

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOX RUN, SECTION TWO AND SECTION FOUR

7713620

THE STATE OF TEXAS
COUNTY OF MONTGOMERY

! !

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION, made on the date hereinafter set forth by HORACE H. NORMAN, TRUSTEE of Harris County, Texas, and J & E BUILDING COMPANY, a Texas corporation, with its principal office in Harris County, Texas, acting herein by and through its duly authorized officers, both hereinafter referred to jointly as "DECLARANT".

WHEREAS, Declarant is the owner of certain property in the County of Montgomery, State of Texas, and which is more particularly described as:

FOX RUN, SECTION TWO, a subdivision within the County of Montgomery, State of Texas, containing 54.5337 acres, according to the map or plat thereof recorded in Cabinet "B" Page 30 of the Map Records of Montgomery County, Texas.

FOX RUN, SECTION FOUR, a subdivision within the County of Montgomery, State of Texas, containing 9.3507 acres, according to the map or plat thereof recorded in Cabinet "B" Page 30 of the Map Records of Montgomery County, Texas.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to FOX RUN MAINTENANCE ASSOCIATION, a Texas Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The mortgagee shall not be considered as an Owner unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

NONE

Section 5. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map or plat of the Properties with the exception of the Common Area, Reserves and drill sites, if any.

Section 6. "Declarant" shall mean and refer to HORACE H. NORMAN, TRUSTEE, and the J & E BUILDING COMPANY, their successors and assigns if such successors or assigns acquire more than two (2) undeveloped Lots from the Declarant for the purposes of development.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area 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.

(b) The right of the Association to suspend the voting rights and right to use of the recreational or other facilities owned or operated by the Association, excluding domestic water, (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 part of the Common Area 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) The right of the Association to limit the number of guests of Owners.

(e) The right of the Association, in accordance with its Articles of Incorporation or Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property. The rights of any such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Rights. The use of all parking areas situated in the Common Area shall be subject to the exclusive control and management of the Board of Directors of the Association, including the assignment of areas where guests, boats, trailers, etc., may or may not be parked or stored.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. 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.

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 vote for each Lot owned. When more than one 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 vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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 vote outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on December 31, 1979.

ARTICLE IV

COVENANT FOR 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 therefor, 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 annual and special 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 each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' 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 the title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association or its Board of Directors 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 the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment shall be \$125.00 per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by the vote or written assent of a two-thirds (2/3) majority of each class of members.

(c) The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of two-thirds (2/3) majority of each class of members.

Section 5. Notice and Quorum For Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Annual assessments shall be made for Lots with completed houses not owned by the Declarant, Lots with completed but unoccupied houses owned by the Declarant, Lots with houses under construction, and for vacant Lots. Lots with completed houses owned by the Declarant and which are unoccupied shall be assessed (until initially occupied) at one-half (1/2) of the assessment for the Lots with completed houses and owned by parties other than the Declarant; Lots with houses under construction shall be assessed one-third (1/3) of the assessment for Lots with completed houses; and vacant Lots shall be assessed at one-fourth (1/4) of the assessment for Lots with completed houses.

Section 7. Date of Commencement of Annual Assessment Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month more than thirty (30) days following the conveyance of the first lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. 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. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6%) percent per annum. The Board of Directors, for the Association, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, through its Board of Directors, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including judicial foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. 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 assessment thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Management Agreements. Each Owner hereby agrees to be bound by the terms and conditions of all management agreements, if any, entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled by an affirmative vote of sixty (60%) percent of the votes of each class of the members of the Association. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of the responsibilities of the Association.

Section 12. Insurance - Common Area Buildings. The Board of Directors shall at all times keep the buildings and other structures in the Common Area, including the contents of same, insured against loss or damage by fire with extended coverage in an insurance company authorized to do business in the State of Texas, in an amount as near as practicable to the full replacement value thereof without deduction for depreciation. All cost for such insurance shall be a common expense of all Owners and be a part of the maintenance assessment.

