

09/1984

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THE FALLS, SECTION ONE (1) AND SECTION TWO (2)

STATE OF TEXAS S

COUNTY OF COLORADO S

This Declaration, made on the date hereinafter set forth by Colorado Oaks Enterprises, Inc., a Texas corporation, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain 105.83 acre tract of land in the Charles Fritsche Survey, Abstract No. A-199, and the Peter Piper Survey, Abstract No. A-447, and the Robert H. Tobin Survey, Abstract No. A-551, all in Colorado County, Texas, which is more particularly described as follows:

Lots One (1) through Thirty (30), inclusive, Block Two (2)

Lots One (1) through Fifty-four (54), inclusive, Block Three (3)

Lots One (1) through Twenty-eight (28), inclusive, Block Four (4)

Lots One (1) through Twenty-six (26), inclusive, Block Five (5)

Lots One (1) through Three (3), inclusive, Block Six (6)

Lots One (1) through Four (4), inclusive, Block Seven (7)

Lots One (1) through Eleven (11), inclusive, Block Eight (8)

Lots One (1) through Four (4), inclusive, Block Nine (9)

Lots One (1) through Eighteen (18), inclusive, Block Ten (10)

Lots One (1) through Thirty-two (32), inclusive, Block Eleven (11).

All of said Lots being in The Falls, Section One (1), according to the map or plat thereof recorded on Slide No. 63 of the Map Records of Colorado County, Texas; and,

Lots One (1) through Twenty-nine (29), inclusive, Block One (1)

Lots One (1) through Fourteen (14), inclusive, Block Two (2)

Lots One (1) through Thirty (30),
inclusive, Block Three (3)

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Lots One (1) through Twenty-nine (29),
inclusive, Block Four (4)

Lots One (1) through Four (4),
inclusive, Block Five (5)

All of said Lots being in The Falls, Section Two (2),
according to the map or plat thereof recorded on Slide
No. 62 of the Map Records of Colorado County, Texas;
and,

WHEREAS, it is the desire of Declarant to place certain
restrictions, covenants, conditions, stipulations and reser-
vations 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 uni-
form plan for the benefit of all the present and future
owners of lots in said subdivision and THE FALLS OWNERS
ASSOCIATION, INC.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that
Declarant does hereby adopt, establish and impose upon those
above described lots in THE FALLS, SECTION ONE (1) and
SECTION TWO (2), and declare the following reservations,
easements, restrictions, covenants and conditions, appli-
cable thereto, all of which are for the purposes of
enhancing and protecting the value, desirability and attrac-
tiveness of the land, which reservations shall run with the
land and shall be binding upon all parties having or
acquiring any right, title or interest therein, or any part
thereof, and shall inure to the benefit of each owner
thereof and THE FALLS OWNERS ASSOCIATION, INC.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to THE
FALLS OWNERS ASSOCIATION, INC., a non-profit corporation,
its successors and assigns.

Section 2. "Common Area," if any, shall mean all
real property owned by the Association for the common use
and enjoyment of the Owners.

Section 3. "Declarant" or "Developer" shall mean and
refer to Colorado Oaks Enterprises, Inc., its successors and
assigns, if such successors or assigns should acquire more
than one undeveloped Lot from the Declarant for the purpose
of development.

Section 4. "Golf Course Lot" shall mean any Lot
which abuts or adjoins any portion of a golf course or golf
course property.

Section 5. "Lot" shall mean and refer to any plot of
land shown upon any recorded subdivision map of the Prop-
erties, except the Common Area, if any, and Commercial
Reserves, if any. "Developed Lot" shall mean a Lot, with
the street, on which it faces, opened and improved, and with
utilities installed and ready to furnish utility service to
such Lot.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to those certain lots in THE FALLS, SECTION ONE (1) AND SECTION TWO (2), described above, subject to the reservations set forth herein and in the subdivision plats, and any additional properties made subject to the terms hereof pursuant to the provisions set forth herein.

