

CURRENT COVENANTS

(as of 3-1-2022)

REFLECTS PRIOR AMENDED COVENANTS AND SUBSEQUENT AMENDMENTS

FOR MEMBERS' REFERENCE IN PREPARATION FOR VOTE TO APPROVE PROPOSED SECOND AMENDED COVENANTS

**AMENDED RESTRICTIONS, COVENANTS AND CONDITIONS
APPLICABLE TO
BLUE WATER KEY SUBDIVISION**

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HENDERSON

Whereas, Restrictions, Covenants, and Conditions applicable to the Blue Water Key Subdivision (a subdivision in Henderson County, Texas as shown on plat recorded in Volume 8, Page 34 and Cabinet C, Slide 181 of the Henderson County, Texas Real Property Records) have been previously filed in the Real Property Records of Henderson County, Texas; and

Whereas, the undersigned, constituting a majority of the lot owners in said subdivision, have agreed to a change in said restrictions, covenants, and conditions for the purpose of carrying out a general plan of development and maintenance of the subdivision.

It is, therefore, agreed that the restrictions, covenants, and conditions are changed and amended to read as follows:

1. All numbered lots on the recorded plat of the subdivision (other than lots owned by the Blue Water Key Property Owners Association) shall be used exclusively for single-family residential purposes. The term "single-family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. No multi-family dwellings may be constructed on any lot. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire lot.

No lot shall be occupied by more than a single family, except for temporary guests visiting the family for a period not greater than 14 days. For purposes of these restrictions, a single family shall be defined as any number of persons related within the second degree of consanguinity or affinity, living with not more than one (1) person who is not so related, as a single household unit. It is not the intent of these restrictions to exclude from a lot any individual who is authorized to so remain by any state or federal law. If it is found that this definition, or any other provision contained in this Declaration, is in violation of any law, then this Section shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by applicable law.

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No lot shall be further sub-divided except that fractions of lots may be separated to add space to adjacent whole lots if the combination of whole and fractional lots is used as a single building site and all other provisions of these restrictions are complied with.

- 1.5 *[Added as new by 2014 amendment]* No lot shall be rented for any period of time that is less than three consecutive months unless ownership of the lot is to pass between the landlord and tenant either at the beginning, during, or at the end of the tenancy period.
2. No residential building shall be erected on any said lots which shall have less than 1200 Sq. Ft. of floor space within the heated area if located on the waterfront, or less than 1000 Sq. Ft. of floor space within the heated area if located on any other lot or lots. Prior to commencement of any construction, plans (including plot plan) must be approved by the Architectural Committee of the Blue Water Key Property Owners Association Board of Directors. All materials used for exterior construction shall be new unless otherwise approved.
3. No building or structure shall be located on any lot closer than 25 feet to the property line adjacent to the street upon which the lot fronts nor shall the dwelling structure extend closer than 5 feet to the back property line except there is no restriction on waterfront lots as to distance from the 355 ft. MSL line. No structure shall be erected closer than 5 feet to side property lines and structures on corner lots must maintain 12 feet from side property line.
4. *[Amended by 2007 amendment but in 2008 withdrawal of some owner's signatures were recorded in County Records]* No structure of a temporary character, trailer, cellar, tent, shack, garage or other outbuilding, motor home, mobile home, manufactured home, house trailer or camper shall be used as a residence either temporarily or permanently. However, this restriction shall not prohibit the use of a motor home, house trailer, camper or a tent for the lodging of temporary guests visiting the family for a period not greater than 14 days.

No motor home, mobile home, manufactured home, house trailer, or camper which is greater than 35 feet in length shall be parked or located on any lot for more than 30 consecutive days or more than 60 days in any calendar year. These may be stored in the South Park Storage Area on a space available basis.

Any motor home, house trailer or camper which is not greater than 35 feet in length and any other trailer (including boat and utility trailers) may only be parked or located on any lot for more than 30 consecutive days or more than 60 days in any calendar year if it is parked or located in a designated parking area located at the rear of the main structure or at the side of the main structure behind the plane of the front facade of the main structure.

