

VOL 357 329

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#4011RESTRICTIONS AND LIMITATIONS  
RAINBOW RANCH SUBDIVISION

HAYS COUNTY, TEXAS

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THE STATE OF TEXAS §

COUNTY OF HAYS §

COUNTY CLERK

Cornerstone Corporation, a Texas Corporation ("Owner"), as owner of all of the tracts contained in the Rainbow Ranch Subdivision, a subdivision of Hays County, Texas, as shown by the map or plat thereof on file and of record in the Office of the County Clerk of Hays County, Texas (herein called the "subdivision"), hereby establishes, adopts and imposes upon the subdivision the use limitations and restrictions herein set forth. The subdivision currently is encumbered with the Deed of Trust in favor of Robert Ragdale and M. Earl Bowden, and the Deed of Trust in favor of First Federal Savings & Loan Association of Austin, as recorded in the Deed of Trust Records of Hays County, Texas, which parties join herein as mortgagees for the sole purpose of acknowledging, ratifying and approving the creation of the covenants and restrictions herein set forth.

The restrictions, conditions and use limitations hereinafter set forth shall constitute covenants running with the land, shall be binding upon and inure to the benefit of Owner and Owner's successors and assigns, and upon all parties acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each party, by the acceptance of title to any tract herein described, shall agree and covenant to abide by and perform the terms, conditions, restrictions and covenants as set forth herein. Such restrictions, conditions and use limitations shall be made a part of each contract and/or deed executed by or on behalf of Owner conveying any tract herein described by reference to the place of record of this instrument and by acceptance thereof, the grantee, and all parties claiming under such grantee shall be subject to and bound thereby, and each such contract and/or deed shall be conclusively held to have been executed, delivered and accepted subject to all the terms, conditions, restrictions and covenants set forth herein. In the event, however, of the failure of any contract, conveyance and/or deed to any tract herein described to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any such contract, conveyance and/or deed of such tract shall be construed to be subject to the terms hereof.

## USE OF LAND

A. PRIMARY USE:

All tracts within the subdivision shall be used for single family residential purposes only and for no other purpose.

B. NUISANCES:

No noxious or offensive activity shall be carried on upon any tract, or anything be done thereon which may be or may become an annoyance or nuisance to the other parties owning tracts within the subdivision.

C. TEMPORARY STRUCTURES OR STORAGE:

No structure of a temporary character, nor any trailer, mobil home, basement, tent, shack, garage, barn or other outbuilding, or any part thereof, shall be used on any tract at any time as a residence or dwelling either temporarily or permanently; provided, however, during the initial construction of improvements upon a tract and for a cumulative period not to exceed 150 days, the owner of such tract may reside in a travel trailer, recreational vehicle or mobil home located upon such tract. No trailer, camp trailer, boat trailer or vehicle may be stored permanently or temporarily on any tract forward of the front building line.

DEEDS  
Hays County

All buildings and other improvements placed on any tract shall be newly erected on such tract and no second-hand or used buildings or other improvements shall be moved onto any of the tracts, and no used or second-hand materials may be used in the exterior of such improvements unless specifically approved in advance, in writing, by the Architectural Control Committee designated herein.

Garages and outbuildings that are appurtenant to a residence may be erected on each tract upon which a main dwelling has been erected.

No building material of any kind or character shall be placed or stored upon any tract until the owner is ready to commence construction of improvements, and then such material shall be placed within the property lines of the building site upon which the improvements are to be erected and shall not be placed in the roads or between any roadbed and property line.

**D. SIGNS:**

No sign of any kind shall be displayed to the public view on any tract, however this restriction shall not apply to one temporary sign not exceeding six square feet in area used by any builder, owner or developer advertising the tract for sale.

**E. LIVESTOCK AND POULTRY:**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any tract, except cats, dogs, common household pets, and except that 3 horses, 3 cows, 3 goats or sheep may be kept, provided they are not kept, bred or maintained for any commercial purpose.

**F. GARBAGE AND REFUSE DISPOSAL:**

No tract shall be used or maintained as a dumping ground for rubbish, trash or garbage. Other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**G. SEWAGE:**

No outside toilet will be permitted, and no installation of any kind for disposal or sewage shall be allowed which would result in raw or untreated sewage being carried into water bodies. No septic tank or other means of sewage disposal may be installed unless approved in advance of installation by the proper authorities having jurisdiction with respect thereto (including, but not limited to, Hays County, Texas, and the State of Texas). The drainage of septic tanks into any road, street, alley or public ditch, either directly or indirectly, is strictly prohibited.

**H. UPKEEP:**

The purchaser of any tract in the subdivision shall not permit the accumulation of trash, rubbish or other unsightly articles on the premises or in the street abutting the same. The area in all road or street easements between any pavement and the property line of the adjoining tract shall at all times be kept clean and free of unsightly obstacles. Owner or the Association (as defined herein) shall have the privilege of having any tract cleaned to comply with the above and any reasonable expense incurred in doing the same shall be paid by the owner of the respective tract or tracts.

**I. FURTHER SUBDIVISION:**

No tract as originally platted or conveyed out of Owner may be further subdivided into smaller lots or tracts containing less than two and one-half acres. This restriction shall not apply to any tract acquired by the Veterans Land Board of the State of Texas.

