

# **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR LEISUREWOODS, SECTION THREE**

**THE STATE OF TEXAS**

**KNOWN ALL MEN BY THESE PRESENTS:**

**COUNTY OF HAYS**

THAT WHEREAS, JIM RUBY, INC., hereinafter called the Declarant, is the owner of all that certain property located in Hays County, Texas, described as follows:

All of LEISUREWOODS SECTION THREE (3), a subdivision in Hays County, Texas according to the map or plat thereof of record in Volume 2, Pages 365 - 367, Hays County Plat Records.

WHEREAS, the Declarant will convey the above described properties, subject to certain protective covenants, conditions, restrictions, and charge as hereinafter set forth;

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and shall be binding on all parties having any right, title, or interest in or to the above described property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

## **ARTICLE ONE**

### **DEFINITIONS**

1. OWNER "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot on which there is or will be built a detached single family dwelling, including contract sellers, but excluding those having such merely as security for the performance of an obligation.
2. PROPERTIES AND LOT. "PROPERTIES" shall mean and refer to that certain real property hereinbefore described. "LOT" shall mean and refer to that portion of the plats of land shown upon the plat and subdivision map recorded as Leisurewoods Section Three, on which there is or will be built a single family dwelling. The term "LOT" shall not include any reserves shown on said map or plat.

## **ARTICLE TWO**

### **ARCHITECTURAL CONTROL**

#### **1. Architectural Control Committee**

An Architectural Control Committee shall be designated and composed of three (3) members appointed by Jim Ruby, Inc.. Jim Ruby, Inc. reserves the right to terminate or assign responsibilities in regard to the Architectural Control Committee. In the event Jim Ruby, Inc, terminates its responsibility altogether, then the committee shall be elected by the record owners of a majority of the Lots in the subdivision.

## **2. Approval of Plans and Specifications**

No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the properties, nor shall any exterior addition to, or change or alteration therein, be made, nor shall any landscaping of any Lot or Lots be undertaken, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to, and unanimously approved in writing by, the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography.

## **3. Committee Action**

The Committee must approve or disapprove of submittals in writing. In the event that any plans and specifications are submitted to the committee as provided herein, and such Committee shall fail either to unanimously approve or reject such plan and specifications within thirty (30) days following such submission, approval by the Committee shall not be deemed to have been had. Failure to act on any submission shall in no event affect requirement of submission of any and all plans and specifications as required hereunder.

## **4. Control By Owners**

Notwithstanding anything else herein to the contrary, within three (3) years from date of the first sale in this subdivision or after 75% of the Lots have been sold, whichever occurs first, the Architectural Control Committee shall thereafter be elected annually by a majority vote of the Lot property owners in said subdivision. The committee shall be elected on an annual basis with the meeting to be held on the third Tuesday of January of each year, it being understood that Jim Ruby, Inc., shall give notice of the first meeting of property owners at which time the property owners shall elect officers and thereafter perpetuate themselves. If for any reason new committee members are not elected each year, then the existing committee members shall continue to serve until their replacement.

## **ARTICLE THREE**

### **EXTERIOR MAINTENANCE**

In the event an owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of the buildings and any other improvements erected thereon, all at the expense of the Owner, after first having given the Owner of such Lot at least fifteen (15) days from time of written notice to correct the failure of maintenance. For newly constructed residences, yard improvements shall be made and maintained within three (3) months of first occupancy.

## **ARTICLE FOUR**

### **USE RESTRICTIONS**

#### **1. Type Of Buildings Permitted**

Lots shall be used for residential purposes only, and no building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family not to exceed two stories in height and a private garage for not less than two automobiles with a side or rear

entry. No garage will be allowed to open to Leisurewoods Drive. All driveways as well as drainage pipe installation must be approved in writing by the Architectural Control Committee. Driveways will be constructed of reinforced concrete. The driveway drainage pipe must be a minimum of 18 inches or larger as designated by the Architectural Control Committee.

## **2. Size of Dwelling**

Any single family dwelling constructed on any Lots must have a ground floor area of not less than 1,600 square feet, however, a two story single family dwelling may have a ground floor area of not less than 1,200 square feet, but must have a living area of not less than 1,600 square feet, exclusive of garages, unless adjusted or waived by the unanimous consent of the Architectural Control Committee. The exterior walls of any residence shall consist of not less than 75% Masonry construction (the front and two sides of the residence). In computing these percentages, (1) all gables shall be excluded from the total area of exterior walls; (2) all windows and door openings shall be excluded from the total area of the exterior walls; and (3) stone and masonry used on fireplaces, chimneys and walls of an attached garage may be included in the computation as stone or masonry used. A substitute for the masonry requirements of certain select cedar, redwood, or cypress may be submitted to the Architectural Control Committee for approval, but this alteration should not exceed 20% of the total stone or masonry requirements unless adjusted or waived by the unanimous consent of the Architectural Control Committee. Building additions or extensions to the main residence shall be of the same materials as the original structure.

## **3. Fireplace**

All exterior portions of the fireplace and chimney will be 100% masonry construction. There will be no variance granted from this requirement.

## **4. Construction Start Up**

Construction of residences shall begin within three (3) years of Lot purchase and shall be completed within nine (9) months of commencement.

## **5. Setbacks**

No building shall be located nearer to any street right-of-way line than the minimum building set back line shown on the recorded plat of Hays County, Texas. Both sideyards at the front building set back line shall be no less than fifteen (15') feet.

