

REVISED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**FOR****LOS COMPADRES SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions for LOS COMPADRES SUBDIVISION ("Declaration") is made effective on May 11, 2015 by vote of the members of Los Compadres Homeowners Association, Inc., a Texas Non-Profit Corporation ("Declarant") pursuant to Section 12.4 of the existing Declaration and completely restates and supersedes in their entirety all previously recorded declarations of covenants, conditions and restrictions relating to the Los Compadres Subdivision .

RECITALS

Declarant and other signatories hereto are the owners of the real estate, together with the improvements thereon, located in El Paso County, Texas, described in Plat recorded Volume 52, page 14, Plat Records of El Paso County, Texas "A" known as LOS COMPADRES SUBDIVISION ("Subdivision.")

Declarant desires to recognize that the Subdivision has completed its development stage and that its covenants, conditions, restrictions, limitations and uses need to be updated to comply with current national, state and city law.

Declarant hereby adopts, agrees and declares that the subdivision shall have and be subject to the following reservations, easements, restrictions, assessments, liens, covenants and conditions, which shall run with the land and title or interest therein, or any part thereof, and shall inure to the benefit of each Owner in the Subdivision as a whole, whether or not set out in full or incorporated by reference in any deed or other instrument of conveyance.

ARTICLE I**DEFINITIONS**

1.1 "Adjacent lot" means a lot that is contiguous to another lot that fronts on the same street or with respect to a corner lot, a lot that is contiguous to the corner lot by either a side property line or a back property line.

1.2 "Assessable Unit" means the lots that are counted by the Association when the total of the annual or special assessment is allocated to individual owners. This corresponds to each lot owned except when lots have been combined for assessment purposes under the provisions of §6.2(c).

1.3 "Assessment" means a regular assessment or special assessment, or other amount an Owner is required to pay to the Association under this Declaration or other dedicatory instrument described herein.

1.4 "Association" refers to Los Compadres Homeowners Association, Inc, a Texas Nonprofit Corporation, and its successors and assigns, which is designated as the representative of Owners in the Subdivision, whose membership consists of Owners, and manages and regulates the Subdivision for the benefit of the Owners.

1.5 "Architectural Control Committee" or "ACC" shall mean a committee appointed by the Board of Directors to approve or disapprove improvements to be constructed on a Lot pursuant to this Declaration and duly adopted Design Guidelines.

1.6 "Articles" shall mean and refer to the Articles of Incorporation of the Association.

1.7 "Board of Directors" refers to the governing body of the Association.

1.8 "Bylaws" shall mean the duly adopted bylaws of the Association as the same may be amended from time to time. The current bylaws have been recorded in the Real Property Records of El Paso County.

1.9 "Collection agent" means a debt collector, as defined by Section 803 of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

1.10 "Common Area" refers to the real property in the Subdivision (including improvements) owned by the Association for the common use and enjoyment of the Owners, and shown as Common Area on the Plat. Common Areas as defined herein shall include Common Open Space defined herein below.

1.11 "Common Open Space" shall refer to and have the same meaning as the term is defined in the El Paso City Code, which definition is incorporated herein for all purposes.

1.12 "Contractor" refers to the person or entity with whom an Owner contracts to construct a residential dwelling and other improvements on a Lot or with whom the Association contracts for repairs and improvements on the common property owned by the Association.

1.13 "Classes of Membership" The Association has one class of membership. All owners of Assessable Units in the subdivision are members of the Association.

1.14 "Declaration" refers to this revised Declaration of Covenants, Conditions and Restrictions for Los Compadres Subdivision, and any future duly passed and recorded amendments which by their terms include restrictive covenants governing the Subdivision.

1.15 "Dedicatory instrument" means each governing instrument covering the

establishment, maintenance, and operation of the Subdivision. The term includes the Declaration, Bylaws, Architectural Control Guidelines, Rules and Regulations, Open Records and Records Retention Policies, and Alternative Payment Schedule, and all lawful amendments. All dedicatory instruments shall have no effect until filed in the Real Property Records of El Paso County.

1.16 "Lot" refers to any designated parcel of land in the Subdivision including any improvements.

1.17 "Maintenance Charge" means assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, and shall be a charge on the Lots and shall be a continuing lien upon the Lot against which each such Maintenance Charge and other charges and assessments are made.

1.18 "Maintenance Fund" shall mean the Association's accumulation of funds from Regular and Special Assessments, as well as income and revenue from other legitimate sources, as described in this Declaration.

1.19 "Managing Agent" means the Association's designated representative as it appears on the Management Certificate.

1.20 "Management Certificate" means the instrument required to be recorded pursuant to Section 209.004 of the Texas Residential Property Owners Protection Act.

1.21 "Member" refers to every Owner or entity which holds membership in the Association by virtue of its ownership of a Lot.

1.22 "Owner" means a person who holds record title to a Lot, and includes the personal representative.

1.23 "Party Wall" shall mean a wall or fence upon the projection or near the dividing line between two Lots or between a lot and common property, as a common part of, or an appurtenance to adjoining dwellings.

