

**PLANO WHIFFLETREE VILLAS HOMEOWNERS  
ASSOCIATION, INC.**

**Original Restrictive Covenants**

**1. Designation of Lots**

All lots are hereby designated and described as residential lots. No lot or combination of lots may be replatted so as to create from the total combined replatted lots more separate building sites or lots than existed in the original platting.

**2. Types of Structures**

No structure shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed two stories in height, private attached or detached garage, for not less than two (2) or more than three (3) cars. No garage constructed with servant quarters or other approved accessory building(s) which may be constructed on any lot shall be used for rental purposes, and same may be used only by servants who are employed in the dwelling erected upon the same lot where such quarters are located and/or by Members or guests of the family occupying like dwelling on said lot. The construction of any apartment house, duplex, hotel or any other type of multi-family structure or business establishment of any kind or character is expressly prohibited. Outbuildings for single-family use may be built only when the plans therefore are approved in writing by the Architectural Control Committee.

No house, dwelling and/or structure of any kind or character whatsoever may be moved upon any lot in the Addition. A new structure only shall be erected on and permitted to remain on any lot in the Addition.

**3. Temporary Structures**

No structure of a temporary character, such as a trailer, mobile home, tent, shack, garage, barn or other outbuilding shall be permitted on any lot or used on any property any time as a dwelling house. No building material of any kind or character shall be placed or stored upon the property until the Owner is ready to commence improvement, and then such material shall be placed or stored within the property line of the lot upon which the improvements are to be erected.

**4. Locations of Buildings on Lots**

The main building shall not be located on any property nearer to the property line than the building line indicated on the recorded plat unless otherwise approved by the City of Plano. On corner property, the main building shall be constructed to conform to the building line as indicated on the recorded plat, from the side street property line, except as may be specifically approved by the City of Plano. Detached and attached garages and accessory building on corner property shall not be nearer to a side street property line than the setback line as indicated on the recorded plat, unless otherwise approved by the City of Plano. For the purpose of these Restrictive Covenants, eaves and steps

shall not be considered as part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another property, except as otherwise addressed herein.

## **5. Dwelling Size**

The main dwelling (living space) of every residence placed or constructed on front entry lots in the Addition shall contain a minimum floor area of 1,250 square feet. The main dwelling (living space) of every residence placed or constructed on rear entry lots in the Addition shall contain a minimum floor area of 1,400 square feet. The living space referred to above shall be calculated exclusive of any areas contained in garages, porches, breezeways, servant quarters, outbuildings and terraces, etc., all of which areas shall be completed and finished simultaneously with the first construction of such structure. Notwithstanding the foregoing, however, with the express written consent of the Architectural Control Committee, dwellings may be constructed having less than the above specified square footage requirements, but in no event shall the Architectural Control Committee consent to a reduction in such requirements greater than ten percent (10%). No dwelling shall be constructed or permitted to exist on any lot unless at least seventy-five percent (75%) of the exterior other than windows, doors and other glassed areas, consists of brick, stone or other masonry materials approved in writing by the Architectural Control Committee.

## **6. Construction**

The exterior walls of any improvement or structure placed or erected on any lot or tract shall follow the City of Plano Building Code. Only the upper floor of one and one-half story and two story residences may be of frame construction. Servant quarters, garages or other outbuildings which may be detached from the main dwellings are specifically required to conform with this construction requirement. Written approval of Architectural Control Committee must be obtained for any but the following roof materials: composition shingles of the Timberland brand or an equivalent brand, copper, slate or tile. All roofs shall be constructed on a minimum pitch of 8:12 unless otherwise approved by the Architectural Control Committee.

There shall not be erected on any lot a residence whose quality of structure and finish does not meet minimum property standards established by the Building Code of the City of Plano nor shall any alteration or addition to any residence be made which does not meet the same minimum property standards.

## **7. Occupancy**

No house shall be occupied as a residence until it is completed in accordance with the provisions of these Restrictive Covenants. All houses and structures permitted under these Restrictive Covenants shall be completed within ten (10) months after construction is started. All landscaping shall be completed within three (3) months after completion of said house.

If any Lot is improved for occupancy, same shall not be occupied or continued to be occupied unless and until the premises are connected in a proper way with the city sewerage system

No garage, servant house, garage house or outbuilding on any property shall be occupied by Owner, tenant or anyone prior to the erection of a dwelling house.

