

VOL
1046

PAGE
030

154899

**RESTRICTIVE COVENANTS FOR BENTON WOODS
ROCKWALL, ROCKWALL COUNTY, TEXAS**

THE STATE OF TEXAS

COUNTY OF ROCKWALL:

{ KNOW ALL MEN BY THESE PRESENTS
{

THAT the undersigned, Benton Woods, Rockwall Dev. Co., OWNER, hereinafter called the "Developer" of the property platted as Benton Woods (herein so called), an addition to the City of Rockwall, Texas, according to the map thereof duly recorded in the Map Records, Rockwall County, Texas, does hereby restrict the use of said property and imposes the following provisions which shall be binding upon the Owner or any purchaser of said lots, their heirs, administrators, successors and assigns, and said restrictions shall be covenants running with said land.

WHEREAS, Benton Woods is located in the beautiful Lake Ray Hubbard area of Rockwall County, Texas, on a site of natural beauty and scenic attraction; and

WHEREAS, the Developer wishes to preserve the natural beauty of Benton Woods while permitting the development and use thereof by individual lot purchasers of lots within Benton Woods; and

WHEREAS, the purpose of these restrictive covenants is to preserve said natural beauty to the extent possible and to preserve the view and aesthetic appeal of each lot site in Benton Woods and this intention is expressed herein for the express purpose of setting forth the goal of these Restrictive Covenants and the spirit in which they are to be construed; and

NOW THEREFORE, in order to achieve the purposes set forth hereinbefore, the Developer hereby declares these Restrictive Covenants applicable to Benton Woods upon the following terms and conditions.

1. Each Covenant, Deed or Deed of Trust which may be hereafter executed with respect to any property in the subdivision shall be deemed to and held to have been executed, delivered and accepted subject to all the provisions of this instrument, including without limitation, the Reservations, Restrictions, Covenants, Conditions and Easements herein set forth, regardless of whether or not any such provisions are set forth in said Covenant, Deed or Deed of Trust, and whether or not referred to in any such instruments.

2. All of the lots in Benton Woods shall be known and described as residential lots and no structure shall be erected placed or permitted to remain upon any such lot except one single family dwelling (and such other ancillary structures as are hereinafter mentioned); mobil homes are hereby expressly prohibited; nor may any such mobil homes be installed, placed or permitted to remain on any portion of Benton Woods so as to become a permanent dwelling thereon.

3. Brick, stone, brick-veneer, stone-veneer stucco, or stucco equal shall constitute no less than eighty percent (80%) of the outside walls of the dwelling (and for the purpose of these restrictions the term shall include all structures attached to the dwelling and windows shall not be considered a part of the outside walls).

4. Any garages, servants quarter, storage rooms or carports erected or placed on any portion of said property must be attached to the main structure. Each garage shall have an entrance facing the rear or side, but not facing the residential street of the lot.

5. Each dwelling constructed in Benton Woods shall contain a minimum of two thousand five hundred (2,500) square feet of air conditioned and heated covered floor area exclusive of all porches, garages, or breezeways attached to the main dwelling.

6. No structure of any type shall be erected on any lot in Benton Woods nearer the front property line than the setback line indicated on the recorded plat of Benton Woods and no structure of any type shall be erected closer to the side lot lines than a distance of ten (10) feet from the side lot line nor than is permitted by the ordinance of the City of Rockwall governing such matters at the time of the erection of such structure.

7. No temporary structure of any type shall be erected in Benton Woods for use as a dwelling or residence.

8. Except as to special street lighting or other aerial facility which may be required by the City of Rockwall or may be required by the franchise of any utility company, no aerial utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in Benton Woods whether upon individual lots, easements, streets, or rights-of-way of any type either by a utility company or any other person including (but not limited to) any person owning or acquiring any part of Benton Woods and all utility service facilities including (but not limited to) water, sewer, gas, electricity, and telephone, shall be buried underground within Benton Woods under alleys, streets, or utility easements and from such alleys, streets and utility easements to any structure located on any part of Benton Woods.