**J. CONSTRUCTION PERIOD:**

Construction of any improvements upon a tract must commence within three (3) months after approval by the Architectural Control Committee in the manner



herein provided, and upon the failure to timely commence such construction, the approval of the Architectural Control Committee shall automatically terminate and new approval for any such construction shall be required. Completion of construction once commenced shall be performed within nine (9) months from the date of commencement. The Architectural Control Committee may, upon written request, extend a commencement or completion of construction deadline occasioned by delays beyond the tract owner's reasonable control.

K. HUNTING:

No rifle hunting shall be conducted on any tract. Shotgun hunting using pellet loads only may be conducted by an owner on such owner's tract only and not across any tract boundary line.

ARCHITECTURAL RESTRICTIONS

The following architectural restrictions shall apply to all tracts within the subdivision:

A. DWELLING SIZE:

The total floor area of the enclosed main structure of any one story, single family residence, exclusive of patios, open porches, carports and garages, shall contain not less than 1000 square feet. The total floor area of the enclosed main structure of any two or three story single family residence shall contain not less than 1600 square feet, exclusive of patios, porches, carports and garages of which not less than 1,000 square feet shall be contained on the ground floor.

B. BUILDING LOCATION:

No building or structure (except only fences and driveways) shall be located on any tract nearer than 75 feet to any tract boundary line as originally platted or conveyed out of Owner or nearer than 50 feet to any interior boundary subsequently created by a subdivision of an original tract.

C. FOUNDATIONS AND EXTERIOR WALLS:

The foundation of any structure must be enclosed at the perimeter with masonry or wood construction which is in harmony with the remainder of the main dwelling. The design of and materials used in the exterior walls and surface areas of the main structure and any outbuildings must extend to the ground. Asbestos siding may be used only as approved by the Architectural Control Committee.

D. ARCHITECTURAL CONTROL:

No building, structure or improvement of any nature shall be erected, placed or altered on any tract until the construction plans and specifications and a plan showing the location of such building, structure or improvement has been approved by the Architectural Control Committee hereinafter designated, as to the quality of workmanship and materials, harmony of external design with existing structures, safety and as to location with respect to topography and finish grade elevation and meeting the other standards set forth in this instrument. The Architectural Control Committee initially is composed of Knox Williams, III, Robert E. Peerman and Jack Modesett, Jr. The mailing address for the Architectural Control Committee is P.O. Box 239, Dripping Springs, Texas 78620 or such other address as may be subsequently designated. The Committee may designate a representative to act for it. In the event of the death or resignation of a member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

The approval or disapproval of the Architectural Control Committee as required in these covenants shall be by majority vote and shall be in writing. In the event the Committee, or its designated representative, fails to approve



or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Final plans and specifications shall be submitted in duplicate to the Architectural Control Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans will be marked "Approved", and returned to the tract owner. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

#### EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are located in the 50' road easement shown on the field note description of each tract, and a 5' easement along the side property line of each tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of surface water drainage in the easements. Within such easements the right of use, ingress and egress shall be had at all times for the installation, construction, operation, maintenance, repair, replacement, relocation or removal of any utility and drainage facility, together with the right to remove any obstruction or improvement that may be placed within any such easement which may interfere with the use of such easement for the purposes herein set forth. The easement area of each tract and all improvements in it shall be maintained continuously by the owner of the tract, except for those improvements for which a public authority or utility company is responsible. A utility easement may be used for any and all utilities, water, sewage disposal, telephone, gas and/or electricity unless expressly limited to a specific use on the recorded plat of the subdivision or stated in the conveyance out of Owner.

#### DURATION OF RESTRICTIONS

These restrictions and covenants are to run with the land and shall be binding on all parties and all parties claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than seventy-five percent (75%) of the then owners of legal title to the tracts within the subdivision (as shown by the records of the County Clerk of Hays County, Texas) has been recorded in the Deed Records of Hays County, Texas, terminating these restrictions and covenants.

#### LANDOWNERS' AGREEMENT

In order to provide for the installation, operation, repair and maintenance of any roads, streets and any common areas within the subdivision (hereinafter referred to as "common areas"), Owner, for the benefit of itself and each successor owner of a tract within the subdivision, hereby binds Owner and Owner's successors and assigns, as follows:

At any time and from time to time as any of the common areas in the subdivision are not being maintained by Hays County, a city, or other type of taxing authority within which the subdivision is located, Owner may convey such common areas to a nonprofit corporation, or other organization, formed by Owner for the purpose of owning, maintaining, operating and repairing the common areas (the "Association") which shall have such supervisory authority to provide for the property maintenance, repair and operation of the common areas as may be appropriate to the subdivision. The Association shall not be liable to an owner of any interest in such subdivision for any damage, claim or expense for the manner in which said common areas are operated, maintained and repaired, or for failure to operate, maintain or repair such common areas.

Every owner of a tract within the subdivision shall be a member of the Association and such membership shall be appurtenant to and may not be separated



from ownership of a tract. The Association initially shall have two classes of voting members as follows;

Class A members shall be all tract owners with the exception of Owner, and shall be entitled to one vote for each tract owned. A tract shall be considered as "owned" when legal, record title thereto has been transferred from Owner to a third party. When more than one person owns or holds an interest in a particular tract, all such persons shall be members and the vote for such tract shall be exercised as they may determine among themselves; provided, however, in no event shall more than one vote be cast with respect to any tract owned by Class A members.

