

RESTRICTIONS, ASSESSMENTS AND EASEMENTS OF

ROCKY CREEK RANCH, PHASE 5

ROCKY CREEK RANCH, INC. TO THE PUBLIC

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COMAL

That ROCKY CREEK RANCH, INC., ("Developer") of ROCKY CREEK RANCH, PHASE 5, a subdivision in Comal County, Texas, as shown on a plat recorded in Volume 9, page 386, 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. The property herein described shall be used solely for new single family residential purposes, and only one single family residence may be constructed on each lot.**
- 2. No building, 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 the building will be required to be set back 25 feet from roadways bordering the tract. Any deviation from this must first be approved in writing by the Architectural Control Committee. Said Architectural Control Committee shall be initially composed of Lee R Roper, Ronald G. Newman, Sr. and Clint McKinney. After the Developer no longer owns a majority of the lots in Rocky Creek Ranch (all phases of the planned subdivision), the owners of a majority of the recorded lots in Rocky Creek Ranch (with one vote per lot) may appoint a new Architectural Control Committee by written instrument filed with the Clerk of Comal County. A majority of the Committee may designate a member to act in its behalf. In the event of death or resignation of any member, the remaining member shall have full authority to designate a successor. 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 fail 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 single family residence containing not less than 1250 square feet, exclusive of open or screen porches, breezeways, carports, garages and patios, shall be erected or constructed on any residential tract or lot, and no garage may be erected except simultaneously with or subsequent to erection of a residence. All buildings must be completed not more than fourteen (14) months after laying foundations. Servant's quarters and guest houses may be constructed to the rear of a permanent residence. All buildings must be completely enclosed from the ground level to the lower portion of outside walls so as to maintain a neat appearance and remove posts or 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. The Architectural Control Committee may notify the record owner of the lot 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, the Architectural Control Committee may remove said material from the property, dispose of such material, and charge the record owner of the lot with removal and disposition costs, and the Architectural Control Committee shall have no liability to said owner of the lot by virtue of the exercise of such right to removal.

5. No mobile home, double wide mobile home or housetrailer shall be placed on any tract at any time. New modular homes may be moved onto a tract only with the express prior approval of the Architectural Control Committee. No tent, garage, barn or other outbuilding erected on the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a 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 on the property.

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.

7. No noxious, offensive, unlawful or immoral use shall be made of any lot or tract.

8. No livestock of any kind shall be raised, bred, or kept on any lot except one horse or one cow per 9/10th acre on tracts 9/10th of an acre or larger. Dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes, are not allowed to run loose

in the subdivision, and do not constitute a nuisance to other property owners in Rocky Creek Ranch Subdivision (all phases) 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 tract) or non-operating automobiles shall be stored on (or parked in the roadway in front of) any lot. All lots containing a residence shall be suitably maintained and mowed to preserve the beauty of the subdivision.

The Architectural Control Committee shall have the right, after ten (10) days written notice to the lot owner by U. S. Certified Mail, to authorize the Developer to correct any violation of this restriction by cleaning or mowing the lot, and removing trash there from, and charge the lot owner with the costs of such maintenance, which charge shall operate as an additional maintenance lien against the lot. Neither the Architectural Control Committee nor the Developer shall have any liability to the lot owner for trespass or for the property removed as necessary to clean the lot.

10. No sign of any kind shall be displayed to the public view on any lot except 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.

11. All lots are subject to easements and restrictions now of record and are subject to any applicable rules and regulations of Comal County.

12. 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 and all present and future lot owners therein.

13. 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 restrictions with respect to future violations of that restriction.

14. If the parties hereto or any of them or their heirs or assigns shall violate any of the covenants herein, it shall be lawful for the Developer and any other

person or persons owning any real estate restricted in the same way (including all phases of Rocky Creek Ranch), 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.

15. These covenants shall be binding for a period of thirty (30) Years from the date they are filed for record in the Official Public Records of Real Property 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. The record owners of legal title of fifty-one (51%) percent of the lots of all recorded phases of Rocky Creek Ranch Subdivision as shown by the Official Public Records of Real Property of Comal County, Texas, may amend or change said covenants in whole or part at any time. 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.

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 Rocky Creek Ranch, Inc., or its assigns on or before six (6) months after the lot is conveyed by Rocky Creek Ranch, Inc.

17. An assessment of \$5.00 per month is hereby assessed against each lot owner in the subdivision, regardless of the number of lots owned by a lot owner (either a single person or husband and wife owning jointly), each lot owner shall be liable only for one \$5.00 per month assessment. Such assessment shall be due and payable to the Rocky Creek Maintenance Corporation on the first of each month, beginning January 1, 1991, and may be paid annually in advance. On January 1, 1996, and every five years thereafter, this assessment shall be increased by Rocky Creek Maintenance Corporation to an amount not to exceed the increase in the U.S. Department of Labor's Consumer Price Index (or comparable index, if no longer available) for the previous five year period. This assessment shall be secured by a lien on the lot, which can be judicially foreclosed after the assessment is six months delinquent. All costs of suit, including attorneys' fees, shall be paid by the delinquent lot owner and shall be secured by a lien on the lot. Provided, however, this maintenance fee assessment is hereby waived if Developer fails to provide a park with swimming pool for the property owners of Rocky Creek Ranch.

18. A five foot wide water line and utility easement is hereby reserved on the front, 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.

19. A twenty-five foot wide ingress and egress (driveway) and utility easement is reserved along the front property line of each lot facing Hwy. 484. Owners of lots facing Hwy. 484 are restricted against installing or using driveways onto Hwy. 484 other than those provided by Developer.

In testimony whereof, Rocky Creek Ranch, Inc., by and through its President, LEE R. ROPER, has executed this instrument this 23rd day of May, 1991.