

Riley Farm  
Restrictive Covenants

BOOK 668 PAGE 1966

MASTER

**PROTECTIVE COVENANTS AND BILL OF ASSURANCE**

January 1, 1998

FILED  
FT SMITH DIST.  
98 OCT 19 PM 3 15  
CIR. CLERK SEBASTIAN CO.

For High Pointe on Riley Farm, a platted subdivision located in the Fort Smith District of Sebastian County, Arkansas.

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Pinemeadow, Inc., being the developer of certain real property situated in the Fort Smith District of Sebastian County, Arkansas, imposes the following covenants, limitations, restrictions and uses (the "Covenants") on lots 1 through 12 ("the lots") of the subject property, known as High Pointe on Riley Farm Addition ("the Addition") a platted subdivision filed of record in the Fort Smith District of Sebastian County, Arkansas on the 15<sup>th</sup> day of October, 1998 in the Plat Records. (The legal description of the Addition is shown on the plat of the Addition which is attached as Exhibit "A".) The Covenants shall run with the land for the period of time hereinafter set out and shall be binding upon the Developer and all future owners of the lots. These Covenants are for the benefit of and are limitations upon the Developer and all future owners of the lots and have been designated as such in order to provide for an orderly development of the Addition and for the purpose of making the Addition desirable, uniform and suitable for use as herein specified.

Except for the covenants contained in Articles XIV and XV these Covenants shall be binding upon the Developer and all future owners of the lots until January 1, 2050, at which time they shall be automatically extended for an additional twenty (20) years, unless by majority vote of the then lot owners, it is agreed that these Covenants should be changed or amended in whole or in part. In any such vote, the owner or owners of each lot shall have just one (1) vote regardless of the number of owners of said lot. If an owner owns a lot and one-half of a contiguous lot as authorized in Article VI, Section 1 the owner will have one and one-half (1½) votes. (For example, if two owners purchase a lot between their lots and then split that lot, both owners would each have one and one-half (1½) votes.)

It shall be lawful for the Developer, the Association or any person owning a lot or lots, or any undivided fee interest therein, in the Addition to initiate any proceedings at law or in equity against parties or person violating or attempting to violate any of the Covenants to seek an injunction against such violation or to recover damages for such violation, or both. Any rights reserved hereunder to the Developer may also be exercised by any owner of lots situated in said Addition, either individually or collectively. The invalidation of any one of the Covenants by a court order shall not invalidate any of the other provisions which shall remain in full force and effect.

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ARTICLE I

CONCEPTS AND DEFINITIONS

The following words, when used in the Covenants, or any amendments or supplements thereto, shall have the meanings set forth below:

(A) "Addition" shall mean the property described in Exhibit "1" and as reflected on the plat set out on Exhibit "1" and any additions thereto.

(B) "Association" shall mean the entity which will have the power, duty and responsibility for maintaining, administering and enforcing these Covenants and collecting and disbursing the assessments and charges hereinafter prescribed. The Association shall be chartered and shall function as a non-profit corporation under the name of the "Riley Farm Property Owners Association, Inc."

(C) "Architectural Control Committee" or "Committee" shall mean the individuals elected by a majority of the owners present at the annual meeting of the Association. Each lot shall have one vote regardless of the number of owners of a lot. Each member of the Committee shall be an owner of a lot or an ownership interest therein and shall be generally familiar with residential and community development design matters and knowledgeable about the Developer's concern for a high level of taste and design standards within the Addition. The annual meeting of the lot owners shall take place on December 1 of each year or such other date as a majority of the committee may agree. It shall be the obligation of the Committee to notify the lot owners by regular mail of the location, date and time of the annual meeting.

(D) "Board" or "Board of Directors" shall mean the Board of Directors of the Association elected in accordance with the provisions of the articles of incorporation and by-laws of the Association.

(E) "Common Properties" shall mean any and all areas of land together with all improvements located therein within the Addition which are known, described or designated as private roadway easements and utility easements along the roadways on any recorded subdivision plat of the Addition or are intended for or devoted to the common use and enjoyment of the members of the Association. The Association shall hold title to the Common Properties, subject to the easement rights herein of the members to use and enjoy the Common Properties. The Developer reserves the right to effect minor redesigns or reconfigurations of the Common Properties and execute any open space declarations applicable to the Common Properties.

(F) "Developer" shall mean Pinemeadow, Inc., an Arkansas corporation, and its successor(s) and assign(s).

(G) "Lot" or "lot" shall mean any plot or tract of land which is designated as a lot on the plat which is attached hereto and labeled Exhibit "2".

(H) "Member" or "member" shall mean and refer to each owner of a lot.

(I) "Owner" or "owner" shall mean each and every person or business entity who or which is a record owner or subsequently becomes a record owner of a fee or undivided fee interest in any lot subject to these Covenants.