Any garage shall be constructed at the same time or subsequent to any dwelling or other structure that it is intended to serve. The exterior of all dwellings and/or improvements

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shall be completed (including exterior painting) within 9 months from the commencement of construction. No pre-erected, used, or modular houses may be moved onto any lot or lots. All buildings other than boat houses shall be completely underpinned with no piers or pilings exposed to view.

No structure of a temporary character, trailer, cellar, tent, shack, garage or other outbuilding, motor home, mobile home, manufactured home, house trailer or camper shall be used as a residence either temporarily or permanently. However, this restriction shall not prohibit the use of a motor home, house trailer, camper or a tent for the lodging of temporary guests visiting the family for a period not greater than 14 days.

No motor home, mobile home, manufactured home, house trailer, or camper which is greater than 29 feet in length shall be parked or located on any lot for more than 30 consecutive days or more than 60 days in any calendar year. These may be stored in the South Park Storage Area on a space available basis.

Any motor home, house trailer or camper which is not greater than 29 feet in length and any other trailer (including boat and utility trailers) may only be parked or located on any lot for more than 30 consecutive days or more than 60 days in any calendar year if it is parked or located in a designated parking area located at the rear of the main structure or at the side of the main structure behind the plane of the front facade of the main structure.

Any garage shall be constructed at the same time or subsequent to any dwelling or other structure that it is intended to serve. The exterior of all dwellings and/or improvements shall be completed (including exterior painting) within 9 months from the commencement of construction. No pre-erected, used, or modular houses may be moved onto any lot or lots. All buildings other than boat houses shall be completely underpinned with no piers or pilings exposed to view.

5. No outhouses (except state approved, regularly serviced sanitation devices for use during the period of construction or for special occasions not to exceed three (3) days) will be permitted on any part of the property at any time. All lavatories, toilets, and bath facilities shall be installed indoors and shall be connected to adequate septic tanks and lateral lines constructed to comply with specifications of the state and local health authorities and no outside or surface toilets shall be permitted.
6. No water wells shall be drilled upon any of the said numbered lots by owners so long as water for domestic use shall otherwise be available to the owners of said lots. However, water wells may be drilled upon any of the said numbered lots by owners when the water is to be used strictly for irrigation purposes.
7. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that a reasonable number of dogs, cats, or other household pets may be kept, provided they

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are not kept, bred, or maintained for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

No dog shall be allowed to run free in the subdivision but must, at all time, either be (1) restrained on the owner's lot either by a fence or by a chain or other restraint that is adequate to confine the dog on the lot, or (2) if taken off of the owner's lot, be restrained at all time on a lash controlled by an individual who has sufficient strength and ability to restrain the dog.

8. All lots will be kept free of trash, garbage and debris at all times. During the growing season the lot shall be kept free of weeds and underbrush for reasons of sanitation and fire prevention. If, in the opinion of the Board of Directors of Blue Water Key Property Owners Association, an unsanitary or hazardous condition exists the Blue Water Key Property Owners Association reserves the right to clean up and/or mow the lots and charge the owner(s) a reasonable fee for this service. Failure to pay the charges for the clean up and/or mowing where it has become necessary for the Blue Water Key Property Owners Association to do so shall give the said association or its agent the right to place a lien against the property for this service.
9. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the subdivision in which said lot is located.
10. Insofar as the hereinafter described portions of the indicated lots in the subject subdivision are concerned, to wit:

Lot No. 80: Beginning at the SE corner, West 60' along SBL;
Thence Northwesterly to a point on NBL;
Thence East 100' to NE corner;
Thence South 100' to the point of beginning.

Lot No. 79: Beginning at the SE corner;
Thence West 100' along SBL;
Thence Northeasterly to a point on NBL;
Thence Easterly along NBL 60' to the NE corner;
Thence South 100' to the point of beginning.

Lot No. 78: Beginning at the SE corner of lot;
Thence Westerly 60' along SBL;
Thence Northeasterly to a point on the EBL;
Thence South 40' to the point of beginning.

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Lot No. 40: Beginning at the SW corner of lot;
Thence N 20' along WBL;
Thence E 0 deg. 0 min. N 70';
Thence Southeasterly along line parallel to SBL 100';
Thence Southeasterly to a point on the SBL;
Thence Northwesterly along the SBL 220' to the point of beginning.

