following additional terms and conditions shall govern:

(a) The following portions of the Subdivision Land will be subject to the Maintenance Fee and Assessments:

(i) Lots and Tracts, or dwelling units thereon, fee title to which is vested in others than Declarant, regardless of the amount paid toward the purchase price thereof. Said Lots and Tracts, or dwelling units thereon, shall become subject to the Maintenance Fee and any Assessment commencing January 1 after conveyance thereof by the Declarant. Dwelling units shall become subject to the Maintenance Fee and Assessment as herein provided.

(ii) Lots and Tracts, or dwelling units thereon, fee title to which is vested in Declarant subject to valid contracts for deed regardless of the amount paid toward the purchase price thereof. Said Lots and Tracts, or dwelling units thereon, shall become subject to the Maintenance Fee and any Assessment commencing January 1 after the date of the applicable contract for deed. The Maintenance Fee and Assessment shall be payable by the purchaser in the contract for deeds, and in no event shall be payable by Declarant.

(iii) In the case of a duplex, triplex, motel, hotel, apartment, condominium, or other structure containing more than a single dwelling unit, the Maintenance Fee

and Assessment shall become effective as to each dwelling unit on January 1 following substantial completion of the applicable structure. In such case, the Maintenance Fee and Assessment shall constitute a charge and lien against the applicable Lot or Tract, and, in addition, shall constitute a charge and lien against each dwelling unit thereon; provided further that in the case of a structure which constitutes a condominium under the Texas Condominium Law, the Maintenance Fee and Assessment shall also constitute a charge and lien against each condominium unit and its interest in the general and limited common elements of the condominium.

(iv) In the event an Assessment is in effect on January 1 when any Lot, Tract, or dwelling unit thereon becomes subject to Maintenance Fee and Assessment, said Lot, Tract, or dwelling unit shall be subject only to the Assessment and/or installments thereof due on said January 1 and thereafter.

(b) The following portions of the Subdivision Land will not be subject to the Maintenance Fee and/or Assessment:

(i) Lots, Tracts, or dwelling units thereon fee title to which is vested in Declarant not subject to a contract for deed. In the event Declarant, as owner of fee title to any Lots, Tracts or dwelling unit thereon cancels a contract of sale as to such Lot, Tract, or dwelling unit thereon, fee title to said Lot, Tract, or dwelling unit thereon shall be vested in Declarant free and clear of any lien or charge for any Maintenance Fee and/or Assessment whether due or past due. Declarant shall never be deemed liable for any Maintenance Fee and/or Assessment whether due or past due in the event of cancellation of a contract for deed.

(ii) Any portion of the Subdivision Land fee title to which is vested in the Property Owner's Association.

(c) If fee title to a Lot or Tract or dwelling unit therein is vested in Declarant subject to a lien, mortgage, deed of trust, mineral reservation, easement, restriction, or other encumbrance, fee title thereto shall be deemed to be vested in Declarant for all purposes hereof. The term "Declarant" shall mean the above

named Declarant, its successors and assigns, and any person or entity exercising or succeeding to the rights, powers, duties, and obligations of the Declarant, including any assignee thereof

(.13) General Limitation: In addition and without limitation of the foregoing, the collection, enforcement, and use of Maintenance Fees and Assessments shall never be deemed to impose any duty or obligation on Declarant, the Property Owner's Association, or the Assessment Association, and/or Assessment to perform beyond use of the proceeds of such Maintenance Fee to which each is entitled and which is on hand and available for such use after allowing for reasonably anticipated future expenses of like nature and contingencies.

4.5 BINDING NATURE OF COVENANTS AND RESTRICTIONS

The covenants and restrictions of the Declaration including, but not limited to, the covenants and restrictions contained in Section 4.4 of this Declaration, shall run with and bind the Subdivision Land, and, without limitation, shall inure to the benefit of and be enforceable by Declarant, the Assessment Association, the Property Owner's Association, the Committee, and/or any Owner of the Subdivision Land or any part thereof for the term thereof upon and subject to the terms and conditions thereof.

4.6 MINERALS AND ROYALTIES

This Declaration is expressly subject to the oil, gas, and/or minerals and/or royalty interests, if any, which are outstanding of record affecting the applicable portions of the Subdivision Land.