## ARTICLE II

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every owner of a lot shall automatically be, and must remain, a member of the Association in good standing.

Section 2. Voting Rights. The Association shall have one (1) class of membership for purposes of voting. There shall be a total of twelve (12) votes. The owners of each lot (regardless of the number of persons or entities having a fee interest in the lot) shall be entitled to one (1) vote.

Section 3. Quorum, Notice and Voting Requirements. The quorum, notice and voting requirements of the Association are set forth within the articles of incorporation and by-laws of the Association, as the same may be amended from time to time. Subject to the provisions of Section 2 above, any action by or on behalf of the Association may be taken with the assent given in writing and signed by members who hold a majority of votes of the Association; provided, however, that any amendment of the Covenants will require the written assent of the members who hold 2/3 of the votes of the Association.

## ARTICLE III

### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every member and each individual within a member's nuclear family shall have a non-exclusive right and easement of use, recreation and enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of each respective lot, PROVIDED, HOWEVER, such easement shall not give such person (excluding the Developer and the Committee) the right to make alterations, additions or improvements to the Common Properties.

Section 2. Title to the Common Properties. The Association shall hold such title to the Common Properties for an indefinite period of time, subject to the easements

set forth in Section 1 of this Articles as is necessary to accomplish the purposes and effects of these Covenants. The Association shall have the right to design, redesign, reconfigure, alter, improve, landscape and maintain the Common Properties.

Section 3. Extent of Members' Easements. The rights and easement created herein shall be subject to the following:

(A) The right of the Board to prescribe reasonable rules, regulations and policies governing the use, operation and maintenance of the Common Properties;

(B) The right of the Board to prescribe reasonable rules, regulations and policies governing the use, operation and maintenance of the lots, which are consistent with and in furtherance of the Covenants, provided that no Covenant may be amended without a vote of the members who hold 2/3 of the votes of the Association.

(C) The right of the Board to enter into and execute contracts with any party for the purpose of providing maintenance or such other materials or services consistent with the purposes of the Association, or these Covenants, or both;

(D) The right of the Board to suspend the voting rights of any member and to suspend the right of any member to use or enjoy any of the Common Properties for: (1) any period during which any assessment (including without limitation special individual assessments) against a lot resided upon by such member remains unpaid, or (2) for any period deemed reasonable by the Board for any infraction of the then existing rules, regulations and policies; and

(E) The right of the Board to dedicate or transfer all or any part of the Common Properties to any municipal corporation, county government, political subdivision, public agency, governmental authority, or utility for such purposes and upon such conditions as may be agreed to by the Board.

#### ARTICLE IV

##### COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, for each lot owned by it within the Addition, hereby covenants and agrees, and each owner of any lot, by acceptance of a deed therefor (whether from the Developer or some subsequent grantor and whether or not it shall be so expressed in any such deed or other conveyance) shall be deemed to covenant and agree to pay to the Association:

(A) Regular annual assessments for maintenance, taxes and insurance on the Common Properties;

(B) Special group assessments for capital improvements or unusual or emergency matters;

(C) Special individual assessments levied against individual lot owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual owner, his family, guests or invitees, and not caused by ordinary wear and tear; and

(D) Special individual assessments and fines levied against individual lot owners for violation of rules, regulations and policies pertaining to the Association or the Common Properties or both.

The regular, special group, and special individual assessments, together with such late charges, interest and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made and shall also be the continuing personal obligation of the then existing owner of such lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Board on behalf of the Association shall be used exclusively for the purpose of enhancing the natural environment, appearance and beauty of the Addition and promoting the health, recreation, safety and general welfare of the residents of the Addition.

Section 3. Regular Assessments.

(A) The amount of the initial regular annual assessment ("regular assessment") for each lot shall be \$50.00 per year. If an owner owns one and one-half lots (1½) as authorized in Article VI, Section 1 his assessment shall be \$75.00 per year. The regular assessment may be increased or decreased by a majority vote of the Board.

(B) The Board shall give notice to all members at least thirty (30) days in advance of the date that all regular assessments are due. The Board may prescribe from time to time that the regular assessments are to be collected on an annual, semi-annual, quarterly or monthly basis, and accordingly, the Board shall prescribe the appropriate due dates. All regular assessments shall be collected in advance. Upon the sale of a lot the buyer will reimburse the seller for his or her pro rata share of the regular assessment paid during that year.

Section 4. Special Group Assessments. In addition to the regular assessments authorized by Section 3 hereof, the Board may levy in any fiscal year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties. The due date or dates (if it is to be paid in installments) of any special group assessment shall be fixed in the

respective resolution authorizing such assessment. The Board shall give notice to all members at least 30 days in advance of the date that any special group assessments are due.

