

Declaration of Restrictions  
Fern Bluff Section Two (1)

THE STATE OF TEXAS                   \$  
COUNTY OF WILLIAMSON           \$    KNOW ALL MEN BY THESE PRESENTS  
  \$

The Declaration of Restrictions made this the 28<sup>th</sup> day of July, 1986, by BILL MILLBURN, INC., a Texas Corporation, hereinafter called “Developer”.

WITNESSETH:

WHEREAS, Developer is the sole owner of all lots in FERN BLUFF, Section One (1), a subdivision in Williamson County, Texas, according to the map or plat thereof, recorded in Cabinet H, slides 283-287, Plat Records of Williamson County, Texas, to which plat and it’s record reference is bare made for all purposes (hereinafter called the “Subdivision”), and desires to encumber the lots in the Subdivision with the covenants, conditions, restrictions, reservations and charges hereinafter set forth which shall insure to the benefit and pass with the property, each and every parcel or resubdivision thereof, and shall apply to the bind the successors in interest and any other owner thereof:

NOW THEREFOR, Developer, the sole owner in fee simple of the subdivision hereby declares that all lots in the Subdivision shall be held, transferred, sold and conveyed, subject to the following covenants, conditions restrictions, reservations and charges, hereby specifying and agreeing that this Declaration and the provisions hereof shall be and do constitute covenants to run with the land and shall be binding on Developer, its successors and assigns, and all subsequent owners of each lot, and the owners by acceptance of their deeds for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to abide by the terms and conditions of this declaration.

I

PROPERTY SUBJECT TO THE DECLARATION

The property which is and shall be held, transferred, sold and conveyed, subject to the covenants, conditions, restrictions, reservations and charges hereinafter set forth is described as follows:

All of the Lots in FERN BLUFF, Section One, (1), a Subdivision in Williamson county, Texas, according to the map or plat of recorded in Cabinet H, Slide(s) 277-282, Plat Records of Williamson County, Texas.

II.

COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND CHANGES

- A. Land Use and Building Types. The lots shall be used solely for private residential purposes. On each residential lot no building shall be erected, altered, placed or permitted other than a residential unit not to exceed two (2) stories in height with an attached private garage or carport for not more than two (2) cars. No building shall remain uncompleted for more than one(1) year after construction has commenced.
- B. Antennae. No exterior radio, television antenna or aerial, guy wire, or satellite dish antenna shall be erected or maintained without the prior written approval of the Architectural Committee.
- C. Architectural Control. No building, wall, fence or any other improvement shall be erected or placed on, nor shall any building, wall fence or any other improvement be altered, modified, added to or removed from any lot until the construction plans and specifications thereof and a plan showing the location of all buildings, walls, fences and other improvements, including, but not limited to driveways and setbacks, have been approved in writing by the Architectural Control Committee, hereinafter called "Committee". Nor shall the topography of the lot be enlarged in any way which will impede, restrict or in any way divert the flow of water without the prior written approval of the Committee. The approval of the Committee shall not be unreasonable or whimsically withheld.

The committee shall be composed of three (3) members. The original members of the Committee shall be Bill Milburn, Jim Palmer and Barney Rey Ida. Each Committee member shall serve at the pleasure of the Developer. In the event of the death, resignation or removal of any member of the Committee, the remaining member or members will have full authority to act until the member of members have been replaced. A decision of a majority of the Committee shall be binding on all members thereof.

The Committee in considering each set of plans and specifications and that plan showing the location of improvements shall consider, among other things, the quality of design and materials, harmony of the design with existing structures and location with respect to topography and finished grade elevation.

The Committee's approval or disapproval of the plans and specifications and plot plan for the improvements to be erected or placed on a lot, or the plans and specifications for the alteration, modification addition to or removal of any improvements located on a lot, within thirty (30) days after the plans have been submitted to the Committee, then in the event the same shall be deemed approved and this covenant complied with. All plans and specifications shall be delivered to the Committee not less than thirty (30) days prior to the date construction is to be commenced at its office at 11911 Burnet Road, Austin Travis County, Texas 78758, or any such other address as it may designate, by certified mail, return receipt requested, or delivered and a written receipt received therefor, and the date received by the Committee shall be considered the date of delivery to the Committee.

Anything herein to the contrary notwithstanding, the Committee is hereby authorized at its sole discretion to waive any requirements relating to carports, dwelling

size, masonry requirements and fences and such decision shall be binding on all owners of lots encumbered by this Declaration.

- D. Dwelling Size. The ground floor area of the main structure of the single story, residential unit shall be not less than SEVEN HUNDRED FIFTY (750) square feet per unit, excluding all open and covered porches and garage units. The Architectural Control Committee may approve a dwelling size containing less square feet, but such approval must be in writing.
- E. Easements and Setbacks. Easements reserved and setback requirements are those set forth on the plat of record of the Subdivision on file in the Plat Records of Williamson County, Texas, and other such easements dedicated by separate instrument on file in the Real Property Records of Williamson County, Texas. Within these easements, no structure, planting or other material shall be placed, or permitted to remain, which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water. The easement area of each lot shall not be fenced out of the lot and shall be maintained continuously by the owner of the lot.
- F. Fences. No fence, wall or hedge shall be erected, placed or altered on a lot nearer to the front street than the front wall of the house situated on such lot.
- G. Garbage and Refuge. No lot shall be used or maintained as a dumping ground for trash, garbage or other waste and the same shall not be kept, except in sanitary containers. Each lot owner shall contract with an independent disposal service to collect all garbage or other waste, if such service is not provided by a government entity.
- H. Hazardous Activities. No activities may be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property and no open fires shall be lighted or permitted except within safe and well-designed interior fireplace, or in contained barbeque units which are attended and in use for cooking purposes only.
- I. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except any owner may keep no more than two (2) dogs, two (2) cats, or two (2) other household pets, provided they are not kept, bred or maintained for any commercial purpose.
- J. Maintenance, Alteration or Removal of Improvements. All improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. The opinion of the Committee as to condition and repair shall be final. Any construction, other than normal maintenance, which is any way alters the exterior appearance of any improvements, or the removal of any improvements within the Property shall be performed only with the prior written approval of the Committee.

