

RESTRICTIONS - PHASE 2
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FILED FOR RECORD

RESTRICTIONS, ASSESSMENTS AND EASEMENTS OF
DEER RIVER SUBDIVISION

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PHASE 2

ROSIE ROSENBURY
COUNTY CLERK COMAL COUNTY

DEER RIVER, INC. TO THE PUBLIC

BY Daisy Harbo
APR 11.00

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COMAL

§

That DEER RIVER, INC., owner of DEER RIVER, PHASE 2, a subdivision in Comal County, Texas, as shown on a plat recorded in Volume 8, pages 359-361, of the Map and Plat Records of Comal County, Texas, does hereby impress all the property included in such subdivision with the following restrictions:

1. All lots shall be used solely for residential purposes and only one single family residence constructed or placed on the lot in accordance with these restrictions shall be permitted on any lot in the subdivision.

2. No building, mobile home, fence or structure of any type shall be erected, placed or altered on any lot until the design and construction plans and specifications and a plat showing the location of the structure on said lot have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with respect to topography and finish grade elevation. Under ordinary topographical circumstances, all residences, mobile homes and fences will be required to be set back 50 feet from roadways bordering the lot, and all mobile homes must be placed within 10° of parallel to the street. Garages, carports, and decks will be required to be set back 25 feet from the roadways bordering the lot unless variance is granted by the Architectural Control Committee because of topography. No building or mobile home shall be placed within 10 feet of the side or rear line of any lot, unless variance is granted by the Architectural Control Committee because of topography. Any deviation from the requirements of this restriction must first be approved in writing by the Architectural Control Committee. In the case of corner lots, placement and set-back of all mobile homes must be approved in advance by the Architectural Control Committee. Said Architectural Control Committee shall initially be composed of LEE R. ROPER, RONALD G. NEWMAN, JR., and EDWIN K. NOLAN. One year from the date hereof, a majority of the lot owners (with one vote per lot owner, regardless of number of lots owned) may appoint a new Architectural Control Committee by written instrument filed with the Clerk of Comal County, Texas. A majority of the committee may designate a member to act in its behalf. In the event of the death or resignation of any member, the remaining members shall have full authority to designate a successor or any two of these members may relieve the remaining one of his or her duties in connection with the Architectural Control Committee. The Committee's approval or disapproval as required in these covenants shall be set out in writing and in the event the committee or its designated representatives fails to approve or disapprove plans within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to be fully complied with.

3. No building, other than a new single family residence of not less than 1,100 square feet or a modern, factory built mobile home containing not less than 700 square feet, less than 5 years old unless approved in writing by the

Architectural Control Committee, exclusive of open or screen porches, breezeways, carports, garages and patios, shall be erected, stored or constructed on any lot, and no garage, storage room or other outbuilding may be erected except simultaneously with or subsequent to erection of a residence or placement of a mobile home. All buildings must be completed not more than one year after laying foundations. Servants' quarters and guest houses may be constructed to the rear of a permanent residence. All buildings and mobile homes must be completely enclosed from the ground level to the lower portion of outside walls so as to maintain a neat appearance and remove frame, wheels, posts and piers (except those supporting raised porches) from outside view.

4. No material of any kind shall be placed or stored on any lot except for construction materials after construction of a permanent building has begun. Grantor may notify Grantee by Certified U.S. Mail of such violations, and if the violation is not corrected and the subject materials not removed within ten days after the mailing of such notice, Grantor may remove said material from the property, dispose of such materials, and charge Grantee with removal and disposition costs, and Grantor shall have no liability to Grantee by virtue of the exercise of such right to removal.
5. No tent, garage, barn, motor home, camper, trailer or other outbuilding erected or placed on a lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as residence, except that camping trailers with sanitary facilities may be used for weekend and vacation camping up to a maximum of seventeen (17) consecutive days prior to construction of a building or placement of a mobile home on the lot, but may not be left on the lot longer than seventeen (17) consecutive days prior to completion of construction or placement of a mobile home on the lot.
6. No outside toilet shall be installed or maintained on any lot and all plumbing shall be connected with a sanitary sewer or septic tank approved by the State and local Department of Health. No removal of trees or excavation of any materials other than for landscaping, construction of buildings, driveways, etc., will be permitted without the written permission of the Architectural Control Committee. No owner shall be required to maintain a lot prior to placement of a mobile home or construction of a residence on the lot. All lots containing a residence or mobile home shall be suitably maintained and mowed to preserve the beauty of the subdivision.