**Section 5. Rate of Assessments.** Except as noted herein, regular and special group assessments shall be fixed at an equal rate for all lots, regardless of the size of the lots. The failure to pay the assessment by the owner of a lot shall constitute a lien only against the lot assessed.

**Section 6. Special Individual Assessments.** The Board shall hold a special meeting to consider the levy of a special individual assessment. The Board shall give the owner of the subject lot 10 days written notice by regular mail of the special meeting. The owner shall have the right to be present and to speak to the Board at the special meeting. If the Board determines that a special individual assessment is appropriate, the Board will determine the amount and terms of payment

**Section 7. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; and Remedies of Association.**

(A) If any regular, special group or special individual assessment, or any part thereof, is not paid on the date(s) when due, then the unpaid amount of such assessment shall be considered delinquent. The delinquent assessment together with any late charge and interest imposed by the Board (not to exceed the maximum rate allowed under applicable law) and any costs of collection, including attorneys' fees, shall become a continuing debt secured by a self-executing lien on the lot of the non-paying owner. Said lien shall bind such lot in the hands of the owner and owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Board shall have the right to reject partial payments of an unpaid assessment and demand the full payment thereof. The personal obligation of the then-existing owner to pay such assessment shall remain the owner's personal obligation and shall not pass to owner's successors in title unless expressly assumed by them. However, the lien for unpaid assessments shall be unaffected by any sale or assignment of a lot and shall continue in full force and effect. No owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the lot.

(B) The Board may also give written notification to the holder(s) of a mortgage on the lot of a non-paying owner of such owner's default in paying any assessment when such default has not been cured within thirty (30) days of the original date due, provided that the Board has, theretofore, been furnished in writing with the correct name and address of the holder(s) of such mortgage and a request to receive such notification.

(C) The Board may, at its election, retain the services of an attorney to review, monitor and collect unpaid assessments and delinquent accounts, and there shall also be

added to the amount of any unpaid assessment or to any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to the lien of any bona fide first mortgage or deed of trust now or hereafter placed upon the lots subject to assessment.

## ARTICLE V

### GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 1. Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors (sometimes referred to as the "Board").

(A) The Board, for the benefit of the Association, the Addition and the owners, may provide and may pay for, out of the assessment fund(s) provided for in Article IV above, any or all of the following:

(1) The care, preservation and maintenance of the Common Properties and the furnishing and upkeep of any desired personal property and fixtures for use in or on the Common Properties;

(2) The taxes, insurance (including but not limited to directors' errors and omissions coverage) and utilities (including, without limitation, electricity, gas, water and sewer charges), if any, which pertain to the Common Properties only;

(3) The services of any person or firm (including the Developer and any affiliates of the Developer) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by a manager hired by the Board;

(4) Legal and accounting services; and

(5) Any other materials, supplies, equipment, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of these Covenants or which in its opinion shall be necessary or proper for the operation or protection of the Association and the Addition or for the enforcement of these Covenants.

(B) The Board shall have the following additional rights, powers and duties:

- (1) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;
- (2) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;
- (3) To make reasonable rules, regulations and policies for the use, maintenance and operation of the Common Properties and to amend them from time to time; and
- (4) To prescribe reasonable rules, regulations and policies governing the use, operation and maintenance of the lots, which are consistent with and in furtherance of the Covenants, provided that no Covenant may be amended without a vote of the members who hold 2/3 of the votes of the Association.

**Section 2. Maintenance Contracts.** The Board shall have full power and authority to contract with any owner (including, without limitation, the Developer) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interests of the Association.

**Section 3. Liability Limitations.** Neither any member nor the directors and officers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or otherwise. Neither the Developer, the Association, its directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvement or portion thereof or for failure to repair or maintain the same.

**Section 4. Reserve Funds.** The Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses.

## ARTICLE VI

### USE OF LOTS

The Addition (and every lot situated therein) shall be constructed, developed, occupied and used as follows:

**Section 1. Residential Lots.** All lots within the Addition shall be used, known and described as residential lots. No lot may be divided or split nor shall a division or split be recognized by the Association; provided however that existing



owners of lots may purchase another contiguous lot and either consolidate, split or divide that lot so long as the split, division or consolidation does not result in a lot smaller than any of the original lots in the Addition. Only one (1) single family residential dwelling and the customary and usual necessary structures may be constructed on each lot. No multi-family dwelling, including but not limited to duplexes, shall be constructed on any lot. Each single family residential dwelling shall have a minimum of 2,500 square feet of heated space, exclusive of the garage. No residential dwelling shall be constructed on any lot at a cost of less than \$150,000.00. All driveways in the Addition shall consist of a hard surface acceptable to the Committee. No building or structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on any lot. Home occupations in which customers or suppliers travel to or from a residence in the Addition are prohibited. The restrictions on use herein contained shall be cumulative of, and in addition to, any restrictions imposed by the statutes, rules, regulations and ordinances of the City of Fort Smith, Arkansas, or any other governmental authority or political subdivision having jurisdiction over the Addition. *No portable, pre-fabricated or modular residential dwelling shall be placed or erected on any lot. Amendment dated 9-1-00*

