

2204

SUBDIVISION RESTRICTIONS

Sections A and B, Lakeway Harbor Subdivision

THE STATE OF TEXAS)
COUNTY OF SMITH)

KNOW ALL MEN BY THESE PRESENTS:

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ERNEST CHRISTIAN
COUNTY CLERK
FILED
SMITH COUNTY, TEXAS
DEPUTY

That Lakeway Development Company, a Texas corporation, the owner of Sections A and B of Lakeway Harbor Subdivision, as shown by the plats thereof duly recorded in Volume 7, Pages 192 and 193, Plat Records, Smith County, Texas, does hereby acknowledge, declare and adopt the following restrictions, which are hereby impressed on the property covered hereby, subject to the provisions of numbered paragraph 15 hereinbelow, and these restrictions and covenants shall run with the land, and supersede and are in lieu of any prior restrictions (whether included in any deed or otherwise) on the property covered hereby:

1. There shall be established an Architectural Control Committee composed of three (3) members appointed by the undersigned (and/or by designees of the undersigned, from time to time) to protect the owners of lots hereunder against such improper use of lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials, to obtain harmonious architectural schemes; to insure the highest and best development of said property; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and, in general, to provide adequately for a high type of quality of improvements in said property, and thereby to enhance the value of investments made by purchasers of lots therein.

Neither the undersigned, nor the Architectural Control Committee, nor the members of said Committee, nor the Directors nor officers of Lakeway Owners Association, shall have any liability nor responsibility at law nor in equity on account of the enforcement of, nor on account of the failure to enforce, these restrictions.

2. Subject to the provisions of numbered paragraphs 8 and 9 hereof and except for Lots 1 thru 15, Section A, and Lot 125, Section B, which are designated as commercial and/or residential, all lots hereunder are restricted to use for single family residential purposes only, and no building shall be erected or maintained thereon other than a private residence (minimum floor area of 900 square feet on Lots 47 thru 113, Section A, and 600 square feet on all other lots hereunder), a tool storage building (minimum floor area of 30 square feet and maximum floor area of 144 square feet), a private garage and a private boathouse for the sole use of the purchaser of such lot. However, no residential building may be built on a lot (or contiguous lots used as a single building site), which lot or lots do not contain a total area of at least 3,000 square feet. There shall be permitted, on any lot hereunder, a private residential structure (minimum floor area of 100 square feet) if used in conjunction with either a mobile home, travel trailer or motor home. The minimum floor area requirements for residential structures stated hereinabove are exclusive of porches, stoops, open or closed carports, patios and garages.

3. Subject to the provisions of numbered paragraphs 8 and 9 hereof, (i) no used existing building or structure of any kind and no part of a used existing building or structure shall be moved onto, placed on, or permitted to remain on any lot; all construction must be of new material (except stone, brick, and inside structural material, if such use is approved in writing by the Architectural Control Committee) and (ii) no tar paper type roof or siding materials will be used on any structure, and no sheet metal type of roof or siding materials will be used without written approval of the Architectural Control Committee on any structure, and (iii) the exterior of any building must be painted or stained. All buildings and structures shall be completely underpinned and underskirted with no piers or pilings exposed to view. No natural drainage shall be altered, nor shall any drainage ditch, culvert, nor drainage structure of any kind be installed nor altered, nor shall any curb nor other such impediment to the free flow of water be installed nor altered, without prior written consent of the Architectural Control Committee.

4. No building, fence, or other structure or improvements shall be erected, placed or altered on any lot until two copies of the construction plans and specifications, including specifications of all exterior and roofing materials, including color of paint or stain, and a plan showing the proposed location of the structure, have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design with existing structures and as to location with respect to topography and finish grade elevation and otherwise. If such construction, placement or alteration is not commenced within eight (8) months of such approval, the approval shall be null and void unless an extension is granted in writing. No building exceeding two (2) stories in height shall be erected or placed on any lot.

5. Fences shall be permitted to extend to the side and back lot lines and to no less than 5 feet of the front lot lines, but without impairment of the easements reserved and granted in these restrictions.

6. No building, mobile home, camper or structure other than a fence shall be located nearer to the side street line than 5 feet or nearer to the side lot line or rear lot line than 5 feet. "Side lot line" and "rear lot line", respectively, as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under a contract to be conveyed by the undersigned to) the same person or persons and used as a single building site, shall thereafter mean, respectively, each and/or either of the two outermost side lot lines and the rear lot line furthest from the front lot line considering said contiguous whole and/or fractional lots as one lot. No building, mobile home, camper or structure other than a fence shall be located nearer to the front lot line than 10 feet.