Section 13. Insurance - Common Area General Liability. The Board of Directors as part of the maintenance assessment, shall also effect and maintain at all times comprehensive general liability insurance covering the Association, its Board of Directors, officers, employees and agents with respect to the Common Area in a responsible insurance company with minimum limits of not less than \$300,000 for injury to one person and \$500,000 for injury to more than one person in any one accident or occurrence and \$50,000 for property damage, and without prejudice to the right of any Owner to maintain additional liability insurance for his respective Lot.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

USE RESTRICTIONS

The Lots and the Common Area shall be occupied and used as follows:

Section 1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling, not to exceed two stories in height and a private garage for not less than two nor more than four passenger type automobiles.

Section 2. Dwelling Size. The habitable area of the main dwelling measured to outside of walls, exclusive of open porches, garage(s), carport(s), portecochere and roof overhangs, shall be not less than the following: On all residential Lots dwelling shall contain a minimum of 1200 sq. ft. if the dwelling is a one-story building. A minimum of 900 sq. ft. on the ground floor if the dwelling is a two-story building. All two stories to have a minimum of 1500 sq.ft. including both floors. These minimum restrictions apply to all Lots, SAVE AND EXCEPT all Lots in Section IV in accordance with the plat thereof recorded in Volume Page of the Map Records of Montgomery County, Texas. On these lots a one-story dwelling shall contain a minimum of 1,000 sq. ft.

Section 3. Building Location.

a. No building shall be located on any Lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat.

b. No building shall be located nearer than 5 feet to an interior lot line, except that a 3-foot side yard shall be permitted for a detached garage or other permitted detached accessory building located 30 feet or more from the front minimum building setback line. In no event are building improvements to be erected on or within utility easements. No habitable portion of a dwelling shall be located on any interior lot nearer than 20 feet to the rear lot line.

c. Residences on corner lots shall face the street on which the Lot has a building setback line of 20 feet.

d. In the case of a garage facing the side street of a corner lot, the automobile entrance to the garage shall be not less than 10 feet from the side street property line.

e. No portecochere shall be placed or maintained nearer to a street than the minimum building setback lines, nor nearer to any other lot line than five (5) feet. No portecochere shall be permitted on any Lot which does not have a usable garage for at least one automobile. For the purposes of these covenants, carports shall be considered as garages and shall comply with all requirements for garages.

f. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 4. Building Materials.

a. Walls and roofs of garages, carports, and porte cocheres, attached to the residence, shall be constructed of the same materials used on the walls and roof of the residence.

b. The exterior wall area of the residence shall not be less than fifty-one percent (51%) masonry or masonry veneer construction. In determining this required area, the area of all gables, windows and door openings shall be excluded from this required area. In the event of an attached garage, its exterior wall area shall be included in the determination of the required masonry or masonry veneer area. The Architectural Control Committee may waive this masonry requirement, if in its opinion, this masonry requirement would be a substantial detriment to the design of the proposed residence and would not materially effect neighboring residences in an adverse manner.

c. Driveways shall be constructed of concrete and have a minimum width of nine (9) feet. The street curb shall be broken in such a manner that the joint at the street pavement and the driveway will not have an unsightly appearance.

d. Walks from the street curb to the residence shall be constructed of concrete or masonry materials and shall have a minimum width of three (3) feet.

Section 5. Public Walks. Before the initial dwelling unit is completed the Lot Owner shall construct a concrete sidewalk in the street right-of-way parallel to the street curb and two (2) feet from the street right-of-way line(s) four (4) feet in width, and said sidewalk shall extend to the projection of the Lot boundary lines into the street right-of-way and/or street curbs at corner lots. Installation and route of the sidewalks may be altered, in the event the Architectural Committee approves the new location.

Section 6. Lot Area and Width. No dwelling shall be erected or placed on any Lot having a width of less than 40 feet at the minimum building setback line nor shall any dwelling be erected or placed on any Lot having an area of less than 6,000 sq. ft., however, this covenant shall not preclude the erection of a dwelling on any Lot as designated on the recorded plat.

Section 7. Utility Easements. Easements, as shown on the recorded plat, and right of entry to them, for installation and maintenance of utilities and drainage facilities are reserved. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation, maintenance or operation of utilities. The easement area of each lot and all improvements in it shall be maintained by the Owner of the Lot, except those improvements of a public authority or utility shall be maintained by such authority or utility. The title to a lot shall not include title to any utility facility located within easements or streets. Neither the Declarant, their successors or assigns, nor the operator of any public utility, shall be liable for damage to any plants, structure or buildings located in or on such easements or streets because of the installation or maintenance of the utility facilities.