ARTICLE II

Reservations, Exceptions And Dedications

Section 1. Recorded subdivision maps of the Properties. The recorded subdivision maps of the Properties establish certain restrictions applicable to the Properties including without limitation certain easements and minimum setback lines. All dedications, limitations, restrictions and reservations shown on the recorded plats or replats of the subdivision 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 contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Section 2. Easements. Declarant reserves for the public use the easements and rights-of-way as shown on the recorded subdivision maps of the Properties for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, sewers or any other utility Declarant sees fit to install in, across 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. No fence or other structure of any kind shall be erected so as to enclose or encroach upon any of said easements. Neither Declarant nor any utility company 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, trees, or flowers or any other property of the Owner on the land covered by said easements.

Section 3. Title subject to easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, storm sewer, electric light, electric power, telephone or telegraph purposes. The Owners of the respective Lots shall not be deemed to separately own pipes, wires, conduits or other service lines running through their property which service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

Use Restrictions

Section 1. Single family residential construction. No building shall be erected, altered or permitted to remain on any lot other than one detached single family dwelling used for residential purposes only, and not to exceed two (2) story in height. Each such dwelling shall have a garage for not more than four (4) cars. As used herein, the term "Residential Purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots or the use of Lots for garage apartments, or apartment houses, townhouses, duplexes or any other such attached dwelling units. No Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind shall ever be moved onto any Lot within THE FALLS, SECTION ONE (1) or SECTION TWO (2) without written approval of the Architectural Control Committee.

Section 2. Location of the Improvements upon the Lot. No building shall be located on any lot nearer than seven and one-half (7-1/2) feet to the side property line or as shown on the recorded plat. On lots having a rear garage, no building may be located within five (5) foot of the rear property line. On lots having a garage in the front, no building may be located within fifteen (15) feet of the rear property line. On the seven and one-half (7-1/2) foot side building setback line, eaves, steps and unroofed terraces shall not be considered as part of a building; however, this shall not be construed to permit any portion of the construction on a Lot to extend upon another Lot.

No garage on a golf course Lot shall have a rear opening. No improvement or fill may be placed within twenty (20) feet of a lake or water course without the written consent of the Architectural Control Committee.

Section 3. Composite building site. None of said Lots shall be resubdivided. Any person owning two (2) or more adjoining Lots may consolidate such Lots into a building site, with the privilege of placing or constructing improvements, as permitted herein, on such resulting building site.

Section 4. Minimum square footage within improvements. All Lots within THE FALLS, SECTION ONE (1) and SECTION TWO (2), are restricted to a minimum size of five thousand seven hundred seventy-five (5,775) square feet. All dwelling units shall have the specified minimum square feet of liveable area, exclusive of open porches, atriums and garages, as follows:

- a. For Lots not abutting the golf course or lakes -
Section I Lots - a minimum of 1,400 square feet;
Section II Lots - a minimum of 1,300 square feet;
- b. For golf course Lots or those abutting a lake -
Section I Lots - a minimum of 1,600 square feet;
Section II Lots - a minimum of 1,500 square feet.

Section 5. Prohibition of offensive activities. Other than with regard to the normal sales activities required to sell homes in the subdivision and the lighting

effects utilized to display model homes, no activity, whether for profit or not, shall be carried on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood.

Section 6. Use of temporary structures. No structure of a temporary character, mobile home, trailer, basement, tent, shed, shack, garage, or other temporary building of any nature shall be placed or constructed on any Lot for residential purposes. A temporary office or work shed may, following approval thereof by Declarant or its assigns, be maintained upon any Lot or Lots by any building contractor or sales agency in connection with the erecting and sale of dwellings in the subdivision, but such temporary structure(s) shall be removed at completion of construction or sale of the dwellings, whichever is applicable, or within ten (10) days following notice from Declarant or its assigns. Outbuildings, including portable structures, used for accessory or storage purposes shall be limited to a maximum of eight feet (8') in height and one hundred and twenty (120) square feet of floor space, shall correspond to the style, color and architecture of the dwelling to which it is appurtenant and shall be subject to approval by the Architectural Control Committee.