No tile or concrete sanitary sewers, cesspool or septic tank, open-jointed drain fields shall be allowed. Nor shall any of the same ever be constructed or installed thereon. Additionally, all storm sewers located within specified distances for sanitary sewers shall be constructed so as to prevent leakage therefrom.

11. Dwellings approved for construction prior to April 18, 1992 shall have not less than 1000 sq. ft. of heated area if on the waterfront and not less than 800 sq. ft. of heated area on interior lots.
12. These restrictions, covenants and conditions may be enforced by the Blue Water Key Property Owners Association or by the owner of any lot or lots in said subdivision, either by proceedings for injunction or to recover damages for breach thereof or both.
13. *[Amended by 2014 amendment adding New Subsections a, b, c d]* These restrictions, covenants, and conditions are to run with the land and shall be binding in perpetuity on all owners of lots within the subdivision and all persons claiming under them. These restrictions, covenants and conditions may be amended in whole or in part at any time by an instrument signed by the majority of the lot owners in the subdivision and recorded in the real property records of Henderson County, Texas, subject to the following procedures which must be complied with before any amendment by a Proponent other than the Board of Directors of the Blue Water Key Property Owners Association (the "Board") shall be recorded and be enforceable:
 - a. The proposed amendment must be presented by the Proponent to the Board at a regular meeting of the Board. The Board shall have 45 days after presentment within which to review the proposed amendment and provide to the Proponent the following:
 - i. The Board's written response or position on the proposed amendment, if the Board wishes to give a response or position;
 - ii. A list of the current lot owners according to the records of the Association;

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- iii. The form of ballot by which the amendment shall be presented to the members (which ballot shall restate the proposed amendment and be suitable for signature, acknowledgement, and tabulation by ownership);
 - iv. The name and contact information of an attorney licensed by the State of Texas who has been chosen by the Board to review and tally the response to the proposed amendment; and
 - v. A date, which date shall be not less than 90 days after the date the Board presents to the Proponent the above information, by which a majority of the current lot owners according to the records of the Association must vote to approve the proposed amendment.
- b. If the Proponent wishes to proceed, then the Proponent shall mail to each of the current lot owners who have been identified by the Board (by certified mail, with the return receipt to be returned directly to the attorney designated by the board) a copy of the ballot prepared by the Board, a copy of the Board's written position on the proposed amendment (if any is provided), the name and address of the attorney chosen by the Board to review and tally the response by the current lot owners, and written instructions that if the current lot owner wishes for the amendment to be adopted, the current lot owner must complete the ballot, must sign approving the ballot, must have the ballot acknowledged, and must return the properly completed and executed ballot to the attorney chosen by the Board by the date designated by the Board. The Proponent shall deliver proof of mailing to the attorney designated by the Board within 10 days after the mailing of the ballots.
- c. Within 20 days of the date designated by the Board, the attorney designated by the Board shall give written notifications to the Board and the Proponent whether, in the attorney's opinion, properly completed ballots from a majority of the current lot owners as designated by the Board were timely received approving the proposed amendment.
- d. If the attorney is of the opinion that properly completed ballots from a majority of the current lot owners as designated by the Board were timely received approving the proposed amendment, then the attorney shall also determine and provide the Proponent his estimate of the clerk's charges for recording with the County Clerk of Henderson County, Texas, the properly completed ballots approving the amendment as an attachment to his affidavit of adoption, and the estimated cost to duplicate and mail a copy of the recorded affidavit and ballots to each of the current lot owners. Within 20 days after payment by the Proponent of both of these fee estimates, the attorney shall record with the County Clerk of Henderson County his affidavit of adoption with the properly completed ballots attached, and mail a copy

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of such document to each current lot owner. If the fee estimates are not paid by the Proponent within 30 days after the estimate of fees was mailed to the Proponent by the Attorney, then the proposed amendment shall not be recorded and shall not be enforceable.