- K. Masonry. Each dwelling shall have not less than ten per cent (10%) of the exterior walls of masonry construction; provided, however, the Architectural Control Committee may waive this requirement in whole or in part, but any such waiver must be in writing.
- L. Noises. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.
- M. Nuisances. No noxious or offensive activities shall be conducted on or upon any lot, nor shall anything be done thereon which may be or may become annoyance to the neighborhood or which is opposed to the purpose of these restrictions.
- N. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any character shall be permitted upon any lot.
- O. Signs. No signs of any kind shall be displayed for public view on any lot, except for the following: One (1) sign of not more than five (5) square feet, advertising the property for sale or rent; signs used by builders to advertise the property for sale; and directional and marketing signs of not more than four (4) feet by eight (8) feet used by the developer and builders for marketing purposes. All merchandising, advertising and sales programming shall be subject to the approval of the Committee.
- P. Subdividing. NO Lot shall be further divided or subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Committee; provided however that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.
- Q. Temporary Structures. No structure of any temporary character, mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporary or permanent. No building may be moved on any lot. No racing vehicle, or any vehicle without a current license plate shall be permitted to remain on any lot or be parked on a street adjoining a lot.
- R. Unightly Articles; Vehicles. No articles deemed to be unsightly by the Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public thoroughfares. Without limiting the generality of the use of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden maintenance equipment shall be kept at all times, except when in actual use in enclosed structures as screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage

areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, build materials, scraps, refuse, or trash of any kind shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

III.  
SIDEWALKS

The owner of each lot shall construct, at his cost and expense and prior to his occupancy of the dwelling sidewalks, if any, as set forth on the recorded subdivision plan.

IV.  
TERM

These covenants are to run with the land and shall be binding on all persons claiming under them until January 1, 2011, at which time said covenants shall be automatically extended for success periods of ten (10) years each, unless by a vote of a majority of the then owners of the lots encumbered by this Declaration it is agreed to change said Declaration in whole or in part.

Any such instrument of the amendment or the termination must be executed and acknowledged by fifty-one per cent (51%) of the then owners of lots encumbered by this Declaration and filed of record in the Deed Records of Williamson County, Texas. The instrument of amendment or termination shall be effective to amend or terminate this Declaration at the expiration of the initial year term, if such instrument is filed of record as set forth above during the initial term hereof; or if such instrument is filed of record as set forth above during any ten (10) year period of extension, this Declaration shall be amended or terminated (as the case may be) at the end of such ten (10) year period of extension. Notwithstanding anything contained herein to the contrary, the Developer, its successors or assignee, may amend these covenants at any time, or from time to time, in order to correct any typographical errors or other errors or omissions which in the discretion of the Developer, its successors or assigns, may require amendment in order to properly reflect the intent hereof. Such amendments to correct typographical or other errors shall be effective on the date that such an amendment is filed on recorded in the Deed Records of Williamson County, Texas, by the Developer, its successors, or assigns. Notwithstanding anything hereinabove, no amendment shall be effective until the approval of any governmental regulatory body which is required shall have been obtained.

V.  
EXTERIOS MAINTENANCE

In the event the owner of any lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees to enter upon said lot and repair, maintain and restore the lot and exteriors of the buildings and any other improvements erected thereon, all at the expense of the owner.

VI.  
ENFORCEMENT

If the owner of any lot, or his heirs, executors, administrators, successors, assigns or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, it shall be lawful for any person, or persons, owning any lot encumbered by this Declaration or Developer, to prosecute any proceedings against the person, or persons, violating, or attempting to violate any such covenants. The failure of the owner or tenant to perform his obligations hereunder would result in irreparable damage to the Developer and other owners of lots in the Subdivision, thus the breach of any provisions of this Declaration may not only give rise to an action for damages at law, but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction. Such action may be brought against any person, firm or corporation violating, or apparently about to violate, any of these covenants, either before such violation occurs or within a reasonable time thereafter, for an appropriate order or injunction of either a restraining or mandatory nature, or both, and of either a temporary or permanent nature, or both, including, but not limited to, one restraining construction of any improvements commenced, or about to be commenced, without the prior written approval of the Committee or for the removal of any improvement constructed without the prior written approval of the Committee. In the event enforcement actions are instituted and the party bringing such action is successful in obtaining any relief, then in addition to the remedies specified above, the party or parties against whom such relief was granted shall pay to the enforcing party costs and reasonable attorney's fees in such amount as the court may determine. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

VII.  
SEVERANCE

In the event any of the foregoing covenants, conditions, restrictions, reservations or charges is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of enforceability of the other covenants, conditions, restrictions, reservations or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced

VIII.  
NUMBER AND GENDER

The singular shall be treated as plural and vice versa, if such treatment is necessary to interpret this Declaration. Likewise, if either the feminine, masculine or neuter gender should be any of the other genders, it shall be treated.

EXECUTED this the 28 day of July, 1986.

BILL MILLBURN, INC.

RETYPE FROM PHOTOCOPY