Class B member shall be the Owner, who shall be entitled to exercise four votes for each tract owned by Owner. The Class B membership shall cease and automatically be converted to Class A membership when the total votes outstanding in the Class A membership equal or exceeds the total votes outstanding in the Class B membership.

Additional property and common areas may be annexed to or associated with the subdivision at any time with the consent of two-thirds of all members of the Association.

In order to provide a fund for the proper maintenance of such common areas (hereinafter called "Maintenance Fund") there is hereby imposed upon each tract in the subdivision an annual maintenance charge which initially shall not exceed five dollars (\$5.00) per acre contained within the exterior boundaries of such tract; provided, however, such maximum per acre charge shall be adjusted on an annual basis commencing with calendar year 1986 for changes in the Consumer Price Index as follows: For calendar year 1986 and each subsequent calendar year the maximum charge per acre shall be adjusted by multiplying such initial maximum charge of five dollars (\$5.00) per acre by the ratio of the Consumer Price Index for the immediate preceding December divided by the Consumer Price Index for December, 1984 (basis 1967=100.0). The Consumer Price Index currently is published by the United States Department of Labor, Bureau of Labor Statistics. If such index ceases to be published, it shall be replaced by a substantially equivalent index selected by the Association. Such maintenance charge shall be determined annually by the Association based upon the projected cost of operating, maintaining and repairing such common areas. Once assessed by the Association such maintenance charge shall be payable at such intervals as selected from time to time by the Association by each owner of a tract in the subdivision. Any delinquent maintenance charge shall accrue interest at an annual rate determined from time to time by the Association (which shall not exceed the maximum lawful annual interest rate) from the date of delinquency until paid. The maintenance charge hereby imposed shall not apply to Owner, or to any tract to which Owner owns both the record and beneficial title.

Neither Owner nor the Association shall be liable or responsible to any party for failure or inability to collect the maintenance charge or any part thereof from any party.

The Association may use the Maintenance Fund or any part thereof, for developing, improving, operating and maintaining any and all of the common areas which the owners and/or occupants of tracts may be privileged or shall have the right to use, regardless of who may own such common areas and regardless of their location. It is agreed and understood that the judgment of the Association, as custodian and administrator of said Maintenance Fund, when used in good faith in the expenditure of said funds, or any part thereof, shall be binding, final and conclusive upon all parties in interest.

The payment of the maintenance charge hereby imposed shall be secured by an express lien in favor of the Association, as custodian and administrator of the Maintenance Fund, which lien is placed and imposed upon each tract in the subdivision subject to such charge. There is hereby granted unto the Association an express lien against each tract of the subdivision to secure all obligations of the owner or owners of said tract imposed upon such owner, or tract, under the provisions hereof. Such lien may be foreclosed in the same manner as a deed



of trust lien (Article 3810 V.A.C.S.) or a vendor's lien, without prejudice, however, to any other rights, powers or causes of action which the holder of said lien may have against any party who is then or who has theretofore been the owner of the property affected thereby. Said lien and all other provisions of this agreement shall be secondary and subordinate, however, to any liens, deeds of trust and encumbrances whatsoever given to secure all or any portion of the purchase price of any tract or any part thereof, or given to any party, agency or department of the State of Texas, bank, savings and loan association, insurance company, trust company, fraternal benefit organization, or corporation with banking or related powers, lawfully lending money for the purposes of making repairs or constructing dwellings or any other improvements whatsoever on any portion of any tract, or acquiring any promissory note or other evidence of indebtedness previously made for any such purpose. If any such lender or party acquiring such indebtedness should be in doubt as to the purpose for which such loan was made, or indebtedness incurred, or as to whether the lien herein granted is subordinate to any lien or deed of trust given for the purpose of securing any such mortgage or indebtedness, such lender or party acquiring such indebtedness may rely conclusively upon the written statement of the Association, with respect thereto. The Association may release or subordinate said lien and any other provision of this agreement, in whole or in part, with respect to any tract or tracts, should it deem it advisable, for any reason whatsoever, without affecting said lien insofar as it applies to any other tract or tracts within the subdivision.

Notwithstanding anything contained herein to the contrary, if record title to any tract is acquired by the Veterans' Land Board of the State of Texas (the "VLB") then so long as record title to such tract is held by the VLB, such tract shall not be subject to or encumbered with a lien to secure payment of the maintenance charge; however payment of the maintenance charge shall remain the personal obligation of the party purchasing such tract from the VLB and upon the conveyance of record title out of the VLB such tract again shall be subject to the lien herein created to secure payment of the annual maintenance charge.

In addition to the "common areas" the Association may own and/or operate any utility service (including by way of example but not limitation, water, gas, sewage and electricity) which is available for use by any tract within the subdivision, and it shall not be necessary for any such utility service to be limited only to the subdivision and may serve other property located without the subdivision. If the Association should become the owner and/or operator of any such utility service, then the Association may create and collect such installation fees, tap fees, service fees and similar fees from each user thereof in such amounts and at such times as deemed necessary or desirable by the Association, provided, however, the Maintenance Fund herein created shall not be used for any such utility service and the Maintenance Fund shall be only used for the common areas as herein described. Further the availability of any such utility service to any lot within the subdivision shall be subject to and conditioned upon the owner of each such lot complying with the rules and regulations of the Association and the payment of any such fees in regard to such utility service.