1.24 "Plat" shall refer to the plat of the Subdivision recorded in Volume 52, page 14, Plat Records of El Paso County, Texas, which plat is divided into lots, common areas, common open space and easements within said real estate description as more particularly shown thereon

1.25 "Policies and Procedures" mean Rules and Regulations of the Association as established by the Board. The Texas Residential Property Owners Protection Act, Chapter 209 of the Property code refers to Policies and Procedures. Policies and Procedures shall be considered synonymous with Rules and Regulations of the Association.

1.26 "Regular Assessment" means an assessment, charge, fee, or dues that each Owner is required to pay to the Association on a regular basis and that is designated for use by the

Association for the benefit of the Subdivision, as provided herein.

1.27 “Resale Certificate” means a written statement issued, signed, and dated by the Managing Agent or other duly authorized agent of the property owners’ association which contains the information specified by Section 207.003(b) of the Texas Property Code.

1.28 “Rules and Regulations” or “Rules” mean the Rules and Regulations of the Association, as may be amended from time to time.

1.29 “Solar Energy Device” has the meaning assigned by Section 171.107 of the Tax Code, and used in Texas Residential Property Owners Protection Act, which defines the term as “a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power”. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

1.30 “Special Assessment” means an assessment, charge, fee, or dues, other than a regular assessment which each Owner is required to pay to the Association for defraying in whole or in part, the cost, whether incurred before or after the special assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in the Subdivision.

1.31 “Texas Residential Property Owners Protection Act” or “The Act” or “TRPOPA” means Texas Property Code Chapter 209, as same may be amended or repealed in whole or in part.

1.32 “Transfer Fee” means dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment under this Declaration, other dedicatory instrument, or under law, including a fee or charge payable for a change of ownership entered in the records of the Association.

Article II

Lot Covenants

2.1 **Use.** Each Lot in the Subdivision shall be used only for residential related purposes, as set forth below. The Association, acting through the Board of Directors and the Architectural Control Committee shall have the right and power to enforce the restrictions contained in this Declaration and all other dedicatory instruments.

2.2 **Single Family Residential Construction.** Except as provided below, no building shall be erected, altered, placed or permitted to remain on any Lot other than one dwelling unit per each Lot to be used for single family residential purposes. All dwellings must be approved by the ACC prior to construction. Any improvement commenced on

any Lot shall be completed as to exterior finish and appearance within six (6) months from the construction commencement date. All garages will be of the same general construction as the main dwelling, and located on the Lot according to the building site plan approved by the Architectural Control Committee.

2.3 Composite Building Site. Any Owner of one or more adjoining Lots may, with the prior written approval of the Architectural Control Committee, and with approval of the City of El Paso and/or the El Paso Planning Department, if required, consolidate such Lots, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back lines shall be measured from the resulting side Subdivision lines rather than the Lot lines as indicated on the Plat.

2.4 Adjacent Lot Use. "Residential purpose" with respect to the use of a lot: (A) means the location on the lot of any building, structure, or other improvement customarily appurtenant to a residence, as opposed to use for a business or commercial purpose; and (B) includes the location on the lot of a garage, sidewalk, driveway, parking area, children's swing or playscape, fence, septic system, swimming pool, utility line, or water well and, if otherwise specifically permitted by the dedicatory instrument, the parking or storage of a recreational vehicle.

(a) Under §209.015 of Texas Residential Property Owners Protection Act, a property owners' association may not adopt or enforce a provision in a dedicatory instrument which prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot also owned by the same property owner.

An owner must obtain the approval of the ACC, before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

(b) An owner who elects to use an adjacent lot for residential purposes under this section shall, on the sale or transfer of the lot containing the residence:

(1) include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions; or

(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner.

(c) An owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument unless the lot has been restored

2.5 Temporary Structures. No structures of a temporary character, trailer, tent, shack or other out-building shall be used or permitted to be kept or stored by an Owner on any portion of a Lot or any portion of the Common Areas in such a manner as to be exposed to public view, at any time either temporarily or permanently, other than as such may be used during the period of construction of a dwelling on a Lot. Temporary buildings or structures used during the construction, repair or remodeling of a dwelling on any Lot shall be moved immediately after the completion of construction.

2.6 Improper Activities. No unlawful or offensive activities shall be carried on a Lot or upon the Common Areas, including but not limited to excessive noise from motorcycles, cars, stereos, radios and pets, nor shall anything be done which may be or become an annoyance or nuisance to other Owners. No Owner shall store any dangerous explosives or inflammable materials either on his Lot or upon the Common Areas, or permit anything to be done or permitted to be kept on his Lot or on the Common Areas which will endanger the safety of others or their property.