**Section 2. Residential Purposes.** By acquisition of any lot within the Addition, each owner (excluding bona fide home builders) covenants with and represents to the Developer and to the Association that the lot is being specifically acquired for the specific and singular purpose of constructing and using a residential dwelling thereon:

(i) as a residence for such owner and the owner's immediate nuclear family members; or

(ii) (if owner is a business entity) as a residence for an existing officer, director, key employee, substantial shareholder or general partner of the owner (as identified and designated to the Developer and the Association), to be occupied as such, and not for the purpose of investment, speculation, leasing, renting, corporate retreat, hospitality suits, or other similar disposition and each owner agrees and covenants that no speculation, leasing, renting, corporate retreat or hospitality suit use(s) shall occur on any lot.

*deleted by Amendment of 9-01-00*  
**Section 3. Garage and Vehicles.** All residences constructed in the Addition shall have a private garage ~~(or carport)~~ to accommodate a minimum of two vehicles. All garages facing the street shall be finished inside and shall be fully enclosed with garage doors. No vehicle of any type shall be parked in or on the front yards of the residential dwellings. No trucks, including but not limited to tractor/trailer units but excluding pickup trucks, shall be permitted within the Addition, except for the limited purposes of: (1) construction of a dwelling or structure; (2) moving individuals in or out of their residence; (3) pick up and delivery of mail and parcels; (4) the pick up of garbage; (5) pick up and delivery by school, church or civic groups; or (6) maintenance or repair of a dwelling or structure, or any utilities, appliances or other contents thereof. Any vehicle that has been inoperative for a period of more than ten (10) days shall be stored in the garage or at the rear of the main residential structure so as to be obscured from public

view and the view of adjacent lots. No "For Sale" sign shall be placed on any vehicle, trailer, mobile home, boat, recreational vehicle or any other item of personal property parked, stored or located on a lot or any street within the Addition.

*Renumbered as 3A per Amendment #2 (1-00 garage)*  
Section 3A Detached Structures

Any detached structure to be built on a lot, such as a covered entertainment area, guest house, barn or other structure, shall conform to the design and style of the dwelling and the plans for any such structures must be submitted to the Architectural Control Committee for approval prior to construction as provided in this Article. Any detached structure must set on a permanent foundation. A residential dwelling may have an outdoor patio deck, but only on the rear of the main residential structure so as to be obscured from public view.

*in its entirety replaced by Amendment #2 March 1, 2006*

Section 4. Temporary Structures and Recreational Vehicles.

No mobile home shall be erected or placed on any lot, either temporarily or permanently. No trailer, tent, construction shack or other out building shall be erected or placed on any lot in the Addition, except for temporary use by construction contractors for a reasonable period of time and only in such location and for such time as may be designated by the Architectural Control Committee. Boats, motorcycles, boat or other trailers, recreational vehicles ("RVs") and other vehicles used for recreational purposes, shall be stored to the rear of the main residential structure on each lot. No trailer, tent or other detached temporary structure and no recreational vehicle shall be used as a residence, either temporarily or permanently.

Section 5. Setback Lines.

No above ground structure (except retaining walls of less than 3 feet in height and approved fences) shall be constructed or installed between the front property line and the front yard setback line (as shown on Exhibit A). No retaining walls or other structure exceeding 3 feet in height shall be constructed or installed on that part of a lot which lies between the front yard setback and the line which runs along the front foundation of the principal residence and which intersects the side property lines ("front building line").

*in its entirety replaced by Amendment #2 March 1, 2006*

The setback between the sides of residences on adjacent lots shall be a minimum of twenty-five (25) feet from each side of the side property line. The rear setback shall be a minimum of twenty (20) feet from the rear property line of each lot. No above ground structure (except retaining walls of less than 3 feet in height and approved fences) shall be constructed or installed between the side setbacks and the side property lines or between the rear setback and the rear property line.

Porches, swimming pools, steps, chimneys, window boxes and other portions of a permitted structure shall not project beyond the minimum front, side or rear setback lines.

Section 6. Fences. No galvanized or concrete block fences will be permitted in the Addition. Plans for all fencing, whether on lot lines or surrounding patios, pools,

*Replaced in its entirety 10 by Amendment #2, filed 09/07/07 (dated March 1, 2006)*

barns or other areas of the lot must be submitted to, and approved by, the Architectural Control Committee prior to the construction thereof. In the approval of the fencing, the Architectural Control Committee shall give consideration to the location, height, material conformity with neighboring areas, and the obstruction of views.

