

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

2349

37.00 DEED
0 1 02/02/86

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THIS DECLARATION, made on the date hereinafter set forth by The Nelson Engineering Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is owner of the property in the City of DeSoto, County of Dallas, State of Texas, which is more particularly described as:

BEING a tract of land situated in the City of DeSoto, Dallas County, Texas, said tract being part of First Replat Timberbrook, an addition to the City of DeSoto, as recorded on _____ of the Map Records of Dallas County, and being more particularly described as follows:

BEGINNING at an iron rod found on the Southerly right-of-way line of Belt Line Road (100 foot R.O.W. at this point), said point being the Northwest corner of a tract of land conveyed to James W. Hammond, Jr. as recorded in Volume 84023, Page 73 of the Deed Records of Dallas County, said point also being the Northeast corner of said Timberbrook;

THENCE South 00 deg 18 min 18 sec East, along the West line of said James W. Hammond, Jr. tract, 804.72 feet to an iron rod set for corner, said point being on the Westerly right-of-way line of Polk Street (100 foot R.O.W.);

THENCE along the Westerly right-of-way line of said Polk Street with a curve to the left, said curve having a central angle of 16 deg 40 min 51 sec, a radius of 1050.00 feet and an arc length of 305.69 feet, said curve also having a chord bearing of South 10 deg 02 min 50 sec West for a chord distance of 304.61 feet to an iron rod set for corner, said point being on the North line of Oakmont, an addition to the City of De Soto, as recorded in Volume 85166, Page 2204 of the Map Records of Dallas County;

THENCE South 88 deg 27 min 25 sec West, along the North line of said Oakmont, 719.66 feet to an iron pipe found for corner, said point being the Southeast corner of a tract of land conveyed to John M. Gailys as recorded in Volume 82194, Page 1368 of the Deed Records of Dallas County;

THENCE North 05 deg 13 min 31 sec East, along the East line of said John M. Gailys tract, 426.15 feet to an iron rod set for corner;

THENCE North 54 deg 54 min 40 sec East, 108.20 feet to an iron rod set for corner;

THENCE North 17 deg 48 min 18 sec West, 134.20 feet to an iron rod set for corner;

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THENCE North 48 deg 17 min 52 sec East, 240.32 feet to an iron rod set for corner;

THENCE North 29 deg 39 min 51 sec East, 386.87 feet to an iron rod set for corner, said point being on the Southerly right-of-way line of hereinbefore mentioned Belt Line Road (variable R.O.W. at this point);

THENCE along the Southerly right-of-way line of said Belt Line Road as follows:

South 89 deg 45 min 00 sec East, 70.00 feet to a R.O.W. marker found for corner;

North 73 deg 33 min 03 sec East, 52.20 feet to a R.O.W. marker found for corner;

South 89 deg 45 min 00 sec East, 191.00 feet to the POINT OF BEGINNING, and containing 15.2491 acres of land.

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 the TIMBERBROOK HOMEOWNER'S ASSOCIATION, its successors and assigns.

SECTION 2. "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 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 and refer to all real property (including the improvements thereto) 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:

BEING all areas on the Timberbrook Subdivision Plat designated "Common Area", and all areas designated "Access and Utility Easement".

SECTION 5. "Lot" shall mean and refer to any plot of land shown on the Plat to be conveyed to an individual owner and developed as a building site.

SECTION 6. "Declarant" shall mean and refer to Nelson Engineering Corporation, its successors and assigns.

SECTION 7. "City" shall mean and refer to the City of DeSoto, a municipal Corporation in the State of Texas.

SECTION 8. "Flat" shall mean and refer to the FIRST REPLAT TIMBERBROOK SUBDIVISION duly approved by the City and recorded on August , 1986 in Volume , Page of the Map Records of Dallas County, Texas.

ARTICLE II
PROPERTY RIGHTS

SECTION 1. Owner's 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 the recreational facilities by an owner for any period during which any assessment against a 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 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 agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

SECTION 2. Delegation of Use. Any owner may delegate, in accordance with the By-laws, the right of enjoyment to the Common Area and facilities to family members, tenants, or contract purchasers who reside on the property.

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 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 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 votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
(b) on August 1, 1996.

Builder

> NO B membe

*Done
Vote*

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 therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees 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 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 successors in title unless expressly assumed by them.

SECTION 2. Purpose of Assessment.

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 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 FOUR-HUNDRED TWENTY dollars (\$420.00) per Lot or the maximum permitted by law.

(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 6% 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 6% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

~~(c)~~ (c) The Board of Directors may 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 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 assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 5. 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 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.

