

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**BUFFALO HEIGHTS, SECTION THREE, TOM GREEN COUNTY, TEXAS**

THIS DECLARATION made this 11<sup>th</sup> day of March, 2013, by DAVID JENSEN ("Developer");

WITNESSETH:

- A. Developer is the owner of 52.161 acres of land, to be placed of record as "Buffalo Heights, Section Three", Tom Green County, Texas, in the Plat Records of Tom Green County, Texas;
- B. Developer desires and intends to convey individual Tracts on the property known as "Buffalo Heights, Section Three";
- C. Developer further desires to restrict all property in "Buffalo Heights, Section Three", together with such additions that may hereafter be made thereto, according to a common plan as to the use and permissible construction so that all Tracts shall be benefitted and each successive owner of all or part of the Tracts shall be benefitted by the preservation of the value and character of the Tracts;

NOW, THEREFORE, Developer declares that the real property within "Buffalo Heights, Section Three" and such additions thereto as may hereafter be made, shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, charges and liens (sometimes referred to as covenants and restrictions) hereinafter set forth:

1. Definitions: The following words when used in this Declaration or any Supplemental Declaration shall have the following meanings:
  - a. "Owner" shall mean and refer to the fee simple title holder of any Tract, whether one or more persons. This does not include any persons or entities who hold an interest in any Tract merely as security for the performance of an obligation.
  - b. "Occupant" shall mean and refer to an equitable interest holder pursuant to a recorded or unrecorded Contract for Deed or recorded or unrecorded Lease Agreement.
  - c. "Tract" shall be defined as any tract, parcel or interest created out of real property as set forth in the Plat of "Buffalo Heights, Section Three", incorporated herewith for all purposes. If Developer is the owner of any property which it desires to add to the concept of this Declaration, it may do so by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions, which shall extend the concept of the covenants, conditions and restrictions of this Declaration to such property; PROVIDED, HOWEVER, that any additions made pursuant hereto, when made, shall automatically extend the jurisdiction, functions, duties to the properties added.
  - d. "Developer" shall mean the undersigned and his heirs, successors and assigns.

2. Affirmative and Protective Covenants: Every Tract (all of which Tracts are referred to as the "Property") shall be restricted as follows:

a. All Tracts shall be used for Residential purposes only. No part thereof shall be used for commercial business or manufacturing purposes. No purchaser of a Tract shall be permitted to lay out a road, easement, or other means of ingress or egress across any Tract to provide access to other property without Developer's written approval.

b. Tracts may not be subdivided.

c. No more than one (1) single family residence may be located on any one Tract (The developer will consider applications for a variance to allow a "mother-in-law suite on a case by case basis).

d. All residences erected upon any Tract shall contain the following square footage and roof pitch requirements, exclusive of open porches, breeze ways, carports and garages: 1650 square feet with at least 6-12 roof pitch. (All residences must have a minimum of a two car side entry garage; the first sixty feet (60') of the driveway must be paved with asphalt or concrete. There shall be no outside toilet built or used on the premises except during the initial construction period. Once construction commences, it must be completed within nine (9) months.

e. Any residence shall consist of on-site built homes only and three sides shall be brick, stone, stucco, other masonry or Developer approved material. All homes must be no nearer than 40 feet from the front or rear boundary line of any Tract. All homes must be no nearer than 25 feet from a side boundary line of any Tract. Residences built on corner lots must be built a minimum of 40 feet from the street side boundary line. Distance requirements may be modified by written approval of Developer.

f. Prior to the commencement of any construction, all construction materials, structures, buildings, improvements, fences and driveways, and their placement on the lot shall be approved by the Developer. Any damage caused to the adjoining road during construction shall be repaired by the Tract owner. Thereafter, all buildings and fences shall be kept in good repair, and any paint or other finish shall be maintained in good condition.

g. All driveways connecting to any roadway shall have a minimum of a 12" drainage culvert to prevent the damming or diversion of water flow.

h. No noxious or offensive activity shall be carried on upon any Tract nor shall anything be done which would reasonably constitute an annoyance or nuisance to any adjoining Tract. No Tract shall be maintained or utilized in such a manner as to violate any applicable statute, ordinance, or regulation of any government or governmental agency having jurisdiction thereof. No junk or wrecking yard shall be located on any Tract. There shall be no use of any Tract as a dump ground for rubbish, abandoned vehicles, unregistered exposed vehicles, garbage, or other waste, or as landfill area. All Tracts must be kept clean and well maintained. The areas around buildings and along the streets must be mowed regularly.