2.7 Dwelling Size and Height. Actual dwelling area for each individual Lot shall be determined by vote of the Architectural Control Committee. No dwelling on a Lot shall exceed two (2) stories in height above the highest point on said Lot as determined by the Architectural Control Committee; provided, however, that on the following described Lots no dwelling will be permitted to exceed a height of fifteen feet (15') above the highest point on said Lot as determined by the Architectural Control Committee:

Lots 9 through 14, Block 3;

Lots 1 through 3, Block 4;

Lots 1 through 3, Block 5;

Lots 1 and 2, Block 6;

Lots 1 through 8, Block 7.

Nothing contained herein shall prohibit the construction of dwellings in excess of two stories so long as such dwelling is constructed so that any additional levels or stories of the dwelling are constructed at below street level.

The home constructed on Lot 2, Block 6 has been granted a one-time variance for the height restriction. This variance only applies to the house constructed there in 2007 and if it is later demolished, such variance is rescinded.

2.8 Landscaping. Trees and shrubs planted adjacent to streets shall be trimmed so that they do not block the view of signs or impede traffic. Following notice, a hearing and vote of the Board of Directors, the Association may require an owner to remove dead or near-dead trees.

2.9 **Easements.** No building or other permanent structure shall be erected or maintained on any part of any area designated as a utility or drainage easement as shown on the recorded plat.

2.10 **Pets and Animals.** No pets or animals of any kind shall be kept in the Subdivision unless the same shall be adequately kept and restrained on the Lot of the Owner. Any animal or pet running without restraint on the Common Areas or any Lot not owned by the pet owner shall be conclusive evidence of the violation of this restriction. Any structure for the care, housing, or confinement of any pet shall be reasonably hidden from neighboring property. Pets kept outside must be provided with adequate water and shade. In accordance with Humane Society precepts, dogs should not be kept outside alone for extended periods of time. No animal, pet, or bird shall be kept, bred or raised thereon for commercial purposes. Warnings shall be given for the first and second violations. With a third violation, after notice, a hearing and vote of the Board of Directors, the owner may be required to transfer the pet outside of Los Compadres.

2.11 **Trailers, Boats and Motor Vehicles.** No motor home, recreational vehicle, trailer of any kind, truck camper, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property or a street; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Control Committee, and provided, further, that trailers, truck campers, and boats must be kept and placed in fully enclosed parking areas on the Lots. Owners shall be permitted to locate a motor home, recreational vehicle or trailer in their driveway or on the street in front of their home temporarily for loading and unloading purposes at the beginning or end of a trip.

2.12 **Trash Containers and Collection.** No garbage or trash shall be placed or kept on any Lot or the Common Areas, except in the covered containers, as required by the City of El Paso. Containers shall be maintained so as to reduce visibility from neighboring property, except to make the same available for collection, and then only for the time reasonably necessary to effect such collection. Temporary containers used for collection of debris during construction or major remodeling are authorized but must be placed so as to minimize interference with traffic and normal functions such as mail delivery. In addition, steps must be taken to prevent wind blown trash from such containers.

2.13 **Clothes Drying Facilities.** Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or the Common Areas unless they are erected, placed and maintained exclusively within a fenced

service yard and are otherwise concealed and are not visible from neighboring property.

2.14 Mineral Exploration. No drilling or excavation for oil, gas, water, sand, clay, dirt, coal, gravel, or any other mineral shall be made on any Lot or the Common Areas, whether for profit or otherwise.

2.15 Restrictions on Further Subdivision. No Lot shall be subdivided and no portion, less than all of any such Lot, shall be conveyed by any Owner. Variations of the property lines between subdivided lots, as shown on the Plat of this Subdivision, may be made by the mutual consent of adjoining Lot Owners. Said agreement regarding variation must be approved by the Architectural Control Committee, the City of El Paso and/or the El Paso Planning Department and a copy of the Lot Line Agreement shall be recorded with the El Paso County Clerk.

2.16 Signs. No signs or other advertising devices shall be displayed which are visible from neighboring property or on the Common Areas, including "For Sale" signs, except in conformity with the Signage Policy promulgated by the Board of Directors.

2.17 Garages. Garage doors shall be closed at all times except as may be necessary for entry and exit of vehicles and persons, or for the exercise of normal household or hobby functions by a family member or workman.

2.18 Business Use. No business or practice of any profession shall be conducted on any Lot except which can be conducted through a home office without involving ongoing client visits or increased traffic due to movement of goods.

2.19 Flags and Flagpoles. Subject to this section, and approval by the ACC, owners may display a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces. The flag of the United States shall only be displayed in accordance with 4 U.S.C. Sections 5-10, which qualify the times and occasions for the flag's display, the position of the flag, and respect for it. The flag of the State of Texas shall only be displayed in accordance with Chapter 31 of the Texas Government Code. A flagpole attached to a dwelling or a freestanding pole is to be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling on the Lot. The display of the flag, and its location and construction of the supporting flagpole shall comply with appropriate ordinances, easements and setbacks of record, and a displayed flag and flagpole on which it is flown shall be maintained in good condition. Any deteriorated flag or structurally unsafe flagpole shall be repaired, replaced or removed. A flagpole attached to the dwelling on a Lot may not exceed six (6) feet in height. A freestanding flagpole shall not exceed 20 feet in height. Illumination of permitted flags must be sub-surface and not exceed 200 watts, and positioned in a manner not directed

toward an adjacent Lot. A flag displayed on a freestanding flagpole shall not be more than ten (10) feet in height, and a flag displayed on a flagpole attached to a dwelling shall be no more than three (3) by five (5) feet. No more than one of each permitted flags may be displayed on a flagpole at any time. Owners may not install flagpoles or display flags in the Common Area without the express written consent of the Association.

