

4017515

COUNCIL CREEK ACRES
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS

3271

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BURNET §

THAT WHEREAS, COUNCIL CREEK PROPERTIES, INC. and V. LEON AUSTIN, of Burnet County, Texas, hereinafter called the Declarant, is the owner of all that certain real property located in Burnet County, Texas described as follows:

BEING all of COUNCIL CREEK ACRES, a subdivision of record in Cabinet 2, Slide 37C of the Map and Plat Records of Burnet County, Texas, being 23.35 acres of land out of the Jeptha Boyce Survey No. 400 in Burnet County, Texas, all as shown on said plat.

WHEREAS, the Declarant will convey the above described property, subject to certain protective covenants, conditions, and restrictions, as hereinafter set forth:

WHEREAS, Declarant wishes to encumber the property by the covenants, conditions, restrictions, and easements set forth herein ("Restrictions") to insure the best and highest use and most appropriate development of the property; to protect Tract Owners against improper use of surrounding Tracts; to preserve so far as practical, the natural beauty of the property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable material; to encourage and secure the erection of attractive improvements on each Tract with appropriate locations; to prevent haphazard and inharmonious improvements of Tracts, to secure and maintain proper set backs from streets and adequate free space; and in general to protect the natural environment and to provide for development of the highest quality to enhance the value of investments made by Tract Owners.

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold and conveyed subject to the following restrictions and reservation, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and shall be binding on all parties having right, title or interest in or to the above described property or any part thereof, and their heirs, successors, and assigns, and which restrictions and reservation shall inure to the benefit of each owner thereof.

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DEFINITIONS

(1) "Association" shall mean and refer to COUNCIL CREEK SOUTH PROPERTY OWNERS ASSOCIATION, INC., and its successors and assigns.

(2) "Tract" shall mean any platted tract as shown in the plat of Council Creek Acres, to be recorded in the Map and Plat Records of Burnet County, Texas, or any platted tract as shown in the plat of any subdivision hereinafter created from any platted tract within Council Creek Acres.

(3) "Member" shall mean and refer to every person or entity who holds membership in the Association.

(4) "Owner" shall mean and refer to the record owner, whether one or more persons, or entities, of a fee simple title to any Tract in said subdivision, but excluding those having such interest merely as security for the performance of an obligation.

(5) "Declarant" shall mean and refer to COUNCIL CREEK PROPERTIES, INC. and V. LEON AUSTIN, and their successors and assigns.

(6) "Subdivision" shall mean COUNCIL CREEK ACRES.

II.

MEMBERSHIP

Every person or entity who is a record owner of a fee interest in any Tract or subdivision thereof which is subject by covenants of record to assessment by the Association may apply for membership of the Association; provided, however, the foregoing does not include those persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be based on the By-Laws (as amended) of the Council Creek South Property Owners Association, Inc. and full compliance must be made for membership including the payment of a membership fee. All present or future Owners are subject to the terms of this Declaration and the mere acquisition of any Tract will signify that the Declaration is accepted, ratified, and will be complied with.

III.

POWER AND DUTIES OF THE ASSOCIATION

The COUNCIL CREEK SOUTH PROPERTY OWNERS ASSOCIATION, INC. shall have the following powers and duties, whenever, in the exercise of its discretion, it may deem them necessary and advisable; provided, however, nothing herein contained shall be deemed to prevent any Owner from enforcing any restrictions and reservations in his own name.

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... charged with the duty and responsibility of maintaining certain roads within the Council Creek South, Unit 2 as shown on the Subdivision Plat for COUNCIL CREEK SOUTH, UNIT 2, of record in the office of the County Clerk of Burnet County, Texas, until such time as said road shall be dedicated to the County of Burnet, Texas, which roads serve and are shown on the plat of Council Creek Acres.

(2) To enforce this Declaration either in its own name or in the name of any Owner within the Subdivision.

IV.

