

8394

VOL 506 PAGE 453

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
LAKE LIVINGSTON VILLAGE, SECTION ONE

This Declaration, made on the date hereinafter set forth by Fox-Hancock, Inc., a Texas Corporation, hereinafter referred to as "Declarant".

## WITNESSETH

WHEREAS, Declarant is the owner of certain property in Polk County, Texas, which is more particularly described as follows:

Being Lots 1 through 137, Lake Livingston Village, Section One as described in Book 9, Page 19 of the Plat Records of Polk 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  
USE RESTRICTIONS

Section 1. Single Family Residential Construction. No building shall be placed, erected, altered or permitted to remain on any Lot other than one single family residence not to exceed two stories in height, which may have a private garage or carport. If a "manufactured home" it shall be a residential dwelling as defined in the Texas Manufactured Housing Standards Act, Article 5221f. No room(s) in the dwelling and no space in any other structure shall be let or rented. This shall not preclude the main residential structure from being leased or rented in its entirety as a single residence to one family or person. Declarant reserves the right to designate two lots for street or utility purposes. The use of any lot for access to any property that is not a part of Lake Livingston Village is expressly denied without the prior approval of Declarant or the Association. All manufactured homes must be complete when installed. Site-built homes may be used or occupied when the exterior thereof as approved in accordance with Section 2, below, is finished and water and sanitary sewage disposal facilities are completely installed and are operable. The installation of single section HUD Code Manufactured Homes is prohibited in Lake Livingston Village. No home is to be moved to a lot except those meeting the requirements of Section 20, below.

Section 2. Architectural Control. To aid in the assurance that improvements to be placed, constructed or installed in this Subdivision add to the general quality and that the structure shall blend harmoniously with other improvements in the Subdivision; no residence or other structure, additions, alterations or improvements shall be constructed, completed or thereafter maintained upon the premises unless and until the Board of Directors of the Lake Livingston Village Improvement Association, or by an Architectural Control Committee comprised of three (3) or more representatives appointed by the Board, shall have first approved in writing detailed architectural plans and specifications of such proposed structure, addition or alteration. Such plans, photographs and specifications shall include the outside design with color scheme and a plot plan showing the location on the ground. In the event the Board of Directors or their duly authorized representative disapproves of any such plans, specifications or plot plans, notice of such disapproval shall be by delivery in person or by registered or certified letter, addressed to the party submitting the same at an address which must be supplied with the submission. Any such notice must set forth in general the elements disapproved, and the reason or reasons therefor; but need not contain suggestions as to methods of curing any matters or things disapproved. The judgment rendered in this respect shall be final and conclusive. If plans are not approved or disapproved within thirty (30) days after the same have been submitted, it will be presumed that the same have been approved.

Section 3. Minimum Square Footage Within Improvements. The living area on the main residential structure (exclusive of porches and garages) shall not be less than nine hundred sixty (960) square feet.

Section 4. Utilities. No structure shall be used or occupied prior to connection to central sewer and water facilities. If underground electrical service is furnished each lot served will be required to pay a connection charge for the electrical service from the pedestal to the residence. This charge is to be paid to the Electric Power Company furnishing such service. After utilities are installed, future changes or additions must be underground and if street crossing is necessary, it must be done by boring beneath the surface and not by trenching the street.

Section 5. Location of Improvements Upon The Lot. No building or other improvements shall be located on any Lot nearer to the front line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall be located on any lot nearer than ten (10) feet to any side street line. No building shall be located nearer than five (5) feet to any interior side line. Corner residential lots shall be deemed to front on the street having the least frontage. It is the intent of Declarant that the area on each Lot between the street upon which it fronts and the front set-back line as indicated on the recorded plat shall be free of any structures whatsoever

except those for decorative or landscape purposes. The location of mail boxes is subject to Architectural Control.

Section 6. Composite Building Site and Resubdivision of Lots. Any owner of one or more adjoining Lots may consolidate such Lots into one single family residence building site, with the privilege of placing or constructing improvements on such site, subject to any existing utility or access easements, in which case setback lines shall be measured from the resulting side property lines rather than from the lot lines shown on the recorded plat. Any proposed composite building site(s) or resubdivision of lots must be submitted to the Architectural Control Committee for approval.

Section 7. Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat and no structure of any kind shall be erected upon any of said easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land within or affected by said easements.