4.7 CERTAIN ADDITIONAL RIGHTS OF DECLARANT

Declarant shall have the right, but not the obligation, at any time and from time to time to cause or permit the owners of other land adjoining or in the vicinity of the Subdivision to commit said lands or any part thereof to this Declaration and the Conditions hereof, and, in such event, Declarant may delegate any or assign all or part of the rights, privileges, duties, and obligations of the Declarant under this Declaration to the owner of such other land, subject to the following terms and conditions: In the event Declarant exercises the rights herein reserved, Declarant shall execute and deliver to the owner of such other

land an instrument in writing and in recordable form wherein Declarant shall grant said right to said owner. Said instrument shall contain a legal metes and bounds description of the land as to which said right is granted and said instrument shall contain a specific grant of any and all rights, privileges, duties, and obligations of the Declarant under this Declaration which may be delegated and/or assigned to the owner of said other land with respect to said other land if and to the extent the owner thereof shall commit the same to this Declaration. All rights, privileges, duties, and obligations of Declarant not expressly delegated and/or assigned in such instrument shall be deemed to be reserved to and may be exercised by Declarant as to such other land if and to the extent owner thereof shall commit the same to this Declaration. Upon receipt of the above instrument and at any time and from time to time thereafter, the owner of such other land shall have the right, but not the obligation, to commit any or all of such other land to this Declaration by filing a Plat meeting the Formal Requirements hereof, except that such Plat shall be executed by such other owner and/or the successors and assigns of such other owner in lieu of Declarant.

V.

GENERAL PROVISIONS

5.1 DURATION

The covenants and Conditions of this Declaration shall run with the Subdivision Land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date this Declaration is filed for record in Llano County, Texas, after which time the covenants and Conditions shall be automatically extended for successive periods of ten (10) years unless terminated by an instrument of termination meeting the following requirements.

The instrument of termination shall be in writing and shall be executed and acknowledged by the then Owners of a majority in interest of fee title to the Subdivision Land (excluding the Subdivision Land included in public or private roads and streets), and must be filed of record in Llano County, Texas. The instrument of termination shall be effective to terminate this Declaration and the Conditions at the expiration date of the initial twenty-five (25) year term if said instrument of termination is filed of record as set forth above during the initial twenty-five (25) year term or if filed of record as set forth above during any ten

(10) year period of extension and shall be effective to terminate this Declaration and the Conditions at the end of said ten (10) year period of extension.

5.2 AMENDMENTS

This Declaration and any or all of the Conditions and restrictions set out herein may be amended by an instrument of amendment meeting the following requirements: The instrument of amendment shall be in writing and shall be executed and acknowledged by the then Owners of a majority in interest of the fee title of the Subdivision Land (excluding the portion of the Subdivision Land included in public or private roads and streets) and must be filed of record in Llano County, Texas. Without limitation, the instrument of amendment may amend Section 5.1 hereof. The instrument of amendment shall be deemed to be effective on the date the instrument is filed of record in Llano County, Texas. Any amendment to this Declaration shall be binding on all Lots and Owners after the effective date thereof, but shall only apply to any building or structures not started at the time of such effective date.

5.3 NOTICES

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as Owner on the records of Declarant (or after 50% of the Lots in the Subdivision have been deeded to the Owners thereof, excluding Declarant, the records of the Association) at the time of such mailing. This Section shall never be deemed to obligate Declarant and/or the Association to maintain records of addresses or to give notices. It shall be the duty of each Owner to keep Declarant and/or the Association currently advised as to the address of Owner.

5.4 ASSIGNMENT AND DELEGATION

The term "Declarant" shall mean the above named Declarant, its successors and assigns, and shall include any person or entity to which Declarant may assign and/or delegate its rights and privileges, duties, and obligations hereunder, which rights, privileges, duties, and obligations are and shall be assignable. In this connection, Declarant shall have the right, but not the

obligation, to assign its rights and privileges, duties, and obligations, in whole or in part, to any persons, civic group, and/or the Association. Declarant shall be relieved of any and all responsibility under the Declaration if and to the extent Declarant shall make such assignments.

5.5 SEVERABILITY

In the event that any of the provisions of this Declaration conflict with any other provisions hereof and/or with the applicable Plat, the more restrictive provisions shall govern. In this connection, without limitation, Declarant shall have the right at its election to impose additional special conditions on any Lot, Tract, or Land, which special conditions, if any, shall be set forth on the face of the Plat and/or in a separate instrument filed at the same time and in connection with said Plat. Said additional special conditions shall be binding on the particular Lot, Tract, or Land, covered thereby and shall be deemed to be part of the Conditions of this Declaration.

