

**DECLARATION OF RESTRICTIVE COVENANTS OF
SOMERSET SUBDIVISION**

Date: August 1, 2008

Declarant: Somerset Building and Development, LLC

Declarant's Address: 202 North Washington, Livingston, Texas 77351

Association: Somerset Property Owners Association

Association's Address: 202 North Washington, Livingston, Texas 77351

Property: A subdivision of 17.64 acres of land, more or less, situated in the A. Viesca Seven League Grant, Abstract No. 77, Polk County, Texas and being part of a 97.7 acre tract of land conveyed to Michael R. Templeton and Marylouise Caravella-Templeton by instrument recorded at Volume 1527, Page 246 et seq., Official Records, Polk County. Said 17.64 acre subdivision depicted upon plat attached hereto as Exhibit "A" and made a part hereof for all pertinent purposes.

Definitions

"ACC" means the Architectural Control Committee established in this declaration.

"Assessment" means any amount due to the Association by an Owner or levied against an Owners by the Association under this Declaration.

"Board" means the Board of Directors of the Association.

"Bylaws" means the Bylaws of the Association adopted by the Board.

"Common Area" means all property within the Subdivision not designated as a Lot on the plat and that has not been accepted for maintenance by the applicable governmental body. Declarant will convey the Common Area to the Association.

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

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

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

"Governing Documents" means this Declaration and the [certificate of formation,] Bylaws, rules of the Association, and standards of the ACC, as amended.

"Lot" means each tract of land designated as a lot on the Plat, excluding lots that are part of the common area.

"Member" means owner.

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

"Plat" means the Plat of the Property recorded in to be provided of the real property records of Polk County, Texas and any replat of or amendment to the Plat made in accordance with this Declaration.

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

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

No Tract shall be used for the operation of a boarding or rooming house, a residence for transients, a “group home,” “community home,” “half-way house,” “day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters.

“Structure” means any improvement on a Lot (other than a Residence), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

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

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, motor home or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Impositions of Covenants

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

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.
2. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.
3. Neither Declarant nor any Easement holder shall be liable for damage to landscaping or Structure in an Easement.

C. Use and Activities

1. Permitted use. A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.
2. Prohibited Activities. Prohibited activities are----
 - a. any activity that is otherwise prohibited by the Governing Documents;
 - b. any illegal activity;
 - c. any nuisance or noxious or offensive activity;

- d. any dumping of rubbish;
- e. any storage of----
 - i. building materials except during the construction or renovation of a Residence or a Structure;
 - ii. vehicles, except vehicles in a garage or Structure or operable automobile on a driveway; or
 - iii. unsightly objects unless completely shielded by a Structure;
- f. any exploration for or extraction of minerals;
- g. any keeping or raising of animals, livestock, or poultry, except for common domesticated household pets, such as dogs and cats, not to exceed (4) 2 dogs, 2 cats, 2 pets of (1) type and (4) pets total confined to a fenced yard or within the residence;
- h. any commercial or professional activity except reasonable home office use;
 - i. the renting of a portion of a Residence or Structure;
 - j. the drying of clothes in a manner that is visible from the any street;
 - k. the display of any sign except----
 - i. one not more than five square feet, advertising the Lot for sale or rent or advertising a garage or yard sale; and
 - ii. political signage not prohibited by law or the Governing Documents;
- l. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- m. moving a previously constructed house onto a Lot;
- n. interfering with aa drainage pattern without ACC approval;
- o. hunting and shooting; and
- p. occupying a structure that does not comply with the construction standards of a Residence.
- q. no tract shall be used for the operation of a boarding or rooming house, a residence for transients, a "group home," "community home," "half-way house," day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters.

D. Construction and Maintenance Standards

1. Lots

- a. Consolidation of Lots. An Owner of adjoining Lots, with ACC approval, may consolidate those Lots into one site for the construction of a Residence.

- b. Subdivision Prohibited. No Lot may be further subdivided.
- c. Easements. No easements in a Lot may be granted without ACC approval.
- d. Maintenance. Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition.