Section 8. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No boat, trailer or truck shall be parked or stored in front of any dwelling unit for more than 48 hours. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area.

Section 9. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, barn, servants quarters or other out buildings shall be used on any Lot at any time as a residence either temporarily or permanently; nor shall any used structure be moved onto any Lot. During the construction and sales period of the initial dwelling units, the builder may erect and maintain such structures as is customary in connection with such construction and sale of such property, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales offices.

Section 10. Signs. No sign of any kind shall be displayed to public view on any Lot or building except one sign of not more than five (5) square feet in area advertising the merits of the property for sale or rent. During the construction and initial sales period of the dwelling units the builder may use other signs and displays to advertise the merits of the property for sale or rent.

Section 11. Oil and Mining Operations. No gas or oil drilling, gas or oil 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.

Section 12. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets, not to exceed a total of two (2) pets, may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purpose.

Section 13. Garbage and Refuse Disposal. No Lot shall be used or maintained as dumping ground for rubbish. Trash, garbage, or other waste shall be kept screened by adequate planting or fencing so as to conceal them from public view. There is reserved in favor of the Association the determination of the method of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal contractor(s). All incinerators or other equipment for the storage or disposal of such materials shall be kept in clean and sanitary conditions.

Section 14. Water Supply. No individual water supply system shall be permitted on any Lot.

Section 15. Sewage Treatment. No sewage treatment system shall be permitted on any Lot.

Section 16. Obstruction of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior written consent of the Board of Directors.

Section 17. Insurance. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in the Common Area which will result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law. No waste will be permitted in the Common Area.

Section 18. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 19. Annoyance. No activity shall be carried on upon any Lot or the Common Area which might reasonably be considered as giving annoyance to neighbors of ordinary sensibilities and which might be calculated to reduce the desirability of the Property as a residential neighborhood, even though such activity be in the nature of a hobby and not carried on for profit.

Section 20. Sales Office. A Construction and/or Sales Offices may be built and used on any Lot or Lots in this subdivision by Declarant, until all Lots in the Property are sold.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration and Amendment. The covenants and restrictions by this Declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during its first term by an instrument signed by the Owners of not less than seventy-five (75%)

percent of the Lots; and thereafter by an instrument signed by the Owners of not less than sixty (60%) percent of the Lots; provided any amendment be recorded in the Deed Records of Harris County, Texas.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members. However, upon submission and approval by FHA/VA of a general plan of the entire development and approval of each stage of development such additional stages of development may be annexed by the Developer without such approval by the membership.

Section 5. FHA/VA. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand and seal this 25 day of April, 1977.

J & E BUILDING COMPANY

ATTEST:

Martin J. Bendit
Secretary

By: Earl M. Gilbert
Earl M. Gilbert, President

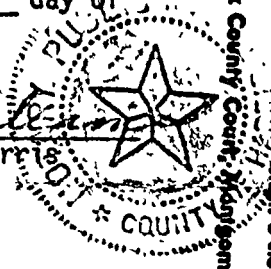
Horace H. Norman
Horace H. Norman, Trustee

THE STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared EARL M. GILBERT, President of J & E Building Company, 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 and as the act and deed of said corporation.

Given under my hand and seal of office on this the 26 day of April, 1977.

Lindal J. White
Notary Public in and for Harris County, Texas.

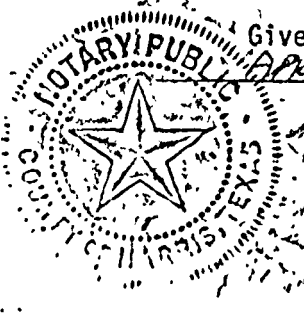


THE STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared HORACE H. NORMAN, Trustee, 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.

Given under my hand and seal of office, this the 25th day of April, 1977.

James E. Brubaker
Notary Public in and for Harris County, Texas.



Filed for Record at 11 o'clock A.M. 5-2-77
Clark County Court, Montgomery Co., Texas - By Beulah White Deputy
ROY HARRIS