5.6 ENFORCEMENT

If any Owner of any Lot, Tract, or Land shall violate or attempt to violate this Declaration or any of the Conditions or covenants herein, it shall be lawful for Declarant, the Committee or any members thereof, the Property Owner's Association, the Assessment Association, the Collection Agent, or any Owner of any Lot, Tract, or Land in the Subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate this Declaration or any such Conditions or covenants and to prevent such violation or threat of violation and/or to recover damages for such violation or threat of violation, including reasonable attorney's fees and in general to pursue and seek such other remedies and/or relief as may be permitted at law and/or in equity, including, without limitation, specific performance. Without limitation, in order to enhance and protect the value of the Lots, Tracts, and Land described herein, the right to prosecute any proceeding at law or in equity against any person or persons violating or attempting to violate any Conditions either to prevent such violations or to recover damages or other dues for each violation is also expressly reserved to Declarant; however, this Section shall never be deemed to obligate Declarant to threaten or prosecute any proceeding in law or equity, or otherwise enforce this Declaration or the Conditions.

Breach of any of the Conditions or covenants hereof by any Owner shall not in anywise affect any valid mortgage or lien made by said Owner or a predecessor or successor in title of such Owner; provided said mortgage or lien was made in good faith and for value and not made for the purpose of defeating the purposes of such Conditions or covenants.

IN WITNESS WHEREOF, Horseshoe Bay Applehead, Inc. has caused its corporate name and seal to be hereunto affixed by its officers thereunto duly authorized, this 18th day of July, 1983.

HORSESHOE BAY APPLEHEAD, INC.
A Texas Corporation

BY: Frank Dan King
Frank Dan King
President

ATTEST:

[Signature]
Secretary

THE STATE OF TEXAS §
 §
COUNTY OF LLANO §

This instrument was executed before me by Frank Dan King, President of Horseshoe Bay Applehead, Inc., a Texas corporation, on behalf of said corporation.



BECKY TALIAFERRO
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES 4-7-84

Becky Taliaferro
NOTARY PUBLIC in and for
the State of Texas

(printed name of notary)

My Commission Expires: _____

After recording, please return to:

Horseshoe Bay Applehead, Inc.
~~Box 8859~~
~~Horseshoe Bay, Texas 78654~~

+ July 1988
amendment

AMENDMENT TO DECLARATION
OF RESERVATIONS OF HORSESHOE
BAY APPLEHEAD ISLAND

THE STATE OF TEXAS
COUNTY OF LLANO

§ KNOW ALL MEN BY THESE PRESENTS THAT:
§
§

WHEREAS, Horseshoe Bay Applehead, Inc., a Texas corporation (hereinafter referred to for all purposes as "Declarant"), on July 22, 1983 filed of record that certain Declaration of Reservations for Horseshoe Bay Applehead Island dated July 18, 1983 (hereinafter referred to for all purpose as the "Declaration"), in Volume 290, page 40 et seq., of the Deed Records of Llano County, Texas, as corrected by instrument recorded in Volume 296, page 76 et seq., of the Deed Records of Llano County, Texas; and

WHEREAS, the Declaration creates that certain subdivision in Llano County, Texas known as Horseshoe Bay Applehead Island (hereinafter referred to for all purposes as the "Subdivision"); and

WHEREAS, certain lots and tracts of land have heretofore been committed to the Declaration by the filing of one or more plats in accordance with the requirements of the Declaration, and said lots and tracts have thereby become a part of the Subdivision (with all of said lots and tracts being hereinaf-

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WHEREAS, Horseshoe Bay Applehead Island Assessment Association, Inc., a Texas non-profit corporation (hereinafter referred to for all purposes as the "Assessment Association"), joins in the execution of this amendment for the purpose of evidencing its consent thereto and approval thereof;

NOW, THEREFORE, as authorized and empowered by Section 5.2 of the Declaration, Trustee and the Property Owner's Association do hereby amend the Declaration as follows:

1. Section 4.4(.4) of the Declaration, entitled "Initial Base Maintenance Fee," is hereby amended and restated in its entirety to state as follows:

"(.4) Initial Base Maintenance Fee. -
The Base Maintenance Fee shall be One Thousand Eighty U. S. Dollars (\$1,080.00). The Base Maintenance Fee shall continue in effect at this amount unless and until increased by the Assessment Association or increased pursuant to the provisions of Section 4.4(.8) of this Declaration."