Any person negligently or willfully damaging or destroying all or any portion of the common areas shall be responsible to the Association for damages, and the Association shall use any funds collected by claim, lawsuit or settlement agreement arising out of such damage or destruction, to repair such damage or destruction, to the extent of such funds.

Association shall have, and it is hereby granted, the full right, power and authority to dedicate and/or convey all of its rights, titles and interests in and to the common areas or any part thereof and the Maintenance Fund as well as all of its powers, rights, liens, responsibilities, duties and authority under the terms hereof to a public or quasi-public corporation or entity with the power to tax such as a city, Hays County or a public district having such powers. All references to Association shall apply with equal force and effect to any successor in interest to Association.

#### ENFORCEMENT

The restrictions, conditions and use limitations herein set forth shall be binding upon Owner, its successors and assigns, and all parties claiming by,



through, or under them and all subsequent owners of each tract, each of whom shall be obligated and bound to observe such restrictions, conditions and use limitations, provided, however, that no such parties shall be liable except in respect to breaches committed during his or their ownership of said tract. The violation of any such restriction, condition or use limitation, shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against said tract or any part thereof, but such liens may be enforced against any and all property covered thereby, subject, nevertheless, to the restrictions, conditions and use limitations herein mentioned. Owner, or the owners of any tract in the subdivision, or the Association, its successors and assigns, shall have the right to enforce observation or performance of the provisions of this instrument, and if any party or parties violates or attempts to violate any of the restrictions, conditions or use limitations contained herein, then it shall be lawful for such parties, or any of them, to prosecute proceedings at law or in equity against the party violating or attempting to violate the same, either to prevent such violations, or to correct such violation, or to recover damages, or to obtain such other relief for such violations as then may be legally available.

## AMENDMENT

At any time the owners of the legal title to sixty percent (60%) of the tracts in the subdivision (as shown by the records of the County Clerk of Hays County, Texas) may amend the restrictions, covenants, conditions, and matters set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Hays County, Texas, except that, prior to the expiration of ten (10) years from date hereof, no such amendment shall be valid or effective without the joinder of Owner, its successors or assigns.

## SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall not effect any of the other provisions which shall remain in full force and effect.

## DEDICATION

This instrument of dedication relates to and affects the above described property, and shall not affect other property not herein described.

DATED this the 2nd day of April, 1981.

ATTEST:

By:

Secretary

OWNER:

CORNERSTONE CORPORATION

By:

President

MORTGAGEES:

Robert Ragsdale

M. Earl Bowden

FIRST FEDERAL SAVINGS ASSOCIATION  
OF AUSTIN

By:

ALFRED STAHEL  
SR. VICE-PRESIDENT

E. Skaggs, Assistant Secretary



357-336

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jack Modessett, Jr., known to me to be the person whose name is subscribed to the foregoing instrument as President of Cornerstone Corporation; a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 27 day of April, 1981.

John P. Burke, Jr.  
Notary Public in and for  
Harris County, Texas

THE STATE OF TEXAS

COUNTY OF Tarrant

BEFORE ME, the undersigned authority, on this day personally appeared Robert Ragsdale, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 17 day of April, 1981.

Paul E. Burke  
Notary Public in and for  
Tarrant County, Texas

My Commission Expires: 6-1-82

THE STATE OF TEXAS

COUNTY OF Harris

BEFORE ME, the undersigned authority, on this day personally appeared M. Earl Bowden, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 24 day of April, 1981.

Robert Mueller  
Notary Public in and for State of  
Texas County, Texas

My Commission Expires: 10/20/85



VOL 357 IN 337

THE STATE OF TEXAS

COUNTY OF TRAVIS

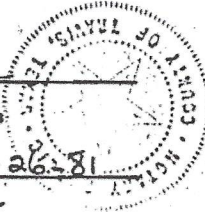
BEFORE ME, the undersigned authority, on this day personally appeared ALFRED STAENLY, known to me to be the person whose name is subscribed to the foregoing instrument as Sr. Vice President of First Federal Savings Association of Austin, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 3rd day of April, 1981.

Dorothy F. Teek  
Notary Public in and for  
Travis County, Texas

My Commission Expires: 10-26-81

DOROTHY F. TECK



COUNTY CLERK

FILED  
MAY 1 AM 9 39  
HAYS COUNTY, TEXAS

STATE OF TEXAS  
COUNTY OF HAYS

I hereby certify that this instrument was FILED on the  
date and at the place shown by me, and was duly  
RECORDED, in the public records of the county records  
of Hays County, Texas, on May 4, 1981.



May 4, 1981  
[Signature]  
COUNTY CLERK  
HAYS COUNTY, TEXAS



1319 417

AMENDMENT TO AND RESTATED DECLARATION OF  
RESTRICTIONS AND LIMITATIONS  
RAINBOW RANCH SUBDIVISION

This Amendment to and Restated Declaration of Restrictions and Limitations of Rainbow Ranch Subdivision is made this 8th day of JUNE, 1997.

