

RESTRICTIVE COVENANTS
ENCHANTED OAKS - A SUBDIVISION

HENRY B. CLAY and BEN T. MAHONEY, the owners of the following described property situated in Burleson County, Texas, to-wit:

ENCHANTED OAKS, a subdivision in and an addition to Burleson County, Texas, containing 400 acres of land, more or less, out of the Ann T. Wooldridge Survey, Abstract No. 244, as shown by Map or Plan thereof, filed for record in the Office of the County Clerk, Burleson County, Texas, on December 17, 1976, and recorded in Volume 1, Page 32-35 of the Map Records of Burleson County, Texas, reference to which is here made;

have subdivided such property into lots with intervening streets and easement ways for the construction, operation and maintenance of utility lines, in accordance with the map or plat of said ENCHANTED OAKS, prepared by Spencer J. Buchanan & Associates, Consulting Engineers, duly approved by the Commissioners' Court of Burleson County, Texas, as same are on file and of record in Volume 1, Page 32-35 of the Map Records of Burleson County, Texas, and do hereby dedicate said streets and easement ways for the construction, operation and maintenance of utility lines to the use of future owners of lots or any portion of lots within said Subdivision and to the public as such in accordance with the words and provisions of dedication set forth on the face of said Map.

For the purpose of creating and carrying out a uniform plan for the improvement and sale of the lots contained in the Subdivision, as a high-quality restricted residential section, the following restrictions and conditions on the use of said lots are hereby established and adopted and imposed upon each lot or parcel thereof in said Addition; said conditions and restrictions shall constitute covenants running with the land, shall be binding upon and insure to the benefit of HENRY B. CLAY and BEN T. MAHONEY, their heirs, successors, and assigns, and upon all persons acquiring property by whatever means in said Addition; by the acceptance of title to any lot or portion thereof in this Subdivision, the owner thereof shall agree and covenant to abide by and perform the terms, conditions, restrictions and covenants as set forth herein such restrictions and conditions shall be made a part of each contract and/or deed executed by or on the behalf of HENRY B. CLAY and BEN T. MAHONEY, conveying a lot or portion thereof within said Subdivision, by reference to the place of record of this instrument; and by acceptance thereof, the Grantee, and all persons claiming under him, shall be subject to and bound thereby, and each

750 . 402

402

such contract and/or deed shall be conclusively held to have been executed, delivered, and accepted subject to the terms, conditions and restrictions set out in this instrument. In the event, however, of the failure of any contract and/or deed to a lot or portion thereof in said Subdivision to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any conveyance of such lot or lots shall be construed to be subject to the terms of this instrument. The following numbered lots are not subject to the restrictions contained in this instrument:

1, 87, 88, 108, 109, 110, 125, 126, 127, 142, 143, 159, 160, 161, 184, 457.

RESTRICTIONS: APPLICABLE TO ALL LOTS EXCEPT: 1, 87, 88, 108, 109, 110, 125, 126, 127, 142, 143, 159, 160, 161, 184, & 457.

1. All lots in said Subdivision (except the lots numbered above) shall be used as single family residential lots, and for no other purpose.
2. No lot or any portion thereof may be used for commercial, business, or professional uses or activities of any type. No noxious or offensive trade or activity shall be carried on upon any tract or any of the roads in the Subdivision nor shall anything be done thereupon which may be or become an annoyance or nuisance to the neighborhood.
3. No cesspool shall be dug, used or maintained on any tract. When a residence or other living quarters is constructed or placed on any tract, it shall provide an inside toilet and shall be connected with a septic tank. Drainage of septic tanks into roads, drainage courses or open ditches is prohibited. All septic tanks and connecting installations shall be installed and maintained in strict accordance with the rules and regulations of the State Board of Health and all other applicable governmental regulations, including all terms and conditions of orders presently in effect or that may come into effect issued by the Texas Water Quality Board. No outside toilets may be constructed or maintained on any tract.
4. No tract shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Trash, garbage or other waste materials shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
5. No swine of any kind shall be raised, bred or kept on any tract. Other animals may be kept and maintained on the tracts, but they shall not be kept in such numbers or in any such manner as to become an annoyance or nuisance in the neighborhood. No animals may be kept or bred for any commercial purposes.
6. No sign of any kind shall be displayed to the public view except one professional sign of not more than five square feet advertising the property for sale.

