

Item: **KERRVILLE HIGH COUNTRY RANCH (ALL) II**

(Category: RESTRICTIONS)

Volume 166, Page {PR,"insert page number for Restrictions by Section",IN1,1}, Deed Records of Kerr County, Texas, BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

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Item: **KERRVILLE HIGH COUNTRY RANCH (ALL SECTIONS)**

(Category: Subdivisions)

- a. Easement to Central Texas Electric Cooperative, Inc., dated October 31, 1958, recorded in Volume 3, Page 106, Easement Records of Kerr County, Texas.
- b. Easements per plat recorded in Volume 3, Page {PR,"insert page number of plat by Section",IN1,2}, Plat Records of Kerr County, Texas.
- c. Building Set Back Lines as per the Restrictions recorded in Volume 166, Page {PR,"insert page number of Restrictions by Section",IN1,2}, Deed Records of Kerr County, Texas.
- d. Any visible and/or apparent roadways or easements over or across the subject property.
- e. Rights of Parties in Possession. (AS PER OWNER POLICY ONLY)

DON SMITH COMPANY  
A PRIVATE TEXAS CORPORATION

TO

THE PUBLIC

3684 DECLARATION OF LIMITATIONS AND RESTRICTIONS  
TO KERRVILLE HIGH COUNTRY RANCH SUBDIVISION SEC. II

STATE OF TEXAS

COUNTY OF KERR

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KNOW ALL MEN BY THESE PRESENTS:

THAT DON SMITH COMPANY for the purposes of carrying out a uniform plan for the development as a high class residential neighborhood the following described real property in Kerr County, Texas, to-wit:

Being all of Kerrville High Country Ranch Subdivision, Section II Kerr County, Texas, according to the official map or plat thereof recorded at Volume 3 at Page 145 of the Deed and Plat Records of Kerr County, Texas, reference to which and the record thereof being here made by all pertinent purposes in aid of the description of such property;

does hereby make and publish the following recited limitations and restrictions which shall apply and become a part of all contracts for sale, contracts for deed, deeds and other legal instruments whereby title or possession to any lot in said unit is hereafter conveyed or transferred, to-wit:

- 1A. That each of the lots in said subdivision shall hereafter be used only for the construction of one single family residence thereon (except Lots 24, 25, 26, 46, 47 and 48, which may have some commercial usage as set out in Paragraph 2 hereof), with it being intended that no commercial use of any such lots shall be permitted and specifically that no sign shall be placed on any such lot indicating a commercial use thereof, and that each main dwelling unit hereafter constructed on each such lot shall contain at least twelve hundred fifty (1250) feet of area, floor space, exclusive of porches, garages and breezeways; unless otherwise permitted in writing by the Restriction Committee; and,
- 1B. A residence may also be used for a profession or personal services business; such as, doctor, lawyer, realtor, etc., but only when approved in writing by the Restriction Committee; and,
- 1C. Only standard residential "For Sale" signs will be permitted containing not more than five (5) square feet unless otherwise approved in writing by the Restriction Committee; and,
2. Lots 24, 25, 26, 46, 47 and 48, in addition to residential use as set out in Paragraph 1A hereof, after July 1, 1978, may be used for neighborhood commercial business but not for light or heavy industrial usage; and,
3. That all single family main dwelling units hereafter constructed in said subdivision shall be constructed in a good, workmanlike manner with the use of new materials only, and in such a way as to present a neat and attractive appearance in the area thereof and the exterior walls of all main dwelling units so constructed on said property, exclusive of porches, garages and breezeways appurtenant thereto, shall be constructed of at least 50% stone or brick unless otherwise approved, in writing, by the Restriction Committee; and with it being specifically here provided that no houses or other structures shall be moved onto any lot in said subdivision for use as living quarters unless otherwise approved, in writing, by the Restriction Committee; and,