9. In the development of Benton Woods all utility service, including (but not limited to) telephone service and electricity of the type known as 120/240 volts, single phase, 3 wire, 60 cycle, alternating current, which shall be made available by means of underground facilities at a cost substantially in excess of the cost of service provided by the usual and standard overhead facilities, and each lot owner other than the undersigned agrees for himself, his heirs, successors and assigns, not to request any utility service including (but not limited to) telephone and electric service of any including (but not limited to) telephone and electric service of any character other than that provided.

Since electric service is to be furnished to the above described land solely by underground facilities, each lot owner other than the Developer agrees for himself, his heirs, successors and assigns, that he will at his own cost and expense, install and maintain the necessary underground facilities to provide electric energy to such property from the point of delivery of electric energy, which point is the electric service pedestal located at the property line as indicated on the plat of Benton Woods, an addition to the City of Rockwall, Texas.

Since telephone service is to be furnished to the above described land solely by underground facilities, each lot owner other than the Developer agrees for himself, his heirs, successors and assigns, that he will at his own cost and expense cause a trench to be opened at a depth and location satisfactory to the utility furnishing telephone service (hereinafter called the "Telephone Company") and after cable laying by the Telephone Company in installing, maintaining, relocation, servicing (including the expansion of service facilities) and repairing of the underground facilities to the said lot owner to the extent that such installation, maintenance, relocation, service and repair exceed the usual and normal costs incurred by the Telephone Company in providing normal aerial service.

Nothing herein contained shall be construed as relieving said lot owner his heirs, successors and assigns, from the obligation to make full reimbursement to every person, firm or corporation furnishing any underground utility service (hereinafter called "Utility Company") for all damages to its underground facilities caused by acts or omissions of said lot owner, his heirs, successors, and assigns or his or their employees, agents, or servants, and no Utility Company, nor any independent contractor working for or in connection with any such Utility Company shall be liable to said lot owner, his heirs, successors, or assigns, for damage to grass, shrubs, trees, gardens, fences, walks, pavements, porches or patios, sprinkling systems, or other structures or improvements of any type which may be situated under, or adjacent to the route of any underground

service, cable, or other facility of any Utility Company caused by or in connection with the installation, maintenance, relocation, servicing or repair of any such underground service, cable TV or other facility.

10. All roofs shall be wood shingle, slate, 240 pound or better asphalt or other permanent type as may be approved by the Architectural Control Committee. The Committee shall be two members as follows: The President of Rockwall Dev. Co. and The Architect. Each house shall have a minimum roof pitch of 8 and 12. Any exception to 8 and 12 pitch roof must be approved in writing by the Architectural Control Committee.

11. All Fences shall be 8 feet or less in height (unless otherwise approved by the Architectural Control Committee) and shall be approved by the Architectural Control Committee before installation.

12. All television and antennae and aerals shall be located inside the attic or under roof, unless otherwise expressly permitted by the Architectural Control Committee. Satellite television signal receivers ("Satellite Dishes") will not be permitted in Benton Woods unless size and location is specifically approved in writing by the Architectural Control Committee and conforms to ordinance of Rockwall, Texas.

13. No lot shall be re-subdivided and no building or other improvements of any character shall be erected or placed, or the erection or placement thereof commenced, or changes made in the design thereof or an addition made thereto to exterior alteration made therein after original construction, or any property in Benton Woods without approval (as hereinafter provided) of such re-subdivision or of the construction plans and specifications and a plat showing the location of such building or other improvements. Approval shall be granted or withheld based on compliance with the provisions hereof, quality of materials, harmony of external design with existing and proposed structures, obstruction of view from nearby or adjoining lots and finished grade elevation. In making a determination as to the approval of plans for construction on a lot, the Architectural Control Committee shall be authorized to refuse to approve anything which encroaches on any area of protected view as the members may deem appropriate.

