

123079

PEREGRINE ESTATES, SECTION II
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE STATE OF TEXAS §

COUNTY OF WALLER §

THIS DECLARATION is made on the date hereinafter set forth by the J. S. NORMAN REALTY, INC., a Texas corporation, having its principal office in Harris County, Texas, acting herein by and through its duly authorized officers, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property that is more particularly described in Exhibit "A," attached hereto and which is incorporated herein for all purposes.

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 all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS AND DESCRIPTIONS

The terms set forth herein shall have the meanings indicated hereinafter, unless the context of a provision shall expressly indicate otherwise.

1.01. "Association" shall mean and refer to that Texas non-profit corporation, its successors and assigns, the Members of which are Owners, and the name of which is: PEREGRINE COMMUNITY ASSOCIATION.

1.02. "Declarant" shall mean and refer to the party executing this Declaration.

1.03. "Declaration" shall mean and refer to the easements, restrictions, covenants, conditions, and all other provisions set forth in this document, and as it may from time to time be amended.

1.04. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map or plat of the Properties with the exception of Reserves "A" and "B".

1.05. "Member" shall mean and refer to a Member of the Association.

1.06. "Mortgagee" means an owner and holder of a valid promissory note, the payment of which is secured by a deed of trust constituting a valid first lien on a Lot.

1.07. "Occupant" means a person, or persons, other than an Owner, in possession of a Lot, including contract purchasers.

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1.08. "Owner" shall mean and refer to the record owner, whether one or more persons or parties, of a fee simple title to a 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.

1.09. "Properties" shall mean and refer to that certain real property described in Exhibit "A," and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.10. "Rules and Regulations" shall mean and refer to the policies, rules and regulations duly adopted by the Association that are reasonably necessary to carry out the obligations of the Association under the Declaration, the Association's articles of incorporation, and bylaws.

ARTICLE II
LIMITATION ON USE OF THE PROPERTIES

The limitation on the use and occupancy of the Properties shall be as follows:

2.01. RESUBDIVISION OR CONSOLIDATION. None of the Lots shall be resubdivided in any fashion except that any Owner of two or more adjoining Lots may subdivide or consolidate such Lots into as many building sites as there were original Lots, with the privilege of constructing improvements as permitted in this Article on each resulting building site, and any Owner of a Lot that is 1.92 acres or greater may subdivide the Lot into two Lots with no less than .90 acre in each subdivided Lot with the privilege of constructing only one single family dwelling as permitted in this Article on each resulting building site.

2.02. TYPE OF BUILDINGS PERMITTED. No building shall be erected, altered, placed or permitted to remain on any Lot other than two detached single-family dwellings not to exceed two stories in height, garage, and barns and/or utility buildings. This provision as to "single-family dwellings" shall not be binding as to Reserves "A" & "B". Under this provision mobile homes are specifically excluded from being placed or used on the Lots.

2.03. MINIMUM FLOOR AREA. Any single-family dwelling constructed on the Lots shall have a ground area of not less than 1,400 square feet for primary dwelling and 1,200 square feet for secondary dwelling, exclusive of open or screened porches, terraces, patios, driveways, carports, and garages.

2.04. BUILDING LINES. No building shall be located on any Lot nearer to a street line than the minimum building set-back lines shown on the recorded plat. No side or rear yard shall be less than twenty (20') feet. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of the building.

2.05. RESIDENTIAL USE. Except for Reserves "A" and "B," no Lot or any part thereof shall be occupied or used for any purpose other than as a private single-family residence for the Owner, his family, guests and tenants. An Owner may engage in an occupation on his Lot provided it does not detract from the residential character of the Lot, depend on visits from the public, and Owner actually occupies his Lot as his principal residence. Notwithstanding the foregoing, Lots owned by Declarant may be used by it for sales, and administrative purposes.

2.06. SIGNS. No sign or display or any kind shall be displayed on or from any Lot which is visible from a street, without the prior written consent of the Association; however, one sign of not more than five (5) square feet in area advertising a Lot for sale may be posted on that Lot. During the initial construction and sales period Declarant shall be exempted from this covenant.

2.07 ANIMALS AND PETS. No animals, livestock or poultry of any kind shall be raised, bred, or kept in any lot for commercial purposes. No swine shall be allowed for any purpose other than an approved FFA project. Not more than three (3) horses or two (2) cows, or a total of three (3) in combination thereof, may be kept on a lot. Dogs, cats or other household pets or any other animals may be kept subject to Rules and Regulations of the Association.

2.08 NUISANCES. No noxious or offensive activity shall be carried on in any lot, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners.

2.09 MINERAL OPERATIONS. No gas or oil drilling, development, or refining, nor quarrying or mining operations of any kind is permitted upon any part of the Properties except on the Drill Sites.

2.10 COMPLIANCE WITH LAW. All valid laws of governmental bodies having jurisdiction over the Properties shall be observed.

2.11 SALES OFFICE. Declarant may establish a temporary sales office upon or in the Properties during the initial sales period.

2.12 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, temporarily or permanently, without written consent of the Association.