*See Amendment # 2*

Section 7 - ADDED by Amendment #2  
Orientation of Residences **ARTICLE VII**  
**EASEMENTS**

*dated 09-02-07*

**Section 1. Dedication.** The Developer has and does hereby dedicate for public use all of the streets shown on the plat filed concurrently herewith as a part of the Addition to the City of Fort Smith. The Developer further has and hereby does dedicate to the public, for public use forever, the easements and rights-of-way (hereinafter referred to as the "utility easements") as designated on the plat of the Addition for the several purposes of constructing, maintaining, operating, repairing and replacing sanitary sewer lines, if any, telephone lines, electric power lines, transformers, gas lines, water lines, television cable lines, and any other utility or public service lines (collectively referred to hereinafter as "utility lines"), together with all fittings and equipment for each of such facilities and any other appurtenances thereto, with the right of ingress and egress upon said easements and rights-of-way for the uses and purposes aforesaid, together with similar rights on each and all of the streets shown on the plat. The Developer hereby reserves the right to construct, maintain, operate, lay and relay the utility lines together with the right of ingress and egress for such construction, maintenance, operation, laying and relaying over, across and along all the public streets and utility easements shown on said plat. The utility easements are for the use and benefit of the Developer and its designees as well as the public utilities, their designees, agents and employees. The rights and privileges and authority herein reserved includes the right to cut down and keep trimmed all trees, hedges and shrubs that may, in the judgment of the Developer, its designees or of any public utilities, or its designees, interfere with or endanger such utilities. Nothing contained in this article shall be interpreted as requiring the Developer to construct or maintain any of the utility lines on any portion of the Addition. The utility easements shall run with the land and shall be binding on and enforceable against the owner (and his or her heirs, successors and assigns) of any lot on which utility easement lies.

**Section 2. General.** All utility lines or other pipes, fittings or equipment for public services, including but not limited to sewer, water, electric, gas, telephone and TV cable, shall be located underground in the utility easements or public streets. Service pedestals and transformers, as sources of supply as secondary voltages, shall also be located in said easements. All lines or services running from the utility easements to a residence or other structure ("the utility service line") shall also be underground. Utility service lines shall run from the nearest service pedestal or transformer to the point of use as determined by the location and construction of such residence or other structure upon said lot. Upon the installation of a utility service line,

the supplier of the service shall thereafter be deemed to have a definite, permanent, effective and exclusive right-of-way easement on said lot, covering a five foot strip extended 2.5 feet on each side of such utility service line, extending from the service pedestal or transformer to the service entrance of said residence or other structure ("utility service easement"). The supplier of the service, through its proper agents and employees, shall at all times have the right of access to all such utility service easements. This right shall apply to all suppliers of public utilities and quasi-public utilities, as for example, television cable companies. If an owner constructs a locked gate across the main entrance to a lot the owner shall provide a means to access the lot to each utility service supplier (i.e., key to the gate, copy of access code, etc.). The owner of each lot shall be responsible for the protection of the utility service lines located on his or her lot and shall prevent the alteration of grade or any construction activity which may interfere with said service. Repairs or costs of relocation required by the violation of this covenant shall be paid by the owner of the lot. The utility service easements shall run with the land and shall be binding on and enforceable against the owner (and his or her heirs, successors and assigns) of any lot on which a utility service easement lies.

**Section 3. Gas Lines.** All gas lines to a residence or other structure ("gas lines") will be made of plastic pipe of a size and material approved by the gas company. An approved tracer wire will be installed in a trench with the plastic pipe and attached to the meter riser per the gas company's specifications. Meter set assemblies will be installed by a plumber and shall be installed within five feet of the front corner of the structure. No gas line will be installed under concrete or asphalt unless installed in a casing approved by the gas company. Gas lines and inlet meter risers will be tested at not less than 90 PSIG air or nitrogen for 24 hours, approval and acceptance of same to be by the gas company personnel. Shrubbery will be limited so as not to interfere with the meter reading and normal maintenance of said meter.

**Section 4. Approval of Easements.** Subject to the right of the Developer to amend the covenants pursuant to Article XVII, Section 2, no portion of any lot shall be used for a driveway, street, passageway, public right-of-way or easement of any type to service or benefit property or owners of real property adjoining the Addition, unless such usage is approved by two-third (2/3) of the voting members of the Association and the Developer, its successors or assigns.