i. All accessory buildings, RV or equipment parking, and fuel tanks, etc., must be located in the rear of any residence and their placement and construction must be approved by the Developer.

j. No camper or recreational vehicle may be occupied overnight on any Tract except for periods of no more than fourteen (14) days out of any period of ninety (90) days. Recreational vehicles housed inside a Developer approved enclosure may be occupied during construction of the residence (not to exceed 9 months).

k. Dams may be built on creeks or natural waterways only if (1) written permission is

obtained from the Developer and the owner of the Tract adjacent to such waterway on the opposite side of the waterway; (2) such dam will not be built so as to back water up or inundate the Tract of another owner, unless a written easement is obtained from such other owner; (3) such dam will not cause the flooding of any roadway; and (4) such dam is constructed in accordance with all Federal, State and Tom Green County regulations governing said construction.

l. Concho Valley Electric Co-op is the sole electric provider. Electrical installation in all buildings, commercial or residential, shall be constructed and thereafter maintained in accordance with the National Electric Safety Code. All plumbing installations and septic tanks or other on-site sewage facilities shall be in accordance with the regulations and requirements of the Federal, State and Tom Green County, regulatory authorities, with every such building having plumbing facilities to be connected to a septic tank of adequate size, properly installed, with adequate lateral lines, no line or other appurtenance of which shall be within twenty feet (20') of any boundary line of any Tract without Developer's written approval. Any water wells must meet all Federal, State and Tom Green County regulations.

m. There shall be no discharge of firearms upon any Tract.

n. No excavation of any materials, other than for landscaping of lot, construction of buildings, driveways, etc. will be permitted without Developer's written approval.

o. Any owner may have and use on a tract domestic livestock at the rate of 1 animal unit plus one horse for Tracts of 1 to 4 acres, 2 animal units plus one horse on Tracts of 4 to 10 acres and 3 animal units plus one horse on Tracts of 10 to 20 acres. An animal unit is considered to be 1 horse 4 goats or sheep or 2 llamas. A cow over 1 year old shall be considered to be 2 animal units. No swine, bison, ostriches, emus etc. shall be kept on any Tract. All animals including household pets must be well cared for and kept confined to owner's property and must not create a nuisance, from noise odor etc. No more than 3 dogs are allowed on any Tract. Any animals not listed here shall require Developer's written approval.

p. No signs shall be erected on the property or roadway without express permission of Developer.

q. No construction of any improvements or obstructions of any type, except for driveways, shall be allowed in any portion of the ten-foot (10') easement adjoining any roadway. No fencing shall be allowed within the twenty-five feet (25') access to rear Tracts. No fencing is allowed within 40' of Bison Trail or Buck Run. No privacy fencing is allowed within 25' of any side boundary or within 50' of any front or rear boundary. The developer wishes to keep the perimeter fencing consistent. An approved perimeter fence would be net wire with 2 strands of slick wire on top and would be held up by 6' T posts on 20' centers and every 5<sup>th</sup> post would be 2 3/8" pipe, 2 wire stays would be placed between each post. Corner posts would be 2 3/8" pipe cemented into place. All wire materials and T posts must be new. Used pipe is acceptable as long as it is in good condition and will hold paint. All pipes must be painted green to match T posts.

r. No radio, cell phone, or any other type of towers shall be constructed on any Tract without written permission of Developer.

3. Road Maintenance and Home Owner's Association: Owners and occupants of each Tract contiguous to Bison Trail and Buck Run, shall be subject to mandatory membership in the

Buffalo Heights, Section Three Road Maintenance and Home Owner's Association ("Association") and therefore be bound by its rules and regulations, including the following:

a. The amount of an annual maintenance fund charge shall be an amount fixed by the Association, it being intended that the Association will for each year fix the annual maintenance fund charge to an amount estimated in good faith by the Association to be required in order that the funds produced thereby will approximate the costs and expenditures of such funds for the purposes hereafter stated. There shall be an Annual Charge of \$75.00 per Tract, commencing March 20, 2013, or when a lot is sold by the Developer, whichever is last, said amount to be paid to the Association. In any year after 2013, the Association may increase the amount of the Annual Charge. The road maintenance portion of the maintenance fund charges shall cease for any Tract at such time as the road adjoining said Tract is accepted by Tom Green County.

b. The Annual Charge shall be billed on the 1<sup>st</sup> day of January and unless the owner or occupant of any Tract shall pay the Annual Charge by the 20<sup>th</sup> day of January of each year, the same shall be deemed delinquent and shall bear interest at the maximum legal annual rate until paid.

