

SETTLERS' ESTATES

COVENANTS, RESTRICTIONS AND CONDITIONS

STATE OF TEXAS     §  
                          §  
COUNTY OF AUSTIN §

This Declaration is made on the date hereinafter set forth by Ranch Country of Texas, Inc., a Texas Corporation, hereinafter called "Declarant"

RECITALS

The following facts exist:

- A. Declarant is the owner of that certain property known as Settlers' Estates, a subdivision in Austin County, Texas, according to the map or plat thereof recorded under Austin County Clerk's File No. 042443, Volume 1, Page 255 of the Plat Records of Austin County, Texas.
- B. Declarant desires to place certain restrictions, covenants, conditions, stipulations, and reservations upon and against, such property in order to establish a uniform plan for the development, improvement and sale of such property, and to insure the preservation of such property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of residential lots in said subdivision.

NOW, THEREFORE, Declarant does hereby adopt, establish and impose the following restrictions, reservations, covenants and conditions upon all lots as defined herein, and owner's properties, as defined herein, which shall be binding upon and inure to the benefit of Declarant and each owner in the subdivision, The Association (as defined herein) shall, in addition, have the right to enforce the restrictions, reservations, covenants and conditions herein set forth by any proceeding at law and/or in equity as may be deemed advisable or appropriate.

ARTICLE I

Definitions

Section 1. "Properties" shall mean and refer to the real property hereinabove described, and, where applicable, the real property, which may be hereafter, annexed into the jurisdiction of the Association in the manner hereinafter described.

Section 2. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision Plat, with the exception of any portion of the Properties which is or may be hereafter designated or described on the Subdivision Plat as "Reserve" or with words of similar meaning.

Section 3. "Declarant" shall mean and refer to Ranch Country of Texas, Inc., or its successors and/or assigns, including but not limited to, any person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which acquires all or substantially all of the Properties then owned by Ranch Country of Texas, Inc., (or subsequent successors in interest), by conveyance or assignment from Ranch Country of Texas, Inc., or by judicial or non-judicial foreclosure, for the purpose of development and/or construction on the properties.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or portion thereof which is a part of the Subdivision, including contract buyer, but excluding those whose interest is held merely as security for the performance of an obligation.

Section 5. "Subdivision Plat" shall mean and refer to the map or plat of Settlers' Estates, recorded in the Plat Records of Austin County, Texas, or as such may be amended from time to time in accordance with applicable law.

Section 6. "Association" shall mean and refer to the Settlers' Estates Association, a Texas non-profit corporation, its successors and/or assigns.

Section 7. "Common Area" shall mean all real property which may be acquired by the Association for the common use and enjoyment of the Owners in this Subdivision and, where applicable, in any additional land annexed into the jurisdiction of the Association.

Section 8. "Dwelling" shall mean that portion of the structure, which Declarant intends to construct and in fact constructs, or places, on a portion of a Lot for occupancy by one person or one family only.

Section 9. "Subdivision" shall mean Settlers' Estates, as described in the Recitals above.



## ARTICLE II

### Property Rights in Common Area

Every owner shall have a nonexclusive right and easement of enjoyment in, and to, the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility company for such purposes and subject to such conditions as may be agreed to by the members (provided, however, that no such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of each class of members agreeing to such dedication or transfer has been recorded), and to the terms and conditions of the Declaration.

## ARTICLE III

### Membership and Voting Rights in Association

**Section 1. Membership** Every Owner of a Lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot, which is subject to assessment. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association.

**Section 2. Voting Rights** The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any one property, such persons shall be members, but the vote for such lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any one lot.

**Class B.** Class B member shall be Declarant who shall be entitled to three (3) votes for each lot owned.

The Class B membership shall cease and be convened to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or January 1, 2014.

If at any time other areas of the approximately 280 acre tract hereinafter referred to are duly annexed into the jurisdiction of the Association as hereinafter set out, the voting rights of the Class B membership, if same have previously automatically convened to one(1) vote per lot owned, shall automatically revert to three(3) votes for each lot owned until such time as the total votes outstanding in the Class A membership throughout the Subdivisions and any duly annexed area collectively shall equal or exceed the total votes outstanding in the Class B membership throughout such total area, at which time Class B voting lots shall automatically be convened to one(1) vote per lot.

