

Covenants, Conditions and Restrictions

Bria Bend Subdivision

UPDATED DRAFT FOR REVIEW

Date: _____, 2021

Declarant: KAL EL, LLC.

Declarant's Address: 133 North Friendswood Drive #202, Friendswood, TX 77546

Property: That certain 123 acres of land, more or less, lying and being situated in Burleson County, Texas and being more particularly described in the attached Exhibit "A".

Definitions

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Declarant" means KAL EL, LLC, as Texas limited liability company, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Easements" means easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

"Lot" means each tract of land designated as a lot on the Plat.

"Owner" means every record Owner of a fee interest in a Lot.

"Plat" means the Plat of the Property recorded in Volume , Page of the Official Records of Burleson County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Residence" means a detached building designed for and used as a dwelling by a Single Family and constructed on one or more Lots.

"Single Family" means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in a Residence.

"Structure" means any improvements on a Lot (other than a Residence), including a fence, wall, guest house, swimming pool, outbuilding, shop, barn or similar improvement.

“Subdivision” means the Property covered by the Plat and any additional property made subject to this Declaration.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled or tracked vehicle.

Clauses and Covenants

A. Imposition of Covenants

1. Declarants imposes the Covenants on the Subdivision. All Owners and the other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lots agree that the Subdivision is subject to the Covenants.
2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the land within the Bria Bend Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.
3. Each Owner and occupant of a Lot agrees to comply with this Declaration and agrees that failure to comply may subject him to a fine, damages, or injunctive relief.

B. Plat, Easements and Setbacks

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.
2. *Utility Easements.* Utility Easements provided for each Lot’s survey, and as shown on the Plat for installation and maintenance of utilities are reserved for the benefit of all Owners. No utility company, water district, or other authorized entity using these Easements shall be liable for any damage done to other property of the Owner situated in the Easement. Right of use for ingress and egress shall be available at all times over any dedicated Easement for the purposes of installing, operating, maintaining, repairing, or removing any utility or any obstruction placed in such Easement that would interfere with the installation, maintenance, operation or removal of such utility. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.
3. *Setbacks.* No Residence or Structure shall be located on any Lot within fifty (50) feet from the front Lot line or nearer than thirty (30) feet to a side Lot line and fifty (50) feet from the rear Lot line. Further, no vehicle, building, shed, animal cage, garden or other Structure of any kind may be stored in, parked on or otherwise located within the setbacks established in this paragraph.

C. Use and Activities

1. *Single Family Residential, Agricultural or Recreational Use Permitted.* The Property may only be used for single family residential, agricultural, or recreational purposes conforming with other applicable covenants, conditions and restrictions.
2. *Permitted Use.* Only one (1) Residence for use by a Single Family may be constructed on any Lot.
3. *Business Use Prohibited.* No business nor business activity, whether for profit or not, shall be permitted in any Residence or on any Lot, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a Residence so long as: (a) the existence or operation of the business activity is not apparent by sight, sound or smell from outside the Residence; (b) the business activity conforms with other applicable covenants.
4. *Rubbish.* Trash and garbage shall be kept in proper receptacles.
5. *Sewage Disposal.* Sewage-disposal system is required to be designed, located, and or constructed in accordance to the requirements, and standards of state or county entities.
6. *Prohibited Activities.* Prohibited activities are –
 - a. any activity that is otherwise prohibited by this Declaration;
 - b. any illegal activity;
 - c. any nuisance or noxious or offensive activity;
 - d. any dumping of rubbish;
 - e. any open storage of –
 - i. building materials except during the construction or renovation of a Residence or Structure;
 - ii. unsightly objects unless completely shielded by a structure;
 - f. any keeping or operation of commercial dog kennels;
 - g. any keeping or operation of commercial chicken/swine houses or related poultry/swine business;
 - h. any commercial operation of a business or profession with the exception of reasonable home office use or owner short or long term leasing of residence;
 - i. installing, keeping, or storing a mobile home, modular home, manufactured home, or similar off site prefabricated or manufactured housing on a Lot;
 - j. storage of one (1) motor home or recreational vehicle (RV) is permitted on the owner's lot once construction of the Residence has begun or upon completion of a Structure that will be used to store motor home or RV. The temporary use of a motor home/RV is permissible by lot owners for recreational purposes not to exceed 45 days per calendar year and is permitted sixty (60) days prior to and during the construction of the residence unless stored in a Structure. Sewage must be disposed of offsite or into septic system;