Section 8. Prohibition of Trade and Offensive Activities. No activity whether for profit or not, shall be conducted 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. Motor bikes will not be permitted, if by reason of noise or manner of use they are considered to be a nuisance. Trucks over two (2) axles are prohibited from the subdivision without the prior approval of Declarant or the Association. No provision of this paragraph or any other provision contained herein shall be interpreted in any manner that would limit the right of Declarant, his heirs and assigns, or any building company operating with the consent of Declarant to maintain a sales office, agents, signs and any other marketing activity within the subdivision that Declarant may find necessary or convenient for the purpose of marketing homes and lots.

Section 9. Use of Temporary Structures. No trailer, tent, shack, garage, barn or other outbuilding or structure of a temporary character shall, at any time, ever be used as a residence, temporarily or permanently. After the residence is in place, a garage or carport of material similar to the main residential structure may be constructed subject to the same set-back requirements. A storage building may also be constructed of material similar to the main residential structure provided it is located 75 feet or more behind the front lot line. Such storage building must be not less than 100 square feet in area.

Section 10. Storage of Automobiles, Boats, Trailers and Other Vehicles. No boat trailer, boat, travel trailer, automobile, camper or vehicle of any kind shall be semipermanently or permanently stored in the public street right-of-way or forward of the front building line. Storage of such items and vehicles must be screened from public view, either within the garage or behind a fence which encloses the rear of the lot. Both prior to and after the occupancy of a dwelling on any lot, the owner shall provide appropriate space for off-the-street parking for his, and his guest's vehicles, including trailers. The parking of such vehicles on road shoulders for a period longer than two (2) hours is prohibited, except in front of (or beside owner's residence if a corner lot) in which case the maximum is twelve (12) hours. If parked for a longer period, Declarant or the Association shall have the right to remove and store such vehicles at owner's expense.

Section 11. Mineral Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations 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 lot. No derrick or other structures designed for the use of boring for oil, gas or other minerals shall be erected, maintained or permitted on any lot.

Section 12. Animal Husbandry. No horses, cows, hogs, poultry, or livestock of any kind (other than household pets of reasonable kind and number) may be kept on any lot. Should such pets become a nuisance in the opinion of Declarant or the Association, they must be removed from the premises and the Subdivision. No pets are to run at large. Declarant or the Association may require the erection of a fence to contain such household pets.

Section 13. Walls, Fences and Hedges. No wall, fence or hedge shall be erected or maintained nearer to the front lot line than the front building line on such lot, nor on corner lots nearer to the side lot line than the building setbackline parallel to the side street. No side or rear fence, wall or hedge shall be more than six (6) feet in height.

Section 14. Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the surface of the streets within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points 25 feet from the junction of the street curb lines shall be placed, planted or permitted to remain on any corner lots.

Section 15. Lot Maintenance. All purchasers of lots, their heirs and assigns, agree to keep the property purchased mowed and cleaned and if this is not done, Declarant or the Association may, without notice and without any liability for any type of damages, clean the lot and mow the grass and weeds and charge the purchasers or other subsequent owners of the property the cost of mowing and cleaning their said lot(s). No lot shall be used as a dumping ground for garbage, trash or rubbish. Trash, garbage and other waste shall be kept in sanitary containers. Any incinerator or other equipment for the storage or disposal of such material must be kept in a clean, sanitary and slighty condition. During the construction or installation of improvements, no trash shall be burned on any lot except in safe incinerators, without the prior approval of the Declarant or the Association, and unless same is so burned, shall be removed by the lot owner to a location designated by Declarant or the Association. No building material of any kind shall be placed or stored upon any lot except during construction; and then such material shall be placed within the property lines of the lot on which the improvements are to be erected. Property removed from any lot under this provision or any other provision contained herein that remains unclaimed shall be sold under the provisions of the applicable laws of abandoned property.

Section 16. Signs, Advertisements, Billboards. No sign, advertisement, billboard or advertising structure of any kind may be erected or maintained on any residential lot except one sign for each building site, displayed to the public view, of not more than five (5) square feet, advertising the property for sale or rent. Declarant, his agents or the Association shall have the right to remove any such sign, advertisement or billboard or structure which is placed on any residential lot without such consent, and, in so doing, shall not be liable and is expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 17. Antennae. If a central television cable system is available to the subdivision, no aerial antenna or similar structure shall project above the uppermost roof line of the residential structure on any lot, exclusive of chimney. Satellite receiving stations for personal home television reception are permitted if located behind the front building set back line.

Section 18. Drainage Structures. Drainage structures under private driveways shall always have a net drainage opening of sufficient size to permit the free flow of water without backwater. At the time (or before) a residence is installed, the owner must also construct a driveway of concrete at least eight feet wide in width, from the front building line to connect to the paved area of the street. The location and excavation of all drainage structures is subject to approval of Declarant or the Association.