Section 7. Use of garages. No garage of any residential structure shall be used for any purpose other than the storage of motor vehicles. Specifically, no garage shall be used for permanent storage of building materials, tools, etc., in such a manner as to preclude its use for the parking of residents' automobiles, nor shall any garage be converted to living space, the use of which would preclude the parking of automobiles. The Declarant reserves the right to allow the temporary use of garages within model homes as sales offices.

Section 8. Storage of automobiles, boats, trailers and other vehicles. No trucks, trailers, boats, automobiles, campers or other vehicles shall be stored, parked or kept on any driveway, in the front yard, or in the street in front of the Lot unless such vehicle is in day to day use off the premises and such parking is only temporary, from day to day, not to exceed forty-eight (48) hours in duration. Permanent and semi-permanent storage of such items and vehicles must be screened from public view, either within the garage or behind the fence which encloses the rear of the Lot.

Section 9. Mineral operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any Lots. No derrick or other structures designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 10. Animal husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets (not to exceed a total of three (3) adult animals) may be kept provided that they are not kept, bred or maintained for commercial purposes. No such animal shall be allowed to become a nuisance or health hazard.

Section 11. Walls and fences. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback lines as shown on the subdivision plat. The Architectural Control Committee may, at its discretion, permit variances on fence location if approved in writing. All fencing for interior lots shall be of wood or ornamental metal. Walls can be brick, stucco, decorative concrete (if approved by the Architectural Control Committee) or native stone.

The only permitted fence on golf course Lots shall be constructed of brick columns and wrought iron, or all wrought iron, so that the view to the golf course is not impaired.

However, fencing if installed adjacent to major thoroughfares or public spaces must be a standard design, material and color as approved by the Architectural Control Committee. No fence shall exceed six (6) feet in height nor shall any item be placed on the top of any fence without written permission from the Architectural Control Committee. All fences and/or walls hereafter placed on the common boundary line of any two (2) Lots in the subdivision shall be jointly owned and maintained by each of the adjoining Lot Owners. All screen fencing and/or walls not located on a common boundary line shall belong to and be maintained by the Owner of the Lot where such screen fencing and/or wall is located. All screen fencing and/or walls located on Reserves adjacent to the Lots listed above will be maintained by THE FALLS OWNERS ASSOCIATION, INC.

Section 12. Visual obstruction at the intersections of public streets. No object or thing which obstructs site lines at elevations between two (2) feet and eight (8) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points ten (10) feet from the intersection of the street property lines or extension thereof shall be placed, planted or permitted to remain on any corner Lots.

Section 13. Lot maintenance. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereof cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage or materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The drying of clothes in full public view is prohibited and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment or storage piles, which are incident to the normal residential requirements of a typical family. No Lot shall be used or maintained as a dumping ground for trash. Trash, garbage or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition. All playground equipment must be placed at the rear of the property and must be placed behind a fence if the Lot is fenced. No outside clothesline shall be permitted that is visible from any street.

New building materials used may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. The Owners or occupants of all Lots shall not burn anything (except by use of an incinerator and then only as prescribed and during such hours as permitted by law).

In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days written notice thereof, Declarant or its assigns may, without liability to the Owner or occupant for trespass or otherwise, enter upon said Lot or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of the property to pay for such work immediately upon receipt of a statement therefor. In the event of the failure to pay such statement, the amount therefor may be added to the annual maintenance charge provided for herein.

Section 14. Signs, advertisements, billboards.

Except for signs owned by Declarant or builders with the consent of Declarant advertising their model homes during the period of original construction and home sales, no sign, advertisement or billboard or advertising structure of any kind other than one normal "For Sale" sign not to exceed five (5) square feet in total size may be erected or maintained on any Lot in said subdivision. Declarant, or its assigns, will have the right to remove any sign, advertisement or billboard or structure that does not comply with the above, and in so doing shall not be subject to any liability of trespass or other sort in the connection therewith or arising with such removal.