WITNESSETH:

WHEREAS, the Declaration of Restrictions and Limitations for Rainbow Ranch Association (the "Declaration") is recorded in Volume 357, Page 329, of the Deed Records of Hays County, Texas; and

WHEREAS, The Declaration may be amended in whole or in part by the affirmative vote of the owners of the legal title to sixty percent (60%) of the tracts in the subdivision by filing an instrument containing such amendment in the Office of the County Clerk of Hays County, Texas, and

WHEREAS, more than sixty percent (60%) of the owners of tracts in the subdivision have voted to amend the Declaration to (1) remove the provision in paragraph C under USE OF LAND which had allowed temporary residence in a mobil home located upon a tract during initial construction of improvements upon a tract for a period not to exceed 150 days, and (2) change the annual maintenance charge provided under LANDOWNERS' AGREEMENT to \$140.00 per tract per year through calendar year 1999 and adjusted in each subsequent calendar year using a ratio of the Consumer Price Index; and

WHEREAS, the Members of the Association wish to make the amendments to the Declaration and restatement of the Restrictions and Limitations a matter of public record by recording the amendments and restatement in the Deed Records of Hays County, Texas.

NOW, THEREFORE, all conditions for a valid amendment to the Declaration having been met, the Declaration is hereby amended and restated as follows:

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**RESTRICTIONS AND LIMITATIONS****RAINBOW RANCH SUBDIVISION**

THE STATE OF TEXAS

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COUNTY OF HAYS

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Cornerstone Corporation, a Texas Corporation ("Owner"), as owner of all of the tracts contained in the Rainbow Ranch Subdivision, a subdivision of Hays County, Texas, as shown by the map or plat thereof on file and of record in the Office of the County Clerk of Hays County, Texas (herein called the "subdivision"), hereby establishes, adopts and imposes upon the subdivision the use limitations and restrictions herein set forth. The subdivision currently is encumbered with the Deed of Trust in favor of Robert Ragsdale and M. Earl Bowden, and the Deed of Trust in favor of First Federal Savings & Loan Association of Austin, as recorded in the Deed of Trust Records of Hays County, Texas, which parties join herein as mortgagees for the sole purpose of acknowledging, ratifying and approving the creation of the covenants and restrictions herein set forth.

The restrictions, conditions and use limitations hereinafter set forth shall constitute covenants running with the land, shall be binding upon and inure to the benefit of Owner and Owner's successors and assigns, and upon all parties acquiring property in the subdivision, whether by purchase, descent, devise, gift or otherwise, and each party, by the acceptance of title to any tract herein described, shall agree and covenant to abide by and perform the terms, conditions, restrictions and covenants as set forth herein. Such restrictions, conditions and use limitations shall be made a part of each contract and/or deed executed by or on behalf of Owner conveying any tract herein described by reference to the place of record of this instrument and by acceptance thereof, the grantee, and all parties claiming under such grantee shall be subject to and bound thereby, and each such contract and/or deed shall be conclusively held to have been executed, delivered and accepted subject to all the terms, conditions, restrictions and covenants set forth herein. In the event, however, of the failure of any contract, conveyance and/or deed to any tract herein described to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any such contract, conveyance and/or deed of such tract shall be construed to be subject to the terms hereof.

**USE OF LAND****A. PRIMARY USE:**

All tracts within the subdivision shall be used for single family residential purposes only and for no other purpose.

**B. NUISANCES:**

No noxious or offensive activity shall be carried on upon any tract, or anything be done thereon which may be or may become an annoyance or nuisance to the other parties owning tracts

within the subdivision.

C. TEMPORARY STRUCTURES OR STORAGE:

No structure of a temporary character, nor any trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding, or any part thereof, shall be used on any tract at any time as a residence or dwelling either temporarily or permanently; provided, however, during the initial construction of improvements upon a tract and for a cumulative period not to exceed 150 days, the owner of such tract may reside in a travel trailer or recreational vehicle which does not exceed eight (8) feet in width and twenty-six (26) feet in length located upon such tract. No trailer, camp trailer, boat trailer or vehicle may be stored permanently or temporarily on any tract forward of the front building line.

All buildings and other improvements placed on any tract shall be newly erected on such tract and no second-hand or used buildings or other improvements shall be moved onto any of the tracts, and no used or second-hand materials may be used in the exterior of such improvements unless specifically approved in advance, in writing, by the Architectural Control Committee designated herein.

Garages and outbuildings that are appurtenant to a residence may be erected on each tract upon which a main dwelling has been erected.

No building material of any kind or character shall be placed or stored upon any tract until the owner is ready to commence construction of improvements, and then such material shall be placed within the property lines of the building site upon which the improvements are to be erected and shall not be placed in the roads or between any roadbed and property line.

D. SIGNS:

No sign of any kind shall be displayed to the public view on any tract; however, this restriction shall not apply to one temporary sign not exceeding six square feet in area used by any builder, owner or developer advertising the tract for sale.

E. LIVESTOCK AND POULTRY:

No animals, livestock or poultry of any kind shall be raised, bred or kept on any tract, except cats, dogs, common household pets, and except that three (3) horses, three (3) cows, three (3) goats or sheep may be kept, provided they are not kept, bred or maintained for any commercial purpose.

F. GARBAGE AND REFUSE DISPOSAL:

No tract shall be used or maintained as a dumping ground for rubbish, trash or garbage. Other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

G. SEWAGE:

No outside toilet will be permitted, and no installation of any kind for disposal or sewage shall



be allowed which would result in raw or untreated sewage being carried into water bodies. No septic tank or other means of sewage disposal may be installed unless approved in advance of installation by the proper authorities having jurisdiction with respect thereto (including, but not limited to, Hays County, Texas, and the State of Texas). The drainage of septic tanks into any road, street, alley or public ditch, either directly or indirectly, is strictly prohibited.