7. No animals or birds, other than household pets, shall be kept on any lot.

8. Subject to the remaining provisions of this paragraph, no outbuilding other than a private boathouse, garage, or storage building of size hereinbefore provided shall be erected on any lot, and no outbuilding, boathouse, garage or storage building erected on any lot shall at any time be used as a dwelling, temporarily or permanently, nor shall

any shack be placed on any lot. Camping shall be permitted on all lots hereunder and shall be limited to use of campers, travel trailers, motor homes, tents (except tents may never be used on Lots 1 thru 43, Section A, and Lots 31 thru 45 and 112 thru 125, Section B, and tents may not be used after September 30, 1980, on Lots 44 thru 421, Section A), and other camping shelter, which shall be of good appearance and in good repair and approved in writing by the Architectural Control Committee. Tents and similar types of temporary camping equipment cannot be left on a lot unattended for more than twenty-four (24) consecutive hours. Mobile homes may be placed and used on all lots hereunder. Mobile homes must be approved in writing by the Architectural Control Committee and must be underskirted with material approved by the Architectural Control Committee. A septic tank system may be constructed only if it complies with the requirements of the Health Department of the State of Texas and of the local authorities having jurisdiction. The purchaser of each lot shall keep same clean and free of weeds and debris such as will be in keeping with the other property hereunder and the community at any particular time. Upon failure to do this, the undersigned or its successors or assigns may have the lot cleaned and the cost or expense thereof shall be payable by the lot purchaser to the undersigned or its successors or assigns. This cost and expense shall be secured by a lien on the lot so involved upon the undersigned, its successors or assigns recording with the County Clerk, Smith County, Texas, its certificate to such effect and certifying to the amount of such cost and expense.

9. Easements are reserved along and within 5 feet of all lot lines of all lots hereunder. Said easements established in the next preceding sentence are for the construction, operation and perpetual maintenance of conduits, poles, wires and fixtures for electric lines, gas lines, telephone lines, water lines, sanitary and storm sewers, road drains and other public and quasi-public utilities, with right of ingress to and egress from across said premises to employees of said utilities. Easements are reserved along and within 10 feet of all lot lines for employees of said utilities to trim any trees or shrubbery which at any time may interfere or threaten to interfere with the operation or maintenance of such lines. To the extent neither said construction, operation nor maintenance of any of the items mentioned in the preceding sentences of this paragraph has commenced along any respective lot, "side lines of all lots" and "rear lines of all lots", respectively, as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under a contract to be conveyed by the undersigned to) the same person or persons and used as a single building site, shall thereafter mean, respectively, each and/or either of the two outermost side lot lines and the rear lot line furthest from the front lot line considering said contiguous whole and/or fractional lots as one lot.

It is understood and agreed that it shall not be considered a violation of the provisions of the easement if wires or cables or cross arms carried by such pole lines pass over some portion of said lots not within the easement as long as such lines do not hinder the construction of buildings on any lots hereunder.

The undersigned and/or their designees may, on any lot and/or lots then owned by them, construct, maintain, use and allow to be used by others, parks, swimming pools, boat ramps, fishing piers, playgrounds, community center buildings, sales offices, water wells and related pumping, storage, operation and maintenance facilities, and the like, and numbered paragraphs 2, 3, 5, 6, 7, 8 and 11 hereof shall not apply thereto.

10. No outside toilet or privy shall be erected or maintained on any lot hereunder. The materials installed in, and the means and methods of assembly of, all sanitary plumbing shall conform with the requirements of the Health Department of the State of Texas and the local authorities having jurisdiction. No sewage nor effluent shall be disposed of upon, in, nor under any lot hereunder except into a septic tank or other approved system meeting the aforesaid requirements.

11. Any building, structure, or improvement commenced upon any lot shall be completed as to exterior finish and appearance within six (6) months from the commencement date. No lot or portion of any lot shall be used as a dumping ground for rubbish or trash, nor for storage of items or materials (except during construction of a building), and all lots shall be kept clean and free of any boxes, rubbish, trash, inoperative cars, tall grass or weeds or other debris, and refrigerators and other large appliances shall not be placed outdoors. The undersigned shall have the right to enter the property where a violation exists under this paragraph and remove the incomplete structure or other items at the expense of the offending party.

12. Subject to the remaining provisions of this paragraph, as to each lot hereunder, an assessment is hereby made of (i) \$2.50 per month with respect to the total of lots, the owner of which owns one or two lots in Lakeway Harbor Subdivision, (ii) \$3.50 per month with respect to the total of lots, the owner of which owns three lots in Lakeway Harbor Subdivision, and (iii) \$5.00 per month with respect to the total of lots, the owner of which owns four or more lots in Lakeway Harbor Subdivision; the word "owner", as used in this sentence, shall include also a purchaser of a lot in Lakeway Harbor Subdivision. Such assessments may be used for the construction, reconstruction, improvement and maintenance of roads and streets, swimming pools, parks, and other improvements in Lakeway Harbor Subdivision, and for the purchase and rental of land and other property and facilities for use by Lakeway Owners Association, and for security guards at Lakeway Harbor Subdivision, and for any other uses approved by the Board of Directors of Lakeway Owners Association, it being understood that said swimming pools, parks, and recreational areas are for the sole use and benefit of the members of said Association, their families and authorized guests. Said assessment shall accrue from the earlier of the date of the agreement for deed from the undersigned as seller to a purchaser or of the conveyance by the undersigned as grantor. Such assessment shall be and is hereby secured by a lien on each lot hereunder, respectively, and shall be payable to Lakeway Owners Association (a Texas non-profit corporation), its successors and assigns, the owner of said assessment funds, on August 31 of each year commencing in 1975, at which date in the year 1975 and in successive years said assessment lien shall conclusively be deemed to have attached, and there shall be no lien securing said assessment until August 31 of each such year. Said assessment lien shall be junior and subordinate to any lien which may be placed on any lot or any portion of any lot as security for any interim construction loan and/or any permanent loan for financing improvements on said lot, and/or any purchase money loan for any lot on which a dwelling or building complying with these restrictions has theretofore been constructed. Commencing on the last Friday in July, 1981, the undersigned shall not be eligible for membership in said Lakeway Owners Association. Assessments against lots owned by the undersigned shall accrue, and liens securing same may attach, only during such times as a contract to purchase said lots is then in force; no assessment shall be made against the undersigned nor against then unsold lots owned by it at any