## **6. Noxious or Offensive Activities Prohibited**

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood and no poultry, cattle, horses, or any other animals may be kept or maintained on any Lot except ordinary household pets which shall be limited in number to three (3). No trade or commercial activity may be carried on on any Lot except that the Developer may maintain an office thereon during the development.

## **7. Prohibited Residential Uses**

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be erected or used on any Lots and no existing structure may be moved onto any of the Lots. No non-operated cars, trucks, or other vehicles shall be kept on the Lots unless parked inside a garage. As used herein non-operative means unable to be operated in the manner in which it was originally designed for thirty (30) consecutive days regardless of cause, or any such vehicle not currently licensed. Recreational vehicles, trailers, or boats shall be kept

inside a garage or kept behind a privacy fence designed for such purpose and of sufficient height so the vehicle is not visible from adjacent property or from the street. There will be no overnight parking of any vehicles in the street. Mobile homes or manufactured homes shall not be placed at any time either temporarily or permanently on the premises.

#### **8. Metal Buildings**

No metal buildings shall be placed on any Lot for any period of time. No variance of this covenant may be granted.

#### **9. Rocks and Debris**

No rocks, boulders, or any other debris shall be placed in the right-of-way of the dedicated streets.

#### **10. Butane and Fuel Tanks**

Butane or fuel tanks or facilities for storage of combustible fuels shall be placed behind fences, or coverings so as to not be visible from adjacent properties or from the street. Any fence or covering for this purpose shall be approved by the Architectural Control Committee.

#### **11. Signs**

No signs of any character shall be allowed on any Lot except one sign of not more than five square feet advertising the property for sale or rent; provided, however, that Declarants and any other person or entity engaged in the construction and sale of residences within the subdivision shall have the right, during the construction and sales period to construct and maintain such facilities as may be reasonably necessary or convenient for such construction and sale, including but not limited to signs, offices, storage areas, and model units.

#### **12. Oil Development Prohibited**

No oil well drilling, oil development, operations, oil refining, quarrying or mining operations of any kind shall be permitted on a lot, nor shall wells, tanks, tunnels, mineral excavations, or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any lot.

#### **13. Rubbish, Trash and Garbage**

No Lot shall be used or maintained as a dumping ground and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

#### **14. Sanitary Regulations**

All sanitary regulations set forth by the Public Health Authorities of Hays County, Texas, or other pertinent governmental authorities, must be complied with and no outside toilets may be erected on the premises. A septic tank and a sufficient drainage system must be installed to accommodate the sewerage. No Lot may be occupied until water satisfactory for human consumption is available and each septic tank must meet the capacity and design requirements of the appropriate governmental body.

#### **15. Fences, Walls and Hedges**

No fence, wall or hedge shall be placed or permitted to remain on any Lot nearer to the street or streets adjoining such Lot than is permitted for the main residence on such Lot, except for decorative subdivision entry fences. No barbed wire or "chain link" fence shall be permitted along any Lot within the subdivision.

#### **16. Shrubs and Trees**

No shrub or tree planting which obstructs sight lines at elevations between two and six feet above the roadway shall be planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines or right-of-way lines at points twenty five feet from their intersection, or in the case of a rounded corner from the intersection of the curb lines or right-of-way lines as extended. The same sight line limitations shall apply on any Lot within ten feet of the intersection of a street curb line and the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of more than six feet above the ground.

#### **17. Adjustment, Waiver or Variances**

Any adjustment or waiver of these covenants, conditions and restrictions by the Architectural Control Committee is for the purposes of alleviating any hardships and assisting in the orderly development of the subdivision. Variances may be granted by the Architectural Control Committee for such purposes but all such variances must be granted in writing and signed by all members of the Committee. No variance shall be granted for Article Four, Section Three regarding fireplaces, or Article Four, Section Eight regarding metal buildings.

### **ARTICLE FIVE**

#### **EASEMENTS**

Easements of ten feet along the side and rear lines of all Lots are hereby reserved for the installation and maintenance of utilities and drainage facilities unless otherwise shown on recorded plats or otherwise designated by the Architectural Control Committee by written acknowledged instrument of record in the Deed Records of Hays County, Texas. Furthermore, drainage easements are reserved as shown on the recorded Plat of this subdivision. No utility company, water district, political subdivision, private water or utility company or any other authorized entity using the easement herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or to other property of the owner situated within any such easement. Right of use for ingress and egress shall be had at all times over any such easement together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation or installation of such utility. Further, an easement is hereby granted to the Architectural Control Committee, its officers, agents, employees and management personnel to enter the Lots to enforce any of the covenants set out herein.

### **ARTICLE SIX**

#### **GENERAL PROVISIONS**

##### **1. Enforcement**

The Declarants, or any Owner, shall have the right to enforce, by any proceeding at law or inequity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Architectural Control Committee shall have the authority to assess a fine of not more than \$50.00 per month to any property owner found to be in violation of these restrictions, after having received fifteen (15) days notice of said violation

## **2. Severability**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

## **3. Duration and Amendment**

The covenants, conditions, and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Declarants or the Owner of any Lot subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, and unless amended as provided herein shall be effective for a term of fifteen (15) years from the date this Declaration is recorded, after which time said covenants, conditions, and restrictions shall automatically be extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this declaration may be amended by an instrument signed by 75% of the Lot owners. No amendment shall be effective until recorded in the Deed Records of Hays County, Texas, nor until the approval of any governmental, regulatory body which is required shall have been obtained.

**EXECUTED by said Declarant, this 14 day of June, 1983.**

**JM RUBY, INC.**