4. That all dwelling units constructed in said subdivision shall set back at least 100 feet from any street and at least 25 feet on the side and rear lot lines unless otherwise approved, in writing, by the Restriction Committee; and,
5. All barns and other out-buildings except detached garages shall be set back at least 200 feet from any street and at least 25 feet from the side and rear lot lines unless otherwise approved, in writing, by the Restriction Committee; and,
6. That no trailer house or mobile home shall be placed or otherwise permitted on any lot in said subdivision; and,
7. Recreation vehicles as such including Travel Trailers, Motor Homes and comparable vehicles all under 35 feet in length and either self-propelled or towed behind a conventional automobile or pick-up truck may be parked behind the set back lines after the main dwelling unit is constructed, but not used for living quarters; and,
8. A temporary permit from the Restriction Committee can be obtained for staying overnight on said property for the purpose of improving same; the type of overnight accommodations used shall be subject to the approval of the Restriction Committee. The initial period of time not to extend beyond ten (10) days and successive 10-day extensions may be issued by the Restriction Committee provided continuous improvement of the property is carried out and further provided such extensions do not meet with objections from a majority of the then owners of property in said subdivision.
9. That within 100 feet from any street in said subdivision only the construction of a white painted board, redwood, cedar or chain link fencing will be permitted, unless otherwise approved in writing by the Restriction Committee, and that within the area lying beyond 100 feet from any street, ranch style fencing may be erected; and,
10. That all sewage disposal systems constructed in said subdivision shall be by septic tank and field drains as recommended by the Texas State Health Department and as administered by the local licensing authority having jurisdiction. In no event will a cesspool or outdoor toilet be permitted; and,
11. That no animals will be permitted on any lot in said subdivision other than those that are normally found on a farm or ranch for private residential use and pleasure, with it being specifically understood that no hogs will be permitted on any part of said subdivision and that no animal or fowl commercial feeding or sales operation (feed lot) will be permitted on any part of said subdivision; and,
12. That no part or portion of said subdivision shall be used as a junkyard or as an area for the accumulation of scrap or used materials and that no part of said subdivision shall be used for any purpose that is obnoxious or offensive to the owners of other lots in said subdivision, nor shall anything be done in said subdivision that becomes an annoyance or nuisance to the owners of other lots in said subdivision; and,
13. Lots or tracts herein may be re-subdivided, however, no portion of any re-subdivided tract shall contain less than 2-1/2 acres unless such re-subdivision is approved, in writing, by the Restriction Committee; and,
14. If, through error or oversight or mistake, an owner of a lot in said subdivision builds, or causes to be built, any structure thereon which does not conform to all of the limitations and restrictions herein recited, it is expressly here provided that such non-conformity shall in no way affect these limitations or restrictions insofar as they apply to any and all other lots in said subdivision. Any delinquency or delay on the part of

the party or parties having the right to enforce these restrictions shall not operate as a waiver of such violation and such delinquency or delay shall not confer any implied right on any other owner or owners of lots in said subdivision to change, alter or violate any of the restrictions herein contained.

