

# 10430

## AMENDMENT TO AMENDED AND RESTATED DEED RESTRICTIONS

### LEISUREWOOD SUBDIVISION

STATE OF TEXAS           §  
  §  
COUNTY OF POLK         §

WHEREAS, AMENDED AND RESTATED DEED RESTRICTIONS as to LEISUREWOOD SUBDIVISION in Polk County, Texas dated October 1, 2008 were executed by Leisurewood Development Corporation, General Partner of Leisurewood Limited Partnership (the "Restrictions"). The Restrictions were filed and recorded in Volume 1665, Pages 425, *et seq.* of the Deed Records of Polk County, Texas, which Restrictions impose various covenants, conditions, restrictions, easements, liens, and charges on the following real property:

A subdivision of 47.65 acres of land in the A.M. DeLajarza Surveys, A-43 and A-44, Polk County, Texas, known as LEISUREWOOD or LEISUREWOOD ON THE LAKE (the "Subdivision") as shown in PLAT thereof of record in Volume 9, Page 5, of the Plat Records of Polk County, Texas; and

WHEREAS, Paragraph 24 of the Restrictions provides that the Restrictions may be amended by a vote of the majority of the owners of the lots within the Subdivision ("Lots"), such owners being allowed one (1) vote for each Lot owned; and

WHEREAS, Section 209.0041 of the Texas Property Code, which became effective on September 1, 2015, provides that a declaration may be amended only by a vote of sixty-seven percent (67%) of the total votes allocated to property owners entitled to vote on the amendment of the declaration, unless the declaration contains a lower percentage, in which case the lower percentage controls; and

WHEREAS, the Restrictions provide for an amendment by the approval of a lower percentage of owners than the percentage set forth in Section 209.0041 of the Code; therefore, the Restrictions control with respect to the percentage of votes necessary to effect an amendment to the Declaration; and

WHEREAS, the majority of the owners of the lots subject to the Restrictions have approved the amendment to the Restrictions as set forth in this Amendment to Deed Restrictions Leisurewood Subdivision.

NOW, THEREFORE, the following provisions of the Restrictions are amended as set forth below:

1. Paragraph 2 of the Restrictions is hereby amended and restated as follows:

2a. Only one single-family residence shall be permitted on each of the Lots in the subdivision, except Lots 74 - 78 which may be multi-family, not to exceed four (4) residences per Lot, and Lots 79 - 82 which may be commercial and/or multi-family. Although commercial and multi-family uses are permitted on these designated Lots at the entrance to the subdivision, it is intended that any commercial or multi-family use of these lots should complement and protect the entrance to the Subdivision, and protect Subdivision property values, and that any use on these lots that could adversely affect the Subdivision would be prohibited. This specifically limits and restricts any lot from being used for any commercial application that may visually or audibly impact the subdivision in a negative manner. Such restricted uses would include, but not be limited to, industrial uses, mobile home or automobile sales lots, and automobile or truck repair and/or storage.

Each owner of any lot not designated as commercial or multi-family may use the lot and the single-family residential dwelling and other improvements on the lot for single family residential purposes only. As used in these restrictions, "single family residential purposes only" specifically prohibits, without limitation, any business use (whether for profit or not), commercial use (whether for profit or not), industrial use, townhouse, apartment home, duplex, multi-family dwelling, hospital, clinic, transient housing, hotel, motel, tourist home, rooming or boarding house, renting or leasing of a room(s) in the single-family residential dwelling on a lot, or Short Term Rentals (as defined in these restrictions) and such uses are expressly prohibited. No room in the single-family residential dwelling on a lot and no space in any other structure on a lot may be leased or rented; however, this provision shall not preclude a single-family residential dwelling on a lot from being leased or rented in its entirety as a single residence to one (1) family or person in accordance with paragraph 2b of these restrictions.

No lot shall be made subject to any type of timesharing agreement, fraction-sharing or any other type of agreement where the right to the exclusive use of the lot rotates among members of the program on a fixed or floating time schedule over a period of time. No lot shall be used in a manner in which an owner that is a business entity organized under the Texas Business Organizations Code or the statute of any other state allows the business entity's co-owner, organizer, manager, partner, member, shareholder, business associate or guest to live on the lot for a time period that is less than ninety (90) consecutive days.