time (whether or not such lots have been previously sold and the contract cancelled or otherwise terminated), and as to any lot then owned by the undersigned not covered by a contract with the undersigned then in force to sell or reserve for sale such lot, any then accrued but unpaid assessments under this paragraph against such lot shall thereupon be automatically cancelled. After the last Friday in July, 1981, members in Lakeway Owners Association may elect, by a majority vote of the members present at a meeting of members duly convened, to increase such assessments.

13. No lot which is under a contract of sale then in force, with the undersigned being the seller thereunder, may be subdivided without the consent of the undersigned, its successors and assigns, which consent may be granted or withheld at the sole discretion of the undersigned, its successors or assigns. No lot or any part of a lot shall be used for a street, access road or public thoroughfare without the prior written consent of the undersigned, its successors and assigns.

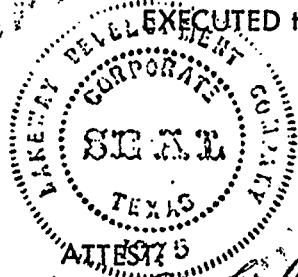
14. No water well shall be permitted on any lot hereunder except on such lots as may be hereafter specifically designated by the undersigned and/or by any other party hereafter authorized by the undersigned to so designate such excepted lots.

15. Subject to the provisions of the last sentence of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (i) violate or attempt to violate any restriction or provision herein or (ii) suffer to be violated (with respect to the real property in which such person or entity has rights other than the rights granted by this sentence) any restriction or provision herein, it shall be lawful for Lakeway Owners Association and/or any person or entity, as defined hereinafter, possessing rights with respect to any real property hereunder, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or suffering to be violated any restriction or provision herein to (i) prevent such violation, (ii) recover damages or other dues for such violation, and (iii) recover court costs and reasonable attorneys' fees incurred in such proceedings. "Person or entity", as used in the next preceding sentence hereof, shall include, but shall not be limited to, all owners and purchasers of any real property hereunder, as well as all heirs, devisees, assignees, legal representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder. Notwithstanding any other provisions hereof, the undersigned shall neither be liable nor be subject to any proceeding at law or in equity on account of any violation or attempted violation of any restriction or provision herein which occurs during such time as there is in force a contract to purchase the property where such violation or attempted violation takes place.

16. The westerly portions of Lots 22, 23 and 152 thru 220, Section A, are subject to a sixty foot (60') wide unobstructed right-of-way easement reserved to Exxon Corporation in that certain deed dated April 17, 1973, recorded in Volume 1447, Page 487, Deed Records, Smith County, Texas. There is prohibited, on all of said right-of-way easement, any excavation or construction of any house, structure or obstruction other than streets and utility lines as described in said deed, for as long as said easement remains in effect.

17. Invalidation of any one or more of these covenants and restrictions by judgment of any court shall in nowise affect any of the other covenants, restrictions, and provisions herein contained, which shall remain in full force and effect.

EXECUTED this 10th day of February, 1976.



LAKEWAY DEVELOPMENT COMPANY

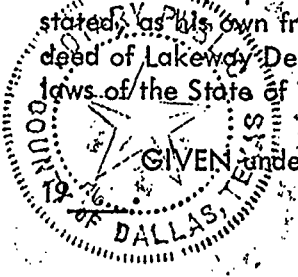
By

J. G. Boyles
J. G. Boyles, Vice President

R. L. Brown
Secretary

THE STATE OF TEXAS)
COUNTY OF DALLAS)

BEFORE ME, the undersigned, a Notary Public in and for the County and State aforesaid, on this day personally appeared J. G. Boyles, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be Vice President of Lakeway Development Company, who acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated, as his own free and voluntary act and deed and as the free and voluntary act and deed of Lakeway Development Company, a corporation organized and existing under the laws of the State of Texas.



GIVEN under my hand and seal of office this the 10th day of February, 1976.

Juliana Kilpatrick
Notary Public, Dallas County, Texas

FILED AT 1:45 O'CLOCK P. M. ON THE 10TH DAY OF February 1976
RECORDED AT 11:02 O'CLOCK A. M. ON THE 16TH DAY OF February 1976
ERNEST CHRISTIAN, COUNTY CLERK, BY Brenda Mc Gahery DEPUTY