

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
OF GRAND OAKS DEVELOPMENT**

This Declaration of Protective Covenants, Conditions, and Restrictions ("Declaration" or "Protective Covenants") is made July _____, 2021, by Mary Ellen Prause, Trustee of the Mary Ellen Prause Testamentary Trust dated September 25, 2008 and Ty Prause, Trustee of the Daniel Tyran Prause Testamentary Trust, dated September 25, 2008, acting through Ty Prause, their designee and attorney-in-fact, whose mailing address is P.O. Box 127, Columbus, Texas 78934.

Whereas, Declarant owns that certain real property described in Exhibit A attached hereto located in Colorado County, Texas (the "Property"), being also sometimes referred to as "Grand Oaks Development" or the "Subdivision," an unrecorded subdivision located at 1762 Frelsburg Road, Colorado County, Texas; consisting of approximately 252 acres;

Whereas, it is the intent that Grand Oaks Development be exempt from platting under the requirements of the Colorado County Development Regulations and platting and approval requirements as provided by Section 3, subparagraph 3.1.3 thereof and other applicable regulations and statutes.

Whereas, it is the desire of Declarant to place certain restrictions, easements, covenants, conditions, stipulations and reservations (herein sometimes referred to as the "Restrictions") upon and against such Property in order to establish a uniform plan for the development, improvement and sale of the Property, and to assure the preservation of such uniform plan for the benefit of both the present and future Owners of Tracts in said Subdivision;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon Grand Oaks Development, and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of said Property, which Restrictions shall run with said Property and title or interest therein, or any part thereof.

Definitions

"Association" shall mean and refer to Grand Oaks Property Owners Association, a Texas non-profit corporation, formed or to be formed, and its successors and assigns.

"Board of Directors" shall mean and refer to the Board of Directors of the Association.

"Common Area" shall mean all real property within the Subdivision now or hereafter owned by the Association for the common use and enjoyment of the Owners (including the improvements thereto) and/or any other real property and improvements, including, but not limited to, roads, parks, open spaces, and other facilities within the Common Area to which the Owners may hereafter become entitled to use.

"Declarant" means Mary Ellen Prause, Trustee of the Mary Ellen Prause Testamentary Trust dated September 25, 2008 and Ty Prause, Trustee of the Daniel Tyran Prause Testamentary Trust, dated September 25, 2008, jointly and severally, acting herein by Ty Prause, or the assignee of said

Declarant specifically designated as such in a writing recorded in the Official Public Records of Colorado County, Texas.

"Member" shall mean and refer to every person or entity who holds a membership in the Association.

"Road" or "Roads" means the private road in Grand Oaks Development more fully described by metes and bounds and shown on Exhibit B, attached hereto.

"Tract" means any plot of land consisting of ten (10) or more acres whose title is conveyed to a third party by Declarant, or any portion thereof.

"Owner" shall mean and refer to (i) the record owner, whether one or more persons or entities, of fee simple title to any Tract, including contract sellers (a seller under a Contract-for-Deed), but excluding those having such interest merely as security for the performance of an obligation and (ii) Declarant (except as otherwise provided herein).

Land Use

No building shall be erected, altered, or permitted to remain on any Tract other than one detached site-built single family dwelling used for residential purposes only, and having a minimum of 1,500 square feet of climate controlled area, exclusive of porches (open or covered) and decks and a private garage (or other covered parking facility). A guest house/secondary residence that does not conform to the minimum square footage requirement shall be permissible so long as it otherwise conforms to these Protective Covenants and is located to the rear (further from the adjacent Road) of the primary residence.

No structure of a temporary character including, but not limited to, a tent, shack, garage, barn, house trailer or other temporary facility shall be used as a residence, either temporarily or permanently. Motor homes, travel trailers and campers may be used as temporary housing facilities during construction of permanent improvements by Owners or Owner's authorized contractors. No more than two temporary housing facilities, including the Owner's, shall be on the Tract or property at any time and not to exceed a continuous period of 365 days. Only Owners and their invited guests, may use travel trailers and/or motor homes for recreational housing at any time, not to exceed a continuous period of more than 365 days. No mobile homes or manufactured housing shall be parked or placed on any part of the property conveyed herein or used as a residence, either temporary or permanent, at any time.