2.20 Religious Item Displays. Subject to this section, and approval by the ACC, Owners may display or affix on the entry to the Owner's dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief. No religious item may individually or in combination exceed sixty four (64) square inches, and shall not extend past the outer edge of the door frame of the dwelling. Notwithstanding the foregoing, the display or affixation of a religious item on an Owner's dwelling that threatens public health or safety, violates a law, or contains language, graphics, or any display that is patently offensive to a passerby is prohibited. Following notice, a hearing and vote of the Board of Directors, the Association may require an item displayed in violation of this section to be removed.

2.21 Solar Energy Devices. Subject to this section, and approval by the ACC, Owners may install solar energy devices on the roof of the dwelling or other permitted improvement on a Lot, or in a fenced yard or patio. A solar energy device is not permitted anywhere on a Lot except on the roof of the residential dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot. A solar energy device may not extend higher than the dwelling's or other permitted improvement's roof line, and shall conform to the slope of the roof line, shall have a frame, support bracket, or visible piping that is a silver, bronze, or black tone commonly available in the marketplace, and shall be located on a roof as designated by the ACC, unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the ACC. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory. A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio. A solar energy device that, as adjudicated by a court threatens the public health or safety, violates a law, or is located in the Common Area is prohibited. The ACC may not withhold approval if the guidelines of this section are met or exceeded, unless the ACC determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist.

2.22 Rain Barrels and Rain Harvesting Systems. Rain Barrels and Rain Harvesting Systems may be installed subject to the following provisions: No rain barrel or rainwater harvesting system shall be permitted in the Common Area or located on a Lot between the front of the dwelling and an adjoining or adjacent street, be of a color inconsistent with the color scheme of the Owner's dwelling, display any language or other content that is not typically displayed by a barrel or system as it is manufactured. The ACC can regulate the size, type and shielding of, and the materials used in the construction of, a rain barrel, rainwater harvesting device, or other appurtenance that is located on the side of a dwelling or any other location that is visible from a street, another Lot, or the Common Area, if it does not prohibit the economic installation of the device or appurtenance on the Owner's Lot. There must be a reasonably sufficient area on a Lot to install these devices and appurtenances.

2.23 Speed Limit. The speed limit within Los Compadres subdivision is twenty (20) miles per hour.

ARTICLE III

Architectural Control Committee

3.1 Membership. The Architectural Control Committee (ACC) shall be composed of three (3) persons. In the event of death or resignation of any member of the Committee, the Board of Directors has full authority to designate a successor. The Board of Directors has full authority to remove any or all of the members of the Architectural Control Committee by two-thirds (2/3) vote of said Directors following notice, a hearing and vote of the Board of Directors. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed.

3.2 Powers and Duties. The Architectural Control Committee shall regulate the external design, appearance and location of all improvements on any Lots in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. In addition, the ACC shall:

(a) review written applications of Owners and of the Association for improvements or additions to Lots to ensure compliance with the restrictions set forth herein; and

(b) in accordance with the Bylaws and the Rules and Regulations, monitor construction for compliance with architectural standards and approve plans for alterations.

3.3 Procedures. The procedures and record keeping requirements to be followed by the ACC and owners will be set forth in the Bylaws. In the event that the Architectural Control Committee fails to approve, modify or disapprove in writing a properly filed application within thirty (30) days after its submission, then approval for any matter

described in the application will be deemed granted.

3.4 **Appeal.** An Applicant may appeal an adverse Architectural Control Committee decision to the Board of Directors who may reverse or modify such decision by two-thirds (2/3) vote of said Directors. The review of the appeal shall be made by the Board in an open hearing in which the members, Applicant and members of the ACC shall receive notice and be allowed to present their cases. The Applicant shall have the right to have his attorney present for said hearing.

Article IV

Homeowner Association

4.1 **General Duties and Powers of the Association.** The Association has been formed to further the common interest of the Members. The Subdivision shall be administered by the Association, acting by and through its Board of Directors, who shall be elected in accordance with the Bylaws and those duties will be governed by this Declaration, the Articles, the Bylaws and State, Federal and City laws. The Association has the authority to employ a professional manager to perform such duties and services as the Board of Directors shall direct, including, but not limited to, the performance of all obligations of the Association with respect to the Common Areas and the receipt, discharge and accounting for all assessment payments made to the Association hereunder; provided that any such management agreement shall not exceed one (1) year in duration and may be terminated by the Association for cause upon thirty (30) days written notice thereof.

