



**DECLARATIONS OF COVENANTS AND RESTRICTIONS**  
**FOR**  
**BENTWOOD COUNTRY CLUB ESTATES**  
**LOTS 15 THROUGH 43 Block 107**  
**OF SECTION 38**

THE STATE OF TEXAS

COUNTY OF TOM GREEN

THIS DECLARATION is made on the date hereinafter set forth by Bentwood CC, LLC, a Texas Limited Liability Company, (hereinafter referred to as the ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the following tract of land (hereinafter referred to as "the Property"):

See Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale and use of the property for the benefit of the present and future owners of the lots therein;

NOW, THEREFORE, Declarant does hereby declare that the Property described above shall be held, transferred, sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions hereafter set forth.

**ARTICLE I**

**DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings:

1. Annual Maintenance Charge. The assessments made and levied by The Declarant against each Owner and his Lot in accordance with the provisions of this Declaration.
2. Architectural Control Committee. The Architectural Control Committee established and empowered in accordance with Article III of these Declarations.

3. Commencement of Construction. The date on which foundation forms are set for a Residential Dwelling.
4. Common Areas. The Property, save and except the Lots and publicly dedicated roadway rights of way (if any).
5. Declarant. Bentwood CC, LLC, a Texas Limited Liability Company, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the office of the County Clerk of Tom Green County, Texas.
6. Declarations. The covenants, conditions, restrictions, easements, reservations and stipulations that shall be applicable to and govern the improvement, use, occupancy, and conveyance of all the Lots and Common Areas within the Subdivision as set out in this Declaration or any amendments thereto.
7. Exterior Area. The Portion of a Lot not covered by a Residential Dwelling.
8. Golf Course. All of the land and facilities comprising the Bentwood Country Club Golf Course.
9. Improvements. Shall mean every structure and all appurtenances of every type, whether temporary or permanent, including but not limited to buildings, outbuildings, sheds, doghouses, docks, patios, tennis courts, swimming pools, garages, storage buildings, gazebos, signs, fences, gates, screening walls, retaining walls, stairs, decks, landscaping, landscape improvements, poles, mailboxes, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, playground equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, other utilities, or otherwise.
10. Landscaping Plan. The site submitted to the Architectural Control Committee by Owners of each Lot setting for the intended landscaping features and the areas of non-disturbance for each Lot.
11. Lot or Lots Each of the lots shown on the Plat.
12. Maintenance Fund. Any accumulation of the Annual Maintenance Charges collected by the Declarant or its successor in accordance with the provisions of this Declaration and interest, penalties, assessments and

other sums and revenues collected by the Declarant pursuant to the provisions of this Declaration.

13. Minimum Construction Standards. The minimum Construction Standards that may be promulgated by the Architectural Control Committee from time to time which shall serve as a guideline of the acceptable construction standards for the Subdivision.
14. Mortgage. A security interest, mortgage, deed of trust, or lien instrument granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the office of the County Clerk of Tom Green County, Texas, and creating a lien or security interest encumbering a Lot and some or all improvements thereon.
15. Owner or Owners. Any person or persons, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.
16. Plans. The final construction plans and specification, including a related site plan, of any Residential Dwelling, building or improvement of any kind to be erected, placed, constructed, maintained or altered on any portion of the Property.
17. Plat. The final plat or any replat thereof of Section 38 recorded in Cabinet G Slide 383 of the Official Public Records of Tom Green County, Texas.
18. Property. Residential Lot Numbers according to the final plat thereof recorded in Cabinet G Slide 383 of the Official Public Records of Tom Green County, Texas.
19. Residential Dwelling. The single-family residence and appurtenances constructed on a Lot.
20. Restrictions. The covenants, conditions, restrictions, easements, reservations and stipulations that shall be applicable to and govern the improvement, use, occupancy, and conveyance of all the Lots and Common Areas within Section 38 at Bentwood as set out in this Declaration or any amendments thereto.
21. Rules and Regulations. Rules adopted from time to time by the Declarant concerning the management and administration of the Property for the use, benefit and enjoyment of the owners.

22. Site Plan. The plan showing the exact location and finished floor elevation of a Residential Dwelling on a given Lot within the Subdivision.
23. Subdivision. Section 38 of the Bentwood County Club Estates, also called The Section 38 at Bentwood, with all improvements now or hereafter situated thereon and all rights and appurtenances thereto.
24. Utility Company or Utility Companies. Any public entity, utility district, governmental entity (including without limitation, districts created under Article III, Section 52, or Article XVI, Section 59 of the Texas Constitution) or one or more private entities that regulate, provide or maintain utilities and drainage.

## **ARTICLE II**

### **GENERAL PROVISIONS RELATING TO USE AND OCCUPANCY**

#### **SECTION 2.1 USE RESTRICTIONS**

- A. General. The property shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration.
- B. Single Family Residential Use. Each Owner shall use his Lot and the Residential Dwelling on this Lot, if any, for single-family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, but without limitation, the use of any Lot for a duplex apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type. No Owner shall use the Common Areas for use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance; (iii) constitute a public or private nuisance, which determination may be made by the Declaration in its sole discretion; (iv) constitute a violation of the Restrictions or any applicable law or (v) unreasonably interfere with the use and occupancy of the Subdivision by other Owners.
- C. Other Vehicles. No truck or other vehicle having a rated carrying capacity exceeding one ton, and no trailer, boat, bus, camper, golf cart, all terrain vehicle, or other recreational vehicle or any similar equipment shall be parked, stored, or maintained on any Plot in such a way as to be visible from any street or from the golf course or country club facility.