There shall be no more than one commercial sign allowed on any Tract with the exception of two signs no larger than two (2) feet square allowed for identifying the availability for sale of home, business and/or agriculture-based products and services.

No signs of any type shall be allowed on any Tract except one sign, except as otherwise provided herein, of not more than five square feet advertising the property for sale or rent, except as otherwise provided herein. However, Declarant, as well as any other person engaged in the construction and sale of residences on the Property, shall have the right, during the construction and sales period, to construct and maintain signs advertising the construction and sale.

The Tracts shall not be used or maintained as a dumping ground for trash or rubbish or be used for the storage of abandoned or junk vehicles. Trash, garbage and other waste shall not be kept except in sanitary containers. Each Owner shall be responsible for disposing of the trash generated on his Tract on in a safe and sanitary manner that complies with local, state and federal governmental rules and regulations applicable thereto.

The hunting of game, animals or wildlife shall not be allowed on any Tract or Tracts under 20 acres in size. The discharge of firearms or shooting of archery or any projectile shall never result in trespass by any Projectile onto any other Tract or property and shall not occur within 100 feet of any boundary or property line of the Owner. No deer stands or game or other hunting facilities shall be placed or constructed within one hundred 100 of any boundary or property line. Any and all discharge of firearms and weapons, including but not limited to rifles, pistols, shotguns, black powder rifles and pistols, percussion or flintlock rifles and pistols, shall not occur for prolonged and continuous periods of more than any four (4) hour period during daylight hours. The discharge of a firearm or weapon after dark shall only be allowed for the purpose of dispatching animals on the Owner's property which pose a threat to person or property. All use of firearms or hunting weapons of any kind shall at all times comply with the Texas Hunting Rules and Regulations as then currently exist.

No commercial animal husbandry operations of any kind, such as commercial kennels, livestock feed tracts, or commercial poultry houses be operated or maintained on any Tract. Specifically, swine, not to exceed four (4), shall only be raised or kept on the property as recognized youth projects, as household pets and/or for personal consumption. No more than two horses and/or five (5) cows or bulls (or any combination of cows and bulls not to exceed a total of five (5)) may be kept or maintained on any tract for each 10.5 acres of land contained in the Tract

Building Location and Setbacks

The minimum building setback lines for all Tracts shall be 100 feet from the Property or Tract boundary lines. No building or structure shall be located on any Tract outside of the 100 feet of setback lines on any sides of any Tract. If two or more Tracts, or portions of two or more Tracts, are consolidated into a building site in conformity with the provisions hereof, these building setback requirements shall apply to the resulting building site.

Construction of any residence or building shall be completed within one year after construction commences. The commencement of construction shall be defined as the pouring of a slab (for slab on grade houses) or the pouring or setting of pilings (for houses built on pilings).

No structure of a temporary character including, but not limited to, a tent, shack, garage, barn, house trailer or other temporary facility shall be used as a residence, either temporarily or permanently. Motor homes, travel trailers and campers may be used as temporary housing facilities during construction of permanent improvements by Owners or Owner's authorized contractors. No more than two temporary housing facilities, including the Owner's, shall be on the Tract or property at any time and not to exceed a continuous period of 365 days. Only Owners and their invited guests, may use travel trailers and/or motor homes for recreational housing at any time, not to exceed a continuous period of more than 365 days.

Easements

Easements for the purpose of constructing, maintaining, and repairing a system or systems electric lighting, electric power, telephone, cable and similar lines, gas lines, sewers, water lines, storm drainage (surface or underground), or any other utility the Declarant or the Association sees fit to install in, across and/or under the Property have been or may be created by Declarant or the Association across any portion of the Property. Any such currently existing easements are reserved set forth in one or more separate instruments recorded in the Official Public Records. No person or entity using any easement for its stated purposes shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, flowers, or to other Easements for the purpose of constructing, maintaining and repairing a system or systems of property of the Owner situated in the easement.

Fences

Fences shall be constructed of wood, brick, rock, stucco block, wrought iron, pipe, or wire fencing typical of the area. No chain link fence will be permitted on the boundaries of the property conveyed herein.