2. Residence and Structures

- a. Aesthetic Compatibility. All Residences and Structures must be aesthetically compatible with the Subdivision, as determined by the ACC.
- b. Maximum Height. The maximum height of a Residence is 35 feet above slab level of main dwelling area.
- c. Required Area. The total area of a Residence, exclusive of porches, garages, or carports, must be at least 2000 square feet of Living area on first floor of dwelling area.
- d. Location on Lot. No Residence Structure may be located in violation of the setback lines shown on the Subdivision Plat which setback lines are twenty (20) feet from the front line and back line of each lot and fifteen (15) feet from the side lines of each lot as same are noted on the Plat of the subdivision. Each Residence must face the front Lot or as allowed by the ACC. Certain corner Lots may have alternative placement as noted on the subdivision Plat. All other Structures must be located behind the front wall of the Residence. All other structures, out buildings, except garages, must not be visible from any street.
- e. Garages. Each Residence must have at least a two-car garage accessed by a driveway. The garage may be a separate structure.
- f. Damaged or Destroyed Residence and Structures. Any Residence or Structure that is damaged must commence repairs within 60 days (or within a period approved by the ACC) and the Lot restored to a clean, orderly, and attractive condition within 90 days from date of damage. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within 90 days and the Lots restored to a clean and attractive condition.
- g. Fences, Walls, and Hedges. No fence, wall, or hedge may be located forward of the front wall line of the Residence, except for trellises and decorative fences that are approved by the ACC.
- h. Antennae. No antenna, satellite dish, or associated wires may be visible from the street or be located behind the back setback line of any Lot.
- i. Flagpoles. No flagpole may be permanently placed on any Lot unless previously approved by the ACC.
- j. Traffic Sight Lines. No landscaping that obstructs traffic sight lines may be placed on any Lot.
- k. Sidewalks. None Required.
- l. Landscaping. Landscaping must be installed within 90 days after occupancy. The minimum landscaping is specified in the standards of the ACC.

3. Building Materials for Residences and Structures

- a. Roofs. Only composition/tile may be used on Residences and Structures, unless otherwise approved by the ACC.
- b. Air Conditioning. Window-or wall-type air conditioning may not be used in a Residence.
- c. Exterior Walls. All Residences must have their exterior walls, including exposed foundation, of stone or brick, newly constructed masonry, and/or stucco, excluding windows and doors, and gables unless otherwise approved by the ACC. All Exposed wood, hardy board or stucco surfaces shall be painted immediately upon completion with at least two (2) coats of good quality paint. No corrugated iron or roll roofing or shed type roof shall be permitted. Garages, other structures and out buildings if detached from the house, may be constructed of prefabricated siding such as vinyl, hardi board and/or metal and covered with two (2) coats of good quality paint. The exterior of any building must be completed within nine (9) months from the time construction begins. No building shall be occupied as a residence prior to its completion and only the main residence shall be occupied as a residence.
- d. Color Changes. No change to the color of the exterior walls, trim, or roof of a Residence will be permitted, unless otherwise approved by the ACC.
- e. Driveways and Sidewalks. All driveways and sidewalks must be surfaced with concrete, unless otherwise approved by the ACC. Driveways and sidewalks may not be surfaced with dirt, gravel, shell, or crushed rock. Driveways must be completed within 30 days of completion of the residence structure.
- f. Lot Identification. Lot address numbers and name identification must be aesthetically compatible with the Subdivision.
- g. All improvements on any tract will comply with county building requirements and applicable national codes and must be constructed by a registered Texas Builder. No composition shingles, imitation brick, asbestos shingles, tar paper or materials of a like kindred nature will be permitted on the outside walls of any structure.
- h. Mobile homes, modular homes and houses similar in construction to mobile homes are not permitted, even if and/or after the axles are removed and the home skirted.
- i. No cesspool shall ever be dug, used or maintained on any Tract. All lavatories, toilets and bath facilities shall be built indoors, be connected with adequate septic tanks with adequate lateral lines for sewage and waste disposal and constructed to comply with all laws, regulations and specifications of state and local health authorities. No lateral or leaching lines from grease traps or septic tanks shall be allowed to drain into roads, ditches, natural drainage ditches, creeks, branches or Bayous and drainage must be disposed of on the property in such a way as to comply with health laws and regulations and so as to not create a nuisance.
- j. Time to build: A home must be built within two (2) years of original purchase date from Developer. Time for construction from start to finish of home shall be twelve (12) months or less. Any transfer of ownership, of a lot must meet the time to build requirement from original date of purchase from Declarant. Developer shall be notified of any sale within ten (10) days of signing a real estate sale contract.