## **8. Water Supply and Sewerage System**

No individual water supply system shall be permitted on any property unless the system is located, constructed and equipped in accordance with the requirements, standards and recommendations of state or local public health authority. Approval of such system, as installed, shall be obtained from such authority.

## **9. Utility, Drainage and Other Easements**

Easements for drainage facilities and easements for the installation and maintenance of utilities are reserved as shown on the recorded plat. Easements are reserved for the benefit of General Telephone Company of the Southwest, Texas Power & Light Company, Lone Star Gas Company and their respective successors in their installation, operation, maintenance and ownership of service lines from the property lines to the residence in the Addition. Neither the developer, any utility company, nor the City of Plano, Texas, using such easements shall be liable for any damages done to shrubbery, trees, flowers, swimming pools or any other property and/or improvements of the Owner which are located within the area covered by said easements. All utility lines, including without limitation, electric lines, gas lines, and water and sewer lines shall run underground from the property lines to the residence.

Declarant hereby reserves for itself and each Owner of a Lot, an easement and right of overhang to overhang each Lot in the Addition with the roof of any home to be constructed in the Addition as any such roof is originally constructed or substantially repaired by necessity, but not otherwise.

In any case in which a wall of an Owner's house is built upon his Lot line, and it does not constitute a common wall with the house built on the adjoining Lot, but rather overlooks a patio or other space on such adjoining Lot, such Owner shall have an easement which is hereby reserved by CASTLEGATE CUSTOM HOMES, INC. on his behalf, over and upon the adjoining Lot for the maintenance and repair of such wall or the roof overhang, or any pipes, outlets, plumbing or utility lines within it, provided that any such entry upon the adjoining Lot shall be made with as little inconvenience to the Owner thereof as practical and any damage caused thereby shall be repaired at the expense of the Owner using this easement.

## **10. Fences, Walls and Meters**

Chain-link fences shall not be permitted; all fences shall be of either wood, masonry or wrought iron construction. Such fences shall not be of such height in excess of eight (8) feet. No fence, wall or meter (which extends above the surface of the ground), or other structure shall be placed or permitted to remain on any Lot nearer to the street or streets adjoining such Lots than is permitted for the main dwelling on such Lots, unless approved by the Architectural Control Committee.

## **11. Grass and Weeds**

Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. Upon failure to so maintain any Lot, the developer or the Architectural Control Committee may, at its option, have the grass, weeds and vegetation cut as often as necessary in its judgment, and the Owner of such property shall be obligated, when presented with an itemized statement, to reimburse said developer or Committee for the cost of such work. This provision, however, shall in no manner be construed to create a lien in favor of any party on any piece of property for the cost or charge of such work or the reimbursement for such work.

## **12. Refuse and Garbage**

No property shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers; all incinerators or other equipment for the storage or other disposal of such material shall be kept in a clean and sanitary condition.

## **13. Drilling**

No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any property. No derrick or other structure designed for use in quarrying for oil or natural gas shall be erected, maintained or permitted upon any property.

## **14. Signs or Billboards**

The construction or maintenance of signs or advertising structures of any kind on any Lot is prohibited, except that one (1) sign advertising the sale of the property is permitted provided it does not exceed 2 x 3 feet in size. However, the developer of the Addition shall be allowed to place several larger signs in the Addition during the initial period of development. The Architectural Control Committee, or its duly authorized representative, shall have the right to remove any unpermitted sign, advertisement, billboard or other advertising structure which is erected or placed on any Lot without such consent and, in doing so, it shall not be subject to any liability whatsoever in connection therewith.

## **15. Boats, Trailers and Recreational Vehicles**

All boats, pickup campers, travel trailers, motor homes and any other type of recreational vehicles must be kept stored at the rear of each Lot and all such vehicles must be completely shielded from all streets. None of these vehicles, trailers or mobile homes shall at any time be used as a residence or office temporarily or permanently.

## **16. Animals**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any property except that (a) dogs, cats and other household pets may be kept provided that they are not raised, bred or kept for commercial purposes, and (b) the Architectural Control

Committee shall have the right and authority to limit the number and variety of household pets permitted.

## **17. Air Conditioning**

No air conditioning apparatus shall be installed on the ground in the front of a dwelling house nor any closer than ten (10) feet to the front of the main residence. No air conditioning apparatus shall be attached to any front wall of a dwelling house. No evaporative cooler shall be installed on the front wall or the side wall of a dwelling house.