2.13 GARBAGE AND REFUSE DISPOSAL. No portion of the Properties 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 it from public view. All incinerators or other equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition. There is reserved in favor of the Association the determination of the methods of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal contractor(s).

2.14 SEWAGE TREATMENT. An individual sewage treatment system, in compliance with all governmental requirements, shall be installed and maintained on each lot by the occupant-Owner.

2.15 WATER SUPPLY. An individual water supply system, in compliance with all governmental requirements, shall be installed and maintained on each lot by the occupant-Owner.

2.16 FENCES, WALLS, ETC. No fence, wall, or hedge shall be placed or permitted to remain on any lot nearer to the street or streets adjoining such lot than the building set-back lines shown on the recorded plat of the Properties. This provision may be waived in writing by the Architectural Control Committee provided such fence, nearer the street than the building set back line(s), is decorative, of sound materials, and the Committee is satisfied that such fence will be maintained in a proper manner.

2.17 VEHICLES. No truck, bus, boat or trailer shall be left parked in the street in front of any lot more than 48 hours. No inoperable vehicle, boat or trailer shall be permitted on any portion of the lot for more than 72 hours. No trucks larger than 10,000 G.V.W. shall be parked on any lot or street at any time, except with written approval of the Association.

ARTICLE III
ARCHITECTURAL CONTROL

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3.01 ARCHITECTURAL CONTROL COMMITTEE. The Association shall designate and appoint an Architectural Control Committee consisting of not less than three (3) persons which Committee shall serve at the pleasure of the Association.

3.02 APPROVAL OF PLANS & SPECIFICATION. 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, color 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 Architectural Control Committee.

3.03 FAILURE OF COMMITTEE TO ACT. In the event the 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, but no other provision of the Declaration, will be deemed to have been fully complied with.

ARTICLE IV
THE ASSOCIATION

There now exists a non-profit corporation known as "PEREGRINE COMMUNITY ASSOCIATION," and when the word Association is used in this Declaration, it refers only to this existing corporation.

4.01 QUALIFICATION & VOTES. Every Owner of a Lot which is subject to assessment shall be a Member of the Association and shall have one vote for each Lot he owns. Such membership is appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.02 SUSPENSION OF VOTING RIGHTS. The Association has the right to suspend the voting rights of a Member for any period during which any assessment against his Lot is due and payable and it remains unpaid. The Association shall give such Member ten (10) days prior written notice of such suspension of his voting rights.

4.03 CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner, 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 or capital improvements, understanding that such assessments shall be established and collected as provided for herein. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall: (1) be a charge on the land and shall be a continuing lien upon the Lot and its improvements, if any, against which each such assessment is made; and (2) shall also be the personal obligation of the person or party who was the Owner of such Lot and its improvements, if any, at the time when the assessment fell due; however, the personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Notwithstanding the foregoing, the Lots owned by Declarant shall not be subject to such charges or liens, neither shall Declarant be liable personally for any assessment, for a period of five (5) years from date of recording of this Declaration.

4.04 PURPOSES OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Members, including maintenance of all private roads not located on the lots, and if it is determined by two-thirds (2/3) Vote of the Members, to provide domestic water, sanitary sewer and garbage pick-up service for the Lots.

4.05 ANNUAL ASSESSMENT. Until January 1 of the year immediately following the commencement of the annual assessments, the maximum annual assessment, per Lot, shall be One Hundred Dollars (\$100.00). The Association may determine that the annual assessment shall be made in monthly installments.

a. From and after January 1 of the year immediately following the commencement of the annual assessments, the maximum annual assessment may be increased each year not more than five percent (5%) (such increase may be cumulative from year to year) above the maximum for the previous year WITHOUT A VOTE OF THE MEMBERS.

b. From and after January 1 of the year immediately following the commencement of the annual assessments, the maximum annual assessment may be increased above five percent (5%) BY THE VOTE OR WRITTEN ASSENT of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors may not fix the annual assessment at an amount in excess of the maximum authorized under a. or b. above.

d. The Board of Directors shall fix the annual assessment at an amount that it shall reasonably determine to be sufficient for the Association to meet its financial obligations including contributions for capital improvement and/or replacement reserves.

4.06 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. 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, including fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of two-thirds (2/3) of the votes of the Members.

4.07 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to all Lots on the first day of the calendar month more than thirty (30) days following the Contract of Sale of the first fifty (50) lots. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Association shall, upon demand, and for a reasonable charge, furnish a certificate to either the Owner or any person or party having a financial interest in the Lot, signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

4.08 SUBORDINATION OF ASSESSMENTS' LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

4.09 EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment, or installment thereof, not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) 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 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 or foreclosure by sale, as a mortgage or deed of trust lien on real property. The Owner hereby expressly grants to the Association a power of sale in connection with the lien that may be foreclosed by sale of the Lot in the same manner as a deed of trust lien may be foreclosed by sale. In connection with such right of foreclosure by sale the Association hereby designates the then current president of the Association as the Trustee, the lien being in favor of the Association, for the use and benefit of all other Members. No Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of his Lot.