7. No oil drilling, or development or quarrying or mining operations of any kind shall be permitted.
8. No lot may be resold or subdivided into any dimension of less than one-half acre.
9. No structure, other than fences, shall be located on any tract nearer to the front or rear tract line or nearer to the side road than ten (10) feet. No building shall be located nearer than ten (10) feet to an interior tract line, or nearer than ten (10) feet to the side line of the parcel of land upon which such improvements are to be erected. No building shall be located or maintained or placed on any easement shown on the recorded Plat.
10. Camping by a lot owner is permitted and owner may permit camping equipment to remain on premises; however, no tents shall be allowed to remain unoccupied for more than a twenty-four hour period.
11. The enclosed ground floor area of any structure intended for human habitation, including trailer houses or mobil homes, shall contain not less than four hundred (400) square feet, exclusive of open porches and garages.
12. No building material shall be placed or stored upon any tract until the owner is ready to commence improvements, and then such material shall be placed within the property lines of the tract upon which the improvements are to be erected, and shall not be placed in the streets. After the improvements are begun, work in progress shall be continuous and shall be prosecuted with reasonable diligence until all improvements are completed.
13. No garage or out building for rental purposes will be permitted on any tract. All living quarters on the property, other than in the main building, are to be for the bona fide use of the owner's or occupant's immediate family or servants only.
14. All mobil homes and/or trailer houses are to be skirted.

DURATION OF RESTRICTIONS:

All the restrictions and covenants herein set forth shall be covenants running with the land and shall continue and be binding upon HENRY B. CLAY and BEN T. MAHONEY and upon their successors and assigns, for a period of ten years from the date of this instrument, unless terminated or amended as provided herein. At the expiration of said ten year term, the restrictions and covenants as herein set out shall automatically be extended for an additional ten year period and for successive periods of ten years thereafter, unless nullified or revised as hereinafter provided. After the expiration of ten years from the date hereof, the owners of a majority of the square footage in the Subdivision may execute and acknowledge an agreement in writing terminating or revising these restrictions and covenants and file the same in the Office of the County Clerk of Burleson County, Texas, and then and thereafter, these restrictions and covenants shall be null, void, and of no further force and effect, or be modified or revised as said instrument may direct.

RIGHT TO ENFORCE:

The restrictions and covenants herein set forth shall be binding on HENRY B. CLAY and BEN T. MAHONEY, their successors and assigns, and upon all parties claiming by, through, or under them and all subsequent owners of property in the subdivision, each of whom shall be obligated and bound to observe such restrictions,

404

covenants and conditions; provided, however, that no such persons shall be liable except in respect to breaches committed during his or their ownership of said property. The violation of any such restrictions shall not operate to invalidate any mortgage, Deed of Trust, or other lien acquired and held in good faith against said property, or any part thereof, but such liens may be enforced as against any and all property covered thereby, subject, nevertheless, to the restrictions herein mentioned. HENRY B. CLAY and BEN T. MAHONEY or the owners of any tract in this Subdivision shall have the right to enforce observance or performance of the provisions of this instrument.

SEVERABILITY:

Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

EASEMENTS:

All lots in the Subdivision are subject to certain easements over and across portions of each lot, as shown by map of the Subdivision, such easements being deemed appropriate or necessary for the purpose of installing, using, repairing and maintaining public utilities, water lines, sewer lines, electric lighting and telephone cables or poles, drainage ditches, television cable, and/or equipment necessary for the performance of utility services and functions, with the right of access thereto for the purpose of further construction, maintenance and repairs. Such right of access shall include the right, without liability on the part of any one or all of the owners or operators of such utilities, to remove obstructions on the easement right-of-way as in their opinion may interfere with the installation or operation of their circuits, lines, pipes or structures. Such easements shall be for the general benefit of the Subdivision and the property owners thereof and are hereby reserved and created in favor of any and all utility companies entering into and upon the Subdivision property, except that nothing set out above shall prohibit, as heretofore set out, the use of such easements or rights-of-way by adjacent owners for the construction of fence lines, walks and/or drives provided no permanent structures are built thereon and provided no damage shall accrue to any utility company.

In addition to the ground easements mentioned above, an additional aerial easement is reserved resulting in a total over all ground easement ten (10) feet wide from the ground upward and unobstructed aerial easement, twenty (20) feet wide from a plane fifteen (15) feet above the ground upward centered on the ground easements. This aerial easement being particularly needed by light and telephone companies for the protection of overhead wire.