Section 15. Maintenance of antennae.

No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, houses or buildings. Television antennae may be attached to the house; provided, however, such antenna must be located to the rear of the roof ridge line, gable or center line or the principal dwelling, unless this is not possible due solely to the design of the roof. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. Guy wires may be installed for purposes of securing antennae; provided, however, that such wires do not encroach upon any easement or adjoining Lot(s), are located behind the rear wall of the main residential structure and screened from view by installation of approved fencing as described in Section 11 of this Article. No antennae, either freestanding or attached, shall be permitted to extend above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole. The location of any satellite disk, antennae or receiver, or other similar antennae, must be approved by the Architectural Control Committee ("ACC"). The foregoing restrictions in Article III, Section 15, shall not be enforceable unless and until a cable television system has been brought to the Properties, and is available to each Lot within the Properties.

Section 16. Window air conditioning. No window or wall type air conditioners shall be permitted to be used, erected, placed or maintained on or in any building in any part of the Properties, provided that the Architectural Control Committee may, at its discretion, permit window or wall type air conditioners to be installed if such unit, when installed, shall not be visible from a street, such permission, if granted, must be in writing.

Section 17. Underground telephone service. A buried telephone cable system shall be installed in an area in THE FALLS, SECTION ONE (1) and SECTION TWO (2). The Owner of each Lot shall, at his own cost, install in each home, flexible or rigid conduit with pull wire and a minimum of three (3) outlet boxes, at the locations where he desires telephones, all in accordance with specifications of the telephone company, in order that the telephone company may install its wiring and equipment in each home in the most expeditious and least costly manner. In the event an Owner fails to comply with the requirements of the preceding sentence, the telephone company will install its standard exposed wiring in such Owner's home and the Owner will be required to pay the telephone company's standard installation charges therefor.

Section 18. Cable television service. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies and Declarant shall have the right and power in such agreement or agreements to grant to such cable television company or companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements or rights-of-way reserved and dedicated herein and in the referenced plat. Declarant does hereby reserve unto itself, its successors and assigns the sole and exclusive right to obtain and retain all income, revenue and other things of value paid or to be paid by such cable television companies to Declarant pursuant to any such agreements between Declarant and such cable television companies. Provided, however, that the rights herein reserved to Declarant with regard to any cable television company shall terminate and automatically be transferred to THE FALLS OWNERS ASSOCIATION, INC., at such time as the Class B membership shall cease as provided in Article V, hereafter.

Section 19. Water and Sanitary Sewer. No water wells, septic tanks or other similar utility related improvements shall be permitted on any Lot. Each Lot shall utilize the water and sanitary sewer systems provided by the municipal utility district service the Property. The municipal utility district shall have the right to assess and collect a tap fee for such water and sewer utility service not to exceed TWO HUNDRED AND NO/100 DOLLARS (\$200.00). At such time as utility service from the MUD is available to the boundary of a Lot, the Owner of said Lot shall pay a stand-by fee for such utility service not to exceed FIFTEEN AND NO/100 DOLLARS (\$15.00) per month, commencing on the first day of the month next succeeding installation of the service.

Section 20. Type of construction, materials, and landscape. The exterior materials of the main residential structure and any attached garage shall be not less than fifty-one (51) percent masonry, unless otherwise approved in writing by the Architectural Control Committee. No two residential structures of identical floor plan and elevation detail be constructed closer than every eighth Lot.

Yellow, pink or orange brick should not be used except where permission is given in writing by the Architectural Control Committee.

The roof of any building shall be constructed or covered with asphalt or composition type shingles of 230# or heavier weight with a color that would be dark brown or approximate the color of weathered cedar shingles. The decision of such comparison shall rest exclusively with the Architectural Control Committee. Decisions regarding the use of any other type roofing material shall rest exclusively with the Architectural Control Committee or its assigns.