(a) The authority to grant or withhold architectural control approval as referred to above is vested in the Developer shall terminate upon the election of the Benton Woods Architectural Control Committee, in which event such authority shall be vested in and exercised by the Benton Woods Architectural Committee, except as to specifications and plats theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plats.

(b) At such time as all of the lots in the Subdivision are as platted, from time to time, hereinafter shall have been sold by the Developer then the Developer shall cause a Statement of such circumstances to be place on record in the Deed Records of Rockwall County, Texas. Thereupon, the lot owners of Benton Woods may by vote, as hereinafter provided, elect a committee of three (3) members to be known as the Benton Woods Architectural Committee (herein referred to as the "Committee"). Each member of the Committee must be an owner of property in Benton Woods. Each lot owner shall be entitled to one (1) vote for each whole lot or building site owned by that owner. The action of a majority of the committee shall control and the Committee shall have the right to designate a representative to act for it in all matters arising hereunder. The Developer shall arrange for such election within sixty (60) days following the filing of the aforesaid Statement. Notice of the time and place of such election (which shall be in Rockwall County, Texas) shall be given not less than five (5) days prior thereto. Nothing herein shall be interpreted to require that the Developer actually file any such Statement so long as it has not subdivided and sold the property described herein. Votes of the owners shall be evidenced by written ballot furnished by the Developer (or the committee) and the Developer (or the committee) shall maintain said ballots for a period of not less that four (4) years. Any owner may appoint a proxy to cast his ballot in such election, provided that his written appointment, duly signed and notarized, of such proxy is attached to the

ballot as a part thereof. The results of each such election shall promptly be determined on the basis of the majority of those owners then voting in such election. After the first, such election shall have been held, thereafter the Committee shall be obligated to arrange for elections (in the manner and after notice as set forth above) for the removal and/or replacement of Committee members when so requested in writing by fifteen (15) or more lot owners in Benton Woods. Members of the Committee may, at any time, be relieved of their position substitute members therefor designated by vote as set forth above. Upon the death, resignation, refusal or inability of any member of the Committee to serve, the remaining members of the Committee shall fill the vacancy by appointment, pending an election as hereinabove provided for. If the Committee should fail or refuse to take any action herein provided to be taken by the Committee with respect to setting elections, conducting elections, counting votes and determining results, or naming successor Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgement of the Developer) the Developer may validly perform such function.

(c) Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. The decision of the Developer or the committee in this respect shall be final and conclusive. In the event that the authority exercising and the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plats submitted to it in compliance with the preceding provisions within ten (10) days following such submission such plans and specifications and plat shall be deemed approved and the construction of any such building and other improvement may be commenced and proceeded with in compliance with all such plans and specifications and plat and all of the other terms and provisions hereof.

14. All easements, rights-of-way, and similar burdens shown on the recorded plat of Benton Woods for the purpose of installation, maintenance of utilities and all such easements, rights-of-way, or similar burdens granted or imposed for any such purpose shall be strictly observed by each owner or purchaser of any part of Benton Woods, and shall not be in any manner obstructed so as to defeat or hinder in any manner the use of such easements, rights-of-way or similar burdens.

15. The provisions hereof, including the Reservations, Restrictions, Covenants, Conditions and Easements herein set forth, shall run with the land and shall be binding upon the Developer, its successors and assigns, and all persons or parties claiming under it or them for a period of thirty-five (35) years from the date hereof, at which time all such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period of thirty-five (35) years or ten (10) years, the then owners of a majority of lots in the subdivision shall have executed and recorded an instrument changing the provisions hereof, in whole or in part, the provisions of said instrument to become operative at the expiration of the particular period in which such instrument is executed and recorded, whether such period be the aforesaid thirty-five (35) year period or any successive ten (10) year period thereafter.

16. If any Conditions, Covenants, Provisions, and Restrictions herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgement or order of a court of competent jurisdiction, such invalidity shall in no way affect any other Condition, Covenant, Provision or Restriction, each of which shall remain in full force and effect.