## **18. Mail Boxes**

All mailboxes, unless affixed to the dwelling house, shall be affixed to a substantial and decorative pole or stand permanently placed in the ground, and such mailboxes and supporting poles or stands shall be of a design approved by the Architectural Control Committee.

## **19. Antennas**

No antennas shall be permitted in this Addition except AM and FM radio and UHF and VHF television reception antennas. Said antennas shall be located in such a manner so as to be not be visible from the street(s) adjacent to the house.

## **20. Nuisance or Illegal Activities**

No trash, ashes or other residue may be dumped, thrown or placed on any Lot in the Addition. No noxious or offensive trade or profession shall be carried on in any structure or upon any Lot, nor shall any illegal or immoral activity be permitted, nor shall anything be done or allowed to exist therein or thereon which is, or could become, a nuisance or annoyance to the neighborhood; specifically in the regard, the number and type of pets kept or maintained on any Lot in this Addition shall be limited to that type and number that will not be unreasonable noisy or odor-causing; the lighting of swimming pools, trees, grounds and structures shall be shielded in such a manner as to not be objectionable; the outdoor drying of clothing and other cloth articles shall be permitted only in areas screened from public view; trucks with tonnage in excess of one ton and any vehicle with painted advertisement shall not be permitted to park overnight on the streets, driveways or otherwise within this Addition at any time; and no vehicle of any size which transports inflammatory or explosive cargo may be kept in this Addition at any time.

## **21. Applicability and Term of Restrictive Covenants**

These Restrictive Covenants are for the benefit of and shall inure to the benefit of each and every property Owner in the Addition, may be enforced by any one or more of such property Owners, and shall run with the land, and every property Owner therein shall be taken to hold, agree and covenant with each other to conform to observe and abide by said Restrictive Covenants.

These Restrictive Covenants shall be binding upon the parties hereto, their successors and assigns, and all persons claiming under them, and on all Owners of residential Lots located within the above named Addition, for a period of twenty (20) years following the

date of the recording of this instrument. These Restrictive Covenants shall be extended automatically after the expiration of said twenty (20) year period for successive periods of ten (10) years duration each, unless an instrument revoking these Restrictive Covenants, in whole or in part, is recorded prior to said initial expiration date, or prior to the end of any ten (10) year extension period; it being made a requirement hereunder that such instrument of revocation must be executed by a majority of the then Owners of the restricted Lots in the Addition. No Lot Owner shall be liable for the breach of these Restrictive Covenants unless such breach is caused by him or occurs or is committed during his ownership of the property involved in such breach.

## **22. Enforcement**

If the parties hereto, or any of them, or the heirs, grantees, successors or assigns shall violate or attempt to violate these Restrictive Covenants, it shall be lawful for any person or persons owning any real property situated in the Addition to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Restrictive Covenants, either to prevent him or them from so doing or to recover damages or other dues for such violations.

## **23. Severability**

Invalidation of any of these Restrictive Covenants by judgment or a court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

## **24. Amendments to Restrictive Covenants**

Until one-half (1/2) of the platted Lots have been sold and conveyed by the Declarant, said Declarant retains the right, by virtue of owning over one-half of such Lots, to amend these Restrictive Covenants in whole or in part. After one-half (1/2) of the Lots shall have been sold, these Restrictive Covenants can be amended, altered or modified by approval of the Owners of seventy-five percent (75%) of the total number of Lots contained in said Addition and shall be binding upon all Owners of such Lots and subsequent Owners thereof.

## **25. Liens Not Impaired**

Nothing contained in these Restrictive Covenants shall impair or defeat the lien of any mortgage or deed of trust made in good faith and for value, but titles to any property subject to these Restrictive Covenants obtained through sale, or otherwise, in satisfaction of any such mortgage or deed of trust shall thereafter be held subject to all of the protective Restrictive Covenants hereof.