- D. Vehicle Repairs. No passenger vehicle, pick-up truck, mobile home trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed, reconstructed, or repaired on any Lot or on any street within the Subdivision if visible from any neighboring Lot or from the Golf Course. 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.
- E. Maintenance of Common Areas. The Declarant shall utilize proceeds from the assessment of Annual Maintenance Charges to maintain all shrubs, trees, turf, plantings, water features, irrigation devices, entries, entry gates, development fences, pathways, sidewalks, streets, street signs, street lights, ornamental brick or paving, entries and landscaping in the Common Areas of the Subdivision.
- F. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot and no odors shall be permitted to arise there from, so as to render any such Lot or any portion thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any Lot.
- G. Repair of Buildings. No Residential Dwelling or other building or structure upon any Lot shall be permitted to fall into disrepair, and each such Residential Dwelling, building, or structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner of the Lot at such Owner's sole cost and expense.
- H. Trash Containers. No garbage or trash shall be placed or kept within the Subdivision except in covered containers of a type, size and style approved by the Architectural Control Committee. In no event shall any such containers be maintained on a Lot so as to be visible from any neighboring Lot or from the Golf Course except to make the same available for collection and then only the shortest time reasonably necessary to affect such collection.
- I. Clothes Drying. No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot if visible from a neighboring Lot or the Golf Course.
- J. Right in inspect. During reasonable hours, Declarant, any member of the Architectural Control Committee, or any authorized representative of any of them, shall have the right to enter upon and inspect any Lot, and the exterior of the improvements thereon, for the purpose of ascertaining

whether or not the provisions of the restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

- K. Animals. No animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be visible from a neighboring Lot or the Golf Course. The Declarant shall have the authority to determine, in its sole and absolute discretion, whether a particular animal, bird or other recognized house or yard pet, is a nuisance, or whether the number of animals or birds kept on any lot is reasonable.
- L. Disease and insects. No owner shall permit any thing or condition to exist upon any Lot that shall induce, breed or harbor infectious plant or noxious insects.
- M. Restriction on Further Subdivision. No lot shall be further subdivided, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed by an Owner without the prior written approval of the Architectural Control Committee.
- N. Signs. No signs whatsoever (including but not limited to commercial, political and similar signs) shall be erected or maintained on any Lot or Common Area within the subdivision if visible from a neighborhood Lot or the Golf Course except: (i) Street signs and such other signs as may be required by law; (ii) A residential identification sign of a combined total face area of seventy two square inches in height and twenty four inches in width and having a face area not larger than three square feet; and (iv) A "for sale" sign, of a reasonable type, size and appearance, which is similar to signs customarily used in Tom Green County, Texas, to advertise individual parcels or residential real property.
- O. Exemptions. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures or signs necessary or convenient to the development, advertisement, sale, operation or other disposition of Property within the Subdivision. Moreover, any bank or other lender providing financing to Declarant in connection with the development of the Subdivision or improvements thereon may erect signs in the subdivision in the Common Areas or on Lots owned by Declarant to identify such lender and the fact that it is supplying such financing.

## SECTION 2.2 DECORATION, MAINTENANCE, ALTERATION AND REPAIRS

- A. Alteration of Residential Dwellings. No owner shall modify or alter the Residential Dwelling on such Owner's Lot without first having the Architectural Control Committee's written approval. An Owner shall have the right to repair his Residential Dwelling or perform routine maintenance provided that such action is performed with a minimum inconvenience to other Owners and does not constitute a nuisance. The Architectural Control Committee shall have the authority to require any Owner to remove or eliminate any object situated on such Owner's Residential Dwelling or Lot that is visible from any Common Area, any other Lot or the Golf Course, if, in the Architectural Control Committee's sole judgement, such object detracts from the visual attractiveness of the Subdivision.
- B. Maintenance of Residential Dwellings. Each Owner shall maintain the Residential Dwelling and other improvements on his Lot in good order and repair at all times.
- C. Landscaping Plan. Each Owner shall submit a Landscaping Plan for his Lot to the Architectural Control Committee for approval prior to Commencement of Construction. Upon receipt of the Architectural Control Committee's approval, the Owner shall implement the Landscaping Plan within one year from the date that he first occupies his Residential Dwelling.

Upon planting all grass, shrubs and trees set forth in the Landscaping Plan, Owner shall have a continuing obligation to maintain the plant materials in a reasonable and good condition befitting Subdivisions of like quality to Section 38 At Bentwood. If an Owner fails to maintain plant materials set forth in the Landscaping Plan in a reasonable manner, the Declarant shall have the right to enter upon the Lot to perform necessary landscape maintenance. Expenses incurred in performing said maintenance shall be charged to the Owner of the Lot. If unpaid, a lien shall arise against the Lot and may be enforced in the same manner as the Annual Maintenance Fee as set forth in Section 4.5 herein.