## ARTICLE IV

### Restrictions, Covenants and Conditions

#### Use Restrictions

**Section 1. Land Use and Building Type.** All lots shall be known, described and used for site built residential purposes only and no structure shall be erected, altered, placed or permitted to remain on any Lot other than one single-family detached residence and garage or carport. As used herein, the term "residential purposes" shall be construed to prohibit the use of said property for garage apartments or apartment houses; and no Lot or Owner's Property shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes.

**Section 2. Architectural Control.** No building shall be erected, placed or altered on any Lot or Owner's Property until the construction plans and specifications and a plot plan showing the locations of the structure have been approved by the Architectural Control Committee, herein after established, as to quality of workmanship and materials, harmony or external design with existing structures, and as to location with respect to topography and finished grade elevation, in accordance with the procedures set forth in Article VIII hereof.

**Section 3. Type of Construction, Material and Landscape.**

- a. The roof of any residence shall meet or exceed all Federal Housing Administration (FHA) Standards.
- b. No landscaping shall be done on the side of any dwelling facing a street in the Subdivision until the landscape layout and plans shall have first been approved by the Architectural Control Committee.
- c. No window or wall-type air conditioners shall be permitted to be used, erected, placed, or maintained, on, or in, any building on the front street side of the building, except in sales offices, as described hereinabove.



- d. No fence, or wall, shall be erected, or allowed to remain, nearer the street than the front building set back line, or in front of the house. All fences and walls shall be composed of suitable materials, as approved by the Architectural Control Committee and any fence that faces the street must be of wood, vinyl, steel (or other approved material), construction and be maintained by owner in good repair. No fence or wall shall exceed six feet (6') in height above ground level unless otherwise approved by the Architectural Control Committee.
- e. A residence may be constructed with either masonry or siding exterior materials. In the event a masonry material is chosen, the residence shall have a minimum of 51% brick, or equivalent, masonry construction on its exterior wall area unless otherwise approved by the Architectural Control Committee.
- f. All homes or Lots must be improved with a minimum of one two car garage with an overhead door, with sufficient space for storage or the addition of a separate storage building or barn for the storage of toys, bikes, lawn equipment ect., in order that the lot shall be maintained in a neat and orderly manner.
- g. All homes must have either concrete or asphalt type driveways or of other substance or material approved by the Architectural Control Committee extending from the garage to the street at least ten feet (10') wide.
- h. The Declarant herein, or the Architectural Control Committee, or its successors and/or assigns, may, in its discretion, approve variances, deviations and exceptions from the provisions of these restrictions, where, in their opinion, such change will result in a more commonly beneficial use and such change would be in keeping with the overall intentions of these restrictions.

#### Section 4. Annoyances or Nuisances

- a. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done therein which may be, or may become an annoyance or nuisance to the neighborhood. No signs or other advertising shall be displayed on any lot unless the size, form, and number of same are first approved in writing by the Architectural Control Committee; provided however, that any owner may, without such prior approval, erect one (1) sign not more than five (5) square feet advertising the property for sale or rent.
- b. No discharge of firearms, or hunting, shall be allowed within the subdivision.

#### Section 5. Temporary Structures

- a. No structure of a temporary character, whether trailer, motor home, tent, shack, carport, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence or for any purpose without prior approval of the Architectural Control Committee; provided, however, Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include but are not limited to sales and construction offices, storage areas, model Dwellings, signs, fences and portable toilet facilities.
- b. No camper, trailer, boat, commercial vehicle, inoperative automobile / pickup or other vehicle will be stored, parked or kept on any Lot or Owner's Property for more than forty-eight (48) hours during a seventy-two (72) hour period, unless shielded from public view by a garage or fence constructed in accordance with the terms hereof and duly approved by the Architectural Control Committee. An inoperative vehicle is defined as a vehicle that will not function mechanically, or has expired license plates and/or inspection sticker. No vehicle shall be parked in front of any residence except on designated established driveways.