17. Exterior paint color is to be approved by the Architectural Control Committee.

18. All lots shall be maintained at all times in a sanitary, healthful and attractive condition, and the owner or occupant of all lots shall keep all weeds and grass thereon cut and shall in no event use any lot for storage of material or equipments except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish. If the

owner of any lot or lots in Benton Woods refuses to maintain the lot or lots after due notice for same, the Developer shall have the right to perform such maintenance and be reimbursed for the cost of such maintenance.

19. No boats, house trailers or Recreational Vehicles shall be parked or stored in any area other than an enclosed garage or fence area sufficiently high to restrict the view from the street or from adjacent lots. Must be approved by Architectural Control Committee.

20. Under no condition will automobiles, boats, or other vehicles or moveable structures or items of any kind be placed in the yards or along the street and offered for sale.

21. The Developer shall have the right to remove and dispose of any sign (except standard Builder or Realtor "For Sale" signs, not to exceed eight (8) square feet), advertisement, billboard or advertising structure which is placed on any lot, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal nor in any way be liable for any accounting or other claim by reason of the disposition thereof. Open house signs are permitted.

22. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept as household pets provided that they are not kept, bred or maintained for commercial purposes and provided they do not constitute a nuisance and do not, in the sole judgement of the Developer, constitute a danger or potential or actual disruption of other lot owners, their families or guests. All dogs, cats or other common household pets shall be kept in Benton Woods only upon the condition that the custodian thereof abide by all of the ordinances and regulations of the City of Rockwall, Texas, with respect to care, control and ownership of such animals within the city, including "leash" and "vaccination" ordinances; and reference is here made to such ordinance for all purposes.

23. The digging of dirt or the removal of any dirt from any lot is expressly prohibited except as necessary in conjunctions with the landscaping of or construction on such lot. No trees shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees.

24. With reasonable diligence, and in all events within six (6) month from the commencement of construction, unless completion is prevented by war, labor strike, or act of God, any dwelling or other structure commenced upon any lot shall be completed as to its exterior and all temporary structures shall be removed.

25. Each of the Conditions, Covenants, Restrictions, Provisions, and Agreements herein contained is made for the mutual benefit of (and is binding upon) each and every person acquiring any part of Benton Woods, which shall be developed for residential purposes only, it being understood that such Conditions, Covenants, Restrictions, Provisions, and Agreements are not for the benefit of the owner of any land except in Benton Woods; this instrument, when executed, shall be filed of record in the Deed Records of Rockwall County, Texas, so that each and every owner or purchaser of any portion of Benton Woods, is on notice of the Conditions, Covenants, Restrictions, Provisions, and Agreements herein contained.

26. In the event of any violation of attempted violation of any of the provisions hereof, including any of the Reservations, Restrictions, Covenants, Conditions, and Easements hereincontained, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of the provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provision; and it shall not be a prerequisite to the granting of any such injunction to shown inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provision hereof may recover such damages as such person

has sustained by reason of the violation of such provision. It shall be lawful for the Developer or for any person or persons owning property in the subdivision to prosecute any proceedings at law or in equity against the person or persons violation or attempting to violate any of such provisions.

27. Parking of any motor vehicle and/or boat on any drive, street or circle shall be prohibited.

28. Any owners of one or more adjoining lots (or portions thereof may consolidate such lots or portions into one building site, with the privilege of place of construction improvements on such resulting site, in which case side setback lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site or portion of a lot to be used as a building site must have a frontage at the building setback line of not less than the frontage of the narrowest lot in the same block. Any modification of a building site (changing such building site from either a single lot building site or from a multiple whole lot building site) whether as to size or configuration, may be made only with the prior written approval of the Developer until the Committee is selected. Thereafter, only with the prior written approval of the Committee. Upon any such required approval having been obtained, such composite building site shall thereupon be regarded as a "lot" for all purposes hereunder, except, however, that for purposes of voting for the Committee (as provided under Paragraph 13 above), an owner shall be entitled to one (1) vote for each whole lot within such owners' building site.