(a) **Duty to Manage and Care for the Common Area.** The Association shall manage, operate, care for, maintain and repair all Common Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Areas shall include, but not be limited to the management, maintenance, repair and upkeep of the Subdivision and Common Areas.

(b) **Duty to Insure.** The Association shall obtain such insurance as may be required by law, and as the Association shall deem necessary or desirable. This includes, but is not limited, to liability insurance covering the common areas, fidelity bonding insurance against dishonest acts of any officers or persons responsible for handling the Association's funds and Director's liability insurance for members of the Board of Directors of the Association.

4.2 **Membership.** Every person or entity who is a record owner of any Lot, subject to the Maintenance Charge and other assessments provided herein shall be a Member of the

Association. No Owner shall have more than one membership for each Lot owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the Lots. Regardless of the number of persons who may own a Lot (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Lot. Ownership of the Lots is the sole qualification for membership. The voting rights of the Members are set forth in the Bylaws of the Association. Membership is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate the Owner's membership. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's designated representative.

4.3 **Transfer.** The membership held by an Owner of a Lot shall not be transferred, pledged, hypothecated or alienated in any way except upon the sale conveyance of such Lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot shall attempt to fail or refuse to transfer the Membership registered in his name to the purchaser of such Lot, the Association shall have the right to record the transfer upon the books of the Association. No transfer fee shall be charged for entering a change of ownership in the Association's records. Members are required to notify the Board of a change of ownership so such change can be recorded in the Association records.

4.4 **Certificate of Membership.** There are not, and shall not be, any certificate of membership. Membership passes with title to the property to the recorded owners of the property.

4.5 **Voting Classes.** The Association shall have one class of voting membership. All owners shall have one vote for each Assessable Unit. Properties held jointly by married couples or by a partnership do not gain additional voting rights by such ownership.

Article V

COMMON AREAS

5.1 **Ownership.** The Common Areas shall be owned, maintained and managed by the Association in accordance with this Declaration, the Articles, Bylaws, Rules and Regulations and the El Paso City Code, as same may hereafter be amended.

5.2 **Members Easements of Enjoyment.** Every Member shall have a right to a non-exclusive easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass to every assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit or exclude the number of guests of Members;

(b) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas.

5.3 Members' Easements of Ingress, Egress and Support. Every Member shall have a right and non-exclusive easement for ingress, egress and support through the Common Areas and such easement shall be appurtenant to and shall pass with title to every assessed Lot. Those members who attempt to enter or leave Los Compadres via any path other than the streets maintained by the Association do so at their own risk and the Association shall not assume any liability for any injuries resulting from such use.

5.4 Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas to the members of his family who reside with him on his Lot, or to his tenants or contract purchasers who reside on his Lot.

5.5 Waiver of Use. No Member may exempt himself from liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon or by abandonment of his Lot.

5.6 Mortgage or Sale of Common Area. The Association may not sell, mortgage, hypothecate or otherwise alienate all or any portion of the Common Area without the prior approval by notice, a hearing and vote of at least seventy-five per cent (75%) of the Members., The Board of Directors may grant easements for utilities and similar or related purposes after notice, hearing and vote of the Board of Directors, without the necessity of a vote of the Members under this section.

5.7 Easement for Encroachments. If any portion of improvement on a Lot encroaches upon the Common Areas as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Subdivision, after notice, hearing and vote of the Board of Directors, the Board may grant a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If such encroachment is found to have occurred during a survey of property lines as part of a sale of real property, after notice, a hearing and vote to determine the facts, the Board may sign off on legal documents granting legal title to the encroached area.

5.8 Member Landscaping Within Common Open Space. Some members have added landscaping in portions of common open space adjacent to their property. This is done at their own risk and expense. In some instances non-native plants have been planted, and or the plant density is such that they cannot be supported by natural rainfall and runoff. If the current or subsequent owners fail to water such plants properly and they become a fire hazard, the Association has the right to remove such plants from the Common Area and to cross over to such owners' property to remove such plants after

giving proper notice to the affected owners and following a hearing and vote of the Board of Directors.

ARTICLE VI

Assessments

6.1 **Purpose of Assessments.** Assessments levied by the Association as hereinafter provided, shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the Members of the Association and, in particular, for the improvement and maintenance in a first class condition and a good state of repairs of the Subdivision, services and facilities devoted to this purpose, and related to the use and enjoyment of the Common Areas and to the extent provided for herein, of the Lots in the Subdivision.

6.2 **Common Assessments.**

(a) The Board of Directors shall develop an Operating and Capital Expenditure budget for each calendar year which shall contain estimates of the cost of performing the functions and activities of the Association, as set forth herein and in the Bylaws. The Capital Expenditure Budget shall address long term needs as well as the upcoming year. The budget shall establish the amount of income needed to meet expected expenses for the coming year as well as satisfying the need to maintain the designated Capital Reserves for long term expenditures.