2. Section 4.4(.8) of the Declaration, entitled

ter referred to for all purposes as the "Subdivision Land"); and

WHEREAS, Section 5.2 of the Declaration permits amendment of the Declaration upon the terms and conditions stated therein; and

WHEREAS, Norman C. Hurd, Trustee No 1 (hereinafter referred to for all purposes as "Trustee") and Horseshoe Bay Property Owner's Association, Inc., a Texas non-profit corporation (hereinafter referred to for all purposes as the "Property Owner's Association") are the Owners (as said term is defined in the Declaration) of a majority in interest of the fee title of the Subdivision Land (excluding the portion of the Subdivision Land included in public or private roads and streets); and

WHEREAS, Trustee and the Property Owner's Association desire to and do hereby amend the Declaration as hereinafter provided, and as authorized by Section 5.2 of the Declaration; and

WHEREAS, Declarant joins in the execution of this amendment for the purpose of evidencing its consent thereto and approval thereof; and

the Bay Applehead Island
a Texas non-profit cor-
poration for all purposes as
provided in the execution
of the purpose of evidencing its
purpose thereof;
as authorized and
approved of the Declaration,
the Owner's Association do
hereby state as follows:
The Declaration, entitled
"Bay Applehead Island", is hereby amended
to state as follows:
Maintenance Fee.
The Maintenance Fee shall be One Thousand Dollars (\$1,080.00). The Maintenance Fee shall continue in effect until increased by an amount or increased pursuant to Section 4.4(8) of the Declaration, entitled

"Automatic Base Maintenance Fee Increases and Decreases," is hereby amended and restated in its entirety to state as follows:
"(8) Automatic Base Maintenance Fee Increases and Decreases.
Commencing on January 1, 1989, and on January 1 of each and every consecutive calendar year thereafter, the Base Maintenance Fee shall be increased or decreased automatically if and to the extent the application of the formula set forth below results in any such increase or decrease; provided, however, that in no event shall the Base Maintenance Fee ever be less than One Thousand Eighty U. S. Dollars (\$1,080.00). The adjusted amount of the Base Maintenance Fee shall be computed by multiplying the dollar amount of the Base Maintenance Fee during the preceding calendar year by a fraction, the numerator of which shall be X amount and the denominator of which shall be Y amount. X amount in said fraction shall be equal to the Index Figure for

November of the calendar year immediately preceding the year for which the Base Maintenance Fee is being calculated. Y amount in said fraction shall be equal to the Index Figure for the month of November for the calendar year immediately preceding the year upon which the X amount is based. By way of example only, in determining the amount of the Base Maintenance Fee that will be due on January 1, 1989, the X amount shall be the Index Figure for November 1988 and the Y amount shall be the Index Figure for November 1987. For the year 1989, and for each year thereafter during the term of this Declaration, in the event Y amount exceeds X amount, the Base Maintenance Fee shall be decreased in such calendar year by application of this Section. In the event Y amount is less than X amount, the Base Maintenance Fee shall be increased in such calendar year by application of this Section. As used herein, the term "index Figure" shall mean the "Consumer Price Index For All

RECEIPT

This is to acknowledge that I have received copies of the below listed instruments.

1. "Declaration of Reservations Horseshoe Bay Applehead Island a Subdivi-
sion in Llano County, Texas as amended."
2. "Agreement dated July 18, 1983 between Horseshoe Bay Applehead Island

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3. Section 4.4 of the Declaration is amended to add the following subsection (14), which is a new subsection of Section 4.4 and not in replacement or in lieu of any existing subsection of Section 4.4 of the Declaration:

"(14) Interest.
In the event that an Owner has not paid the

Urban Consumers, U. S. City Average for All Items, United States," published by the United States Department of Labor, Bureau of Labor Statistics, 1982/84 = 100. If the Department of Labor, Bureau of Labor Statistics shall cease to publish the foregoing index, then the successor index published by any successor agency or other agency of the federal government which may take over such publication shall be used. In the event a new base for the index is established, the calculation of any increase or decrease in the Base Maintenance Fee shall be adjusted to conform to the new base so that calculations as above set forth shall yield the same results as if made on the said index 1982/84 = 100. If the index shall hereafter be converted to a different base or otherwise revised, the determination of the increase or decrease, if any, in the Base Maintenance Fee, shall be made by utilizing such conversion factor, formula, or table for converting the index as may be published by the Bureau

This is to acknowledge that I have received copies of the below listed instruments.

1. "Declaration of Reservations Horseshoe Bay Applehead Island a Subdivision in Llano County, Texas as amended."

2. "Agreement dated July 18, 1983 between Horseshoe Bay Applehead, Inc. and Lake LBJ Investment Corp. Horseshoe Bay Country Club Inc. and Horseshoe Bay Management Company."