k. Driveway must be made with concrete and completed within thirty (30) days of completion of the Dwelling Structure.

l. Trees: At least six (6) original must be left on Lot unless developers gives consent for less than six (6) trees.

m. All contractors, builders home plans, out buildings, yard structures of any kind including pool must be approved by ACC prior to construction.

n. All back yard structures of any kind must be enclosed in a non permeable fence and not visible to other subdivision owners.

o. Motor homes, travel trailers and campers shall be permitted on any Lot provided that they are not in clear view and must be kept in an ACC approved out building which shall be fully enclosed and in compliance with all subdivision building requirements. Farm and/or utility trailers are permitted in garage or enclosed fenced yard as long as not visible from the subdivision streets and not visible above and through the fencing.

E. Association

1. Establishment and Governance. The Association is established by filing its certificate of formation and is governed by the certificate, the Declaration, and the Bylaws. The Association has the powers of a nonprofit corporation and the property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

2. Rules. The Board may adopt rules that do not conflict with law or the other Governing Documents. On request, Owners will be provided a copy of any rules.

3. Membership and Voting Rights. Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Association has two classes of voting Members:

a. Class A. Class A Members are all Owners, other than Declarant. Class A Members have one vote per Lot. When more than one person is an Owner, each is a Class A Member, but only one vote may be cast for a Lot.

b. Class B. The Class B Member is Declarant and has the number of votes for each Lot owned specified in the Bylaws. The Class B Membership ceases and converts to Class A Membership on the earlier of-----

c. When the Class A Members' votes exceed the total of Class B Member's votes

F. ACC

1. Establishment

a. Purpose. The Acc is established as a committee of the Association to assist the Association in ensuring that all Residences, Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Governing Documents.

b. Members. The ACC consists of at least 3 persons appointed by the Board. The Board may remove or replace an ACC member at any time.

c. Term. Acc members serve for 5 years or until replaced by the Board or until they resign.

d. Standards. Subject to Board approval, the ACC may adopt standards that do not conflict with the other Governing Documents to carry out its purpose. On request, Owners will be provided a copy of any standards.

2. Plan Review

- a. Required Review by ACC. No Residence or Structure may be erected on any Lot, or the exterior altered, unless plans, specifications, and any other documents requested by the ACC have been submitted to and approved by the ACC. The plans and specifications must show exterior design, height, building materials, color scheme, location of the Residence and Structures depicted horizontally and vertically, and the general plan of landscaping, all in the form and detail the ACC may require.
- b. Procedures
 - i. Complete Submission. Within 10 days after the submission of plans and specifications by an Owner, the ACC must notify the submitting Owner of any other documents or information required by the ACC. In the absence of timely notice from the ACC requesting additional documents or other information, the submission is deemed complete.
 - ii. Deemed Approval. If the ACC fails to give notice of disapproval of the plans and specifications to the submitting owner within 30 days after complete submission, the plans and specifications are deemed approved.
- c. Appeal. An Owner may appeal any action of the ACC to the Board. The appealing Owner must give written notice of the appeal to the Board, and if the appeal is by an Owner, the appealing, Owner must also give written notice to the submitting Owner within 10 days after the ACC's action. The Board shall determine the appeal within 10 working days after timely notice of appeal is given. The determination by the Board is final.
- d. Records. The ACC will maintain written records of all requests submitted to it and of all actions taken. The Board will maintain written records of all appeals of ACC actions and all determinations made. Any Owner may inspect the records of the ACC and Board, but no Owner may inspect or copy the interior floor plan or security system design of any other Owner.
- e. No Liability. The Association, the Board, the ACC, and their members will not be liable to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any request.