Section 21. Owner's easements of enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if any;
- B. The right of the Association to suspend the voting rights and right to use the Common Areas, if any, by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- C. The right of the Association to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- D. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area, if any, and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE IV

Architectural Control Committee

Section 1. Approval of building plans. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plot plan showing the location of the structure, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Architectural Control Committee. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications and plot plans, together with

such other documents as it may elect at its entire discretion. In the event the Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the receipt of the required documents, such approval shall be deemed to have been given, provided however, that failure to timely approve or disapprove such plans and specifications shall not be deemed to permit the erection, construction, placing or altering of any structure on any Lot in a manner prohibited under the terms of this Declaration. The Architectural Control Committee shall have full and complete authority to approve construction of any improvement on any Lot, and its judgment shall be final and conclusive.

The approval or lack of disapproval, by the Committee of any plans and specifications or of the location plot plan, shall in no event be deemed to create any liability whatsoever in the Declarant, the members of the Committee, the duly authorized representative of the Committee, or in any other party for any warranty or representation by such Committee including, without limitation, any warranty or representation relating to fitness, design, adequacy or location of the proposed construction or compliance with applicable statutes, codes and regulations, in any building or structure erected and located in accordance with such plans and specifications and location plot plan.

Anything contained in this Section 1 or elsewhere in this Declaration to the contrary notwithstanding, the Architectural Control Committee, and its duly authorized representative, is hereby authorized and empowered, at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Subdivision Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the Committee or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Subdivision and its improvements as a whole.

The Architectural Control Committee may require the submission to it of such documents and items (including, as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved carport), and signed by a majority of the then members of the Architectural Control Committee (or by the

Committee's duly authorized representative). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee, or (b) failure by the Architectural Control Committee to respond to the request for variance. In the event the Architectural Control Committee or any successor to the authority thereof shall not then be functioning and/or the term of the Architectural Control Committee shall have expired and the Board of Directors of the Association shall not have succeeded to the authority thereof as herein provided, no variances from the covenants of this Declaration shall be permitted, it being the intention of Declarant that no variances be available except at the discretion of the Architectural Control Committee, or if it shall have succeeded to the authority of the Architectural Control Committee in the manner provided herein, the Board of Directors of the Association. The Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Declaration.

Section 2. Committee membership. The Architectural Control Committee members shall be composed of the Directors of the Association and shall be three (3) in number, and shall be composed of: ~~B. Jay Riviere, Carl Gulley and Darlene Riviere~~, who by majority vote may designate a representative to act for them. The address of the Architectural Control Committee is: R.R. 2-346, North Falls Drive, New Ulm, Texas 78950.

Section 3. Replacement. In the event of death or resignation of any member or members of said committee, the remaining number of members shall appoint by recorded instrument a successor member or members, and until such successor member or members, shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted or to designate a representative with like authority.

Section 4. Minimum construction standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards, provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 5. Term. The duties and powers of the Architectural Control Committee and of the designated representative shall cease on or after twenty (20) years from the date of this instrument. Thereafter, the approval described in this covenant shall not be required, and all power vested in said committee by this covenant shall cease and terminate; provided, that any time after January 1, 2004, by two-thirds (2/3) vote of the members present and voting, THE FALLS OWNERS ASSOCIATION, INC., or a generally elected committee may assume the duties and powers of the Architectural Control Committee.

ARTICLE V

The Falls Owners Association, Inc.

Section 1. Membership and voting rights. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to

include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 2. 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 (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. A Lot owned by a Class A member shall be a Class A Lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. A Lot owned by a Class B member shall be a Class B Lot. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier.

A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B Membership, or

B. January 1, 1994.

The Class A and Class B members shall have no rights as such to vote as a class, except as required by the Texas Non-Profit Corporation Act, and both classes shall vote upon all matters as one group.

Section 3. Non-profit corporation. THE FALLS OWNERS ASSOCIATION, INC., a non-profit corporation, has been or will be organized, and it shall be governed by the Articles of Incorporation of said Association, and all duties, obligations, benefits, lines and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. By-laws. The Association may make whatever rules or by-laws it may choose to govern the organization, provided, however, that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours.