H. UPKEEP:

The purchaser of any tract in the subdivision shall not permit the accumulation of trash, rubbish or other unsightly articles on the premises or in the street abutting the same. The area in all road or street easements between any pavement and the property line of the adjoining tract shall at all times be kept clean and free of unsightly obstacles. Owner or the Association (as defined herein) shall have the privilege of having any tract cleaned to comply with the above and any reasonable expenses incurred in doing the same shall be paid by the owner of the respective tract or tracts.

I. FURTHER SUBDIVISION:

No tract as originally platted or conveyed out of Owner may be further subdivided into smaller lots or tracts containing less than two and one-half acres. This restriction shall not apply to any tract acquired by the Veterans Land Board of the State of Texas.

J. CONSTRUCTION PERIOD:

Construction of any improvements upon a tract must commence within three (3) months after approval by the Architectural Control Committee in the manner herein provided, and upon the failure to timely commence such construction, the approval of the Architectural Control Committee shall automatically terminate and new approval for any such construction shall be required. Completion of construction once commenced shall be performed within nine (9) months from the date of commencement. The Architectural Control Committee may, upon written request, extend a commencement or completion of construction deadline occasioned by delays beyond the tract owner's reasonable control.

K. HUNTING:

No rifle hunting shall be conducted on any tract. Shotgun hunting using pellet loads only may be conducted by an owner on such owner's tract only and not across any tract boundary line.

### ARCHITECTURAL RESTRICTIONS

The following architectural restrictions shall apply to all tracts within the subdivision:

A. DWELLING SIZE:

The total floor area of the enclosed main structure of any one story, single family residence, exclusive of patios, open porches, carports and garages, shall contain not less than 1,000 square feet. The total floor area of the enclosed main structure of any two or three story single family residence shall contain not less than 1,600 square feet, exclusive of patios, porches, carports and garages of which not less than 1,000 square feet shall be contained on the ground floor.

**B. BUILDING LOCATION:**

No building or structure (except only fences and driveways) shall be located on any tract nearer than 75 feet to any tract boundary line as originally platted or conveyed out of Owner or nearer than 50 feet to any interior boundary subsequently created by a subdivision of an original tract.

**C. FOUNDATIONS AND EXTERIOR WALLS:**

The foundation of any structure must be enclosed at the perimeter with masonry or wood construction which is in harmony with the remainder of the main dwelling. The design of and materials used in the exterior walls and surface areas of the main structure and any outbuildings must extend to the ground. Asbestos siding may be used only as approved by the Architectural Control Committee.

**D. ARCHITECTURAL CONTROL:**

No building, structure or improvement of any nature shall be erected, placed or altered on any tract until the construction plans and specifications and a plan showing the location of such building, structure or improvement has been approved by the Architectural Control Committee hereinafter designated, as to the quality of workmanship and materials, harmony of external design with existing structures, safety and as to location with respect to topography and finish grade elevation and meeting the other standards set forth in this instrument. The Architectural Control Committee (initially composed of Knox Williams, III, Robert E. Peerman and Jack Modesette, Jr.) is now Bill Montgomery. The mailing address for the Architectural Control Committee is 1111 S. Rainbow Ranch Rd., Wimberley, TX 78676, or such other address as may be subsequently designated. The Committee may designate a representative to act for it. In the event of the death or resignation of a member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

The approval or disapproval of the Architectural Control Committee as required in these covenants shall be by majority vote and shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Final plans and specifications shall be submitted in duplicate to the Architectural Control Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans will be marked "Approved", and returned to the tract owner. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

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### EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are located in the 50' road easement shown on the field note description of each tract, and a 5' easement along the side property line of each tract. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of surface water drainage in the easements. Within such easements the right of use, ingress and egress shall be had at all times for the installation, construction, operation, maintenance, repair, replacement, relocation or removal of any utility and drainage facility, together with the right to remove any obstruction or improvement that may be placed within any such easement which may interfere with the use of such easement for the purposes herein set forth. The easement area of each tract and all improvements in it shall be maintained continuously by the owner of the tract, except for those improvements for which a public authority or utility company is responsible. A utility easement may be used for any and all utilities, water, sewage disposal, telephone, gas and/or electricity unless expressly limited to a specific use on the recorded plat of the subdivision or stated in the conveyance out of Owner.

### DURATION OF RESTRICTIONS

These restrictions and covenants are to run with the land and shall be binding on all parties and all parties claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than seventy-five percent (75%) of the then owners of legal title to the tracts within the subdivision (as shown by the records of the County Clerk of Hays County, Texas) has been recorded in the Deed Records of Hays County, Texas, terminating these restrictions and covenants.

### LANDOWNERS' AGREEMENT

In order to provide for the installation, operation, repair and maintenance of any roads, streets and any common areas within the subdivision (hereinafter referred to as "common areas"), Owner, for the benefit of itself and each successor owner of a tract within the subdivision, hereby binds Owner and Owner's successors and assigns, as follows:

At any time and from time to time as any of the common areas in the subdivision are not being maintained by Hays County, a city, or other type of taxing authority within which the subdivision is located, Owner may convey such common areas to a nonprofit corporation, or other organization, formed by Owner for the purpose of owning, maintaining, operating and repairing the common areas (the "Association") which shall have such supervisory authority to provide for the property maintenance, repair and operation of the common areas as may be appropriate to the subdivision. The Association shall not be liable to an owner of any interest in such subdivision for any damage, claim or expense for the manner in which said common areas are operated, maintained and repaired, or for failure to operate, maintain or repair such common areas.