MAINTENANCE CHARGE:

Each and every lot shown on the recorded Plat is hereby subjected to an annual maintenance charge, for the purpose of creating a fund to be known as "Maintenance Fund" to be paid by the owner or owners of each tract, which said charge shall be payable annually in advance, to HENRY B. CLAY and BEN T. MAHONEY on January 1 of each year. The annual maintenance charge shall be \$36.00 per tract, or \$3.00 per month. If two or more lots are owned by the same party, then all lots over one shall be \$30.00 per year. The maintenance charge shall not apply to HENRY B. CLAY and BEN T. MAHONEY.

The "Maintenance Fund" shall be used toward the payment of expenses incurred for any of the following purposes: Constructing and maintaining recreational facilities; improving and maintaining the streets, easements, or other public areas; collection and disposing of garbage, ashes, rubbish and trash; payment of legal or other expenses incurred in connection with enforcement of these restrictions and enforcement of collection of the maintenance charge; providing fire protection, employing watchman, caring for vacant tracts, and doing any other

435

thing necessary or desirable in order to maintain the Subdivision in a neat, orderly and quality manner. To secure the payment of such maintenance charge, a vendor's lien is retained against the tracts out of the Subdivision, the premises and improvements, thereon, in deed from the undersigned, his successors and assigns, and it shall be the same as if a vendor's lien was retained herein in favor of the undersigned, without recourse on the undersigned in any amount for the payment of such charge and indebtedness. Said vendor's lien shall, however, be a subordinate lien and an inferior lien to any Deed of Trust lien or Mechanic's Lien placed against said property by the owner of the property. HENRY B. CLAY and BEN T. MAHONEY, as owners, shall be the sole judges of the use of the "Maintenance Fund" for a period of five years from the date hereof, unless a majority of the owners of the square footage in said Subdivision notify the said HENRY B. CLAY and BEN T. MAHONEY, in writing, that they have elected a committee to administer said fund, after which the said CLAY and MAHONEY will no longer be responsible for the administration of said fund. CLAY and MAHONEY, as long as they are administrators of said fund, shall make available on January 31st of each year a statement showing collections and expenditures of said fund.

WATER WELL SITES:

Use of a portion of the designated lots for the water well sites is expressly reserved to the undersigned, together with an easement for water lines to and from such sites and rights of ingress and egress for maintenance and repairs to water wells, water lines and related facilities. The use of such water well sites is to be in accordance with all regulations imposed by the Texas Water Quality Board and the Texas State Board of Health. Sanitary sewers must be located at least 50 feet from any water well and septic tanks must be located at least 150 feet from any water well and septic tanks with open jointed drain fields must be located at least 150 feet from any water well. The owner of any lot agrees not to build, locate or maintain any septic tank or open-jointed drain field therefrom, cesspool, privy, stock pen, dump ground, or any other facility that might create a danger of pollution of the water to be pumped from the well to be located on the lots designated for water well sites, for a distance of 150 feet from the well as drilled and developed. This shall constitute a covenant running with the land and shall bind the undersigned owners, their successors and assigns.

EXECUTED this 17th day of December , A.D., 1976.

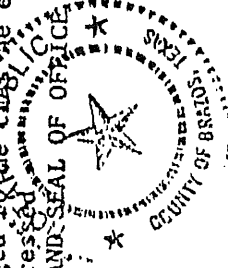
Henry B. Clay
HENRY B. CLAY

Ben T. Mahoney
BEN T. MAHONEY

THE STATE OF TEXAS I
COUNTY OF BRAZOS I

BEFORE ME, the undersigned authority, on this day personally appeared HENRY B. CLAY, 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 consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 17th day of December, A.D., 1976.



Jay Hammett
Notary Public in and for Brazos County
Texas

THE STATE OF TEXAS I
COUNTY OF BRAZOS I

BEFORE ME, the undersigned authority, on this day personally appeared BEN T. MAHONEY, 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 consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 17th day of December, A.D., 1976.



Jay Hammett
Notary Public in and for Brazos County
Texas

2008 407

THE STATE OF TEXAS
COUNTY OF BURLESON

I, JOHN J. TOUPAL, COUNTY CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 20 DAY OF December 1976 AT 1:15 O'CLOCK P.M., AND DULY RECORDED ON 21 DAY OF December 1976 AT 2:00 O'CLOCK P.M., IN THE Dead RECORD OF SAID COUNTY, IN VOL. 236 PAGE 402-407

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF SAID COUNTY, AT MY OFFICE IN CALDWELL, TEXAS, THE DAY AND DATE ABOVE WRITTEN.

Emelle Penney DEPUTY

JOHN J. TOUPAL
COUNTY CLERK, BURLESON COUNTY, TEXAS

407