Section 19. Firearms and Fireworks. The use or discharge of fireworks or firearms, including air or compressed gas devices, is expressly prohibited within the subdivision.

Section 20. Manufactured Housing Installation. All manufactured homes must be installed and tied down in compliance with the then applicable HUD Regulations, Texas Manufactured Housing Standards Act and the Rules and Regulations of the Texas Department of Labor and Standards. Under no circumstances will the installation of any manufactured home be allowed that is not a "manufactured home" as defined in the Texas Manufactured Housing Act, Article 5221f and any amendments thereto in effect at the time of the proposed installation. Plans for the foundation of each residential unit must be submitted to the Architectural Control Committee for review prior to moving the unit to the site. It is the intention of Declarant that the appearance of the home, when viewed from the front lot line, should indicate that the home is elevated no more than one foot above the ground level adjacent to the home. This is to apply to permanent installations and those that can be removed. All installations must be done to State of Texas requirements. Installations must be enclosed with material similar in appearance to the units exterior surface, or with brick or concrete. Approval of the plans relates to the acceptability of the designs appearance only, and the Committee may accept modifications if necessary due to the topography of the property.

Section 21. Butane Tanks and Gas Meters. All Butane tanks (or other bottled gas tanks) or gas meters must be fenced either with hedges, shrubs or privacy fencing in a manner so as to shield them from public view.

Section 22. Damage by Storm, Fire or Other Casualty. In the event that a home or other improvements situated on any lot are damaged or destroyed by storm, fire or other casualty, Owner shall commence, within thirty (30) days of said damage or destruction, to either remove said improvements and restore lot to a clean and slight appearance or to repair said damaged or destroyed improvements. The removal or repair of any damaged or destroyed improvements shall proceed in a diligent manner and in no case shall be completed in more than six months from the date of said damage or destruction occurred. All repair or replacement of improvements shall be subject to Architectural control.

ARTICLE II  
LAKE LIVINGSTON VILLAGE IMPROVEMENT ASSOCIATION  
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 classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of 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 determine, but in no event shall more than one vote be cast with respect to any Lot. Holders of future interests shall not be considered as Owners for the purposes of voting hereunder. If additional Sections and Lots are added to Lake Livingston Village they are to be added to those of all prior sections.

Class B. The Class B Member(s) shall be Declarant or its successors or assigns 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:

(1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

(2) on January 1, 1991.

ARTICLE III  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessment. Declarant, in the case of 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, shall be deemed to covenant and agree to pay to the Association annual assessments or charges and charges for the cost of enforcing any provision of these Covenants, including, but not limited to charges for Lot cleaning and mowing and the removal and storage of vehicles or other items stored on any Lot in violation of these Covenants. Such assessments shall be established and collected as hereinafter provided. For the purposes of this paragraph, the term "Lot" shall be deemed to refer to any residential unit comprising not more than two of the lots as shown on the recorded plat of Lake Livingston Village, Section One. An additional assessment shall be payable as to each additional lot which comprises any residential unit.

Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lots against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to enforce these restrictions, to pay for the cost of street lighting, street maintenance and the promotion of the recreation, health, safety and welfare of the Owners of the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the third year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be \$120.00 per Lot.

(a) From and after January 1 of the third year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year by an amount equal to not more than ten percent (10%) above the maximum annual assessment which could have been made without a vote of the membership in the case of the previous year.

(b) From and after January 1 of the third year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased to an amount in excess of ten percent (10%) of the maximum assessment for the previous year by a vote of two-thirds (2/3) of the votes in each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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

Section 4. Notice and Quorum for Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be mailed (by U.S. First Class mail) 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 a minimum of 10% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present at any such meeting, the meeting shall be adjourned but another meeting may be called subject to the same notice requirements, but the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum applicable in the case of the preceding meeting to each class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.



Section 5. Date of Commencement of Annual Assessments.

Improved Lots which are not occupied by a residence and which are owned by Declarant, a builder, or a building company, shall be assessed at the rate of one-third (1/3) of the annual assessment above. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the first Lot to an owner as to Class A Members, and on January 1, 1986 as to Class B Members. The annual assessment shall be adjusted according to the number of months remaining in the then current 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 mailed (by U.S. First Class Mail) to every owner subject thereto. 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 and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the owner but may deliver such certificate to any person who, in the Association's judgement, has a legitimate reason for requesting same.