Every owner of a tract within the subdivision shall be a member of the Association and such membership shall be appurtenant to and may not be separated from ownership of a tract. The Association initially shall have two classes of voting members as follows:

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Class A members shall be all tract owners with the exception of Owner, and shall be entitled to one vote for each tract owned. A tract shall be considered as "owned" when legal, record title thereto has been transferred from Owner to a third party. When more than one person owns or holds an interest in a particular tract, all such persons shall be members and the vote for such tract shall be exercised as they may determine among themselves; provided, however, in no event shall more than one vote be cast with respect to any tract owned by Class A members.

Class B member shall be the Owner, who shall be entitled to exercise four votes for each tract owned by Owner. The Class B membership shall cease and automatically be converted to Class A membership when the total votes outstanding in the Class A membership equal or exceeds the total votes outstanding in the Class B membership.

Additional property and common areas may be annexed to or associated with the subdivision at any time with the consent of two-thirds of all members of the Association.

In order to provide a fund for the proper maintenance of such common areas (hereinafter called "Maintenance Fund") there is hereby imposed upon each tract in the subdivision an annual maintenance charge which shall not exceed One Hundred Forty Dollars (\$140.00) per tract; provided, however, such maximum per tract charge shall be adjusted on an annual basis commencing with calendar year 2000 for changes in the Consumer Price Index as follows: For calendar year 2000 and each subsequent calendar year the maximum charge per tract shall be adjusted by multiplying such initial maximum charge of One Hundred Forty Dollars (\$140.00) per tract by the ratio of the Consumer Price Index for the immediate preceeding December (basis 1967=100.0) divided by the Consumer Price Index for December, 1996. The Consumer Price Index currently is published by the United States Department of Labor, Bureau of Labor Statistics. If such index ceases to be published, it shall be replaced by a substantially equivalent index selected by the Association. Such maintenance charge shall be determined annually by the Association based upon the projected cost of operating, maintaining and repairing such common areas. Once assessed by the Association such maintenance charge shall be payable at such intervals as selected from time to time by the Association by each owner of a tract in the subdivision. Any delinquent maintenance charge shall accrue interest at an annual rate determined from time to time by the Association (which shall not exceed the maximum lawful annual interest rate) from the date of delinquency until paid. The maintenance charge hereby imposed shall not apply to Owner, or to any tract to which Owner owns both the record and beneficial title.

Neither Owner nor the Association shall be liable or responsible to any party for failure or inability to collect the maintenance charge or any part thereof from any party.

The Association may use the Maintenance Fund or any part thereof, for developing, improving, operating and maintaining any and all of the common areas which the owners and/or occupants of tracts may be privileged or shall have the right to use, regardless of who may own such common areas and regardless of their location. It is agreed and understood that the judgment of the Association, as custodian and administrator of said Maintenance Fund, when used in good faith in the expenditure of said funds, or any part thereof, shall be binding, final and conclusive upon all parties in interest.



The payment of the maintenance charge hereby imposed shall be secured by an express lien in favor of the Association, as custodian and administrator of the Maintenance Fund, which lien is placed and imposed upon each tract in the subdivision subject to such charge. There is hereby granted unto the Association an express lien against each tract of the subdivision to secure all obligations of the owner or owners of said tract imposed upon such owner, or tract, under the provisions hereof. Such lien may be foreclosed in the same manner as a deed of trust lien (Article 3810 V.A.C.S.) or a vendor's lien, without prejudice, however, to any other rights, powers or causes of action which the holder of said lien may have against any party who is then or who has theretofore been the owner of the property affected thereby. Said lien and all other provisions of this agreement shall be secondary and subordinate, however, to any liens, deeds of trust and encumbrances whatsoever given to secure all or any portion of the purchase price of any tract or any part thereof, or given to any party, agency or department of the State of Texas, bank, savings and loan association, insurance company, trust company, fraternal benefit organization, or corporation with banking or related powers, lawfully lending money for the purposes of making repairs or constructing dwellings or any other improvements whatsoever on any portion of any tract, or acquiring any promissory note or other evidence of indebtedness previously made for any such purpose. If any such lender or party acquiring such indebtedness should be in doubt as to the purpose for which such loan was made, or indebtedness incurred, or as to whether the lien herein granted is subordinate to any lien or deed of trust given for the purpose of securing any such mortgage or indebtedness, such lender or party acquiring such indebtedness may rely conclusively upon the written statement of the Association, with respect thereto. The Association may release or subordinate said lien and any other provision of this agreement, in whole or in part, with respect to any tract or tracts, should it deem it advisable, for any reason whatsoever, without affecting said lien insofar as it applies to any other tract or tracts within the subdivision.

Notwithstanding anything contained herein to the contrary, if record title to any tract is acquired by the Veterans' Land Board of the State of Texas (the "VLB") then so long as record title to such tract is held by the VLB, such tract shall not be subject to or encumbered with a lien to secure payment of the maintenance charge; however, payment of the maintenance charge shall remain the personal obligation of the party purchasing such tract from the VLB and upon the conveyance of record title out of the VLB such tract again shall be subject to the lien herein created to secure payment of the annual maintenance charge.