- D. The Landscaping Plan shall include an automatic sprinkler system if the Architectural Control Committee deems such system necessary to support and maintain the plant elements of the proposed Landscaping Plan.

## SECTION 2.3 TYPE OF CONSTRUCTION AND MATERIALS

- A. **Storage of Buildings Materials.** Without the prior written consent of the Architectural Control Committee, no building materials of any kind or character shall be placed or stored upon any Lot more than thirty (30) days before the construction of a Residential Dwelling, structure or improvement is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. After the Commencement of Construction of any Residential Dwelling, structure or improvement of a Lot, the work thereon shall be performed diligently, to the end that the Residential Dwelling, structure or improvement shall not remain in a partly finished condition any longer than reasonably necessary for the completion thereof. Upon the completion of the construction, any unused materials shall be removed immediately from the Lot.
- B. **Temporary Structures.** No structures of a temporary character, trailer (with or without wheels and whether or not attached to a foundation), mobile home (with or without wheels and whether or not attached to a foundation), modular or prefabricated home, tent, shack, barn or any other out-building structure or building, other than the permanent Residential Dwelling to be built thereon, shall be placed on any Lot, either temporarily or permanently and no residence, house, garage or other structure appurtenant thereto, shall be moved upon any Lot from another location. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of Residential Dwellings and construction of other improvements in the Subdivision.
- C. **Air Conditioners.** No window, roof or wall type air conditioner that is visible from any street, any neighboring Lot or the Golf Course, shall be used, placed or maintained on or in any Residential Dwelling, garage or other building or improvement.
- D. **Construction Materials.** The Architectural Control Committee may espouse construction material requirements from time to time in its sole discretion. The Architectural Control Committee, however, will require the following minimum standards:
- (i) The exterior walls of each Residential Dwelling and any outbuildings shall be covered by, at a minimum, 90% stucco, rock, or brick; and
  - (ii) Roof covering shall be, at a minimum, a 30-year architectural style shingle.

- E. Antenna. No external antenna shall be permitted on any Lot within the Subdivision if such antenna is visible from any other Lot, any street within the Subdivision or the Golf Course. Notwithstanding the prohibition of external antenna, satellite dishes are allowable under the following conditions: (i) the satellite dish is located to the rear of the Residential Dwelling; (ii) the satellite dish is located so that the Owner of the satellite dish is the primary viewer thereof; (iii) the satellite dish is no greater in diameter than two (2) feet; (iv) the satellite dish is approved by the Architectural Control Committee; and (v) the number of satellite dishes to be located on the property is approved by the Architectural Control Committee.
- F. Exterior Lighting. All exterior lighting must be approved by the Architectural Control Committee.
- G. Mailboxes. If the U.S. Postal Service allows, individual mailboxes are permitted at the Discretion of the Architectural Control Committee, provided that the design of the mailbox is similar to the design of the Residential Dwelling on the Lot and the type and location of the mailbox is approved by the Architectural Control Committee. If individual mailboxes are not permitted, keyed cluster boxes will be located in the area of the entrances, in the Common area or in alternative locations selected by Declarant. If cluster boxes are required by the U.S. Postal Service, Declarant may utilize proceeds from the Annual Maintenance Charge to purchase, construct and landscape the cluster box and surrounding area.
- H. Dog House or Other Animal Confinement. Dog houses, dog runs or other structures intended for the confinement of animals or birds (herein collectively referred to as "dog houses"), must be compatible with the Residential Dwelling on the Lot and require the approval of the Architectural Control Committee.
- I. Erosion Control. No activity which may create erosion or siltation shall be undertaken on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition to approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, but are not limited to, physical devices for controlling the run off and drainage of water and special precautions in grading and otherwise changing the natural landscape. Owners who fail to exercise proper erosion control shall be responsible for damage, costs, claims, liabilities, losses or expenses ("damage") caused to other Property within the Subdivision

and/or damage caused to the Golf Course. Such damage may be repaired by the Declarant, its successors and assigns collected through special assessment against the responsible Owner's Lot as provided in Article IV. Enforcement or erosion control may be pursued under the provisions of Article VIII, Section 8.7 and 8.8.

- J. Drainage. It is the sole and complete responsibility of the Owner of a Lot or Residential Dwelling to construct his Residential Dwelling in a manner to assure proper drainage. If a Lot or Residential Dwelling does not drain properly or drains onto an adjacent Lot or Residential Dwelling, the Owner shall repair the drainage immediately. If, after notification, the Owner fails to repair the drainage problem, Declarant, its successor or assigns shall have the right to enter upon the Lot to correct any drainage problem. The Owner of the Lot shall pay the expense incurred in assuring proper drainage. Such expense shall be collectible and enforceable pursuant to Sections 8.7 and 8.8 of Article VIII.