**Section 5. Ozark Gas Transmission Pipeline Easement.** The pipeline easement in favor of Ozark Gas Transmission LLC ("Ozark"), which is reflected on the plat for the Subdivision, is an exclusive easement on the land described therein 15 feet above the surface to 24 inches below the pipeline and appurtenant facilities as installed. No encroachment of any kind shall be allowed on or through this easement unless approved in writing by Ozark, its successors and assigns prior to the encroachment occurring, said written permission will not be unreasonably withheld. As used herein, "Encroachment" shall include but not be limited to any structure, building, swimming

pool, pond, driveway, fence, wall, drain, pipeline, cable, electric power line, telephone line, storm sewer line or sanitary sewer line or any activity that, in the sole opinion of Ozark, would jeopardize the integrity of Ozark's pipeline or appurtenant facilities or would interfere with any of Ozark's rights pursuant to the right of way agreement. The Owner of a lot encumbered by the easement shall not remove cover from the top of the pipeline and appurtenant facilities or remove subjacent lateral support to the pipeline or add more than 24 additional inches of fill over the top of the easement.

## ARTICLE VIII

### ARCHITECTURAL CONTROL COMMITTEE -- APPROVAL OF PLANS, CONTROL OF DEVELOPMENT ACTIVITIES

**Section 1. Submission of Plans.** In order to maintain a beautiful and pleasing setting in a luxury-living subdivision, two (2) sets of all building and site improvement plans and specifications must be submitted to the Architectural Control Committee for its approval prior to the commencement of construction of the single family residential dwelling or any other structure or improvement on a lot, or any addition or modification of an existing dwelling, structure or improvement. The Architectural Control Committee shall act to enforce the requirements of these Covenants in a reasonable manner. The Architectural Control Committee has the authority to maintain the architectural conformity of the development and, in consideration thereof, shall determine that the proposed construction shall not detract from the development and shall enhance the purpose of the development to provide a beautiful and pleasing setting in a luxury-living subdivision. The Architectural Control Committee shall consider such matters as the proposed square footage, location, materials, exterior style and landscaping. The Architectural Control Committee will adopt by-laws explaining the mechanics of its operation and providing for a fourteen (14) day maximum time within which plans must be reviewed and approved or disapproved after submission and, if not approved or disapproved in that period, that the same shall be considered as automatically approved.

**Section 2. Ponds.** All plans or schemes for the diversion of drainage (other than the private drainage easements described in Article XV), or for the construction or reconfiguration of an artificial pond or lagoon, shall be approved by the Architectural Control Committee.

## ARTICLE IX

### OFFENSIVE ACTIVITIES

No offensive activity, including but not limited to the discharge of firearms or fireworks, shall be permitted on any lot, nor shall any activity be undertaken on any lot that shall become an annoyance or nuisance to the Addition. The burning or burying of

leaves, debris and trash shall not be permitted on any lot. The manufacture or sale of alcoholic beverages shall not be permitted in the Addition. The consumption of alcoholic beverages shall not be visible from any street. The development of minerals of any kind or nature is prohibited within the Addition; provided, however, underground hydrocarbon minerals may be captured by wells located outside the Addition. No privy, cesspool or disposal plant shall be installed or maintained on any lot in the Addition, and all residences and permitted accessory buildings shall have its plumbing connected to the city sanitary sewer system.

**ARTICLE X**

*Replaced in its entirety by Amendment #2, dated March 1, 2006; & filed Sept 7, 2007*

**ANIMALS**

Animals shall be allowed in the Addition subject to the following limitations. An owner shall be permitted to have dogs and cats for non-commercial purposes as long as the number and type does not interfere with any other owner's right to the quiet enjoyment of his property and so long as said animals are not permitted to trespass on the property of another or any portion of the Common Properties. Dog kennels shall be located at the rear of the residential dwelling so as to be obscured from public view and the view of adjacent lots. An owner shall be permitted to have a horse or horses as long as the owner has no more than one (1) horse per two and a half (2.5) acres of seeded pasture and one (1) horse per five (5) acres of wooded area. An owner shall not be permitted to have cattle, swine, poultry, fowl, wild animals or exotic animals in the Addition. The Board shall have authority to enforce these provisions and to make decisions regarding limitations upon the ownership of animals in the Addition.

**ARTICLE XI**

**MOTORIZED RECREATION VEHICLES**

Motorized recreational vehicles including, but not limited to racecars, motorbikes, motorcycles, scooters, mopeds, trailbikes, four wheelers, and any other similar mechanical devices shall not be operated within the Addition except for the sole and exclusive purpose of ingress and egress to and from lots and the public road. The purpose of this restriction is to reduce noise and other pollution so as to permit maximum enjoyment of the surroundings in the Addition. It shall not apply to equipment normally used for lawn or garden maintenance so long as said equipment is operated in the ordinary and usual manner intended.

**ARTICLE XII**

**SIGNS**

Unless approved in writing by the Architectural Control Committee, signs shall

be prohibited on all lots except that one (1) sign, not exceeding four (4) square feet in size, advertising a particular lot for sale shall be permitted within the building setback lines.