ARTICLE VI

Maintenance Assessments

Section 1. Creation of the lien and personal obligation of assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The Association shall have the power and authority to collect and disburse all assessments. The annual and special assessments, together with interests, costs and reasonable attorney's fees, shall be a charge on

the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interests, 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 successor in title unless expressly assumed by them.

Section 2. Purpose of assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of any Common Areas. The responsibilities of the Association shall include, but not be limited to the maintenance and repair of the walkways, steps, entry gates or fountain areas, if any, constructing and maintaining parkways, rights-of-way, easements, esplanades and other public areas, construction and operation of all street lights, purchase and/or operating expenses of recreation areas, if any; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting the Properties to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen, if desired, caring for vacant lots and doing other things or things necessary or desirable in the opinion of the Association to keep the properties in the subdivision neat and in good order, or which is considered in general benefit to the owners or occupants of the Properties. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 3. Rate of assessment. The maintenance charge on Class B Lots shall be a maximum of Fifty percent (50%) of the assessment for Class A Lots per month and shall begin to accrue on a monthly basis on each such Lot on the date when each such Lot has been certified "complete" by a professional engineer or on the date fixed by the Board of Directors, whichever occurs first. "Complete" is defined as when the streets and utilities have been provided as to a Lot. The entire accrued charge (of said rate stated above per month) on each Lot shall become due and payable by Declarant on the date such Lot converts from Class B Lot to a Class A Lot by reason of the Owner's purchase of the Lot.

The initial charge shall accrue and become due and payable on each Lot on the date such Lot converts from a Class B Lot to a Class A Lot. The determination of the amount of such initial charge, which shall be for the remainder of the year in which such class conversion of said Lot occurs, shall be made by the Association, on, or as of, said accrual date and shall be immediately due and payable. The maintenance charge on each Class A Lot shall thereafter accrue and become due and payable on the first day of January of each succeeding year and shall be in an amount determined by the Association during the thirty (30) day period next preceding the due date of said charge. The Association can collect special assessments as well as annual charges above described whenever a majority of the members, either in person or by proxy at a meeting duly called for such purpose, vote in approval of such special assessment.

Section 4. Maximum annual assessment. Until January 1, 1985, the maximum annual assessment shall be \$120.00. From January 1, 1985 until January 1, 1986, the maximum annual assessment shall be \$240.00.

From and after January 1, 1986, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership in conformance with the increase, if any, of the Consumer Price Index, Houston, Texas, Standard Metropolitan Statistical Area, All Urban Consumers, published by the U. S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212, for the month of July in the year prior to the year for which the increase is being imposed, over the Consumer Price Index for July of 1983.

From and after January, 1986, the maximum annual assessment may be increased above the assessment established above, provided that any such change shall have the assent of two-thirds (2/3) of each class of all votes of the Association entitled to be cast, at a meeting duly called for this purpose.

Section 5. Notice of assessment. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual assessment period, which shall begin on the first day of January of each year. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors.

Section 6. Notice and Quorum for any action authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Effect of nonpayment of assessments. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum non-usurious rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the covered assessments provided herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the lien to mortgages. To secure the payment of the maintenance fund and all annual and special assessments established hereby and to be levied on individual residential Lots, there is hereby reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such Lots, a Vendor's Lien for the benefit of the Association, said lien to be enforce-

able through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted and created by or at the instance and request of the Declarant and the Owner of say such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the construction of improvements on any such Lot to the extent of any such maintenance fund charge or annual or special assessments accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding by the Association to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U.S. Registered Mail, and shall contain a statement of the delinquent maintenance charges or annual or special assessments upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such first mortgage lien to the holder thereof. 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 become 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 thereof.