#### SECTION 2.4 SIZE AND LOCATION OF RESIDENCES

- A. Minimum Allowable Area of Interior Living Space. The minimum allowable area of heated and air conditioned interior living space in a Residential Dwelling within the Subdivision shall be not less than 2400 square feet.
- B. Location of Residential Dwellings/Improvements – Setbacks. The location of a Residential Dwelling on a Lot within the Subdivision shall require Architectural Control Committee Approval and at a minimum shall be subject to the setbacks shown on the Plat of said subdivision and subject to all local, state, and/or federal laws or regulations. All lots adjacent to the golf course, however, shall be subject to a 20' rear lot line setback. Any variances from these requirements must be approved by the Architectural Control Committee and, when applicable, state or local authorities.

#### SECTION 2.5 WALLS, FENCES AND IMPROVEMENTS

- A. Fence Height, Location and Materials. All fences and walls must be approved by the Architectural Control Committee as to location, height and building materials. Owners of any lot adjacent to the Golf Course, shall be subject to fence requirements imposed by Bentwood Country Club. Lots adjacent to the Golf Course throughout the Bentwood Country Club Estates require a three foot fence. All other fences shall not exceed 6 feet in height and no fence shall be constructed in a location that causes the fence to extend nearer to the street than the front of the Residential Dwelling. Any fence constructed on a lot adjacent to the golf course shall have rock or brick columns on 20 foot centers.

- B. **Maintenance of Fences.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and shall be the Lot Owner's responsibility to maintain such wall or fence. In the event the Owner or occupant of any Lot fails to maintain such wall or fence and such failure continues after thirty (30) days written notice thereof from the Declarant, then Declarant, its successors or assigns, may, at its option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the fence or wall to be repaired or maintained or do any other thing necessary to secure compliance with these Restrictions, and to place said wall or fence in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase and occupancy of such Lot, to pay such charge immediately upon receipt of corresponding statement. If unpaid, a lien shall arise against the Lot and may be enforced in the same manner the Annual Maintenance Fee as set forth in Article IV herein.
- C. **Improvements Erected by Declarant.** Declarant shall have the right, but not the obligation, to construct improvements within or around the Subdivision that are deemed by the Declarant to enhance the appearance of the Subdivision. An Owner shall be responsible for any damage to improvements erected by the Declarant that is caused by the Owner, his family members, his guests, agents or invitees. The Declarant shall have and hereby reserves an easement five (5) feet in width around the base of any improvements which may be constructed by Declarant for the purposes of inspecting, maintaining and/or repairing the improvement to the extent deemed necessary or desirable by Declarant.
- D. **Sidewalk.** When constructing a Residential Dwelling on a Lot the Owner must build a sidewalk adjacent to the street(s) if required by the City of San Angelo.

## SECTION 2.6 RESERVATIONS AND EASEMENTS

- A. **Streets.** All streets shown on the plat shall be dedicated to the City of San Angelo.
- B. **Utility Easements.** Declarant reserves the utility easements, roads and rights-of-way shown on the Plat for the construction, addition, maintenance and operation of all utility systems (which systems shall include systems for drainage purposes) now or hereafter deemed necessary by Declarant for all utility purposes (which purposes shall include drainage purposes), including systems of electric light and power supply,

drainage, telephone service, cable television service, gas supply, water supply and sewer service, including systems for utilization of services resulting from advances in science and technology. There is hereby created an easement upon, across, over and under all of the Subdivision for ingress and egress for the purpose of installing, replacing, repairing and maintaining all utilities. By virtue of this easement, it shall be expressly permissible for the Utility Companies and other entities supplying services to install and maintain pipes, wires, conduits, service lines, or other utility facilities (which facilities shall include drainage facilities) or appurtenances thereto, under the land within the drainage and utility easements now or from time to time existing and from service lines situated within such easements to the point of service on or in any structure. Notwithstanding anything contained in this Section 2.6B, no utilities (including drainage) or appurtenances thereto may be installed or relocated on the Subdivision until approved by Declarant or the Board.

C. Golf Course Play Easement. Declarant reserves, grants and dedicates to Bentwood CC, LLC, its successors and assigns, along with its servants, independent contractors, agents, members, guests and invitees (collectively, the "Golf Course users"), a non-exclusive easement over and across the Subdivision for the follow purposes:

- (1) Retrieval of golf balls, including the right to enter on the Subdivision or any Lot adjacent to the Golf Course, for that purpose, provided the right to retrieve golf balls shall only extend to non-enclosed portions of the Subdivision or Lots, and the person retrieving the golf balls shall do so in a reasonable manner and will repair any damage caused by entry onto the Subdivision or Lot to retrieve the golf ball.
- (2) Flight of golf balls over, across and upon the Subdivision or Lots.
- (3) Doing of every act necessary and incident to the playing of golf and other recreational activities on the Golf Course, including but not limited to the creation of usual and common noise levels associated with such recreational activities.
- (4) Creation of noise related to the normal maintenance and operation of the golf course, including, but not limited to, the operation of mowing and spraying equipment. Such noise may occur from early morning until late night.
- (5) An easement for the overspray of herbicides, fungicides, pesticides, fertilizers and water over portions of the Subdivision and Lots located adjacent to the Golf Course.