### ARTICLE XIII

#### ADDITIONAL DESIGN AND CONSTRUCTION CRITERIA

**Section 1. Storage of Construction Materials.** Construction materials may be stored on a lot within the building setback lines for thirty (30) days prior to the commencement of construction and thereafter, construction is to be completed within a reasonable period of time.

**Section 2. Garbage: Dumping.** Dumping is prohibited in the Addition. All trash, garbage or other waste shall be kept in sanitary containers which shall be located in the garage or at the rear of each residential unit. All lots shall be maintained in a neat and orderly condition at all times.

**Section 3. Antenna, Aerial and Other Devices.** Antennas, aerials or similar devices for television, citizen's band, shortwave or radio reception shall not be allowed in the Addition unless approved by the Architectural Committee.

**Section 4. Appearance of Lot.** All owners shall be required to keep their lot in a clean and sanitary condition whether or not they have constructed a residence on the lot. "Indoor furniture" shall not be used as lawn furniture and shall not be placed outside of the residence or an approved detached structure. One satellite dish shall be permitted on each lot but only if the diameter of the dish is 24" or less and only if the dish is installed to the rear of the main residential structure or in the back yard of the main residential structure, so as to be obscured from public view and the view of adjacent lots. No clotheslines or drying yards shall be permitted unless concealed by hedges, lattice work or screening acceptable to the Committee. No refuse or debris pile shall be placed anywhere on a lot. All open areas on lots shall be kept mowed to a height of not more than twelve (12) inches.

### ARTICLE XIV

#### GAS LIGHTS

*Deleted in its entirety  
by Amendment #2*

Each lot shall cause to be installed and permanently maintained by the owner, a gas light of U.S. Gaslight #900 design, if the same is not available, the Architectural Control Committee shall find the nearest comparable gas light, which shall be installed prior to any Certificate of Occupancy of single family residence. The gas light will be continuously operated and maintained by the lot owner, who will be solely responsible for the gas consumed in said gas light.

**ARTICLE XV****WETLANDS**

A portion of several of the lots in the Addition have been designated and preserved as wetlands or other waters of the United States. The wetlands and other waters of the United States are designated as such on Exhibit "A". Any discharge of dredged or fill material in or conversion of these areas to another use (including but not limited to the activities of filling, leveling, dumping, mechanized cleaning, removal of trees, roots, stumps or vegetation, draining, or discharge of sediment from construction activities) or any excavation activity or other activity that would impact the wetlands or waters of the United States may require a permit from the U.S. Corp of Engineers and other appropriate governmental authorities. Any purchaser of a lot with a designated wetland or other waters of the United States; any person having an interest therein or proposing to acquire an interest therein; and any person purposing to develop or improve all or any part of said lot, is hereby notified of those requirements.

**ARTICLE XVI****PRIVATE DRAINAGE EASEMENTS**

A portion of several of the lots in the Addition have been designated and preserved as private drainage easements. The private drainage easements are designated as such on Exhibit "A". Any discharge of dredged or fill material in or conversion of these areas to another use (including but not limited to the activities of filling, leveling, dumping, draining, or discharge of sediment from construction activities) or any excavation activity or other activity that would adversely impact the private drainage easements is prohibited, unless approved by a majority vote of both the Architectural Committee and the Board of Directors of the Association. Any purchaser of a lot with a designated private drainage easements; any person having an interest therein or proposing to acquire an interest therein; and any person purposing to develop or improve all or any part of said lot, is hereby notified of this restriction. Any owner of a lot with a designated private drainage easement covenants and agrees to clean, maintain and repair the private drainage easement on his or her lot as is necessary to prevent storm water from adversely impacting upstream and downstream owners. If the Association is required to clean, maintain or repair any part of a private drainage easement, the cost thereof shall be treated and enforced as a special individual assessment as provided in Article IV. This restriction constitutes a permanent easement running with said lots and may not be amended, modified or rescinded except by a majority vote of both the Architectural Committee and the Board of Directors of the Association.

**ARTICLE XVII****MISCELLANEOUS PROVISIONS**



**Section 1. Enforcement.** The Association or any owner may seek enforcement of the Covenants by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by these Covenants; but failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing party.