In addition to the "common areas" the Association may own and/or operate any utility service (including by way of example but not limitation, water, gas, sewage and electricity) which is available for use by any tract within the subdivision, and it shall not be necessary for any such utility service to be limited only to the subdivision and may serve other property located without the subdivision. If the Association should become the owner and/or operator of any such utility service, then the Association may create and collect such installation fees, tap fees, service fees and similar fees from each user thereof in such amounts and at such times as deemed necessary or desirable by the Association, provided, however, the Maintenance Fund herein created shall not be used for any such utility service and the Maintenance Fund shall be only used for the common areas as herein described. Further, the availability of any such utility service to any lot within the subdivision shall be subject to and conditioned upon the owner of each such lot complying with the rules and regulations of the Association and the payment of any such fees in regard to such utility service.

Any person negligently or willfully damaging or destroying all or any portion of the common areas shall be responsible to the Association for damages, and the Association shall use any funds collected by claim, lawsuit or settlement agreement arising out of such damage or destruction, to repair such damage or destruction, to the extent of such funds.

Association shall have, and it is hereby granted, the full right, power and authority to dedicate and/or convey all of its rights, titles and interests in and to the common areas or any part thereof and the Maintenance Fund, as well as all of its powers, rights, liens, responsibilities, duties and authority under the terms hereof to a public or quasi-public corporation or entity with the power to tax such as a city, Hays County or a public district having such powers. All references to Association shall apply with equal force and effect to any successor in interest to Association.

#### ENFORCEMENT

The restrictions, conditions and use limitations herein set forth shall be binding upon Owner, its successors and assigns, and all parties claiming by, through or under them and all subsequent owners of each tract, each of whom shall be obligated and bound to observe such restrictions, conditions and use limitations, provided, however, that no such parties shall be liable except in respect to breaches committed during his or their ownership of said tract. The violation of any such restriction, condition or use limitation, shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against said tract or any part thereof, but such liens may be enforced against any and all property covered thereby, subject, nevertheless, to the restrictions, conditions and use limitations herein mentioned. Owner, or the owners of any tract in the subdivision, or the Association, its successors and assigns, shall have the right to enforce observation or performance of the provisions of this instrument, and if any party or parties violates or attempts to violate any of the restrictions, conditions or use limitations contained herein, then it shall be lawful for such parties, or any of them, to prosecute proceedings at law or in equity against the party violating or attempting to violate the same, either to prevent such violations, or to correct such violation, or to recover damages, or to obtain such other relief for such violations as then may be legally available.

#### AMENDMENT

At any time the owners of the legal title to sixty percent (60%) of the tracts in the subdivision (as shown by the records of the County Clerk of Hays County, Texas) may amend the restrictions, covenants, conditions, and matters set forth herein by filing an instrument containing such amendment in the Office of the County Clerk of Hays County, Texas, except that, prior to the expiration of ten (10) years from date hereof, no such amendment shall be valid or effective without the joinder of Owner, its successors or assigns.

#### SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions which shall remain in full force and effect.

#### DEDICATION

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1319 426

This instrument of dedication relates to and affects the above described property, and shall not affect other property not herein described.  
DATED this the 2nd day of April, 1981.

OWNER:

CORNERSTONE CORPORATION

ATTEST:

By: \_\_\_\_\_  
Secretary

By: /s/ Jack Modesett, Jr.  
President

MORTGAGEES:

/s/ Robert Ragsdale  
Robert Ragsdale

/s/ H. Earl Bowden  
H. Earl Bowden

FIRST FEDERAL SAVINGS ASSOCIATION  
OF AUSTIN

/s/ Sue E. Skaggs  
SUE E. SKAGGS, Assistant Secretary

By: /s/ Alfred Staehely  
ALFRED STAEHELY  
SR. VICE-PRESIDENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jack Modesett, Jr., known to me to be the person whose name is subscribed to the foregoing instrument as President of Cornerstone Corporation, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 27th day of April, 1981.

/s/ John P. Burke, Jr.  
Notary Public in and for  
Harris County, Texas

1319 427

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Robert Ragsdale, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 17th day of April, 1981.

/s/  
Notary Public in and for  
Travis County, Texas

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared M. Earl Bowden, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the   ?   day of April, 1981.

/s/ Robert Mueller  
Notary Public in and for  
State of Texas

My Commission Expires: 10/28/84

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Alfred Staehely, known to me to be the person whose name is subscribed to the foregoing instrument as Sr. Vice President of First Federal Savings Association of Austin, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and

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as the act and deed of said corporation.

1319 428

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 3rd day of April, 1981.

/s/ Dorothy F. Peck  
Notary Public in and for  
Travis County, Texas

My Commission Expires: 10-26-81

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1319 429

RAINBOW RANCH ASSOCIATION,  
a Texas non-profit corporation

By:                     

STEVEN C. BOND, President

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on June 8, 1997  
by STEVEN C. BOND, President, of RAINBOW RANCH ASSOCIATION, a Texas non-profit  
corporation, on behalf of said corporation.

                      
Notary Public in and for the State of Texas

my commission expires Feb 1998

AFTER RECORDING RETURN TO:

Rainbow Ranch Association  
110 N. Rainbow Ranch Road  
Wimberley, Texas 78676

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

Margie T Villalpando

6-10-97 01:14 PM 9709703  
KLEEN \$33.00  
MARGIE T VILLALPANDO, County Clerk  
HAYS COUNTY