- D. **Golf Cart and Maintenance Vehicle Easement.** A non-exclusive easement is hereby granted to Golf Course employees and users to operate golf carts, pull carts, machinery, equipment and maintenance vehicles used in connection with the operation and maintenance of the Golf Course Property over and across all roads, streets and rights-of-way within the Subdivision.
- E. **Signage.** An easement is hereby granted for the construction, repair, maintenance and replacement of directional and informational signage within the Subdivision along the roads, streets, and rights-of-way located therein, for the purpose of directing Golf Course Users to the Golf Course Property. Such signage shall be constructed of materials and of a type of signage utilized for similar purposes within the Subdivision.
- F. **Additional Easements.** Declarant reserves the right to impose further restrictions and dedicate additional easements, including drainage easements, and roadway rights of way by instrument recorded in the office of the County Clerk of Tom Green County, Texas or by express provisions in conveyances, with respect to Lots that have been sold by Declarant.
- G. **Streets and Private Drives.** The streets within the Subdivision are subject to all local, state, and federal laws or regulations.
- All Private Drives shall be repaired and maintained by the Owner of the Lot upon which the Private Drive is located. The repair, replacement, or construction of any Private Drive is subject to approval by the Architectural Control Committee.
- H. **Changes to Easements.** Declarant reserves the right to make changes in and additions to all easements for the purpose of aiding in the most efficient and economic installation of utility easements.
- I. **Duration and Enforceability.** The easements and restrictions set forth in Section 2.6 shall constitute covenants running with the land in perpetuity, burdening the Subdivision and Lots, and shall be binding upon Declarant, its successors and assigns, including, but not limited to, any property or lot owners and all persons or parties claiming through, by or under Declarant.
- J. **Persons Entitled to Enforce Restrictions.** Declarant, Bentwood CC, LLC or their designated successors and assigns, shall have the right to enforce the easements and restrictions contained in this Section 2.6 against any Lot within the Subdivision or the Owner thereof. The right of enforcement shall include the right to bring an action for damages as well as an action to enjoin any violation of any provisions of this easement.

- K. **Damage by Errant Golf Balls.** Declarant, for itself and each and every subsequent Owner of Lots within the Subdivision, hereby acknowledges and agrees that the existence of Golf Course is beneficial and highly desirable; however, each such Owner acknowledges and agrees that portions of the Subdivision are located adjacent to the Golf Course and are subject to the risk of damage or injury due to errant golf balls. Declarant, for itself and each subsequent Owner of Lots within the Subdivision, their successors and assigns and guests, hereby assumes the risk of damage or injury due to errant golf balls. Declarant, for itself and each subsequent Owner of Lots within the Subdivision, their successors and assigns and guests, hereby assumes the risk of damage and injury due to errant golf balls and hereby releases Bentwood CC, LLC, its successors and assigns, from any and all liability for damages or injury caused by errant golf balls in, on, or around the Subdivision and agrees to indemnify and hold Bentwood County Club, LLC., its successors and assigns, harmless from any and all claims, actions, costs or liability arising from any damage or injury caused, directly or indirectly, by golf balls flying, landing, hitting or resting in or around the Subdivision. The obligation to indemnify, defend, and hold harmless shall pass with title to each Lot within the Subdivision, and once any Owner of land within the Subdivision has conveyed title to his, her or its Lot within the Subdivision, the obligation ceases as to that owner for all subsequent occurrences and that obligation passes to the new Owner.
- L. **RESTRICTIONS ON GOLF COURSE USE BY PROPERTY OWNERS.** NO OWNER OF PROPERTY OR A LOT WITHIN THE SUBDIVISION SHALL HAVE ANY RIGHTS IN OR TO THE GOLF COURSE OR OTHER AMENITIES LOCATED ON THE GOLF COURSE PROPERTY, OR ANY RECREATIONAL ACTIVITIES OCCURRING THEREON, INCLUDING, BUT NOT LIMITED TO, A VISUAL OR SITE EASEMENT OVER AND ACROSS ANY PORTION OF THE GOLF COURSE. RIGHTS OF MEMBERSHIP IN OR TO THE GOLF COURSE, OR RIGHT OF ACCESS TO OR ACROSS THE GOLF COURSE PROPERTY, UNLESS SUCH RIGHT OR RIGHTS HAVE BEEN GRANTED OR CONVEYED IN WRITING BY BENTWOOD CC, LLC OR ITS SUCCESSORS AND ASSIGNS. BENTWOOD COUNTRY CLUB LLC. SHALL HAVE NO OBLIGATION TO PROVIDE, OR TO CONTINUE THE OPERATION OF ANY IMPROVEMENTS ON THE GOLF COURSE PROPERTY, INCLUDING, BUT NOT LIMITED TO, A GOLF CLUB. RIGHTS TO USE THE RECREATADIONAL FACILITIES LOCATED ON THE GOLF COURSE PROPERTY SHALL BE ON SUCH TERMS AND CONDITIONS AS MAY BE PROMULGATED FROM TIME TO TIME BY BENTWOOD CC, LLC. ADDITIONALLY, BENTWOOD CC,

LLC., ITS SUCCESSORS AND ASSIGNS HAVE THE RIGHT, WITHOUT NOTICE OR WARNING, TO PLANT, REMOVE OR TRIM TREES OR BUSHES ON THE GOLF COURSE PROPERTY AS IT DEEMS ADVISABLE, IN ITS SOLE AND ABSOLUTE DISCRETION.