G. Assessments

1. Authority. The Association may levy Assessments to promote the recreation, health, safety, and welfare of the residence in the Subdivision, to fund operating expenses of the Association, and to improve and maintain the Common Areas.
2. Personal Obligation. An Assessment is a personal obligation of each Owner when the Assessment accrues.
3. Creation of Lien. Assessments are secured by a continuing vendor's lien on each Lot and its improvements, which lien is reserved by the Declarant and assigned to the Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to secure Assessments.

4. Commencement. A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.

5. Regular Assessments

a. Rate. Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses for common area maintenance and utility charges of the Association. Until changed by the Board, the Regular Assessment is \$ 300.00 per year.

b. Changes to Regular Assessments. Regular Assessments may be changed annually by the Board. Written notice of the Regular Assessment will be sent to every Owner at least 30 days before its effective date.

c. Collections. Regular assessments will be collected annually in advance, payable on the tenth day of June and on the same day of each succeeding year.

6. Special Assessments. In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefitting the Subdivision but requiring funds exceeding those available from the Regular Assessments. Special Assessments must be approved by the Members. Written notice of the terms of the Special Assessment will be sent to every Owner.

7. Approval of Special Assessments. Any Special Assessment must be approved by 51% vote at a meeting of the Members in accordance with the Bylaws.

8. Fines. The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by law.

9. Subordination of Lien to Mortgage. The lien granted and reserved to the Association is subordinate to any lien granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure.

10. Delinquent Assessments. Any Assessments not paid within 30 days after it is due delinquent.

H. Remedial Rights

1. Late Charges and Interest. A minimum late charge of \$25.00 is assessed for delinquent payments. Delinquent Assessments accrue interest at the rate of 10 percent per year. The Board may change the late charge and the interest rate upon approval of a majority of Members who attend the meeting.

2. Costs, Attorney's Fees, and expenses. The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

3. Nonjudicial Foreclosure of Lien. The Association may foreclose the Association's lien against a Lot by power of sale permitted by law. The Association may designate a person to act as trustee or otherwise to exercise the power of sale on behalf of the Association.

4. Judicial Enforcement. The Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Association's lien, or enforce or enjoin a violation of the Governing Documents.

5. Suspension of Voting. An Owner delinquent in payment of any Assessment may not vote.
6. Suspension of Other Rights. If an Owner violates the Governing Documents, the Association may suspend the Owner's rights under the Governing Documents in accordance with law until the violation is cured.
7. Damage to Property. An Owner is liable to the Association for Damage to Common Areas caused by the Owner or the Owner's family, guests, agents, independent contractors, and invitees in accordance with law.

I. Common Area

1. Common Area Easements. Each Owner has an easement in and to the common Area, subject to the right of the Association to-----
 - a. charge reasonable admission and other fees for the use of recreational facilities situated on Common Area, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;
 - b. suspend an Owner's rights under the Governing Documents;
 - c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and
 - d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of a majority of the Members at a meeting in accordance with the Bylaws.
2. Permitted Users. An Owners right to use and enjoy the Common Area extends to the Owners family, guests, agents, and invitees, subject to the Governing Documents.
3. Unauthorized Improvements in Common Area. An Owner may not erect or alter any Structure on, or clear, landscape, or disturb, any common area except as approved by the Board.

J. General Provisions

1. Terms. This Declaration runs with the land and is binding for a term of 25 years. The term may be extended for successive terms of 5 years each by 10 percent of the Members at a meeting in accordance with the Bylaws within 3 months before the end of a term /an initial term of 10 years. Thereafter this Declaration automatically continues for successive terms of 5 years each, unless within 3 months before the end of a term 70 percent of the Members at a meeting in accordance with the Bylaws elect not to extend term. An instrument reflecting the extension will be signed by the Association and recorded.
2. No Waiver. Failure by the Association or an Owner to enforce the Governing Documents is not a waiver.
3. Corrections. The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any owner.
4. Amendment. This Declaration may be amended at any time by vote of 51 percent of the votes in the Association at a meeting in accordance with the Bylaws. An instrument containing the approved amendment will be signed by the Association and recorded.
5. Conflict. This Declaration controls over the other Governing Documents.