No single-family residential dwelling, building, garage, outbuilding or structure on a lot may be used as income property unless leased in accordance with these restrictions. Any use of a lot or the single-family residential dwelling on a lot that requires that the owner pay the State of Texas hotel occupancy tax (whether or not the tax is actually being paid) is a use of the lot for non-single family residential purposes and constitutes a business use of the lot in violation of this provision.

2b. The term "lease" as used herein means any type of agreement or arrangement which provides to a person or entity other than the owner of the lot the use of and right to possess a lot and/or the single-family residential dwelling on a lot. A lot and/or the single-family residential dwelling on a lot may be leased for single-family residential purposes only. Single-family residential purposes specifically prohibits leasing the lot to more than one (1) family or person. Single-family residential purposes requires the intent to occupy the lot and the single-family residential dwelling on the lot for the entire term of the lease. A lease must be for a term of not less than ninety (90) consecutive days. A lease for a term of less than ninety (90) consecutive days is prohibited. Upon the end of a lease term of at least ninety (90) consecutive days, a new lease for a period of at least ninety (90) consecutive days is required; however, a "month-to-month" lease at the end of a lease term is allowed if the lessee(s) is the same person(s) who signed the original lease. The Developers or Community Association does not have the authority to and will not approve or disapprove any lease.

A lease to persons who do not comprise a single family is prohibited. A lease must provide to the lessee(s) the exclusive right to use and possess the entire lot and the entire single-family residential dwelling situated on the lot. An owner may not lease a room or any portion less than the entire lot and the entire single-family residential dwelling on the lot. The lessee(s) of a lot is not permitted to sublease the lot or the single-family residential dwelling on the lot or any portion thereof.

A lease must be in writing. Leasing the lot and/or the single-family residential dwelling on a lot does not relieve the owner of the lot from the obligation to comply with these restrictions and the Subdivision's Restrictions. All lessees are subject to these restrictions and the Subdivision's Restrictions. There may only be one lease for a lot (including the single-family residential dwelling on the lot) at a time. Upon written demand from the Developers or Community Association, the owner of the lot must provide a true and correct copy of the lease to the Association within fourteen (14) business days of the date such written demand is mailed. The owner may redact any sensitive personal information as defined in the Code §209.016 or its successor statute prior to providing a copy of the lease. Upon written demand of the Developer or Community Association, the owner of the lot must provide the name(s) and phone number(s) for all lessees of a lot and/or single-family residential dwelling on a lot who have reached the age of at least eighteen (18) years within fourteen (14) business days of the date such written demand is mailed.

Short Term Rentals are expressly prohibited. A Short-Term Rental is any type of lease, license, sublease, agreement, or other arrangement which provides to a person or entity other than the owner of the lot the use of and the right to use, occupy, or possess the entirety or any portion of the lot and/or the single-family residential dwelling on the lot for less than ninety (90) consecutive days.

Notwithstanding any other provision herein, a leaseback provision that is included in a bona fide contract for the sale of a lot that allows the buyer to lease the lot and the single-family residential dwelling on the lot back to the seller for a period of not more than 90 consecutive days is allowed.

After the notice required by law, if any, is given, a fine may be levied on the owner of the lot in the amount of Two Hundred Dollars (\$200.00) per day for a violation of any term or provision of this paragraph 2b. This fining provision supersedes any conflicting provision in any fining policy adopted by the Developer or Community Association.

In the event of a violation of this paragraph 2b, an owner's tenant(s) or lessee(s) may be restricted from access to the Subdivision's common areas.

It is not the intention of this paragraph 2b to exclude from a lot or the single-family residential dwelling on a lot any individual who is authorized to so remain by any state or federal law. If it is found that this provision is in violation of any law, then this provision will be interpreted to be as restrictive as possible to preserve as much of this provision as allowed by law.