15. As the Restriction Committee for said subdivision until July 1, 1977, the undersigned hereby retains the right, in furtherance of a uniform plan for the development of Kerrville High Country Ranch Subdivision, Sec. II, Kerr County, Texas, as a high type residential neighborhood, to execute amendments to, including granting variances from and on, the aforerecited restrictive covenants and use limitations on said subdivision provided they, in the exercise of their best judgment and discretion, are of the opinion that any such amendments or variances would be in furtherance of the uniform plan for the development of said subdivision. Such Restriction Committee shall also perform all of the other duties and obligations imposed upon them under the provisions hereof. Prior to July 1, 1977, the undersigned will appoint five (5) property owners in said subdivision to serve as the Restriction Committee for said subdivision from and after such date by instrument recorded in the Deed Records of Kerr County, Texas, and such Restriction Committee as so appointed will thereafter serve as the Restriction Committee for said subdivision until their successors are duly elected as hereinafter provided for. Such Restriction Committee, including any additional members thereof as hereinafter provided for, shall be vested with all of the duties, powers, prerogatives and discretions herein conferred upon the undersigned as the original Restriction Committee for said subdivision. Any vacancies in such Restriction Committee by death, resignation or otherwise, with it being understood that the sale by any member of such committee of all of his property in said subdivision will be for purposes hereof construed as a resignation by him from such committee, will be filled by majority vote of the remaining members of such Restriction Committee by recordable instrument filed in the Deed Records of Kerr County, Texas. Notwithstanding the foregoing, however, it is expressly understood that any time after July 1, 1977, the then owners of a majority of the lots in said subdivision, with any husband and wife, or person, being considered as one owner, may by instrument in writing filed in the Deed Records of Kerr County, Texas, elect a five-member Restriction Committee for said subdivision and any such committee so appointed shall thereafter be vested with all of the duties, powers, discretions and prerogatives of the original Restriction Committee herein provided for. Members of such Restriction Committee will serve for a three (3) year period; a new election will be held each three (3) year period thereafter. In the event an election is not held at the time specified, the then existing committee shall continue to serve until a new one is duly elected. The Restriction Committee may issue its approval or disapproval of matters pertaining to fencing, stone or brick requirements, set-back requirements, re-subdivision of lots and specifications and locations of barns and out-buildings by letter; all other matters of a general nature pertaining to the entire subdivision shall be by appropriate instrument filed of record in the Deed Records of Kerr County, Texas.

#### D U R A T I O N   O F   R E S T R I C T I O N S

16. The restrictive covenants and use limitations herein published and impressed on all lots in said subdivision shall be binding on all the owners of properties in said subdivision for a period of twenty (20) years from and after date hereof, and from and after such date shall be automatically extended for an additional term of twenty (20) years unless specifically terminated by vote. Such vote to terminate will require a three-fourths majority of the owners of lots in said subdivision, with each husband and wife, or person, being considered as one owner and with each lot in said subdivision having one vote. Said election shall be conducted as provided in Paragraph 18.
17. Each and all of the restrictive covenants and use limitations shall terminate after the second twenty (20) year period unless specifically extended for a like period by a simple majority of votes cast in the manner hereinafter provided.

18. Within six (6) months before the expiration of said second twenty (20) year period, any five owners of one or more lots in said subdivision may call an election to be held at any building within said subdivision named in said call, at which all owners of one or more lots in said subdivision shall be entitled to vote, one vote to be allowed each owner of each lot in said subdivision. The action taken by any such group in calling such an election shall be binding on all owners of land in said subdivision where such owners are notified by written notice by certified or registered mail thirty (30) days before any such election. The thirty days referred to shall commence running on the date said notice is mailed. The question to be presented for decision at such election is: Shall the limitations and restrictions herein contained be continued for a further term of twenty (20) years. If a majority of the votes cast in said election shall favor the continuance of said limitations and restrictions, the results of said election shall be set forth in a written instrument which shall be signed and acknowledged by one of those who called said election, and filed for record in the office of the County Clerk, Kerr County, Texas, before the expiration of the second twenty (20) year period, and such limitations and restrictions shall thus be continued in full force and effect for the further period of twenty (20) years. Any three of those who called said election shall conduct such election and shall act as the judges thereof. Where a lot is community property or a homestead, the vote may be cast by either the husband or wife, but not by both. Where owned by joint tenants, the vote shall be cast by only one of the joint tenants. Where title to any lot or lots is in process of adjudication in any court, such court may authorize a representative to cast the ballot for the lot or lots involved.
19. In case the first election is declared illegal by the courts or considered irregular by said judges, a second election may be held in a similar manner as the first, at any time within six (6) months after such final decision, whether before or after the expiration of the second twenty (20) year period herein provided for, and the results shall be likewise binding for a twenty (20) year period if carried by a majority of the votes in such election.
20. In the event such election is held and the majority of the votes cast in such election shall be cast against the continuation of the limitations and restrictions, herein contained, then and in such event, all restrictions, limitations, and conditions herein contained shall become null, void and of no further force and effect from and after the expiration of the second twenty (20) year period herein provided for.
21. At the end of the third twenty (20) year period, if such restrictions and limitations were imposed for such period, another election can be held in a similar manner to determine whether or not such restrictions and limitations shall be extended for a fourth twenty (20) year period, with the results to be determined in the same manner as described above. Subsequent elections may be held each and every twenty (20) years thereafter as long as the owners of property in said subdivision desire to continue to impose such limitations and restrictions as are herein contained. If no election is called at the end of the second or subsequent twenty (20) year period, then said restrictive covenants and use limitations will automatically terminate at the end of such period.