D. Construction and Maintenance Standards

1. Lots

- a. *Subdivision Prohibited.* No Lot may be further subdivided.
- b. *Maintenance.* Each Owner must keep the Lot, Residence, and all Structures in a well-maintained, and orderly condition and shall in no event permit the accumulation of garbage, junk vehicles, trash or rubbish of any kind thereon.
- c. *Reasonable Construction Period.* All Residential structure improvements including but not limited to Residence, driveways, mailboxes, septic system, and water wells, must be completed within eighteen (18) months from the date the slab or foundation is poured or installed. All non-residential or “out building” structures must be completed within nine (9) months of the date in which construction of the structure is started.
- d. *Drainage.* Each Owner shall maintain and keep clean the drainage ways and culverts located on a Lot.

2. Residences and Structures

- a. *Required Area.* The total area of a Residence, exclusive of porches, garages, or carports, must be 1,200 square feet or greater.
- b. *Frontage Fences.* Four Board Fencing Fronting County Road 406 for property owners of Lot 1 through 6 is hereby defined and referred to as as “frontage fence”. Frontage fencing is limited to clear protectant stain unless the property owners of lot (1) through lot six (6) were to join in mutual written agreement to jointly alter the color or finish of the paint or stain that will maintain continuity of color and finish to the CR 406 Frontage fence. All other fencing that may front a private or other County maintained roadway will be defined and categorized as Perimeter fencing.
- c. *Perimeter fencing.* Acceptable perimeter fencing is five to seven wire barbed-wire, net or smooth wire field fencing, smooth wire horse fencing to include four board rail fencing provided it is constructed of 4x6 treated post on center every 8 feet with post concreted into ground , utilizing a minimum of 120 lbs of concrete with (4) 2x6 treated wood four board running boards and 2x6 treated top rail.
- d. *Guest House.* Only one structure other than the Residence can have any type of living facilities, limited to 1000 square feet of living space. Such guest quarters are considered an amenity of the Residence and in no way constitute another Residence.

3. Building Materials for Residences

- a. Air Conditioning.* Window or removable air conditioners may not be used in a Residence.

E. General Provisions

1. *Enforcement and Waiver.* Declarant, or any Owner shall have the right to enforce, by any proceeding at law or equity, all easements and Covenants imposed by this Declaration. Failure to enforce any Covenant shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound. Declarant shall have no liability for such enforcement or non-enforcement.
2. *Term.* This Declaration runs with the land and is binding for a term of ten (10) years. The term may be extended for an initial term of ten (10) years. Thereafter this Declaration automatically continues for successive terms of ten (10) years each, unless within six (6) months before the end of a term 67 percent of the Owners vote not to extend the term.
3. *Corrections.* Declarant may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.
4. *Amendment.* The Declarant shall have and reserve the right at any time and from time to time, without the joinder or consent of any other part to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record of the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or affect the vested property or other rights of any Owner or his/her mortgagee. Further, prior to the sale of any Lot to a person other than Declarant, the Declarant shall have and reserve the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record of the purpose of removing any Lot or portion of a Lot from the burdens of this Declaration. The Declarant reserves the right to place further specific Covenants on specific Lots at the time of original sale. This Declaration may otherwise be amended at any time by the affirmative vote of sixty seven percent (67%) of the Owners.
5. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.
6. *Notices.* Any notice required or permitted by this Declaration must be given in writing by certified mail, return receipt requested. Unless otherwise required by law or this Declaration, actual notice, however delivered, is sufficient.

7. *Pre-suit Mediation.* As a condition precedent to the commencement of a legal proceeding to enforce this Declaration, the Owners will mediate the dispute in good faith.
8. *Liberal Interpretation.* This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.