Roads

1. The Road in Grand Oaks Development is not dedicated to the public and shall remain private, but may be conveyed to the Association and operated as a private road by the Association, with each Owner having an easement for the use and benefit of such Owner, which easement shall include rights of ingress, egress, and passage over and along the Road in favor of the Declarant, the Association, the Owners and their respective legal representatives, successors and assigns, guests, invitees, licensees, designees, and the successors-in-title to each Owner and in favor of the invitees and designees of each successor-in-title to each Owner, but not in favor of the public. Upon such conveyance to the Association, the Road shall become a Common Area.

2. The Road is hereby dedicated as a utility easement strictly for the purpose of constructing, operating, maintaining or repairing systems of electric lighting, electrical power, telephone lines, cable and similar lines, gas lines, sewers, water lines, storm drainage (surface or underground) or any other utilities that the Declarant or the Association sees fit to install (or permit to be installed) in, across and/or under the Property. The dedication of the private Roads as utility easements shall not affect the Association's operation of the Road as a private Road.

3. Notwithstanding the Association's oversight and maintenance of the Road as a private road, Declarant hereby grants to law enforcement agencies, fire department officials and fire protection personnel, vehicles and equipment, ambulances, school buses, and other governmental officials and personnel, rights of ingress, egress and passage over and along the Road in connection with the performance of their official functions, subject to the right of the Declarant or Association to install and maintain privacy gates having adequate provision for ingress, egress and passage otherwise permitted herein.

The Association

Grand Oaks Property Owners Association, Inc., a non-profit corporation, has been (or will be) organized and it shall be governed by its Certificate of Organization and Bylaws; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

The Association may adopt whatever Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Tracts and Common Areas, provided that the same are not in conflict with the terms and provisions hereof.

Every Owner shall be a Member of the Grand Oaks Property Owners Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership for each Tract owned by such member. Memberships shall be appurtenant to and may not be separate from the ownership of the Tracts. Regardless of the number of persons who may own a Tract (such as husband and wife or joint tenants, etc.), there shall be but one membership for each tract.

Every Member, except for the Declarant, is a Class A Member and shall have one vote on each matter considered by the membership at any meeting of the membership. The Declarant is a Class B Member and shall have a number of votes on each matter considered by the membership at any meeting of the membership equal to five (5) times the number of acres of land within the Property then owned by the Declarant.

Every Member shall have a beneficial interest of use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the title to every assessed Tract, subject to the following provisions:

- a) the right of the Association to limit the number of guests of Members using the Common Areas;
- b) the right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area;
- c) the right of the Association, in accordance with its Articles and Bylaws, to (i) borrow money for the purpose of improving and maintaining the Roads, Common Area and facilities (including borrowing from the Declarant or any entity affiliated with the Declarant) and (ii) mortgage said property; however, the rights of such mortgagee of said property shall be subordinate to the rights of the Owners hereunder;
- d) the right of the Association to suspend the Member's voting rights and the Member's right to use any recreational facilities within the Common Areas during any period in which the Maintenance Charge or any assessment against his Tract remains unpaid;
- e) the right of the Association to suspend the Member's voting rights and the Member's right to use any recreational facilities within the Common Area, after notice and hearing by the Board of Directors, for the infraction or violation by

such Member of this Declaration, the Bylaws, or the Rules and Regulations, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation; and

- f) the right of the Association, subject to the prior written approval of the Declarant, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility.

Maintenance Fund

Each Owner of a Tract by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association an annual maintenance charge (the "Maintenance Charge") and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Tracts and shall be a continuing lien upon the Tract against which each such Maintenance Charge is made.

The lien herein described and the superior title herein reserved shall be deemed subordinate to a lien of any third party lender, including Declarant, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Tract and any renewal, extension, rearrangement or refinancing thereof.

The Maintenance Charge shall be used to create a fund hereafter referred to as the "Maintenance Fund," which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Tract to the Association annually, in advance, on or before the first day of each calendar year, beginning with the first day of the first full calendar year after the date of purchase of the Tract. Provided that a prorated portion of the then applicable Maintenance Charge shall be due and payable upon acceptance of the deed to any Tract.

Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the hereinafter described lien against the Owner's Tract. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Areas or recreational facilities available for use by Owners or by the abandonment of his Tract.