- M. Mineral Rights. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land in the Subdivision by contract, deed or other conveyance shall not in any event be held or construed to include the title to any oil, gas, coal, lignite, uranium, iron ore, or any other minerals, water (surface or underground), gas sewer, storm sewer, electric light, electric power, telegraph or telephone lines, poles or conduits or any utility or appurtenances thereto constructed by or under authority of Declarant or its agents or Utility Companies through, along or upon said easements or any part thereof to serve said Lot or parcel of land or any other portions of the Subdivision. Declarant hereby expressly reserves the right to maintain, repair, sell or lease such lines, utilities, drainage facilities and appurtenances to any public service corporation or other governmental agency or to any other party. Notwithstanding the foregoing reservation of mineral rights, Declarant shall have no surface access to the Property for mineral purposes.
- N. Easement to Owner. An easement is hereby granted to Owners within the Subdivision for the purpose of providing and maintaining utility service (including, without limitation, electricity, gas, water, sanitary sewer, storm sewer, telephone, cable television, and similar services) to the Lots and the Common Areas and for the purposes of installing, maintaining and replacing landscaping on the Lots and Common Areas within the Subdivision.

### **ARTICLE III**

#### **ARCHITECTURAL CONTROL COMMITTEE**

##### **SECTION 3.1 ARCHITECTURAL CONTROL COMMITTEE**

- A. Approval of Building Plans. No Residential Dwelling, Landscaping Plan or improvement shall be erected, placed, implemented or altered on any Lot without the written approval of the Architectural Control Committee. The Architectural Control Committee may require the submission of such plans, specifications and other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. The Architectural Control Committee shall have full and complete authority to approve or disapprove the construction of any Residential Dwelling or improvement or the implementation of any Landscaping Plan on any Lot and is further authorized to grant special "Variance Permits" to Owners who may request said

Variance. The Architectural Control Committee shall approve or disapprove of any Plans, Landscape Plans, or improvement plans within thirty (30) days of its receipt of said Plans. If the Architectural Control Committee does not issue a written approval or disapproval of any Plans within the aforementioned thirty days, then said Plans shall be deemed approved. The denial of a Variance Permit may impose a hardship to the Owner. Despite the possibility of such hardship, the opinion of the Architectural Control Committee shall be final and conclusive. Declarant reserves the right to charge a reasonable fee for the services of the Architectural Control Committee in reviewing building plans.

- B. Committee Ownership. The Architectural Control Committee shall initially consist of three (3) members, Kevin Collins, John W. Dunn, Jr. and Ken Schlaudt. The Declarant may remove, replace and/or appoint new members to the Architectural Control Committee at its discretion. The Architectural Control Committee shall at all times consist of three members.
- C. Removal or Replacement. In the event of removal, death or resignation of any member or the Architectural Control Committee, the Declarant shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications, and site plans submitted or to designate a representative with like authority.
- D. Transfer of Authority. The duties, rights, powers and authority of the Architectural Control Committee may be assigned at the sole election of the Declarant following conveyance of all Lots within the Subdivision by an instrument setting forth such assignment fully recorded in the office of the County Clerk of Tom Green County, Texas. From and after the date of recording such assignment, and the acceptance thereof by the assignee, the assignee shall have full right, authority and power, and shall be obligated to perform the functions of the Architectural Control Committee, as provided herein.

#### **ARTICLE IV**

#### **MAINTENANCE EXPENSE CHARGE AND MAINTENANCE FUND**

SECTION 4.1 MAINTENANCE FUND. All annual maintenance charges collected by the Declarant and all interest, penalties, assessments and other sums and revenues collected through collection of Annual Maintenance Charges shall constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Declarant, at its discretion, for the benefit of the Bentwood Country Club Estates and the owners of the Lots therein. The Declarant shall, by way of illustration and not by way of limitation and at its sole discretion, expend the

Maintenance Fund for the administration, management and operation of and for landscaping, maintaining, insuring, repairing, operating, constructing improvements on the Common Areas of the Bentwood Country Club Estates. The Maintenance Fund may also be used for the enforcement of these Restrictions by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Declarant, desirable in order to maintain the character and value of the Lots within Bentwood Country Club Estates. The Declarant shall not be liable to any person as a result of actions taken with respect to the Maintenance Fund, except for willful neglect or intentional wrong doings.

**SECTION 4.2 COVENANTS FOR ANNUAL MAINTENANCE CHARGES.** Each and every Lot is hereby severally subjected to and impressed with an Annual Maintenance Charge or assessment in an amount to be determined annually by the Declarant, which annual maintenance charge shall be appurtenant to the Lots. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay the Declarant, its successors or assigns, each and all of the charges and assessments against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all improvements thereon, as hereinafter more particularly stated. Each charge or assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time obligation to pay such assessment accrued, but no member shall be personally liable for the payment of any assessment made or becoming due and payable after his ownership ceases. No member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Areas, or any part thereof, or by abandonment of his Lot or his interest therein.