(b) The amount of revenue needed for this purpose determines the Common Assessment. The determination of the Common Assessment shall be made by the Board of Directors of the Association for each calendar year no more than thirty (30) days prior nor more than thirty (30) days subsequent to the beginning of each such calendar year and at such other and additional times as in the judgment after vote of the Board of Directors, additional assessments for Common Expenses are reasonably required.

(c) For the purposes of this section, each Lot is considered as one Assessable Unit. An exception may be granted where an Owner buys two (2) adjoining Lots for the purpose of constructing one single-family dwelling, said ownership shall after notice, a hearing and vote of the Board of Directors to be deemed to be ownership of one Assessable Unit for assessment purposes. Said Lots shall be assessed individually until construction of the dwelling has been completed. Procedures and Policies for permitting and revoking single assessments for two lots shall be established by the Board of Directors.

(d) Each Assessable Unit will pay its proportionate share of the total annual Common Assessment. The proportionate share shall be computed by multiplying the budgeted total annual Common Assessment by a fraction, the denominator of which shall be the total

number of the Assessable Units in the Subdivision, and the numerator of which is one.

(e) The annual Common Assessment shall be payable in four (4) equal quarterly installments on the first day of each quarter, or at such other date or times and in such other installments as approved by Members at the Annual Meeting. Installments more than ten (10) days past due bear interest at the rate of ten per cent (10%) per annum or at the maximum rate allowable on debts in the State of Texas, whichever is higher, until paid. Said interest shall be calculated from the Assessment due date.

6.3 Special Assessments. Special Assessments may be levied against particular Lots for the repair of damage or loss caused by, for action, neglect of an Owner, or for emergency purposes, as determined by the Board of Directors which have caused damage or loss to the Common Areas or to the property of other Owners. Such Special Assessments may be levied whether or not the cost of repair has already been paid or incurred by the Association for the corrective work or corrective action. Special Assessments will not be levied until after a written demand for payment has been sent by mail to the particular Owner and the Owner has an opportunity to appear at a hearing of the Board of Directors for such purpose. The amount of the Special Assessment shall be due and payable by the Owner to the Association as stated in the demand for payment, and shall bear interest from the expiration of the ten (10) days following the date of demand, at the rate of ten per cent (10%) per annum. Such Special Assessments may be levied after notice, a hearing and vote of the Board of Directors.

Special Assessments may be also assessed to be made payable by all Owners for extraordinary or unpredicted common special expenses as approved at a Special Meeting of the Members after notice, a hearing and majority vote of the Members in which the decision to levy a Special Assessment has been made and the due date established.

6.4 Taxes and Governmental Assessments. The assessment of taxes or Special Assessments by governmental bodies on the Common Areas which are or would become a lien on the Common Area or any part thereof shall be paid by the Association as another item of the Common Expenses. The Association shall assess each Owner of the basis and as a part of the Common Assessment.

6.5 Commingling of Assets. Except where otherwise expressly provided herein, all sums collected by the Association from assessments may be commingled in a single fund, and without the necessity of a specific funding for each element of Common Expense for which assessment has been made.

6.6 Vendor's Lien. In each Deed of a Lot to an Owner, there shall be deemed to be an reserved a Vendor's Lien ("Vendor's Lien") to secure the payment of all assessments due and to become due pursuant to this Revised Declaration, which Vendor's Lien shall be

deemed transferred and assigned therein to the Association. By acceptance of a Deed from the previous Owner, each new Owner (and the subsequent successors and grantees) assumes and agrees to pay all such assessments, including interest and reasonable collection costs (including attorney's fees), in accordance with the terms and provisions of this Revised Declaration whether or not the Vendor's Lien, as required by this section, has been expressly set forth in the Deed. The lien shall constitute a lien on such Lot prior to all other liens except only (i) a valid tax lien and the Lot in favor of any assessing agency in special districts, and (ii) all sums unpaid with respect to financing of the Owner's purchase evidencing a first purchase money, interim or permanent construction lien of record. The assessment Vendor's Lien so provided may be enforced by forced sale of the Lot by the Association, after failure of the Owner to pay such assessments in accordance with its terms. The Association shall have the power to bid on the Lot at any foreclosure sale and to hold, lease, mortgage and convey the same. The Association may file suit to recover a money judgment for an unpaid assessments without foreclosing or waiving the liens securing the same.