Section 6. Oil and Mining Operations No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas or other minerals shall be erected, maintained or permitted upon any Lot.

#### Section 7. Storage and Disposal of Garbage and Refuse

- a. Subject property shall not be used or maintained as a dumping ground for rubbish or trash, and no garbage, or other waste shall be kept except in sanitary containers. All other equipment for storage and disposal of such materials shall be kept in a clean and sanitary condition. Garbage and trash shall be disposed of at least once a week. All garbage or trash accumulated from day to day shall be kept in covered sanitary containers, which shall not be visible from any road or right of way.



- b. Storage of furniture, fixtures, appliances, machinery, equipment, wood piles, lumber or other goods and chattels not in active use, which is visible from outside the lot will not be allowed. Storage of any material that could pollute surrounding areas, including but not limited to, batteries, oil drain pans and tires will not be permitted.

**Section 8. Visual Obstructions at the Intersections of Public Streets** No object, plant, or thing shall be placed, planted, or permitted on any corner Lot in which object, plant or thing obstructs reasonably safe and clear visibility of pedestrian or vehicular traffic through sight lines parallel to the ground surface at elevations between two feet (2') and six feet (6') above the roadways.

**Section 9. Maximum Height of Antenna** No radio or television aerial wires or antennae shall be maintained on any portion of any Lot, or Owner's Property, forward of the front of the Dwelling, nor shall the top of any free standing antenna of any style, exclusive of masts, be permitted to extend more than twenty feet (20') above the roof of any Dwelling. All amateur radio operation shall be conducted so as to cause no electronic interference with surrounding households.

**Section 10. Animal Husbandry** Dogs, cats, and other domestic household pets may be kept and maintained by any property owner provided they are properly leashed or controlled, but may not exceed four (4) domestic pets per household. Horses are allowed, providing that such stock is confined within a fenced area to the rear of the home site located on the Owner's Property. Horses are limited to one (1) per 1.5 acre of land owned and shall be kept enclosed by suitable fencing of subject property and must be confined to the rear portion of the property. The premises shall be maintained in such a manner as to prevent health hazards and shall not be offensive to the neighboring tracts. Dog kennels or dog training facilities are not permitted; they are in violation of these restrictions. Raising or keeping of other livestock will not be permitted unless given special approval by the Director's of the Homeowners' Association.

**Section 11. Burning and Burned Houses** No person shall be permitted to burn anything outside the main residential building. In the event that any residence has burned and is thereafter abandoned for at least thirty (30) days, the Association may, after ten (10) days' written notice to the record owner of the residence, cause the burned and abandoned residence to be removed and the Lot or Owner's Property cleared, the expense of such removal and clearing to be charged to and paid by the record owner. In the event of such removal and clearing by the Association, the Association shall not be liable in trespass or for damages, expenses, costs or otherwise to Owner for such removal and clearing.

**Section 12. Minimum Square Footage** The living area of the main residential structure, exclusive of open porches and garages, shall not be less than 1600 square feet on Block 1, Lots 11 thru 26 and Block 2, Lots 1 thru 12, and shall not be less than 2000 square feet on all remaining lots.

**Section 13. Building Set Back** No building, including, but not limited to, dwellings, garages, or barns shall be located closer than fifty feet (50') from the front property line, or closer than twenty feet (20') on side property line, if contiguous to a street, and shall be no closer than ten feet (10') from the side lot lines and no closer than ten feet (10') from the rear property line. Also, for these purposes, porches, stoops, bays and covered areas are considered part of the building, unless a variance is obtained from the Architectural Control Committee.