Any rules, guidelines, or policies necessary to further define, interpret and/or clarify this paragraph 2b may be adopted and any such rules, guidelines or policies will have the same force and effect as if stated in these Restrictions.

2. Paragraph 7 of the Restrictions is hereby amended and restated to read as follows:

7. No business or commercial structure of any kind or nature whatsoever shall be built on any portion of the subdivision except on Lots 74 through 82 located at the entrance to the subdivision, which may be used for commercial and/or multi-family purposes. No business of any kind may be maintained and/or conducted upon any of the other Lots except that multi-family uses on Lots 74 through 82 may include residential rental and assisted living services. In addition, any Lots designated for Subdivision amenities, such as a marina access or community recreation area, are exempt from this requirement. The Developers or builders may use a residence as a sales and development office during completion of the Subdivision and until such time as all units are sold.

Except as amended herein, all provisions in the Restrictions, as previously amended and restated, remain in full force and effect.

Capitalized terms used herein have the same meanings as that ascribed to them in the Restrictions, unless otherwise indicated.

**CERTIFICATION**

I hereby certify that I am the President of General Partner of The Leisurewood Limited Partnership and that the foregoing Amendment to Amended and Restated Restrictions Leisurewood Subdivision was approved by a majority of the owners of the lots covered by the Restrictions, to be effective upon recording in the Deed Records of Polk County, Texas.

EXECUTED this the 24 day of September, 2021

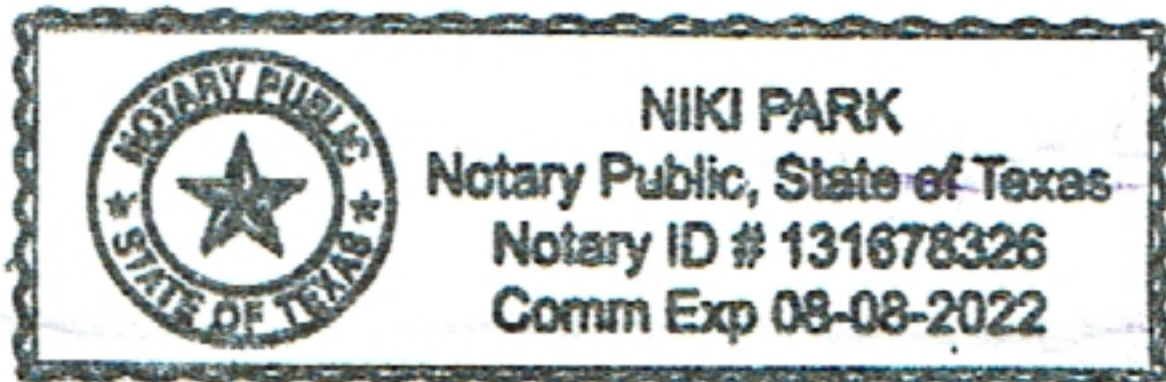
THE LEISUREWOOD LIMITED PARTNERSHIP  
Mike Fitzgerald & Associates Inc., General Partner

By: [Signature]  
M. E. Fitzgerald III, President of the General Partner  
On Behalf of Leisurewood Limited Partnership

STATE OF TEXAS           §  
  §  
COUNTY OF POLK       §

BEFORE ME, the undersigned notary public, on this 24 day of September, 2021 personally appeared M.E. Fitzgerald III, President of the General Partner on behalf of Leisurewood Limited Partnership, 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 purpose and in the capacity therein expressed.

Notary Public in and for the State of Texas



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STATE OF TEXAS )  
COUNTY OF POLK ) ETH  
**FILED FOR RECORD**  
**2021 SEP 24 PM 3:38**  
I, SCHELANA HOCK hereby certify that the instrument was FILED in the file number sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records in Volume and Page of the named RECORDS OF Polk County, Texas as stamped hereon by me.

Schelana Hock  
SCHELANA HOCK  
POLK COUNTY CLERK



SEP 24 2021  
Schelana Hock  
COUNTY CLERK  
POLK COUNTY, TEXAS

[Signature]