The Architectural Control Committee shall have the right, after ten days written notice to the lot owner by U.S. Certified Mail, to correct any violation of this restriction by cleaning or mowing the lot, and removing trash therefrom, and charge the lot owner with the costs of such maintenance, which charge shall operate as an additional maintenance lien against the lot. Architectural Control Committee shall have no liability to the lot owner for trespass or for the property removed as necessary to clean the lot.

7. No noxious, offensive, unlawful, immoral or commercial use shall be made of any lot or tract.
8. No livestock of any kind shall be raised, bred, or kept on any lot. Dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are not allowed to run loose in the subdivision, and do not create a nuisance in the subdivision by creating excessive noise or odors.

9. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean sanitary condition. No junk, wrecking or auto storage yards shall be located on any lot, and no heavy equipment, dump truck, material (except material to be used in construction of the residence on the lot) or non-operating automobiles shall be stored on (or parked in the roadway in front of) any lot.
10. All outdoor lighting must be operated by manual switches and shaded when necessary to prevent excessive glare on other lots in the subdivision.
11. These covenants shall be binding for a period of thirty (30) years from the date they are filed for record in the Deed Records of Comal County, Texas, unless changed or amended as provided herein. Said covenants shall be automatically extended, upon the expiration of said term, for successive periods of ten years each. After January 1, 1992, the record owners of legal title of fifty-one (51%) percent of the lots as shown by the Deed Records of Comal County, Texas may amend or change said covenants in whole or part at any time after the developer has sold over 60% of the lots in the subdivision. Any change or amendment shall be set forth and evidenced by a successor instrument bearing the signatures of the requisite number of record owners and the recording of same in the office of the County Clerk of Comal County, Texas. In addition to the requirement that record owners of legal title of 51% of the lots approve any amendment or change to the covenants, any amendment or change to such covenants shall also require the approval of eligible mortgage holders (those holders of a first mortgage on a lot other than Developer, which have requested the Architectural Control Committee to notify them of any proposed amendment or change to the Restrictions) representing at least 51% of the votes subject to mortgages held by eligible mortgage holders. The undersigned lienholder, by its signature below, is requesting the Architectural Control Committee to notify it of any proposed change or amendment, and by doing so, constitutes an eligible mortgage holder.
12. Failure to comply with any one of these covenants or restrictions or invalidation of any one of these covenants or restrictions by judgment of any Court shall in no way affect any of the other provisions which shall remain in full force and effect. An uncorrected violation of one of these restrictions by one or more lot owners in the subdivision shall not invalidate the restriction with respect to future violations of that restriction.
13. No sign of any kind shall be displayed to the public view on any vacant lot. On lots containing a residence (or during construction of a residence there will be permitted one sign of not more than five (5) square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.
14. If any lot owner, his tenants, guests or assigns shall violate any of the covenants herein, it shall be lawful for the Developer, Architectural Control Committee and person or persons owning any lot in the subdivision (all Phases), to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to enjoin him or them from doing so or to recover damages, plus court costs and attorney's fees, for such violations.