Horseshoe Bay Applehead Island (date)

RECEIPT

subsection of Section 4.4 of the Declaration:

"(15) Notice of Lien:

In the event that an Owner has failed to pay the Base Maintenance Fee by March 1 of the applicable year, the Assessment Association may, but shall not be required to, file a notice of lien in the Real Property Records of Llano County, Texas, stating that the Owner has failed to pay when due the Base Maintenance Fee. In the event that the Owner subsequently pays the Base Maintenance Fee and all interest which has accrued unpaid thereon to the Assessment Association, then upon payment by Owner to the Assessment Association of a charge of \$200.00 to reimburse the Assessment Association for legal, administrative, and recording fees, the Assessment Association shall execute and record a release of the previously filed notice of lien. Filing of a notice of lien shall not be necessary to perfect the lien in favor of the Assessment Association which is provided for in Section 4.4.(11) of

Base Maintenance Fee to the Assessment Association by February 1 of the year in question, after the due date of January 1, then beginning on February 1, interest on the amount of the unpaid Base Maintenance Fee shall accrue and be payable by the Owner to the Assessment Association at the rate of six percent (6%) per annum, continuing until receipt of payment by the Assessment Association. In the event that an Owner has not paid an Assessment by the due date established by the Assessment Association then commencing thirty-one (31) days after the due date, interest shall accrue and be payable on the amount of the unpaid assessment at the rate of six percent (6%) per annum continuing until receipt of payment by the Assessment Association."

4. Section 4.4 of the Declaration is amended to add the following subsection (15), entitled "Notice of Lien," which is a new subsection of Section 4.4 and not in replacement or in lieu of any existing

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lien granted in and created by Section 4.4(.11) of this Declaration against the Lot or Tract of the Owner."

6. Section 5.2 of the Declaration, entitled "Amendments," is amended and restated in its entirety to read as follows:

"5.2 AMENDMENTS. This Declaration and any or all of the Conditions and restrictions set out herein may be amended by an instrument of amendment meeting the following requirements: The instrument of amendment shall be in writing and shall be (a) executed and acknowledged by the then Owners of a majority in interest of the fee title of the Subdivision Land (excluding the portion of the Subdivision Land included in public or private roads and streets) or (b) executed and acknowledged by Declarant or Norman C. Hurd, Trustee No. 1. To be effective, the amendment must be filed of record in Llano County, Texas. Without limitation, the instrument of amendment may amend Sec-

this Declaration, but shall be for the limited purpose of advising third parties as to the unpaid status of the Owner's obligation to the Assessment Association."


5. Section 4.4 of the Declaration is amended to add the following subsection (.16), entitled "Attorneys' Fees and Collection Costs," which is a new subsection of Section 4.4 and not in replacement or in lieu of any existing subsection of Section 4.4 of the Declaration:


“(16) Attorneys' Fees and Collection Costs.
An Owner who fails to pay when due the Base Maintenance Fee or any Assessment shall be liable to the Assessment Association for all attorney's fees and collection costs and expenses incurred by the Assessment Association in collecting the Base Maintenance Fee, an Assessment, or the interest lawfully accruing thereon. The foregoing obligation to pay attorney's fees and collection costs shall be the personal obligation of the Owner and payment thereof shall be further secured by the

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tion 5.1 hereof. The instrument of amend-
ment shall be deemed to be effective on the
date the instrument is filed of record in Llano
County, Texas. Any amendment to this Dec-
laration shall be binding on all Lots and Own-
ers after the effective date thereof."
7. By joining in the execution of this amend-
ment to the Declaration, Declarant and the Assess-
ment Association consent to, ratify, and confirm
each of the foregoing amendments to the Declara-
tion.
8. Except as amended hereby, the Declaration
and all provisions, restrictions, terms and conditions
thereof remain in full force and effect. In the event
of any conflict or inconsistency between the forego-
ing amendments and the other terms and provisions
of the Declaration, the foregoing amendments shall
govern and control.



EXECUTED TO BE EFFECTIVE THIS 11 DAY OF JULY, 1988

NORMAN C. HURD, TRUSTEE NO. 1
HORSESHOE BAY APPELHEAD, INC.

By 
Frank Dan Edg
President
HORSESHOE BAY APPELHEAD ISLAND
PROPERTY OWNER'S ASSOCIATION, INC.

By 
Norman C. Hurd
President

By 
Dorothy E. Hurd
Secretary
HORSESHOE BAY APPELHEAD
ISLAND ASSESSMENT ASSOCIATION, INC.

By 
Norman C. Hurd
President

By 
Dorothy E. Hurd
Secretary

RECEIPT

This is to acknowledge that I have received copies of the below listed instru-
ments.

1. "Declaration of Reservations Horseshoe Bay Applehead Island a Subdivi-
sion in Llano County, Texas as amended."
2. "Agreement dated July 18, 1983 between Horseshoe Bay Applehead,
Inc. and Lake LBJ Investment Corp, Horseshoe Bay Country Club Inc. and
Horseshoe Bay Management Company"