6.7 Subordination of Vendor's Liens. If any Lot subject to a lien created by any provision in this Revised Declaration shall be subject to the lien created by a first purchase money, interim or permanent construction mortgage of record ("Mortgage",) or any liens securing a loan, the proceeds of which are, in fact, used for improvements on a Lot (hereinafter referred to as "improvement lien"):

(a) The foreclosure of any lien created by anything set forth in this Revised Declaration shall not operate to affect or impair the lien of such Mortgage or improvement lien; and

(b) The foreclosure of the lien of such Mortgage or improvement lien or the acceptance of the Deed in lieu of the foreclosure by the Mortgagee, shall not operate to affect or impair the lien rights created under this Declaration, except that the lien hereof for the assessments which shall have come due up to the time of foreclosure or the acceptance of the Deed in lieu of foreclosure shall be subordinate to the lien of the Mortgage or improvement lien., The foreclosure-purchaser and other its successors take title free of the lien hereof for all the Common Assessments which were due and payable up to the date of the foreclosure or Deed given in lieu of foreclosure. Each assessable Unit remains subject to the lien hereof for the assessments which become due subsequent to the date of foreclosure or Deed given in lieu of foreclosure. All assessments which shall have come due up to foreclosure or the acceptance of a Deed in lieu of foreclosure and remain unpaid and not collectable by the Association shall be deemed to be additional Common Expenses later assessable from all of the Assessable Units, including the Lot acquired on a foreclosure sale or as a result of the acceptance of the Deed in lieu of foreclosure in the manner provided herein.

6.8 **Assessment Roll.** A record of levied, paid and unpaid assessments for each Assessable Unit shall be maintained as part of the accounting records of the Association. These records shall include for each lot, the name and address of the owner or owners, the amount of billed assessments and the amount of all assessments paid or unpaid. Access to such records by members is governed by the laws of Texas as expressed in the Records Retention Policy recorded in the Real Property Records of El Paso County.

6.9 **Liability for Assessments.** Upon receipt of the written request by an Owner or other qualifying person, a "Resale Certificate" will be prepared and delivered by the professional manager employed by the Association or by any officer of the Association stating the current status of an Owner's assessment account. The execution and delivery of a duly prepared Resale Certificate, in the manner authorized by this Section, shall limit the liability of a person, other than the Owner, who later purchases an Assessable Unit in reliance upon the Resale Certificate. That person's liability for unpaid assessments will be limited to the unpaid balance of assessments, if any, reflected in the Resale Certificate. The Association shall issue such certificates to qualifying persons in the manner required by Texas law.

6.10 **No Exemptions.** No Owner may exempt himself from liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon.

ARTICLE VII

Party Walls

7.1. **General Rule.** Each fence or wall built on the dividing line between Lots shall constitute a party wall and except as provided herein, and shall be subject to the general rules of law governing party walls and liability for damage thereto.

7.2. **Rights of Owners.** The Owners of contiguous Lots who have a party wall or fence shall both equally have the right to use such wall or fence, provided that such use does not interfere with the use and enjoyment of the adjoining Owner.

7.3. **Obligation of Association.** Walls or fences constructed between a Lot and the Common Area shall be built upon the Owners Lot in their entirety and shall be maintained at the sole cost and expense of the Lot Owner.

7.4. **Damage or Destruction.** For party walls only, repair and maintenance resulting from deterioration, ordinary wear and tear and the lapse of time shall be the responsibility of the adjoining Owners. In the event, any party wall or party fence built between Lots is

otherwise damaged or destroyed:

(a) Through the act of an Owner or any of his tenants, agents or guests or members of his family (whether or not the action is negligent or otherwise culpable), shall be the obligation of the Owner causing the damage to rebuild and repair the party wall or fence without cost to the adjoining Lot Owner or Owners.

(b) Other than by the act of an Owner, his tenants, agents, guests or members of his family, it shall be the joint obligation of the Owners who's Lots adjoin the party wall to rebuild and repair such wall or fence at their joint and equal expense.

Notwithstanding any provision herein, no one is permitted to impair of the structural integrity of any party wall or fence without the prior consent of all Owners who by these provisions have any interest therein, whether by way of easement or in fee.

ARTICLE VIII

EMINENT DOMAIN

8.1. **Common Area.** In the event of a taking by eminent domain of part or all of the Common Areas, the award for such taking shall be payable to the Association, who shall represent the Owners named in the condemnation proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement and/or improvement of the remaining Common Areas. Any funds not so utilized shall be applied in payment of Common Expenses otherwise assessable to the Members of the Association.

8.2. **Lots.** In the event of a taking by eminent domain of all or a part of a Lot, the award made for such taking shall be payable to the Owner and his Mortgagee, if any, as their interests may appear. If all or a part of a Lot is taken by eminent domain, then the number of Assessable Units shall be reduced accordingly.

Article IX

General Provisions

9.1. **Acceptance of Governing Rules.** The Association, all present or future Owners, tenants or future tenants, or any other persons using the facilities of the Subdivision are subject in all respects to and shall comply with this Declaration, the Articles, the Bylaws and the Rules and Regulations. Closing under any contract relating to the acquisition, occupancy or rental of a Lot shall be deemed to signify that all such documents are accepted and ratified, subject to the terms of this Declaration. In the event of a conflict in any of the provisions of any such documents, the documents which govern or control are enforceable in the following order of preference: (i) this Declaration; (ii) the Articles; (iii)

the Bylaws; and (iv) the Rules and Regulations.

