

SUBDIVISION RESTRICTIONS

BRUSHY CREEK RANCH SUBDIVISION

UNIT I

THE STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS
 COUNTY OF BANDERA)

That Brushy Creek Joint Venture (hereinafter referred to, together with its successors, assigns, and/or designees, as "Developer"), the owner of Brushy Creek Ranch Subdivision as shown by the plat thereof duly recorded in Volume 6, Page 203 of the Plat Records of Bandera County, Texas does hereby acknowledge, declare and adopt the following restrictions, which are hereby impressed on all of said property, and these restrictions and covenants shall run with the land:

1. USE. All tracts are restricted to use for single family residential purposes only, and no building shall be erected or maintained thereon other than a private residence, a tool storage building or workshop, and a private garage or barn, for the sole use of the purchaser of such tract. No garage, barn, or storage building shall at any time be used as a dwelling, temporarily or permanently. This restriction is subject to the following:
 - (a) Camping shall be permitted on all tracts for a period of no longer than 14 consecutive days out of a 30-day period.
 - (b) Developer may, on any tract and/or tracts then owned by it construct, maintain, use and allow to be used by others parks, fishing piers, playgrounds, community center buildings, sales offices, waterwells and related pumping, storage, operation and maintenance facilities, and the like, and numbered paragraphs 2, 3, and 4 hereof shall not apply thereto.
2. ARCHITECTURAL CONTROL COMMITTEE. There shall be established an Architectural Control Committee ("Committee") composed of three (3) members appointed by the Developer, from time to time, to protect the owners of tracts in this subdivision against such improper use of tracts as will decrease the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials, to obtain harmonious architectural schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on tracts; to secure and maintain proper setbacks from streets and adequate free spaces between structures; to regulate and/or participate in regulation of use of park areas; and in general to provide adequately for a high quality of improvements in said property, and thereby to enhance the value of investments made by purchasers of tracts therein. The Developer shall perform all functions of the Committee until such time as a Committee is appointed.
3. CONSTRUCTION. Subject to the provisions of numbered paragraphs 1.(a) and 1.(b) hereof,
 - (a) Each residence shall contain a minimum floor area of 1,000 square feet exclusive of porches, stoops, carports, patios and garages.
 - (b) No used existing building or structure of any kind and

no part of a used existing building or structure shall be moved onto, placed on, or permitted to remain on any tract; all construction must be of new material (except stone, brick, and inside structural material, if such is approved in writing by the Committee).

- (c) No tar paper type roof or siding materials will be used on any structure, and no sheet metal type of roof or siding materials will be used on any structure without written approval of the Committee.
 - (d) The exterior of any building must be painted or stained.
 - (e) All buildings and structures shall be completely underskirted with no piers or pilings exposed to view.
 - (f) No Morgan-type portable building shall be used as a residence or camping shelter.
 - (g) No natural drainage shall be altered, nor shall any drainage ditch, culvert, nor drainage structure of any kind be installed nor altered, nor shall any curb or other such impediment to the free flow of water be installed nor altered, without prior written consent of the Developer or the Committee.
 - (h) No building exceeding two (2) stories in height shall be erected or placed on any tract.
4. APPROVAL OF PLANS. No building, fence, or other structure or improvement shall be erected, placed or altered on any tract until two copies of the construction plans and specifications, including specification of all exterior and roofing materials, including color of paint or stain, and a plan showing the proposed location of the structure, have been submitted to and approved in writing by the Committee. If such construction, placement or alteration is not commenced within twelve (12) months of such approval, the approval shall be null and void unless an extension is granted in writing.
5. SETBACK REQUIREMENTS. No building or structure other than a fence shall be located nearer to the side street line than 5 feet or nearer to the side lot line or rear lot line than 5 feet. No building or structure other than a fence shall be located nearer to the front lot line than 30 feet. "Side lot line" and "rear lot line", as used in this paragraph, in respect to any two or more contiguous whole and/or fractional tracts owned by (and/or under contract to be conveyed by the undersigned to) the same owner and used as a single building site, shall mean the two outermost side tract boundaries and the rear boundary farthest from the front boundary considering said contiguous whole and/or fractional tracts as one tract.
6. LIVESTOCK. No livestock shall be permitted other than one (1) head (horse or cow) or two (2) head of sheep and goats per acre without prior written consent of the undersigned or the Committee.
7. EASEMENTS. Easements are reserved on all tracts along and within ten (10) feet of all road rights-of-way and all boundary lines of tracts. These easements are to allow utilities and their employees to install and maintain equipment necessary to furnish residents of Brushy Creek Ranch Subdivision with electricity, telephone, water, drainage, cable television, and should they become available, gas, sanitary sewers and any other utilities. Employees of these utilities will also be allowed to trim any vegetation within these easements which interferes or may interfere with the operation or maintenance of their lines. The term "utilities" as used in this paragraph shall include the owner-users of the

community wells and water system which provide water to certain tracts in the subdivision. With respect to any two (2) or more contiguous whole and/or fractional tracts owned by (and/or under contract to be conveyed by the undersigned to) the same owner and used as a single building site, the easements reserved under this paragraph shall affect only the outermost side tract boundaries and the back boundary farthest from the front boundary, considering said contiguous whole and/or fractional tracts as one tract.

