

USE RESTRICTIONS AND COVENANTS  
FOR LOTS 1-12 OF AUSTIN PARK

Section 1 Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on the Property other than a dwelling unit or units to be used for residential purposes. Detached garages, work shops, and barns may be constructed on the property either prior to or after the main dwelling is built, so long as they are of good construction, kept in good repair, and are not used for residential purposes. The term "dwelling" does not include single or double wide mobile homes or manufactured or mobile homes. All dwellings must have at least 1800 square feet of living area, excluding porches, and be built with new construction materials. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Property, or the use of the Property for duplex houses, condominiums, townhouses, garage apartments, or apartment houses; and the Property shall not be used for business, educational, religious or professional purposes of any kind whatsoever, nor for any commercial or manufacturing purposes, except as provided herein.

Section 2 Residential Foundation Requirements. All building foundations shall consist of concrete slabs, unless the circumstances such as topography of the Property make it impractical to use a concrete slab for all or any portion of the foundation of the building improvements constructed on the Property. Minimum finished slab elevation for all structures shall be above the 100 year flood plain elevation, or such other level as may be established by the Commissioner's Court of Montgomery County, Texas, and other applicable governmental authorities.

Section 3 Location of the Improvements. No building of any kind shall be located on the Property nearer than fifty (50') feet to any side or rear property line, or nearer to any public road or front property line than one hundred (100') feet. All dwellings placed on the Property must be equipped with septic tank or other sewage disposal system meeting all applicable laws, rules, standards and specifications, and all such dwellings must be served with water and electricity.

Section 4 Easements. Any utility easement that may be reserved in the Deed to which these restrictions are attached shall be for public use for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utility across and/or under the Property. Any utility company serving the Property and/or any Utility District serving the Property shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. No utility company, water district, political Subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants, to fences, shrubbery, trees and lawns or any other property of the Owner on the property covered by said easements.

Section 5 Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on the Property at any time as a residence, either temporarily or permanently.

Section 6 Water Supply. All residential dwellings on the Property shall be equipped with and served by a fresh water system installed, operated and continuously maintained in accordance with



applicable governmental requirements.

Section 7 Sanitary Sewers. No outside, open or pit type toilets will be permitted on the Property. All dwellings constructed on this Property, prior to occupancy, must have a sewage disposal system installed to comply with the requirements of the appropriate governing agency.

Section 8 Prohibition of Offensive Activities. Without expanding the permitted use of the Property, no activity, whether for profit or not, shall be conducted on the Property which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done to the Property which may become a nuisance. No exterior speaker, horn, whistle, bell or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or placed on the Property.

Section 9 Garbage and Trash Disposal. Garbage and trash or other refuse accumulated on the Property shall not be permitted to be dumped at any place upon the Property or adjoining land where a nuisance to any residence in this area is or may be created. The Property shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 10 Junked Motor Vehicles Prohibited. The Property shall not be used as a depository for abandoned or junked motor vehicles. An abandoned or junked motor vehicle is one without a current, valid state vehicle inspection sticker and license plate. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept on the Property. This shall not be construed to mean that personal campers, boats, tractors, farm or recreational vehicles in good and usable condition may not be kept on the Property.

Section 11 Permitted Agricultural and Livestock Uses. In addition to use for single family residential purposes as provided in Section 1 of these Use Restrictions and Covenants, the Property may be used for the following purposes:

(a) Agricultural Use. Subject to the limitations contained in this subsection (a), the Property may be used, in addition to other permitted uses, for the purpose of producing from such Property agricultural products such as vegetables, grains, hay, fruits, fibers, wood, trees, plants, shrubs, flowers and seeds in accordance with generally accepted agricultural practices, provided that such agricultural uses and activities do not constitute a nuisance (as defined and used in Section 6 hereof). Such agricultural products may be sold or marketed to the public, provided, however, that, except as hereinafter expressly approved, no such sales or marketing shall be conducted on the Property or any portion thereof. The preceding sentence shall be deemed to prohibit specifically, but without limitation, the construction or maintenance of any structure on the Property or any portion of the Property the primary purpose of which is for the public display of any such agricultural products; and the conducting on the Property or any portion thereof any form of public sale or auction of such agricultural products. However, nothing contained herein shall prohibit a third person or persons from entering upon the Property for the purposes of viewing or inspection agricultural products or unharvested or growing crops, purchasing same by private purchase and/or carrying or transporting agricultural products off such Property. In connection with agricultural uses permitted in this subsection, an Owner may, when reasonable and necessary for the

particular agricultural use, and when conducted in accordance with generally accepted agricultural practices, use or hire the use of tractors and other farm equipment, farm laborers and chemical fertilizers, pesticides and herbicides; provided, however, that an Owner must comply with all applicable rules, laws and regulations as to the type and manner of application of any chemical fertilizer, pesticide or herbicide.

(b) Livestock and Animals. Animals, livestock, emu, and ostrich, other than hogs or poultry may be kept, bred, and maintained on subject property under the following conditions:

- (i) No livestock of any type shall be allowed to run loose except upon one's own Property;
- (ii) All horses, cattle, emus, ostriches or other livestock shall be kept enclosed by suitable fencing of the subject property;
- (iii) No swine may be bred, kept or maintained on subject property except for 4-H or FFA school sponsored programs;
- (iv) No chickens, turkeys or other poultry may be kept or raised on subject property except for 4-H or FFA school sponsored programs;
- (v) Though horses are permitted, public stables or boarding of horses are not permitted;
- (vi) Though cattle are permitted, feed lots are not permitted;
- (vii) The premises shall be maintained in such a manner as to prevent health hazards and shall not be offensive to the neighboring tracts.

Section 12 Oil and Mining Operations. No oil drilling or development operations, oil refining, commercial quarrying or mining of clay, sand, gravel, iron ore or similar materials shall be permitted upon the Property nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Property.

Section 13 Subdividing. The Property shall not be subdivided into tracts of less than four (4) acres.

Section 14 Term. The provisions hereof shall run with all property and shall be binding upon all Owners of Lots 1-12 in Austin Park, an unrecorded subdivision and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by not less than two-thirds (2/3rds) of the then Owners of Lots 1-12 of Austin Park, an unrecorded subdivision in Montgomery County, Texas, has been recorded agreeing to cancel, amend or change, in whole or in part, these Use Restrictions and Covenants.

Section 15 Severability. Each of the provisions of these Use Restrictions and Covenants shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 16 Liberal Interpretation. The provisions of these Use Restrictions and Covenants shall be liberally construed as a whole to effectuate the purpose of this instrument.

Section 17 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners of the Property, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 18 Effect of Violations on Mortgages. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; and any such mortgage, lien, or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

Section 19 Variance. Jatex Development, Inc., its successors and assigns may authorize variances from compliance with any of the provisions of these Use Restrictions and Covenants or minimum acceptable construction standards or regulations and requirements as set forth herein, when circumstances such as topography, natural obstructions, Property configuration, Property size, hardship, aesthetic or environmental considerations may require a variance. Jatex Development, Inc., its successors and assigns reserve the right to grant variances as to building set-back lines, minimum square footage of the residence, foundation type and other items. Such variances must be evidenced in writing and shall become effective when signed by Jatex Development, Inc. If any such variances are granted, no violation of the provisions of these Use Restrictions and Covenants shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions hereof for any purpose except as to the particular Property and particular provisions hereof covered by the variance, nor shall the granting of any variance effect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Property concerned.

Section 20 Terminology. All personal pronouns used in these Use Restrictions and Covenants and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The term "Property" shall refer to the property conveyed in the instrument to which these Use Restrictions and Covenants are attached. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear.

c:\wp51\restrict\jatex-1.jws