## **26. Architectural Control**

No building or other improvement of any character shall be erected, placed or altered on any Lot until two copies of the building plans and specifications and a site plan showing the location of the structure or structures shall have been submitted to and approved by the Architectural Control Committee, as hereinafter provided for, as to use, quality of workmanship and materials, harmony or exterior design with existing structures, and location with respect to topography and finished grade elevation. No fence or walls shall be erected, placed or altered on any Lot nearer to the street than the minimum

building setback line unless similarly approved. Approval shall be as provided in this paragraph 26 hereof. The term "improvements" as used herein shall include, but not be limited to, any structure, the addition or alteration to any structure, including the dwelling, storage buildings, tool sheds, greenhouses, and/or other buildings.

The plans and specifications and site plan herein provided to be submitted to the Architectural Control Committee shall be submitted for approval not less than fourteen (14) days prior to the commencement of construction or alteration of any of such improvements. All construction shall be in accordance with the approved plans and specifications. The Architectural Control Committee shall retain one copy of the said building plans and specifications and the site plan until such time as the said Committee ceases to exist as provided for in this paragraph, and if approved, mail a letter of approval to the Owner of the Lot. In the event said Architectural Control Committee fails to approve or disapprove such plans within fourteen (14) days after their submission to it, such plans shall be deemed to be disapproved. The Architectural Control Committee shall have the power to grant non-material variances in the restrictions contained herein.

## **27. Architectural Control Committee**

Declarant shall appoint the Architectural Control Committee to perform the duties required to be performed by said Committee hereunder. The said Committee shall be comprised of not less than two Members (2) nor more than five (5) persons and the decision of the majority of the Committee shall be final. The term of office of the Members of the Committee shall be for one (1) year and shall continue after the expiration of said term until a replacement or replacements are appointed.

In the event of death or resignation of any Member of the Committee, the remaining Members shall have full authority to designate a successor. Neither the Members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. Subsequent to the sale and conveyance of ninety percent (90%) of all Lots in the Addition by Declarant, the Membership may be reconstituted by a seventy-five percent (75%) majority vote of Lot Owners.

## **28. The Association**

**Section 1. Organization.** Declarant shall cause the Association to be formed and organized as a non-profit corporation under the laws of the State of Texas prior to the sale of any Lot.

**Section 2. Purposes.** The purposes of the Association in general shall be to provide for and promote the health, safety, and welfare of the Members, including, if the Association should elect, the furnishing of a cable security system as herein provided, to collect the Annual and Special Assessments, to provide for the maintenance, repair, preservation, upkeep and replacement of the Common Areas, and the Masonry Walls and Masonry Wall Easements, and such other purposes as are stated in its Articles of Incorporation or Bylaws not inconsistent with the provisions of this Declaration, and for any matter or thing required by the City of Plano in connection with any zoning, subdivision, platting or building requirements.

**Section 3. Board of Directors.** The Association shall act through a Board of Directors of at least three (3) individuals, which shall manage the affairs of the Association. Said Board of Directors shall manage all of the property and business of the Association, and shall exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation of the Association or this Declaration. The initial Board of Directors shall be selected and appointed by Declarant. The initial Board of Directors shall serve for an initial term of ten (10) years, and, thereafter, until their successors are duly elected and qualified, provided that, until the termination of Declarant's rights hereunder as provided in Section 8 hereof, Declarant may replace any or all of the Directors with or without cause. Upon the earlier of the termination of Declarant's rights hereunder as provided in Section 8 hereof, or expiration of the term of the initial Board of Directors, the Members shall elect a Board of Directors as provided for in this Declaration and in accordance with the Association's Bylaws. Any vacancy, from whatever cause, occurring in the Board of Directors during the initial ten (10) year term shall be filled by appointment made by the remaining Directors. The person appointed by the remaining Directors to fill such vacancy shall serve for the remainder of the initial ten (10) year term and until his successor is duly elected and qualified. The Board of Directors shall have the power to select one or more advisory directors from among the Owners to serve for such periods of time as the Board of Directors shall deem appropriate, for the purpose of providing advice and counsel to the Board of Directors, provided that such advisory directors shall have no right to act on behalf of the Association.

**Section 4. Members.** Each Owner, whether one or more Persons, of a Lot shall, upon and by virtue of becoming such Owner, automatically become a Member of the Association and shall remain a Member thereof without any right to withdraw from Membership until his ownership of a Lot ceases for any reason, at which time his Membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of record title to each Lot and may not be separated from such ownership. The transfer of any Membership not made as part of a transfer of record ownership of a Lot shall be void. Whenever the legal ownership of any Lot passes from one Person to another, by whatever means, it shall not be necessary that an instrument in writing provide for transfer of Membership in the Association, and no certificate of Membership in the Association will be issued. In all questions as to Membership in the Association the record legal title to a Lot reflected in the Deed Records of Collin County, Texas shall be dispositive of such question.