8. SEWAGE. No outside toilet or privy shall be erected or maintained on any tract. The materials installed in, and the means and methods of assembly of, all sanitary plumbing shall conform with the requirements of the Health Department of The State of Texas and the local authorities having jurisdiction. A septic tank system or other private sewage facility may be constructed only if it complies with the requirements of the Health Department of The State of Texas and is inspected and approved by the Bandera County inspector.
9. PROPERTY APPEARANCE. Any building, structure, or improvement commenced upon any tract shall be completed as to exterior finish and appearance within six (6) months from the commencement date. No tract or portion of any tract shall be used as a dumping ground for rubbish or trash, nor for storage of items or materials (except during construction of a building), and all tracts shall be kept clean and free of any boxes, rubbish, trash or other debris. No refrigerators or other large appliances shall be placed outdoors, and no inoperative motor vehicle or vehicle without current license and inspection sticker shall be placed on or allowed to remain on any tract. Developer shall have the right to enter the property where a violation exists under this paragraph and remove the incomplete structure or other items and/or clean the tract at the expense of the offending party. This cost and expense plus interest at the maximum lawful rate shall be secured by a lien on the tract so involved upon Developer recording with the County Clerk, Bandera County, Texas its certificate to such effect and certifying the amount of such cost and expense. Said lien shall be junior and subordinate to any lien securing purchase money or improvement loans on said tract.
10. ASSESSMENTS. Subject to the remaining provisions of this paragraph, an assessment is hereby made of \$14.50 per month on each tract in Brushy Creek Ranch Subdivision. Such assessments may be used for the construction, reconstruction, improvement and maintenance of roads and streets, parks, and other improvements in Brushy Creek Ranch Subdivision, and for the enforcement of these subdivision restrictions. Said assessment shall accrue from the date of the agreement for deed from the undersigned as grantor. Such assessment shall be and is hereby secured by a lien on each tract hereunder and shall be payable to Brushy Creek Ranch Owners Association (a Texas non-profit corporation hereinafter referred to as the "Association"), its successors and assigns, the owner of said assessment funds, on September 30 of each year commencing in 1989, at which date in the year 1989 and in successive years said assessment lien shall conclusively be deemed to have attached, and there shall be no lien securing said assessment until September 30th of each year. For buyers who are paying monthly on a mortgage held by Developer, the monthly assessment shall be paid in conjunction with their monthly mortgage payments (one check including both amounts will be acceptable); tract owners owing no payments to developer may pay on September 30 of each year. Said assessment lien shall be junior and subordinate to any lien which may be placed on any tract or any portion of any tract as security for any interim construction loan and/or any permanent loan for financing improvements on said tract, and/or any purchase

money loan for any tract on which a dwelling or building complying with these restrictions has theretofore been constructed. Assessments against tracts owned by Developer shall accrue, and liens securing same may attach, only during such times as a contract to purchase said tracts is then in force; no assessment shall be made against Developer nor against then unsold tracts owned by it at any time (whether or not such tracts have been previously sold and the contract cancelled or otherwise terminated). At any time and from time to time, the Association may, by majority vote of its entire Board of Directors plus a majority of votes cast at a meeting of the members of said Association duly convened increase or decrease such assessments, provided that prior written notice is mailed to each member of said Association (at the most recent address shown for such member on the records of said Association) stating either the exact amount or the maximum amount of such increase or decrease to be voted on at such meeting. However, until such time as Developer has transferred title to 50% of the tracts in all units of Brushy Creek Ranch Subdivision including any future units, as described in paragraph 19 hereof, or sooner if Developer so notifies the Association, Developer shall have sole responsibility for the setting, collecting, managing, and disbursing of these funds.

11. COMMON AREAS. The "Common Areas" shall include all real property, and improvements thereon, designated as such in the original plat and/or in any other plat, or subsequent plat, filed of record, including all property acquired or owned by or under the control and jurisdiction of the association for the common use and enjoyment of the members, including roads.

The common areas shall be maintained and governed by the Association in a manner consistent with the purposes of the Association as set forth in its bylaws and in conformity with the terms and provisions hereof. Subject to the provisions hereof, every member and every tenant of a member who resides on a tract, and each individual who resides with or is a guest of either of them on such tract shall have a right and easement of use and enjoyment in and to the common areas and such easement shall be appurtenant to and shall pass with title to every tract, provided, however, such easement shall not give such person the right to make alterations, additions or improvements to the common areas. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Board of Directors of the Association to prescribe regulations governing the use, operation and maintenance of the common areas (including limiting the number of guests of members), and to make reasonable assessments for the control, maintenance, and upkeep of the common areas within limits established under its bylaws.
- (b) The right of the Association, as provided in its bylaws, to suspend voting rights for any period during which any assessment against a tract remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its rules and regulations. Each member shall be liable to the Association for any damage to the common areas caused by the negligence or willful misconduct of a member of his family, guest, lessees or invitees, to the extent that the damage shall not be covered by insurance. Members and their guests shall use the common areas according to established rules and regulations and at their own risk.
- (c) The right of the Association to dedicate or transfer all or any part of the common areas to any agency, authority, or utility for such purposes and upon such conditions as

the board of directors of the Association may determine, subject to the affirmative vote of two-thirds (2/3) of the members present or represented by proxy at a meeting at which a quorum is present and which is duly called and held for that purpose.