COVENANT FOR ANNUAL MAINTENANCE ASSESSMENTS

(1) Creation of the Lien and Personal Obligation of Annual Maintenance Assessment. The Declarant, for each Tract owned within the properties, hereby covenants, and each Owner of any Tract by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the annual assessment. The annual assessment, together with interest, costs, and reasonable attorney's fees for collection thereof, shall be a charge on the land and shall be a continuing lien upon the Property against which each such annual assessment is made. Each such annual assessment, together with interest, costs, and reasonable attorney's fees for collection thereof, shall also be the personal obligation of the person who was the Owner of such Property at the time when the annual assessment fell due. The personal obligation for delinquent annual assessments shall not pass to his successors in title unless expressly assumed by them.

(2) Annual Assessment. The annual assessment shall be fixed at \$20.00 per Tract. In the event that a Tract is subdivided each subdivision thereof shall bear an annual assessment of \$20.00 per subdivided portion.

(3) Commencement and Due Date of Annual Assessments. The annual assessment shall be payable to The Council Creek South Property Owners Association, Inc. on January 1 of each year.

(4) Non-payment of Annual Assessments - Remedies of the Association. If not paid within thirty (30) days of such due date, the annual assessment shall bear interest at the highest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the annual assessment, and the interest, costs, and reasonable attorney's fees of any such action shall be recoverable or otherwise added to the amount of such annual assessment and to foreclose the lien against each Tract retained herein. Any Owner failing to pay the annual assessment shall forfeit all right to use the property owned by the Association until such annual assessment has

... shall be considered as cumulative.

(5) Purposes of Annual Assessments. Annual assessment shall be assessed for the purpose of providing general maintenance and capital improvements to the Property Owners' Park and Picnic Area, and to the roads within the Subdivision providing access to each Tract until such time as the County of Burnet, Texas both accepts the dedication of such roads and agrees to fully maintain them.

(6) Subordination to Other Liens. The annual assessment lien provided for herein shall be subordinated to and shall be secondary and inferior to all other prior or subsequent voluntary liens established on said Property by means of a Deed of Trust or Builder's and Mechanic's Lien Contract. The annual assessment lien shall not be subordinated to any tax liens, judgment liens or other similar non-voluntary liens.

(7) Subordination to the Veterans Land Board of the State of Texas. The annual assessment lien shall not apply to land held by the Veterans Land Board of the State of Texas. The annual assessment shall be considered a personal obligation of the contract holder. When the Veterans Land Board no longer has any interest in the land, the annual assessment lien shall once again apply.

V.

RESTRICTIONS AND RESERVATIONS

1. Use: The Property described shall be used as follows:
 - A) Residential Use: The Property may be used for single or multiple family residences. Each unit shall have a living area, exclusive of open or screened porches, garages, storage rooms of not less than 600 square feet; and
 - B) Commercial Use: Commercial uses shall include home business, trailer park, rental units and similar type activities. Commercial uses that would create air, water or noise pollution to an extent that would unreasonably interfere with the feasible use of the adjacent Tracts are prohibited.
 - C) Mobile Home: All mobile homes shall be under pinned. Travel trailers and RV's are excluded from this requirement.
2. No garage, tent, barn or other outbuilding erected on the Property shall at any time be used as a residence temporarily or permantly. All residences must be completed before being occupied.
3. No building, assessorly building, residence or any other improvement shall be located nearer than 25 feet to a front, side or rear tract line. or nearer than 25 feet to any side tract line.
4. Offensive Activity: No unlawful, obnoxious or offensive activity shall be conducted upon a Tract.
5. Trash: No trash, ashes, vegetation or other refuse may be thrown or dumped on any of the Tracts in said Subdivision. Trash, garbage and any other waste shall be kept in tightly covered sanitary containers.

6. Animals: Except as provided herein, no animals or livestock of any kind shall be raised, bred or kept on any Tract, including household pets (not to exceed four (4) adult animals) which are kept, bred or maintained for commercial purposes.

A) Animal Stalls & Facilities. Owners who have horses or other animals as allowed in these restrictions, shall construct such stalls, corrals, pens, enclosures or other related facilities which are necessary to prevent the keeping of such animals from becoming a nuisance. Such facilities shall be kept in a neat and clean condition so as not to create a nuisance. The minimum distance a horse or animal can be housed from the front Property line is 150 feet and 50 feet from the side and rear Property line.