SECTION 7. 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 month following the conveyance of the Common Area. 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 a Director of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

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 12% per annum, or the highest rate of interest allowed by law, whichever is lower. 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 assessments provided for herein by non-use of the Common Area or abandonment of the Lot.

SECTION 9. Subordination of the Lien to Mortgages. The lien of the assessments 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 assessments thereafter becoming due or from the lien thereof.

ARTICLE V

USE REGULATIONS

SECTION 1. Compliance With Municipal Ordinances. Land use in the TIMBERBROOK SUBDIVISION shall comply with all conditions of Planned Development District Number 24, as amended, all applicable conditions of the zoning requirements of the City and all other applicable ordinances of the City concerning public health, safety and welfare.

SECTION 2. Building Lines. Building lines shall comply with the conditions specified in Planned Development District Number 24.

SECTION 3. Dwelling Size. The minimum enclosed living area for a dwelling unit shall be equal to, or greater than, 1400 square feet.

SECTION 4. Maximum Height. Units shall not exceed two (2) stories in height.

SECTION 5. Garage Requirements. A two car garage shall be constructed with each unit on the same lot as the unit.

SECTION 6. Accessory Buildings. No accessory buildings, other than those permitted in DeSoto SF-1 zoning, shall be constructed on any portion of any lot.

SECTION 7. Screening. The Owner shall construct and maintain a suitable enclosure to screen from public view the drying of clothes, yard equipment and wood piles or storage piles which are incidental to the normal residential requirement of a typical family.

SECTION 8. Yard Maintenance. Each Owner shall also maintain in an attractive manner and repair, when reasonably necessary, the grass, shrubbery, trees or other landscaping, sidewalks and other paving on the Lot.

SECTION 9. Other Use Regulations. To provide for the mutual safety and attractiveness of the community, the Board may, from time to time, establish additional regulations, under the following conditions:

(a) Federal, State and municipal statutes and ordinances are not abridged or violated,

(b) Assent of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting held in accordance with the rules set forth in Section 2 of Article III of the Declaration.

ARTICLE VI
USE OF LOTS AND COMMON PROPERTIES
PROTECTIVE COVENANTS

SECTION 1. Residential Uses. All lots shall be subject to the following restrictions:

(a) Temporary Structures. No structure or improvement may be constructed, placed or maintained on any lot prior to the construction of a permanent structure, except for temporary structures used exclusively in connection with construction of a permanent structure or improvement (i.e., contractor's storage shed).

(b) Recreational Vehicles. No boat, camper, trailer, airplane, recreational vehicle, inoperable motor vehicle, or similar vehicle may be stored outside a garage on any lot within the Properties; however, such vehicles may be kept in special storage areas on the common properties as may from time to time be designated by the Board.

(c) Pets. No wild or domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on a lot.

- (d) Noise. No exterior speakers, horns, whistles, bells or other sound devices shall be placed or used on any lot, except for devices used exclusively to protect the security of the property.
- (e) Signs. No signs may be placed on any lot except signs, in the customary size and shape, endorsing a political candidate or advertising the lot for sale, signs required by legal proceedings, signs erected by the developer, and such other signs as the Board may authorize.
- (f) Fires. Outdoor fires, including but not limited to trash and leaf burning, are prohibited, except for barbeque or cooking fires contained within proper cooking facilities and such other fires as may be permitted by the Board.
- (g) Antennae and Satellite Dishes. Exterior satellite dish or earth station reception devices, shortwave radio transmitting and receiving antennae, and similar structures, except for rooftop television antennae, are prohibited unless approved by the Architectural Control Committee.
- (h) Waste. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste of any nature shall not be kept on any part of the properties except in sanitary containers.
-  (i) Parking. No vehicle shall be parked on streets so as to obstruct ingress and egress by owners of lots, their families, guests and invitees except for reasonable needs of emergency, construction or service vehicles for a time limited to as briefly as possible. For a period of not to exceed forty-eight (48) hours, family guests and invitees of owners of lots may park their vehicles in guest parking areas provided on the common areas denoted on the plat. Guest parking areas are not intended for use by owners of lots for parking or storing boats, trailers, camping units or any personal vehicles and the Board of Directors may insure the proper use of said areas in such legal manner as it deems necessary. No vehicle shall park on any unpaved portion of any lot except where required for delivery, maintenance or health and safety reasons.
- (j) Obstructions, etc. There shall be no obstruction of the common properties nor shall anything be kept or stored in the common properties, nor shall anything be altered, or constructed or planted in, or removed from the common properties, without the written consent of the Board.
- (k) Restricted Actions By Owners. No owner shall permit anything to be done or kept on his/her lot or in the common properties which will result in the cancellation of or increase of any insurance carried by the Association, or which would be in violation of any law. No waste shall be committed in the common properties.
- (l) Damage To the Common Properties. Each owner shall be liable to the Association for any damage to the common properties caused

by the negligence or willfull misconduct of the owner or members of the owner's family, guests or invitees, to the extent that the damage shall not be covered by insurance.