12. FIREARMS AND HUNTING. No hunting or discharging of firearms shall be permitted on any tract or any part of Brushy Creek Ranch Subdivision, Unit I.
13. SUBDIVIDING OF TRACTS. No tract may be subdivided without the consent of the Developer which consent may be granted or withheld at the sole discretion of the Developer. No tract or any part of a tract shall be used for a street, access road or public thoroughfare without the prior written consent of the Developer.
14. MINERAL DEVELOPMENT. No mineral development of any kind shall be permitted on any tract. This includes, but is not limited to, oil or gas drilling, refining or storage, quarrying or mining in any form. No oil wells or tanks, no tunnels, shafts or other excavations shall be permitted. No derrick or other structure designed for use in boring for any mineral shall be erected or maintained on any tract, nor shall any exploratory work be conducted on, above, or below any tract.
15. RENTING. The renting of any residence shall be limited to single family residential use only, and the renters shall be entitled to all benefits and governed by all obligations of ownership as set forth herein.
16. PARKING. Parking of any car, boat, trailer, or other vehicle shall at no time be permitted within the right of way of any subdivision road. Each tract owner shall provide adequate parking within his tract for his vehicles as well as those of his family and guests.
17. SIGNS. No sign shall be erected or maintained upon any tract, except for one "For Sale" sign not to exceed five (5) square feet in size, or such signs as Developer may erect in connection with developing and marketing the property.
18. NUISANCES. No unlawful, noxious or offensive activities shall be conducted on any tract, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
19. FUTURE DEVELOPMENT. Additional units may be created and annexed into the Subdivision, and owners of tracts in these units may be entitled to use the common areas of Brushy Creek Ranch Subdivision. These additional units may comprise any and all portions of that certain 396.965 acre tract of land conveyed by Deed from Thomas C. Musgrave III, et al., to Kelly M. Ranson, Trustee, recorded in Volume 275, Pages 939-945 of the Deed Records of Bandera County.

20. AMENDMENTS AND VARIANCES. These restrictions may be amended or changed, in whole or in part, at any time, by a vote of two-thirds (2/3) of the total tract owners. Any change or amendment shall be set forth in a document bearing the signatures of the requisite number of tract owners, and this document shall be recorded in the Deed Records of Bandera County, Texas.
21. ENFORCEMENT. Subject to the provisions of the last sentence of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (i) violate or attempt to violate any restriction or provision herein or (ii) suffer to be violated (with respect to the real property in which such person or entity has rights other than the rights granted by this sentence) any restriction or provision herein, it shall be lawful for Brushy Creek Ranch Owners Association and/or Bandera County, and/or any person or entity, as defined hereinafter, possessing rights with respect to any real property hereunder, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or suffering to be violated any restriction or provision herein to (i) prevent such violation, (ii) recover damages or other dues for such violation, and (iii) recover court costs and reasonable attorney's fees incurred in such proceedings. "Person or entity", as used in this paragraph shall include, but shall not be limited to, all owners and purchasers of any real property hereunder, as well as all heirs, devisees, assignees, legal representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder. Notwithstanding any other provisions hereof, Developer shall neither be liable nor be subject to any proceeding at law or in equity on account of any violation or attempted violation of any restriction or provision herein which occurs during such time as there as in force a contract to purchase the property where such violation or attempted violation takes place.
- Neither Developer, nor the Committee, nor the members of said Committee, nor the Directors nor officers the Association, shall have any liability or responsibility at law nor in equity because of the enforcement of, nor because of the failure to enforce these restrictions.
22. SEVERABILITY. Invalidation of any one or more of these covenants and restrictions by judgement of any court shall in no way affect any of the other covenants, restrictions, and provisions herein contained, which shall remain in full force and effect.
23. HEADINGS. All paragraph headings used herein are for convenience only and shall have no effect on the meaning of any of the restrictions, covenants, or conditions contained herein.

EXECUTED this 22nd day of June, 19⁹²

BRUSHY CREEK JOINT VENTURE



KELLY M. RANSON
Managing Partner

STATE OF TEXAS

COUNTY OF BANDERA

Before me, the undersigned authority, on this day personally appeared KELLY M. RANSON, Managing Partner of BRUSHY CREEK JOINT VENTURE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 22nd day of June, 1992.



Janet Evans
Notary Public, State of Texas

PLEASE RETURN TO:

BRUSHY CREEK JOINT VENTURE
c/o Kelly M. Ranson
115 E. Travis, Suite 704
San Antonio, Texas 78205-1605

79051

Filed for Record
at 11:10 o'clock AM

JUN 22 1992
Bonnie Bates
County Clerk, Bandera County, Texas
By *Bonnie Bates* Deputy