Section 9. Future sections. The Association shall use the proceeds of the maintenance fund for the use and benefit of all residents of THE FALLS, SECTION ONE (1) and SECTION TWO (2), well as all subsequent sections of THE FALLS; provided however, that for each future section of THE FALLS to be entitled to the benefit of this maintenance fund, it must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per Lot basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association.

ARTICLE VII.

General Provisions

Section 1. Term and Amendment. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under the for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then Owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. The terms and provisions of these restrictions during the first twenty (20) year period may be amended at any time when an instrument setting forth said changes and signed by ninety percent (90%) of the Lot Owners is placed on record in the Real Property Records of Colorado County, Texas.

Section 2. Enforcement. Upon any violation or attempt to violate any of the covenants herein, it shall be

lawful for the Association or any Lot Owner 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 prevent him or them from doing so or to recover damages or other dues for such violations. Failure by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any one of these covenants by judgement or other court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 4. Annexation. Future sections of THE FALLS subdivision, developed by the Declarant, its successors or assigns, pursuant to a general scheme of development, may be annexed to the Properties and Association by the Board of Directors of the Association, or by the Declarant, without approval of the membership or any mortgagee. Additional residential property and common area may be annexed to the Properties with the consent of two-thirds (2/3) of the membership.

Section 5. Effect of violations on liens. It is specifically provided that a violation of any one or more of these covenants, conditions or restrictions shall not affect the lien of any mortgage or deed of trust now of record, or which may hereafter be placed of record, or other lien acquired and now held in good faith upon said Lots or any part thereof, but such liens may be enforced as against any and all property covered thereby, subject nevertheless to the restrictions herein contained.

Section 6. Lienholders. The Lienholders join herein solely for the purpose of subordinating the liens held by it of record upon the Properties to the covenants, conditions and restrictions hereby imposed by Declarant with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in this Declaration.

EXECUTED this 10th day of September, 1984.

COLORADO OAKS ENTERPRISES, INC.

ATTEST:

By: Carl F. Fuller
President

By: B. J. Kucera
Secretary

THE STATE OF TEXAS

COUNTY OF Harris

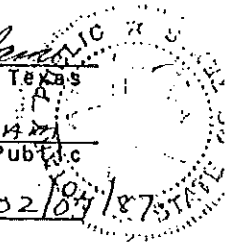
Before me, the undersigned authority, on this day personally appeared Carl F. Muller, of COLORADO OAKS ENTERPRISES, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

Given under my hand and seal of office on this 10th day of September, 1984.

Irene A. McCollum
Notary Public, State of Texas

IRENE A. MCCOLLUM
Printed Name of Notary Public

My Commission Expires: 02/04/87



JOINDER OF LIENHOLDER

The undersigned, Community Savings & Loan Association, being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing restrictions and defined as the "Property" in said restrictions, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions.

This consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the Lots and all appurtenances thereto, and all of the undivided, equitable shares and interests in the Common Area, subject to the restrictions hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers of Community Savings & Loan Association hereto authorized, this the 7th day of September, 1984.

COMMUNITY SAVINGS & LOAN ASSOCIATION

ATTEST: Lois M. Weber
Lois M. Weber Secretary

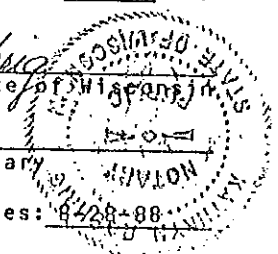
BY James C. Beck
James C. Beck President

THE STATE OF WISCONSIN (
COUNTY OF Fond du Lac (

BEFORE ME, the undersigned authority, on this day personally appeared James C. Beck President of Community Savings & Loan Association, a savings and loan association, 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 association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 7th day of September, 1984.

Kathryn Roehrig
Notary Public, State of Wisconsin
Kathryn Roehrig
Printed Name of Notary
My Commission expires: 8-28-88



Recorded the 24 day of Sept. A.D. 1984 at 8:15 o'clock A. M.
LESTER SCHNEIDER, County Clerk By Deane Oastell, Deputy.