9.2 **Leases.** Any lease agreement entered into between a Lot Owner and a lessee must:

(a) be in writing; and

(b) contain and express provision that the Lease is subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Rules and Regulations; and

(c) contain an express provision that failure by the lessee to comply with the above stated documents shall constitute a default under the terms of the Lease.

The Lot Owner shall provide a copy of said lease to the Association, upon the execution of a Lease agreement. The Association's receipt of a lease not complying herewith shall not constitute a waiver of the requirements hereof.

9.3 **Variances.** After notice to members and affected owners, a hearing and vote, the Board of Directors may grant to any Owner a right of variance or modification of and from any of the provisions of this Declaration, the Articles or the Bylaws, if it is determined by unanimous action of the Board of Directors that such variance or modification would be in the best interest of the Association. Such a variance shall be made in writing and recorded in the Minutes of the Board Meeting in which such variance is granted.

9.4 **Amendments.** Amending this Declaration requires a vote of not less than two-thirds (2/3) of all of the votes of the Members present, in person, or by proxy, at a Special meeting duly called for the stated purpose of amending this Declaration, at which a quorum is present. Written notice of which shall be given to all Owners at least ten (10) days and not more than fifty (50) days in advance and which notice shall set forth the purpose of such meeting. The same procedure is required before undertaking any action abandoning the Subdivision or terminating the existence of the corporation which would amount to an amendment of this Declaration. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of El Paso County, Texas, accompanied by a certificate, signed by a majority of the Board of Directors, stating that the required number of Members voted in favor of the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose.

9.5 **Delivery of Notices.** Notices of meetings of the Board and of Members shall be made by email at least 72 hours for Board Meetings or at least 10 days for Annual or Special Meetings before the start of the meeting by posting the notice on the Associations website and sending the notice by e-mail to each owner who has registered an e-mail address with the Association. It is an owner's duty to keep an updated e-mail and postal address registered with the Association through the Secretary.

Before the Association files a lawsuit against an Owner, whether to collect a Maintenance Charge, or a Regular or Special Assessment or to foreclose under the Association's lien, charge an Owner for property damage, or levy a fine for a violation of the Declaration, Bylaws, or Rules and Regulations, or otherwise, the Association or its Managing Agent must give written notice to the Owner by certified mail, return receipt requested., Notice shall also be deemed to be satisfied if, a delivery of notice is made, in person, by an individual representing the Association to the Owner or his or her legally designated representative.

9.6. **Severability.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be deemed invalid, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provisions, paragraph, sentence, clause, phrase or word in other circumstances shall not be adversely affected thereby.

9.7 **Enforcement.** Any Owner or Owners, who not, at the time, in default hereunder, or the Association, shall be entitled to bring an action for damages against any other defaulting Owner. Any such lawsuit may seek to enjoin any violation of this Declaration, the Bylaws, the Articles of Incorporation, or a rule or regulation duly adopted by the Association hereunder or to prosecute any other appropriate legal or equitable remedy which may be permitted, necessary or appropriate under the existing facts. Any judgment rendered in such action or proceeding shall include a damage reward for recovery of attorney's fees in such amount as the Court may adjudge reasonable, in favor of the prevailing party.

9.8. **Paragraph Titles.** Paragraph titles used in this Declaration are for convenience of reference and are not intended to limit, enlarge, or change the meaning of the contents of the various paragraphs.

9.9. **Waiver.** No restriction, condition, obligation, or covenant in the Declaration shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Attestation

On 11 May 2015, the members of Los Compadres Homeowners Association met in a Special Meeting called to approve a revised Declaration of Covenants, Conditions and Restrictions for LOS COMPADRES SUBDIVISION. The Secretary provided notice of the Special Meeting on 1 May by email and by placing it on the website. The notice stated the purpose, date, time and place of the meeting. This was at least (10) ten days prior to the meeting. Thus the meeting was properly called. A quorum was present with 28 of 42 eligible member votes present in person or via proxy. Approval requires requires a vote of

not less than two-thirds (2/3) of all of the votes of the Members present, in person, or by proxy. 28 of the 28 votes, 100%, approved the revised Declaration. All of the following members of the Board of Directors of Los Compadres Homeowners Association, Inc. were present and witnessed the meeting.

Sue Watts, President Sue Watts /Date Nov 9, 2015

Margarita Escudero, Vice President Margarita Escudero /Date 9/11/9/2015

Alfred Fernandez, Treasurer [Signature] /Date 11-9-15

Richard Tripp, Secretary Richard Tripp /Date 9 November 2015

State of Texas
County of El Paso

This instrument was acknowledged before me on 9th of Nov. 15 by Sue Watts, Margarita Escudero, Alfred Fernandez and Richard Tripp.

[Signature]
Notary Public, State of Texas



SCANNED

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Doc# 20150079639
#Pages 21 #FFPages 1
11/10/2015 2:05:35 PM
Filed & Recorded in
Official Records of
El Paso County
Dalia Briones
County Clerk
Fees \$106.00

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded by document number in the Official Public Records of Real Property in El Paso County.



EL PASO COUNTY, TEXAS

Dalia Briones