ARTICLE V
MORTGAGEES' PROTECTION

Notwithstanding any other provisions of this Declaration the following provisions are incorporated in order to facilitate the financing of the purchaser of dwellings by Owners.

5.01 NOTICES. A first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by a Owner mortgagor, of any obligation under this Declaration and other documents governing the Properties which is not cured within sixty (60) days.

5.02 FORECLOSURE EXEMPTION. Any first mortgagee which obtains title to a Lot pursuant to the remedies provided in the mortgage instruments, or foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure will be exempt from any "right of first refusal" contained in this Declaration or other documents governing the Properties, if any.

5.03 ASSESSMENTS. Any first mortgagee which obtains title to a Lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such Lot's unpaid assessment which accrue prior to the acquisition of title to such Lot by the first mortgagee.

ARTICLE VI
GENERAL PROVISIONS

6.01 AMENDMENT. The covenants and restrictions within this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended during the first twenty (20) year period by an instrument approved, executed and acknowledged by the Owners of not less than ninety percent (90%) of the total number of Lots, and thereafter by an instrument approved, executed, and acknowledged by the Owners of not less than seventy-five (75%) of the total number of Lots; however, any such amendment shall not be effective until it is duly recorded in the official public records of real property of the county in which is located the Properties.

Notwithstanding the foregoing, or any other provision of this Declaration, Declarant, for so long as Declarant is the Owner of two (2) or more Lots, hereby reserves the right to amend this Declaration for the following purposes:

a. To correct errors in this Declaration;

b. To cause the Declaration to conform to the reasonable requirements of financial institutions so that financing of Owner purchaser of Lots, or dwellings thereon, will thereby be facilitated.

6.02 ANNEXATION. Additional property may be annexed to the Properties with the consent of two-thirds (2/3) of the Members; or by Declarant of any adjoining land.

6.03 APPLICABLE LAW. This Declaration shall be governed by and be construed in accordance with the laws of the State of Texas.

6.04 APPROVED BY THE ASSOCIATION. Wherever the term "approved by the Association," or any other provision hereof indicates that an action is to be taken by the Association, it shall be understood that it is the Board of Directors of the Association that will take such action and not the Members of the Association unless the context of the provision shall specifically state that the action is required of or by the Members of the Association.

6.05 ATTORNEY'S FEES. If any action at law or in equity including an action for declaratory relief, is brought to enforce or interpret the provisions hereof, the prevailing party shall be entitled to recover reasonable attorney's fees from the opposing party, which fees may be set by the court in the trial of the matter, or may be enforced in a separate action brought for that purpose. Such attorney's fees shall be in addition to any other relief which may be awarded.

6.06 ENFORCEMENT. The Association, or any Owner, or group of Owners, 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. Any failure to so enforce this Declaration shall not be deemed a waiver of such breach of failure to adhere to the provisions hereof.

6.07 GENDER & NUMBER. Wherever the context shall so require, all words herein in any gender shall be deemed to include all other genders, and all singular words shall include the plural, and all plural words shall include the singular.

6.08 HEADINGS. The headings used in the Articles and Sections of this Declaration are used for administrative purposes only, and do not constitute substantive matter to be considered in construing the terms hereof.

6.09 PARTIES BOUND. This Declaration shall be binding upon and inure to the benefit of the successors and assigns of Declarant, and acceptance of any deed or other instrument evidencing an interest in any part of the Properties shall be conclusive of such issue.

6.10 SEVERABILITY. If any term, provision, covenant, or condition of this Declaration is held by a court of competent jurisdiction in a final judgment to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect and shall in no way be affected, impaired, or invalidated.

6.11 VENUE. The obligations and undertakings of each person or party subject to this Declaration shall be performable in the county in which is located the Properties.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand and seal this 18th day of May, 1982.

J. S. NORMAN REALTY, INC.

ATTEST:

H. H. Norman
H. H. Norman, Secretary

By J. S. Norman, Jr.
J. S. Norman, Jr., President

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared J. S. NORMAN, JR., President of J. S. NORMAN REALTY, 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 and as the act and deed of said corporation.

GIVE UNDER MY HAND AND SEAL OF OFFICE on this the 18th day of May, 1982.



GAY NELL BROWN
Notary Public, State of Texas
My Commission Expires Nov. 22, 1984

Gay Nell Brown
Notary Public, State of Texas

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EXHIBIT "A"
LEGAL DESCRIPTION

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Peregrine Estates, Section II, according to
the plat thereof filed in the County Clerk's
Office of Waller County, Texas, under County
Clerk's File No. 123078.

STATE OF TEXAS
COUNTY OF WALLER }

I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and was
duly RECORDED, in the Volume and Page of the county
RECORDS of Waller County, Texas, as stamped hereon by
me, on
MAY 2 1 1982



ELVA D. MATHIS
COUNTY CLERK
WALLER COUNTY, TEXAS

Cheryl J. Jenkins
CHERYL J. JENKINS Deputy