**Section 2. Additional Subdivisions.** The Addition is part of a tract formerly known as the Riley Farm. In addition to the lots in the Addition, the Developer owns additional real property which was part of the Riley Farm. The Developer may develop other platted subdivisions on all or part of the other real property which was formerly part of the Riley Farm. In such event the Developer reserves the absolute right to amend the Covenants to include or to cover any future subdivision which was originally part of the Riley Farm. In such event the owners of lots in any future subdivisions shall become Members of the Association with all of the rights, duties and obligations as set forth in Article I, II, III, IV, V, VIII and XVI. The Developer reserves the absolute right to impose covenants, limitations, restrictions and uses on the lots in any future subdivision which are different from the covenants, limitations, restrictions and uses contained in Articles VI, VII, IX, X, XI, XII and XIII; provided however that (subject to the right of the membership to amend the Covenants pursuant to Article II, Section 3) any such amendment by the Developer which imposes a different covenant, limitation, restriction or use on the lots in any future subdivision shall not effect the covenants, limitations, restrictions and uses for the lots in the Addition. (For example, the Developer may restrict or prohibit the construction of fences in the front yards of a future subdivision. Any such restriction by the Developer with respect to a future subdivision would not prohibit fences in the front of the Addition. However, the Members, which would then be comprised of the owners of the lots in the Addition and the future subdivision, could amend the original covenants to prohibit such fences, pursuant to Article II, Section 3.)

**Section 3. Validity.** Violation of or failure to comply with these Covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any lot. Invalidation of any one or more of these covenants and restrictions, or any portions thereof, by a judgment, decree, or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these Covenants conflict with any ordinance or regulation promulgated by a governmental authority, then the governmental provisions shall control.

**Section 4. Severability.** If any provision of these Covenants shall be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall attach only to such provision and shall not in any manner effect or render illegal, invalid or unenforceable any other provisions of these Covenants, and these Covenants

shall be carried out as if any such illegal, invalid, or unenforceable provision were not contained therein.

Section 5. Headings. The headings contained in these Covenants are for reference purposes only and shall not in any way affect the meaning or interpretation of the provisions set out herein. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise.

Section 6. Notices to Member/Owner. Any notice required to be given to any member or owner shall be deemed to have been properly delivered when deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the member or owner on the records of the Association at the time of such mailing.

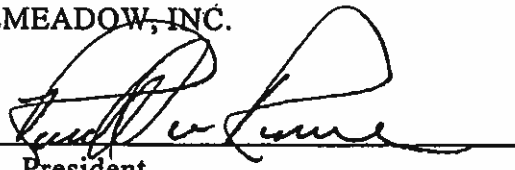
Section 7. Disputes. Matters of dispute or disagreement between owners with respect to interpretation or application of the provisions of these Covenants or the Association by-laws, or the rules and regulations of the Board shall be determined by the Board of Directors of the Association. These determinations (absent arbitrary and capricious conduct) shall be final and binding upon all owners.

IN WITNESS WHEREOF, Pinemeadow, Inc., being the Developer herein, has caused this instrument to be executed by its President and Secretary, the day and date first above written.

"DEVELOPER"

PINEMEADOW, INC.

By:



President

ATTEST:



Secretary

(SEAL)

EXHIBIT "A"

A part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) and a part of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section 24, Township 7 North, Range 32 West, Sebastian County, Arkansas. More particularly described as follows:

Commencing at the Northeast (NE) corner of said NE 1/4 of the NW 1/4; thence N 87°18'23" W, 110.95 feet along the North line of said NE 1/4 of the NW 1/4 to the point of beginning; thence S 02°41'37" W, 530.00 feet; thence N 87°18'23" W, 400.00 feet; thence S 75°46'54" W, 237.80 feet; thence S 56°27'12" W, 320.00 feet; thence S 82°27'57" W, 899.52 feet; thence S 68°45'09" W, 573.16 feet; thence N 87°12'41" W, 230.00 feet to the West line of said NW 1/4 of the NW 1/4; thence N 02°47'19" E, 470.16 feet along said West line; thence Northeasterly along the arc of a curve to the left, 43.08 feet, said curve having a radius of 50.00 feet and being subtended by a chord having a bearing of N 84°38'15" E and a length of 41.76 feet to the point of tangency of said curve; thence N 59°57'08" E, 533.49 feet to the point of curvature of a curve to the right; thence along said curve to the right and along the arc of said curve, 424.46 feet, said curve having a radius of 640.00 feet and being subtended by a chord having a bearing of N 78°57'08" E and a length of 416.73 feet to the point of tangency of said curve; thence S 82°02'52" E, 135.87 feet; thence S 67°00'44" E, 204.84 feet to the point of curvature of a curve to the left; thence along said curve to the left and along the arc of said curve, 144.29 feet, said curve having a radius of 121.39 feet and being subtended by a chord having a bearing of N 78°56'08" E and a length of 135.94 feet; thence N 44°55'08" E, 158.95 feet; thence N 55°57'08" E, 272.58 feet to the point of curvature of a curve to the right; thence along said curve to the right and along the arc of said curve, 182.94 feet, said curve having a radius of 640.00 feet and being subtended by a chord having a bearing of N 64°08'27" E and a length of 182.32 feet to the point of tangency and the North line of said NE 1/4 of the NW 1/4; thence S 87°18'23" E, 684.16 feet along said North line to the point of beginning. Containing 33.39 acres more or less.