The exact amount of the Maintenance Charge applicable to each Tract will be determined by the Board of Directors during the year preceding the due date of the Maintenance Charge. All other matters relating to the Maintenance Charge and the collection, expenditure and administration of the Maintenance Fund shall be determined by the Board of Directors, subject to the provisions hereof.

The Maintenance Charge and other charges or assessments described in this Declaration shall not, without the consent of the Declarant, apply to the Tracts owned by the Declarant.

The Maintenance Charge fund shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners. In particular, the Maintenance fund may be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties, including the maintenance of the Common Area and the establishment and maintenance of a reserve fund for maintenance of the Common Areas (including, without limitation, the Road). The Maintenance Fund may be expended by the Association for any purposes which, in the judgment of the Association, will tend to maintain the property values in the Subdivision, including, but not limited to, providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Area as may from time to time be authorized by the Board of Directors, payment of all reasonable and necessary expenses in connection with the collection and administration of the Maintenance Charge and other charges and assessments required by this Declaration or that the Board of Directors shall determine to be necessary to meet the primary purposes of the Association. Except for the Association's use of the Maintenance Fund to perform its duties described in this Declaration, the use of the Maintenance Fund for any of these purposes is permissive and not mandatory. The judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Resubdivision

The Tracts may not be subdivided or re-subdivided in parcels or Tracts of less than 10 acres, and there shall be no more than one primary residence and one guest house/secondary residence per 10 acres for housing purposes, in addition to any other structures for other uses.

Any Owner of two or more adjoining Tracts may consolidate those Tracts into building sites, with the privilege of constructing improvements, as permitted by this Declaration, on each resulting building site.

Duration and Amendment

These Protective Covenants shall run with the land, and shall be binding on all parties and all persons claiming under them for a period of 20 years from the date these Protective Covenants are recorded in the Official Public Records of Colorado County, after which time such covenants and restrictions shall be extended automatically for successive 20 year periods, unless an instrument signed by at least 75 percent of the then existing Owners of the Tracts that are subject to these Protective Covenants, is recorded in said Records, agreeing to change, modify or revoke them.

Enforcement

The Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, restrictions, conditions, and reservations imposed by this Declaration. Any proceeding may seek to restrain or enjoin violations or proposed violations, or to recover damages, or both. Failure to enforce any covenant or restriction 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.

Attorneys' Fees

If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

Severability

Invalidation of any one of these Protective Covenants or any portion thereof, by a judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

Covenants Running with the Land

These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Tract, and each Owner.

Amendments by the Declarant

The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, provided that any such amendment shall not be inconsistent with the vested property or other rights of any owner or his mortgagee. Declarant shall have and reserves the right at any time and from time to time to amend this Declaration for the purpose of revising the general plan of development set forth here by declaring any portion of the Property herein described to be partially released from the restrictions herein set forth (the "Deannexed Property"). Notwithstanding the foregoing the Deannexed Property shall continue to enjoy all rights granted herein to the Deannexed Property relating to easements and the use of the private road. No amendment permitted herein shall ever permit the subdivision of the Deannexed Property into tracts smaller than ten (10) acres, nor lay out streets, alleys, squares, parks or other parts intended to be dedicated to public use, nor permit any portion of the Deannexed Property to front on or adjacent to any public street, ally, square, park or other part, nor fail to have adequate minimum lot frontage to guarantee safe driveway spacing, sight distance, and reasonable maintenance of road and drainage areas.

Liberal Interpretation

This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the Property.

This Declaration is executed the _____ day of July, 2021, in Colorado County, Texas.

DECLARANT:

Ty Prause, designee and attorney-in-fact of Mary Ellen Prause, Trustee of the Mary Ellen Prause Testamentary Trust dated September 25, 2008 and Ty Prause, Trustee of the Daniel Tyran Prause Testamentary Trust, dated September 25, 2008

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF COLORADO)

Before me, the undersigned authority, on this day personally appeared Ty Prause, designee and attorney-in-fact of Mary Ellen Prause, Trustee of the Mary Ellen Prause Testamentary Trust dated September 25, 2008 and Ty Prause, Trustee of the Daniel Tyran Prause Testamentary Trust, dated September 25, 2008, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office on the _____ day of July, 2021.

Notary Public for the State of Texas

My Commission Expires:

Printed Name of Notary