**Section 14.** Sewage disposal for each lot must be a private sewage facility designed by a registered professional civil engineer, or a registered professional sanitarian, based on a site evaluation performed on subject lot and approved by Austin County Environmental Department. Inspection and/or acceptance of a private sewage facility by Austin County shall indicate only that the facility meets minimum requirements and does not relieve the owner of the property from complying with County, State, and Federal regulations. Private sewage facilities, although approved as meeting minimum standards, must be upgraded by the owner, at the owner's expense, if normal operation of the facility results in objectionable odors, if unsanitary conditions are created, or if the facility, when used, does not comply with governmental regulations. A properly designed and constructed private sewage facility system, in suitable soil, can malfunction if the amount of water required to dispose of waste is not controlled. It will, therefore, be the responsibility of the lot owner to maintain and operate the private sewage facility in a satisfactory manner.

**Section 15.** The subdivision is serviced by a community water system authorized by the Texas Commission on Environmental Quality. No private water wells are allowed on individual lots unless approved by the Architectural Control Committee. Any such approvals would restrict the use of water from the subject well to irrigation or other agricultural purpose and shall not be connected to any residence for any household use.

**Section 16.** It is specifically agreed that multi-family housing is not allowed and that none of the lots described herein shall be further subdivided, nor shall any re-platting be allowed if the result of such re-platting would create any lot with less than 250 feet of road frontage.



## ARTICLE V

### Reservations, Exceptions and Dedications

**Section 1. Recorded Subdivision Plat of the Properties** The Subdivision Plat of the Properties dedicates for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon and establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat of the Properties are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying said property or any plan thereof, whether specifically referred to therein or not. However, notice must be taken that certain minimum setback lines have been changed and modified by this Declaration, which shall govern.

**Section 2. Easements** Declarant reserves the easements and rights-of-way, and title conveyed by Declarant shall be subject thereto, as shown on the Subdivision Plat of the Properties for the purpose of construction, maintaining and repairing a system or systems of electrical lighting, electric power, telegraph and telephone line or lines, gas, sewer, cable television or any other utility Declarant sees fit to install in, across and/or under the Properties. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Neither Declarant nor any utility company nor authorized political subdivision using the easements herein referred to shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, tress or flowers or any other property of the Owner of the land covered by said easements. All utility companies shall have the right to remove and keep all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective utility system on any easement strips, and any utility company shall, at all times, have the right of egress and ingress for inspection, patrolling, maintaining and adding to or removing all or part of its respective utility system without the necessity at any time of procuring the permission of anyone.

**Section 3. Existing Liens** Violation or failure to comply with these restrictions, covenants and conditions shall in no way affect the validity of any mortgage, loan or bona fide lien which may in good faith be then existing on any Lot.

### Section 4. Water, Sewer and Drainage

Declarant hereby reserves for itself the right to place connecting lines for all utility systems, including water and drainage facilities on or under any Lot for service to and drainage of such Lot and other Lots. An easement shall exist on any Lot for such connecting lines and common drainage facilities as the same are installed and Declarant hereby reserves an easement on any Lot on which connecting lines and common drainage facilities are installed for their maintenance in favor of the Owner of any property on which the connecting lines or facilities, provided that any entry upon the property on which the connecting lines or common drainage facilities are located shall be made with as little inconvenience to the owner as possible.

## ARTICLE VI

### Maintenance Charge and Covenant

#### For Maintenance Assessments

**Section 1. Creation of the Lien and Personal Obligations of Assessments** Subject to the terms of this Article VI, the Declarant for each Lot owned within the Properties hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Annual Assessment or Charge** Subject to the terms of this Article VI, each lot in the Subdivision is hereby subjected to an annual maintenance charge and assessment not to exceed \$10 per month, or \$120 per annum, for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the Owner or Owners of each lot within said Subdivision (and any area annexed under the jurisdiction of the Association) in advance in monthly, quarterly or annual installments, connecting as to all Owner's Properties on the first day of the month following conveyance of the first Owner's Property by Declarant to an Owner. There will be a one time Special Assessment at closing on each lot sale from Declarant to Owner's of \$250.00 per lot. The rate at which each Owner's Property will assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined by the Board of Directors of the Association at least thirty (30) days in advance of each annual assessment. Said rate and when it is payable may be adjusted from year to year by said Board of Directors as the needs of the Subdivision may in the judgment of the Directors require. The assessment for each Owner's Property shall be uniform except that (a) as long as