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15. All covenants and restrictions herein shall be binding upon any person purchasing, renting, leasing, using, or visiting the lots in the subdivision, and any successor, heir, assign and Grantee of any lot owner. The covenants and restrictions herein are for the benefit of the entire subdivision (all Phases) and all present and future lot owners therein.
16. In addition to the covenants, restrictions and reservations stated above, each lot shall be subject to a water assessment of \$600.00 for the purpose of installing a water system to bring water to the lot. Said water assessment shall be due and payable to DEER RIVER, INC., or its assigns on or before six (6) months after the lot is conveyed by DEER RIVER INC., and shall be secured by a lien on the lot. The lien of the assessments provided for herein shall be subordinate and inferior to any mortgage, vendor's lien, deed of trust or other security instrument which secures any loan made by any lender to an owner for any part of the purchase price of any lot and the improvements thereon, if improved, when the same is purchased, or for any part of the cost of construction, repairing, adding to, or remodeling the improvements and appurtenances situated on any lot, and which mortgage, vendor's lien, deed of trust or other security instrument is filed for record prior to the date on which payment of any such charges or assessments become due and payable. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien therefor.
17. A ten-foot water line easement is hereby reserved on the back and sides of each lot; provided however, if such easement is used after the lot is sold by the developer, no oak trees more than ten inches in diameter shall be destroyed, and, the owner of the water system shall repair all damage done to fences, shrubbery, lawns and buildings in the use of such easement.
18. The owner and holder (whether one or more) of lien(s) on the lots has executed this document to evidence its joinder in, consent to, and ratification of the imposition of the foregoing Restrictions. No violation of any of these Restrictions shall defeat or render invalid the lien or any mortgage made in good faith and for value upon any of the lots; provided however, that any mortgage in actual possession, or any purchaser at any mortgagee's foreclosure sale, shall be bound by and subject to these Restrictions as fully as any other owner of the lots.

In testimony whereof, DEER RIVER, INC., by and through its President, LEE R. ROPER, has executed this instrument this 29th day of January, 1986.

DEER RIVER, INC.

BY:

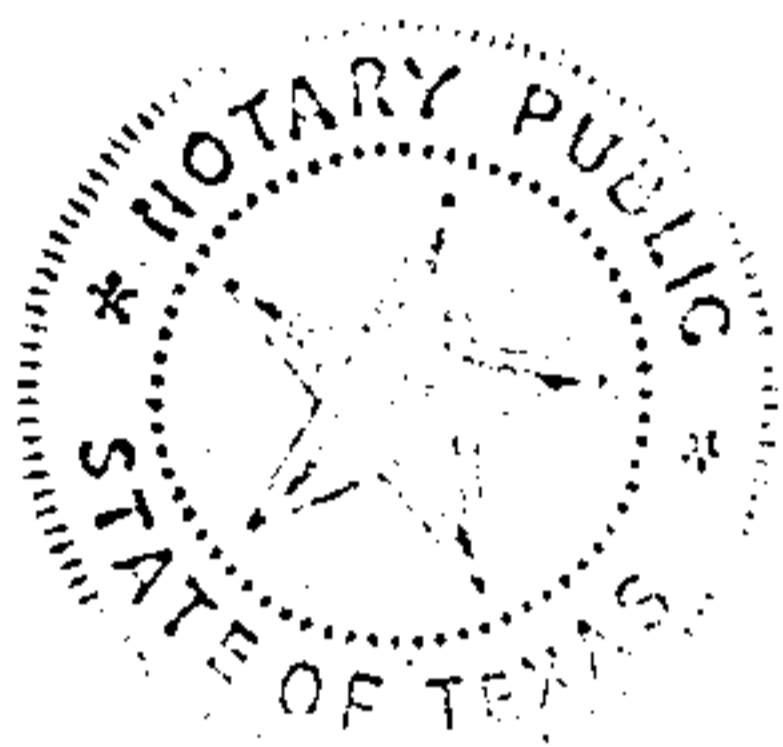

LEE R. ROPER, PRESIDENT

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STATE OF TEXAS §
COUNTY OF COMAL §

BEFORE ME, the undersigned authority on this day personally appeared LEE R. ROPER, President of DEER RIVER, INC., 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 consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN under my hand and seal of office on this 29th day of January, 1986.



Jayne Moserief
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Notary's Printed Name:
Jayne Moserief

Commission Expires: 4-14-90