c. The Annual Charge hereby imposed shall be and remain a first charge against and a continued first vendor's lien against any Tract, and shall run with, bind and burden such land. Provided, however, the lien of any mortgage, mechanic's lien, contract, deed of trust or vendor's lien imposed as a bonafide security for purchase of money, construction loan or improvement loan on the Tract in question shall not be invalidated by the foreclosure of the lien imposed by the Annual Charge.

d. If the owner or occupant of a Tract shall fail to pay the Annual Charge when due, the Association shall have the right to enforce the Vendor's Lien which is hereby imposed, under the laws of the State of Texas, including a foreclosure sale and deficiency decree, subject to the same procedures as in the case of deeds of trust.

e. Such funds received by the Association, shall be used by it solely for the payment of any expenses in maintaining the roads together with landscaping and ancillary drainage and other facilities, if any, within the boundaries of Buffalo Heights.

f. The Developer shall cause the Association to be established, at which time, all members shall become bound by its rules and regulations, and said rules and regulations shall supersede and take the place of this Section 3. The Association shall be entitled to receive any maintenance charge herein specified. The Association may also be responsible for the maintenance of other Tracts made subject to the concept of this Declaration by way of a separate Declaration of Covenants, Conditions and Restrictions.

4. Acceptance of Declaration: By acceptance of a deed, contract for deed, or by acquiring any ownership interest in any Tract included within this Declaration, each person or entity for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property.

5. Enforcement and Compliance: The record owner of each Tract whether or not in possession, and each occupant of the Tract, whether or not a record owner, are bound by these Covenants and Restrictions and are jointly and severally responsible for compliance with these Covenants and Restrictions by themselves and the others. The record owner shall fully inform

any tenant or other non-owner occupant of these Covenants and Restrictions and of the obligation to comply with them. Each owner and occupant waives notice of non-compliance with these Covenants and Restrictions. If any owner or occupant fails to abide by these Covenants and Restrictions, any other owner, occupant or the Developer of any Tract may initiate a suit or other proceeding at law or in equity to enforce these Covenants and Restrictions and seek other damages or any other legal remedy, including injunctive relief to prevent construction, to remove improvements, or otherwise to compel compliance. Any such party who prevails in any such suit shall be entitled to recover from the owner or occupant found in breach of these Covenants and Restrictions, all reasonable attorney fees and litigation expenses incurred in connection with the suit. Any failure or delay to enforce any covenant or restriction shall not be deemed a waiver nor result in an estoppel of any prior or subsequent violation of any such covenant or restriction. Violation of any covenant or restriction shall not, however, bring about a forfeiture of title to any such Tract under violation. Any proceeding in law or in equity to enforce this Declaration shall be brought in Tom Green County, Texas.

6. Owner's Right to Amend: These Covenants and Restrictions may be amended at any time by means of a written, recorded amendment signed by the Owners of no less than seventy percent (70%) of the Tracts with one vote per Tract, except Developer shall have three (3) votes per tract. For the purposes of this paragraph, the Developer shall be considered the Owner of all Tracts where record title is held by Developer.

7. Duration: These Covenants and Restrictions shall be effective for a term of twenty-five (25) years from the date of record of the same. These Covenants and Restrictions shall continue in effect thereafter for successive ten (10) year term unless, after the initial term of twenty-five (25) years, they are abrogated or set aside by the Owners of a majority of the Tracts.

8. Severability: Invalidity of any one of these covenants and restrictions by judgment or by court order shall in no wise affect any of the other covenants or provisions, each and all of which shall remain in force and effect.

9. Headings: The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

10. Delegation and Assignment of Authority: Developer may at any time appoint a committee of one or more persons to exercise any or all of discretionary rights and powers reserved herein reserved by and to Developer. Developer may assign to any person or entity any or all rights, powers, reservations, easements, and privileges herein reserved by and to Developer. Any such assignee shall have the right to assign.

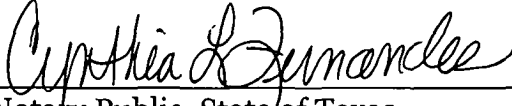
  
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DAVID JENSEN

THE STATE OF TEXAS  
COUNTY OF TOM GREEN

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11th This instrument was acknowledged before me, the undersigned authority, on this day of April, 2013, by DAVID JENSEN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the foregoing instrument.



  
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Notary Public, State of Texas

UNOFFICIAL COPY

**CERTIFIED FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Elizabeth McGill*

Elizabeth McGill, County Clerk

Tom Green County TEXAS

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