B) Poultry. Up to twelve individual birds (poultry or fowl) may be kept on a Tract, provided such animals are not raised, bred, kept or maintained for commercial purposes. Facilities to keep such animals shall be constructed on the Tract and shall comply with subsection 6A above.

C) Horses and Cattle. Two (2) horses or two (2) cattle units may be kept on a Tract provided such animals are not raised, bred, kept or maintained for commercial purposes.

D) 4-H Club and/or FFA Animals. If any member of the an Owner's household is under the age of 19 and is a bona-fide member of a 4-H Club or the Future Farmers of America, then one animal per each such member (not in excess of three (3) members) shall be permitted for the purpose of raising such animal for competition or as a part of a club project. Facilities to keep such animals shall be constructed on the tract and shall comply with subsection A above. Swine projects are expressly excluded.

E) Swine are expressly prohibited from this property.

F) Household pets are allowed, not to exceed four (4) adult animals.

7. Outside Toilet: No outside toilet shall be installed, maintained or kept on the Tract at any time, and all plumbing shall be connected to an approved septic system. All septic systems must be licensed by LCRA or proper governmental authority.

8. Autos: No auto repair work which requires more than one (1) week to complete will be allowed in a driveway or yard of any Tract where the driveway or yard is either at the front of the residence or at the side of the residence.

9. Utility Easement: There is hereby reserved an easement or right-of-way over a strip along the front, side and rear boundary of the Tract or Tracts, 10 feet in width, for the purposes of installation or maintenance of utilities by private or public authority or public utility company. This same easement or right-of-way shall apply to any future Tract that may be platted as a result of any resubdivision.

IX.

SEVERABILITY

Invalidation of any one of these restrictions or reservations by judgment or court order shall in no way affect any other restriction or reservation, all other restrictions or reservations shall remain in full force and effect.

If these restrictions or reservations conflict with the Veterans Land Board Act, the provisions of the Veterans Land Board Act will be given effect..

X.

DURATION AND AMENDMENT

The restrictions and reservations provided for in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable

by the Declarant, or the Owner of any Tract subject to these Declarations, their heirs and successors and assigns, and shall additionally inure to the benefit of and be enforceable by the County of Burnet, Texas, which has approved these Declarations, for a term of twenty (20) years from the date this Declaration is recorded, after which time the same shall be automatically extended for successive periods of ten (10) years. Except as hereinabove expressly provided, the provisions hereof may be amended during the first twenty (20) year period only by an instrument signed by not less than seventy-five per cent (75%) of the Tract Owners and thereafter by an instrument signed by not less than sixty per cent (60%) of the Tract Owners. Any amendment must be properly recorded. Notwithstanding the foregoing, Declarant reserves the right to amend this Declaration any time prior to the time it has conveyed fifty per cent (50%) of the Lots in said Subdivision.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto caused this instrument to be executed this 16th day of May, 1990.

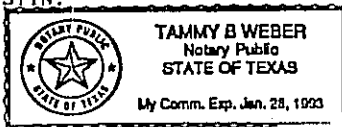
COUNCIL CREEK PROPERTIES, INC.

V. Leon Austin
V. LEON AUSTIN

BY: J. E. Owen
J. E. OWEN, President

STATE OF TEXAS §
COUNTY OF TRAVIS §

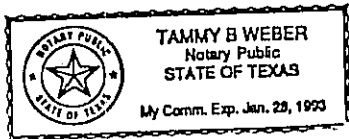
This instrument was acknowledged before me on the 16th day of May, 1990, by V. LEON AUSTIN.



Tammy B. Weber
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 16th day of May, 1990, by J. E. OWEN, President of Council Creek Properties, Inc., on behalf of said corporation.



Tammy B. Weber
NOTARY PUBLIC, STATE OF TEXAS

FILED FOR RECORD 7th DAY OF JUNE, 1990, AT 2:21 O'CLOCK P. M.
RECORDED THIS THE 8th DAY OF JUNE, 1990, AT 10:37 O'CLOCK A. M.
MILLIE WILLIAMS, COUNTY CLERK, BURNET COUNTY, TEXAS. BY: Millie Williams DEPUTY.