**SECTION 4.3 BASIS AND MAXIMUM ANNUAL MAINTENANCE CHARGE.** Until June 1 of the year immediately following the conveyance of the first lot from Declarant to an Owner, the maximum Annual Maintenance Charge shall be set by Declarant and shall not exceed \$500.00 per Lot. From and after June of the year immediately following the conveyance of the first lot from Declarant to an Owner, the maximum Annual Maintenance Charge may be increased, effective June 1 of each year, by an amount not greater than 10 percent (10%) per annum over the prior year's annual assessment. The Annual Maintenance Charge levied against each Lot shall be uniform. Lots or Common Areas on the Plat that are not intended to have a Residential Dwelling constructed thereon shall not be subject to Annual Maintenance Charge.

**SECTION 4.4 DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL MAINTENANCE CHARGE.** The Annual Maintenance Charge on a Lot shall commence on the date of the conveyance of the first Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. The Declarant

shall fix the amount of the Annual Maintenance Charge to be levied against each lot. Written notice of the figure set by the Declarant shall be sent to every Owner.

**SECTION 4.5 ENFORCEMENT OF ANNUAL MAINTENANCE CHARGE.** The Annual Maintenance Charge assessed against each Lot shall be due and payable in advance, on the date of the sale of such Lot by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each July thereafter. Any annual maintenance charge which is not paid and received by the Declarant by the thirty-first (31st) day of July thereafter shall be deemed to be delinquent, and, without notice shall bear interest at the rate of ten (10%) per annum from the date originally due until paid. Further, the Declarant shall have the authority to impose a monthly late charge on any delinquent Annual Maintenance Charge. The monthly late charge, if imposed shall be in addition to interest.

To secure the payment of the Annual Maintenance Charge, and any other sums due hereunder, including without limitation, interest, late fees, fines, attorney's fees or delinquency charges, there is hereby created and fixed a separate, valid and subsisting lien upon and against each Lot and all improvements thereto for the benefit of the Declarant, and superior title to each Lot is hereby reserved in and to the Declarant. The lien described in this Section 4.5 and the superior title herein reserved shall be deemed subordinate to any mortgage for the purchase or improvement of any Lot and any renewal, extension, rearrangements or refinancing thereof. The collection of such Annual Maintenance Charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Further, the voting rights of any owner in default in the payment of the Annual Maintenance Charge, or other charge owing hereunder for which an Owner is liable, may be suspended by action of the Declarant for the period during which such default exists.

Notice of the lien referred to in the preceding paragraph may be given by recording an affidavit, duly executed, and acknowledged by the Declarant, setting forth the amount owed, the name of the Owner or Owners of the affected Lot and the legal description of such Lot.

Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Declarant the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid Annual Maintenance Charge and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time). In addition to and in connection therewith, by acceptance of the deed to his Lot, each owner expressly grants, bargains, sells, and conveys to the Declarant serving as

trustee (and to any substitute or successor trustee as hereinafter provided for), such Owner's Lot and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid Annual Maintenance Charge, and other sum due hereunder remaining unpaid by such Owner by such owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing, signed by the Declarant and filed in the office of the County Clerk of Tom Green County, Texas. In the event of the election by the Declaration to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee or his successor, to enforce the lien and sell such Lot and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as it may be amended or revised.

At any foreclosure, judicial or non-judicial, the Declarant shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Declarant covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and, further shall be entitled to sue for recovery of possession of such Lot by forcible detainer without further notice.

**SECTION 4.7. PAYMENT OF ANNUAL MAINTENANCE CHARGE BY DECLARANT.** Each Lot owned by Declarant shall be subject to the Annual Maintenance Charges.

**SECTION 4.8 NOTICE OF SUMS OWING.** Upon the written request of an Owner, the Declarant shall provide to such Owner a written statement setting out the then current total of all maintenance charges and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Declarant so advising the Owner shall also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, but said purchaser and its successors shall be responsible for Annual Maintenance Charges, special assessments and other sums, if any, becoming due and owing to the Declarant with respect to said Lot after the date of foreclosure.

**SECTION 4.9 FORECLOSURE.** In the event of a foreclosure of a mortgage on a Lot, the purchaser at the foreclosure sale shall not be responsible for maintenance charges or other sums, if any, which accrued and were payable to the Declarant by the prior Owner of the Lot, but said purchaser and its successor shall be responsible for Annual Maintenance Charges, special assessments and other sums, if any, becoming due and owing to the Declarant with respect to said Lot after the date of foreclosure.

## **ARTICLE V**

### **INSURANCE**

SECTION 5.1 GENERAL PROVISIONS. The Declarant shall have authority to determine whether or not to obtain insurance for the Subdivision and upon the Common Areas and if insurance is obtained, the amounts thereof. In the event that insurance is obtained, the premiums for such insurance shall be an expense of The Declarant that shall be paid out of the Maintenance Fund.

SECTION 5.2 INDIVIDUAL INSURANCE Each Owner shall be responsible for insuring his Lot and his Residential Dwelling, its contents and furnishings. Each Owner, at his own cost and expense, shall be responsible for insuring against the liability of such ownership.