**Section 5. Voting Rights.** The Association shall have two classes of Membership with the following characteristics:

**Class A.** Class A Members shall be all Members of the Association, with the exception of the Declarant. Class A Members shall be entitled to one vote for each Lot in the Properties in which they hold the interest required for Membership by this Declaration. When more than one Person holds such interest or interests in any such Lot, all such Persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, in no event, shall more than one vote be cast with respect to any such Lot. Class A Members shall not be entitled to vote until the earlier of such Section 8 hereof or the expiration of ten (10) years from the date of this Declaration.



**Class B.** The Class B Member shall be Declarant. The Class B Member shall be the only voting Member of the Association until the earlier of such time as Declarant's rights hereunder terminate in accordance with Section 8, hereof or the expiration of ten (10) years from the date of this Declaration, at which time the Class A Members shall commence to vote and the Class B Membership shall cease to exist (Declarant shall thereupon be considered a Class A Member for each Lot then owned by Declarant).

**Section 6. Notice, Quorum and Voting Requirements.** Except as herein below specifically set forth in Number 28, Section 6, paragraphs (a) and (b), notice, quorum and voting requirements for all action to be taken by the Association shall be as set forth in the Association's Articles of Incorporation and Bylaws, as same may be amended from time to time in accordance with their respective provisions and the laws of the State of Texas.

(a) The commencement of any Special Assessment procedure, and the levy thereof upon the Members, shall require the affirmative vote of two-thirds (2/3) of the Members who are voting at a meeting, either regular or special, duly called for that purpose, written notice of which shall be given to all Members not less than ten (10) nor more than fifty (50) days before such meeting stating the purposes of such meeting. No Special Assessments shall be permitted until there are only Class A Members entitled to vote in the Association.

(b) The quorum required for any action referred to in paragraph (a) above shall be as follows:

At the first meeting called, as hereinabove provided, the presence at the meeting of Members, or of their proxies, entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present at such first meeting, additional meetings may be called, subject to the notice requirement hereinabove set forth, and the required quorum at such second meeting shall be one-fourth (1/4th) of all of the votes; provided, however, that no such second meeting shall be held sooner than ten (10) days following the first meeting. In the event that a quorum is not present at such second meeting, such second meeting may be adjourned from time to time, subject to the notice requirement hereinabove set forth, until the quorum needed for such second meeting is present.

**Section 7. Registration With Association.** Each and every Lot Owner shall have an affirmative duty to provide written information to the Association confirming: (a) the full name and address of the Lot Owner, (b) the name of each tenant of a Lot Owner and each individual who resides on an Owner's Lot, and (c) such other information as may be reasonably requested from time to time by the Association, and to supplement or revise any and all prior written information within thirty (30) days after a material change therein has occurred.

**Section 8. Termination of Declarant's Rights, Automatic Assignment to Association and Reserved Right to Assign.** Declarant's rights hereunder shall terminate at the earlier of such time as all of the Lots have been initially sold and record title thereto conveyed by Declarant and residences thereon have title thereto conveyed by Declarant and residences thereon have been constructed and completed thereon by Builders, or the expiration of ten (10) years from the date of this Declaration. At such

time the Association shall without further action become the express assignee of all of Declarant's rights and powers under this Declaration. Upon foreclosure of the lien of that certain Deed of Trust, Mortgage and Security Agreement dated September 11, 1987, from Declarant to David Ickert, Trustee, recorded in the Deed of Trust Records of Collin County, Texas, all of Declarant's rights, reservations, easements and privileges under this Declaration shall, at the option of the holder of such lien, become vested in the holder of such lien.

## **29. Liability.**

In no event shall Declarant or any of the Members of the Architectural Control Committee be liable for damages arising out of any action performed by it or because of its failure or refusal to act pursuant to these Restrictive Covenants. In no case shall any of said parties be liable in any manner by reason of mistake of judgment, negligence or nonfeasance. The Committee shall not be responsible for verifying that work is performed in Accordance with approved plans and specifications.

Executed this 14th day of September, 1987.

Castlegate Custom Homes, Inc.

Larry W. Collins, President.