29. The Restrictions and Covenants herein contained and adopted may be repealed or altered, and additional restrictions and covenants may be adopted at any time by the concurrence of the Developer, its successors and assigns, and the owners of a majority of lots in Benton Woods but any such amendment shall not be operative unless and until executed by said persons and recorded in the Plat or Deed Records of Rockwall County, Texas.

30. The Developer may at any time hereafter cause a nonprofit corporation to be organized under the laws of the State of Texas for the purposes of exercising all or any of the duties and prerogatives of the Developer hereunder (including the matters relating to the Architectural Control Committee). Any such delegation of authority and duties shall serve to automatically release the Developer from further liability with respect thereto and vest such duties and prerogatives in such nonprofit corporation. Any such delegation shall be evidenced by an instrument amending this instrument, placed of record in the Deed Records of Rockwall County, Texas, and joined in by the Developer and the aforesaid nonprofit corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in Benton Woods, a lienholder, mortgagee, Deed of Trust beneficiary or any other person.

31. Special Conditions: The Developer has constructed a fence along the east boundary line of each of Lots 16 through 23 for the purpose of insuring the privacy and seclusion of those lots as well as the other lots in Benton Woods. For the purpose of preserving the atmosphere and ambiance which the Developer intends to create in Benton Woods, a covenant is imposed upon each of Lots 16 through 23 thereof that owners of said lots shall take all action within their power to maintain the fence so constructed. No person owning any of Lots 16 through 23 shall at any time permit, place or permit to remain any opening in the fence thus constructed nor shall any such owner construct, build, lay out, place or permit to remain upon any portion of his lot any passageway, foot path, or other way allowing passage by members of the public who are not owners of lots in Benton Woods nor shall any such person be allowed to traverse or cross such lots from other properties for the purpose of using the streets in Benton Woods for walking, jogging, bicycling or similar activities or for any other purpose whatsoever.

All homes in Benton Woods must be built by a Custom Home Builder whose quality has been approved by the Architectural Control Committee. No builder will be approved unless the Architectural Control Committee inspects a recently constructed house and approves its' material and workmanship. No part-time or new builder will be approved to build in Benton Woods. Benton Woods has been planned as a Custom Home Community and to further that objective the developer will restrict the number of houses built "for sale" to a maximum of six (6) at any one time.

EXECUTED this 27th day of September, 1995.

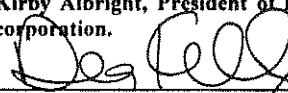
ROCKWALL DEV. CO.

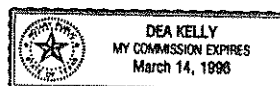

By: Kirby Albright, President

The State of Texas

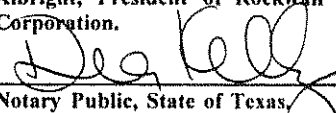
County of Rockwall

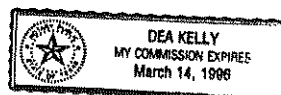
This instrument was acknowledged before me this 27th day of September, 1995 by Kirby Albright, President of Rockwall Dev. Co., a Texas Corporation, on behalf of said corporation.


Notary Public, State of Texas



Sworn to and Subscribed before me this 27th day of September, 1995 by Kirby Albright, President of Rockwall Dev. Co., a Texas Corporation, on behalf of said Corporation.


Notary Public, State of Texas



Return to: Rockwall Dev. Co.
3221 Ridge Road
Rockwall, TX 75087

FILED FOR RECORD 27th DAY OF September, A.D., 1995 at 2:46 P.M.
RECORDED 28th DAY OF September, A.D., 1995
PAULETTE BURKS, COUNTY CLERK, ROCKWALL COUNTY, TEXAS.
BY: Paulette Burks, DEPUTY