SECTION 2. Exceptions. The Board may issue temporary permits to exempt any prohibitions expressed or implied by this section provided the Board acts in accordance with the intent of adopted plans and procedures and can show good cause.

ARTICLE VII

ZERO LOT LINE REGULATIONS

SECTION 1. Zero Lot Line Maintenance Regulations

- (a) Areas designated "Maintenance Easements" whether on lots or common areas as denoted on the plat are reserved for use and accommodation of maintenance of structures located on zero lot line lots, as permitted by Planned Development District Number 24.
- (b) "Maintenance Easements" shall remain free of any structures, obstructions or plant growth that would obstruct or inhibit the normal maintenance of structures or walls built on or within five (5) feet of the lot.
- (c) An owner of a zero lot line home, and his agents and representatives, shall have the right of ingress and egress onto, and use of, the maintenance easement which abuts such owner's lot for the purpose of inspection, maintaining and reconstructing parts of such owner's home without the necessity at any time of procuring the permission of the owner or occupant of the lot on which the maintenance easement is located.
- (d) By the purchase of a lot in the Properties, the owner of a lot which abuts a maintenance easement agrees to and does hereby release and hold harmless the Association, the Board, and the owner of the lot on which the abutting maintenance easement is located from any and all claims or demands resulting from any injuries or damages suffered by the owner of the lot abutting the maintenance easement, his agents or representatives, incurred as a result of the inspection, maintenance or reconstruction of such owner's zero lot line home.

SECTION 2. Zero Lot Line Walls.

- (a) No windows, doors or other openings of any kind may be placed in any wall built on or within five (5) feet of a property line.
- (b) Walls which are built on or within five (5) feet of a property line and which do not support a weatherproof roof structure (i.e., walls abutting an open courtyard or patio) shall be of a minimum height of six (6) feet.

SECTION 3. Alterations to Neighbor's Walls. The owner or owners of any lot located adjacent to a structure situated on a lot line may not alter, attach any fixtures, or make other construction to side walls without first obtaining permission in writing from (1) the owner or owners of the lot on which said structure is located and, (2) the Architectural Control Committee as provided for in Article 8.

ARTICLE VIII

ARCHITECTURAL CONTROL

SECTION 1. 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 reasonable harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by the Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated Architectural Control 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 IX

MAINTENANCE, REPAIRS AND IMPROVEMENTS

SECTION 1. Unit Exterior and Lot Maintenance. Each Owner shall maintain the exterior of his Unit in an attractive manner and shall not permit the paint, roof, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas and other exterior portions of his Unit to deteriorate in an unattractive manner. Each Owner shall be permitted, but shall not be required, to plant additional grass, shrubbery, trees, or other greenery on the Lot.

ARTICLE X

RIGHTS OF THE CITY

SECTION 1. Rights of the City.

A. The City shall have the right to perform the maintenance obligations of the Association if the Association fails to reasonably perform its maintenance obligations within ten (10) days after receipt by the Association of written notice from the City stating the nature and extent of the Association's failure to maintain common areas.

B. Upon assuming the maintenance obligation, the City may collect all assessments in accordance with the procedures set forth in the By-laws.

ARTICLE XI

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 way affect any other provisions which shall remain in full force and effect.

SECTION 3. Duration. The covenants and restrictions of 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.

1986 = 2006

SECTION 4. Amendment. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than eighty-five percent (85%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded.

SECTION 5. 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.

SECTION 6. FHA/VA Approval. 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.

noted

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7th day of August, 1986.

THE NELSON ENGINEERING CORPORATION
Declarant

By: [Signature]
B. L. Nelson, President

STATE OF TEXAS §
COUNTY OF DALLAS §

Before me, the undersigned, a Notary Public, on this day personally appeared B.L. NELSON, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said NELSON ENGINEERING CORPORATION, a corporation, and that he has executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, this 7th day of August, A.D. 1986.

[Seal]

[Signature]
Notary Public, State of Texas

My commission expires:
3-3-90

SUSAN PULK
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES 3-3-90