Section 6. 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 until paid at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Lot involved. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 7. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

ARTICLE V  
GENERAL PROVISIONS

Section 1. Enforcement. The Association, Declarant 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, Declarant or 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. Acquiescence, regardless of time involved, in any violation shall not be deemed a waiver of the rights to enforce against the violator or others, the conditions and covenants so violated or any other conditions; and Declarant or Association shall have the right to enter the property of the violator and correct the violation, or to require that the same be corrected, and to recover the cost or damages thereof.

Section 2. Severability. Invalidation of any covenant or restriction (by court judgement or otherwise) shall not affect, in any way, the validity of all other covenants, restrictions, reservations and conditions, all of which shall remain in full force and effect.

Section 3. Amendments. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) 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 may be amended at any time when an instrument setting forth said changes and signed by those persons holding a majority of votes in the Association is placed on record in the Real Property Records of Polk County, Texas.

Section 4. Annexation.

(a) 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.

(b) Staged Development. Additional land within the area described in Volume 158, Page 3 of the Deed Records of Polk County, Texas may be annexed by the Declarant without the consent of members at any time.

Section 5. FHA/VA Approval. As long as there is a Class B membership, and if Lake Livingston Village, Section One is approved by the Department of Housing and Urban Development for FHA Title II and VA Financing, the following actions will require the prior approval of the Federal Housing Administration: annexation of subsequent sections of Lake Livingston Village and amendment of this Declaration of

Covenants, Conditions and Restrictions; and Dedication of Common Areas.

Section 6. Books and Records. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation, Bylaws of the Association, and Restrictive Covenants shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

Section 7. Omissions. If any punctuation, word, clause or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

Section 8. Joinder by Community Association. Lake Livingston Village Improvement Association joins herein for the purposes of evidencing its approval and acceptance hereof.

Section 9. Acceptance by Owner. By acceptance of a deed or contract conveying ownership to any Lot(s) covered herein, Owner accepts and agrees to abide by the Covenants and Restrictions and provisions for fees and assessments set forth herein whether or not any such reference to said Covenants and Restrictions was cited in said deed or contract.

EXECUTED this the 18<sup>th</sup> day of June, 1985.

FOX-HANCOCK, INC.

By [Signature]  
Dale Fox; President

LAKE LIVINGSTON VILLAGE IMPROVEMENT ASSOCIATION, INC.

By [Signature]  
President

ATTEST:

By [Signature]  
Secretary

ATTEST:

By [Signature]  
Secretary

BEAVER CREEK AREA OF SECTION ONE  
LAKE LIVINGSTON VILLAGE  
RESTRICTION AMENDMENT.

8627

State of Texas ]  
County of Polk ]

Know All Men By These Presents


That Lake Livingston Village, Inc. desires to amend the restrictions as presently recorded in Volume 506 Page 453 of the Polk County Deed Records as follows:


Change the one sentence in Article 1, Section 1 (Use Restrictions) to read; "The installation of single section HUD Code Manufactured Homes is prohibited in Lake Livingston Village-Section One-Lots One through Thirty-Eight (1-38) and One Hundred Three through One Hundred Thirty-Seven (103-137)".

All other covenants, conditions and restrictions of Lake Livingston Village-Section One will remain as presently recorded, but this change merely releases Lot Numbers Thirty-Nine (39) through One Hundred Two (102) (Sixty-Four lots past the end of the concrete street) to make it permissible for the installation of single section HUD Code Manufactured Homes. Article 1, Section 3 remains as is, i.e. Nine Hundred Sixty (960) square feet being the minimum living area.

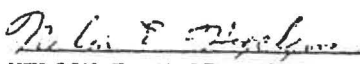
Executed this 15 day of August 1986.

Lake Livingston Village, Inc.


  
Jimmy D. Fox, Secretary

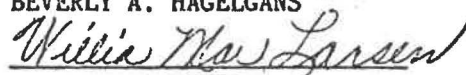
  
Dale E. Fox, President

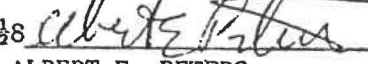
Joined by the present lot owners in Lake Livingston Village, Section One as follows:

Lot #1   
NELSON E. HAGELGANS

  
BEVERLY A. HAGELGANS

Lot #5   
DONALD R. LARSEN

  
WILLIA MAE LARSEN

Lot 7 & 1/8   
ALBERT E. PETERS

  
B.W. JOYCE PETERS

Lot 9 & 1/8   
MICHAEL HANCOCK

  
DORRI LYNN HANCOCK