## **ARTICLE VI**

### **FIRE OR CASUALTY: REBUILDING**

SECTION 6.1 REBUILDING. In the event of a fire or other casualty causing damage or destruction to a Lot or the Residential Dwelling located thereon, the Owner of such damaged or destroyed Lot or Residential Dwelling shall, within three (3) months after such fire or casualty, contract to repair or reconstruct the damaged portion of such Lot or Residential Dwelling and shall cause such Lot or Residential Dwelling to be fully repaired or reconstructed in accordance with the original plans therefore, or in accordance with new plans presented to and approved by the Architectural Control Committee, and shall promptly commence repairing or reconstructing such Residential Dwelling, to the end that the Residential Dwelling shall not remain in a partly finished condition any longer than reasonably necessary or completion thereof. Alternatively, such damage or destroyed Residential Dwelling shall be razed and the Lot restored as nearly as possible to its original condition within four (4) months of its damage or destruction.

SECTION 6.2 PAYMENT OF INSURANCE PROCEEDS. All insurance proceeds and other funds received by the Declarant pursuant to these Restrictions as a result of fire or other casualty loss to the Common Areas shall be applied toward the cost of repair, restoration or rebuilding of the damaged Common Areas. Any funds remaining after the repair, restoration or rebuilding of such damaged Common Areas shall be retained by the Declarant as part of the Maintenance Fund.

## **ARTICLE VII**

### **AMENDMENT TO DECLARATION AND DURATION OF RESTRICTIONS**

SECTION 7.1 AMENDMENT BY DECLARANT. Notwithstanding anything to the contrary contained in these Restrictions, the Declarant or Declarant's successor shall have and hereby reserve the right at any time, without joinder or consent of any other party or entity, to amend these Restrictions by an instrument in writing duly signed, acknowledged and filed for record in the office of the County Clerk of Tom Green County, Texas. Such right to amend the Declaration without the consent of any other

party or entity shall cease upon the date that Declarant is no longer the record owner of at least twenty percent (20%) of the Lots within the Subdivision.

SECTION 7.2 AMENDMENT BY OWNERS. Except as otherwise provided by law and by Section 7.1, the provisions of this Declaration may be amended by an instrument in writing signed by the Owners of not less than two-thirds (2/3) of the Lots within the Subdivision. Such instrument shall be signed by Owners of not less than two-thirds (2/3) of the Lots in the Subdivision and shall be filed in the office of the County Clerk of Tom Green County, Texas.

SECTION 7.3 DURATION. These Restrictions shall remain in full force and effect until July 1, 2030, or on the commencement of any successive ten (10) year periods, provided, however, that these Restrictions may be terminated on July 1, 2030, or on the commencement of any successive ten year period by filing for record in the office of the County Clerk of Tom Green County, Texas, an instrument in writing and signed by the Owners of not less than two-thirds (2/3) of the Lots within the Subdivision.

## **ARTICLE VIII**

### **MISCELLANEOUS**

SECTION 8.1 SEVERABILITY. In the event of the invalidity or partial invalidity of partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

SECTION 8.2 RULES AND REGULATIONS. The Rules and Regulations may be amended from time to time by the Declarant or its assignee. The Rules and Regulations are of equal dignity with and shall be enforceable in the same manner as these Restrictions, but in the event of a conflict, these Restrictions shall control. Each Owner, by accepting a deed to his Lot, agrees to comply with and abide by the Rules and Regulations as the same may be amended from time to time.

SECTION 8.3 NUMBER AND GENDER. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations and entities of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

SECTION 8.4 ARTICLES AND SECTIONS. Article and Section headings in these Restrictions are for convenience of reference and shall not affect the construction or interpretation of these Restrictions. Unless the context otherwise requires, references herein to Articles and Sections are to Articles and Sections of these Restrictions.

SECTION 8.5 DELAY IN ENFORCEMENT. No delay in enforcing the provisions of these Restrictions with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

SECTION 8.6 LIMITATION OF LIABILITY. Declarant, as well as its directors, officers, agents and employees shall not be liable to any Owner or occupant of any Lot or any portion thereof or to any other party for any loss, claim or demand in connection with a breach of any provision of these Restrictions.

SECTION 8.7 ENFORCEABILITY. These Restrictions shall run with the Subdivision and shall be binding upon and inure to the benefit of and be enforceable by Declarant and each Owner and occupant of a Lot in the Subdivision, or any portion thereof, and their respective heirs, legal representatives, successors and assigns, in the event that any legal action to enforce these Restrictions is initiated by Declarant or its assignees. Declarant shall be entitled to recover attorney's fees and court costs from the Owner or occupant of a Lot who violated these Restrictions.

SECTION 8.8 REMEDIES. In the event any one or more persons, firms, corporations or other entities shall violate or attempt to violate any of these provisions of the Restrictions, the Declarant and each Owner or occupant of a Lot within the Subdivision, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on this 1 day of June, 2014, to become effective upon recording in the office of the County Clerk of Tom Green County, Texas.

Bentwood CC, LLC

By: 

Kevin Collins  
Manager

STATE OF TEXAS

COUNTY OF TOM GREEN

This instrument was acknowledged before me on this 30<sup>th</sup> day of January, 2019, by Kevin Collins, Manager of Bentwood CC, LLC., the Declarant herein.

Kristi R. McDonald

Notary Public, State of Texas