#### E N F O R C E M E N T   O F   R E S T R I C T I O N S

22. The restrictive covenants and use limitations herein provided for in said subdivision are hereby declared to be covenants running with the land and shall be fully binding upon all persons acquiring title to property, including the right to acquire title to property by contract or otherwise, in said subdivision whether by descent, devise, purchase or otherwise, and any person by the acceptance of title to any lot in said subdivision, including any person procuring the right by contract to acquire title to any lot in said subdivision, shall thereby agree and covenant to abide by and fully perform the foregoing restrictive covenants and use limitations

on said subdivision, and shall be conclusively presumed to have constructive notice of the restrictive covenants and use limitations herein provided for on said subdivision by virtue of the filing hereof in the Deed Records of Kerr County, Texas, and with this being true without regard to whether or not such person has actual notice of these restrictions and use limitations on said subdivision by reference hereto in the instrument or instruments under which he acquired title to, any lot or lots in said subdivision or otherwise.

23. It is expressly understood that the undersigned, legal representatives or assigns, or any one or more of the owners of properties in said subdivision, shall have the right to enforce the restrictive covenants and use limitations herein provided for on said subdivision by injunction, either prohibitory or mandatory or both, in order to prevent a breach thereof or to enforce the observance thereof, which remedy, however, shall not be exclusive and the undersigned, legal representatives and assigns, or any other person or persons owning property in said subdivision, injured by virtue of the breach of the restrictions and use limitations herein provided for on said subdivision shall accordingly have their remedy for the damages suffered by them as the result of any breach, and in connection therewith it is controllingly understood that in the event of a breach of these restrictions and use limitations by the owner of any lot or lots in said subdivision it will be conclusively presumed that the other owners of lots in said subdivision have been injured thereby. But there shall be no reversion of title from violation of said restrictions, the violation being compensated for by injunction and/or damages.
24. Should any breach of the restrictions and use limitations herein provided for on said subdivision be held by any Court of competent jurisdiction to be invalid, void or non-enforceable for any reason, then it is expressly understood that any such adjudication or holding shall in no way affect, impair or restrict any of the other restrictions and use limitations herein on said subdivision.
25. The undersigned hereby dedicates all streets and easements for utility purposes shown and set forth on the plat of Kerrville High Country Ranch Subdivision, Sec. II, Kerr County, Texas, for the construction, operation and maintenance of streets and utility lines for the use of owners of lots in said subdivision and for the use of the public to the extent that the public is entitled to use the property so dedicated.
26. All of the restrictions and use limitations herein contained on said subdivision shall extend to, and accordingly be binding upon, the heirs, assigns, devisees, contract holders, and owners of every kind who may acquire any real property interest of any type, nature or kind in said subdivision from the undersigned, legal representatives and assigns.

WITNESS OUR HANDS this 2nd day of July, 1973.

Filed 15 Day of Aug. A.D., 1973 at  
EMILIE M. MUENKER 4:42 P.M.  
Clerk County Court, Kerr County, Texas  
By Margaret Muenker Deputy

DON SMITH COMPANY

Donald A. Smith  
Donald A. Smith, President

THE STATE OF TEXAS

COUNTY OF BEXAR

BEFORE ME, the undersigned authority, on this day personally appeared DONALD A. SMITH, President of DON SMITH COMPANY, 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 considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of July, 1973.

K. C. NIETENHOEFFER  
Notary Public in and for Bexar County, Texas  
K. C. NIETENHOEFFER  
Notary Public, Bexar County, Texas