14. No (1) inoperable or unregistered vehicle or boat, (2) farm machinery, or (3) motorized equipment, shall be parked for more than 30 days on the driveway or any portion of any lot in such a manner as to be visible from the street or any adjoining property.
15. Lot(s) located outside of the subdivision but which are adjacent to the subdivision may and shall become a member of the Blue Water Key Subdivision if an instrument signed by (1) all owners of the Lot(s) applying for membership and (2) a majority of the lot owners in the subdivision, is recorded in the real property records of Henderson County, Texas, and all requisite governmental approvals, if any, have been obtained. At such time, any such lots become subject to these restrictions, as now existing or hereinafter amended, the same as if the lot(s) had originally been shown as a specifically numbered lot on the original plat of the Blue Water Key Subdivision.
16. Each Owner of a Lot within the Blue Water Key Subdivision (as now existing or hereafter expanded) shall automatically be a member of the Blue Water Key Property Owners Association. Association membership shall be appurtenant to ownership of a Lot and ownership of a Lot is the sole criterion for membership in the Association. The Board of Directors of the Blue Water Key Property Owners Association shall have the following powers and duties:
 - (1) To adopt rules and regulations to implement this Declaration and the Association's bylaws.
 - (2) To enforce this Declaration, the Association's bylaws, and its rules and regulations.
 - (3) To elect officers of the Board and select members of the Architectural Control Committee.
 - (4) To delegate its powers to committees, officers, or employees.
 - (5) To prepare a balance sheet and operating income statement for the Association and deliver a report to the membership at its annual meeting.
 - (6) To establish and collect regular assessments to defray expenses attributable to the Association's duties, to be levied against each Owner.
 - (7) To establish and collect special assessments for capital improvements or other purposes.
 - (8) To file liens against lot owners because of nonpayment of assessments duly levied and to foreclose on those liens.
 - (9) To receive complaints regarding violations of this Declaration, the bylaws, or the rules and regulations.

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- (10) To hold hearings to determine whether to discipline Owners who violate this Declaration, the bylaws, or the rules and regulations.
- (11) To give reasonable notice to all Owners of all annual meetings of the membership and all discipline hearings.
- (12) To hold regular meetings of the Board.
- (13) To manage and maintain any Common Area.
- (14) To pay taxes and assessments that are or could become a lien on any Common Area.
- (15) To pay the costs of any liability insurance and fire insurance on any Common Area and any liability insurance for members of the Board.

[Following paragraph amended by 2019 amendment] Any and all assessments that are assessed by the Board of Directors shall be assessed pro rata among the owners of lots in the subdivision based upon the number of owners of lots and not on a per lot basis. Except, however, that assessments for maintenance of roadways may be assessed utilizing a blended rate, with a percentage of the overall of the assessment amount levied on a per lot basis, and the remaining percentage of the overall of the assessment amount levied based upon the proportionate market value of each lot pursuant to Henderson County Appraisal District (being based upon a fraction, the numerator of which is the value of the lot, and the denominator is the value of all lots in the subdivision). Any such assessments and any fines assessed by the Board of Directors shall constitute a lien against the lot(s) owned by the Owner subject to assessment or fine if it is not timely paid to the full extent allowed by law, and that lien shall have priority over any other charges against the lot(s) other than (1) assessments, liens, and charges in favor of the State of Texas or a political subdivision of the State of Texas for taxes against the lot that are due and unpaid or (2) an obligation due against the lot under a validly recorded mortgage. At the discretion of the Board of Directors any such lien can be non-judicially foreclosed after the giving of all notices required by law or judicially foreclosed.

- 17. No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; of the Association. Disputes between Owners that are not regulated by these Restrictions shall not be subject to the dispute resolution process.

In a dispute between any of the above entities or individuals, the parties must submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have a conflict of interest with any of the parties. The Board shall endeavor to maintain a list of potential mediators, but the parties will be in no way limited to their

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choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than 30 days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments or fines by the Association as set out in this Declaration nor to the foreclosure of liens securing any such assessments or fines.

18. If any portion of the foregoing restrictions, covenants, and conditions shall be declared to be invalid by judgment or court order, this shall not affect the validity of any other provision or portion thereof.
19. *[Added as new by 2012 amendment]* The property which is described in a Gift Deed from Connie Aubuchon to Michael Aubuchon dated March 18, 2010 and recorded under Document No. 2010-00003584 in the Official Records of Henderson County, Texas (and reference is made to that instrument for a more complete metes and bounds description) is hereby included within the Blue Water Key Subdivision, and is to be known as lot 41A and 41B thereof, and treated for all purposes with regard to the subdivision as if it were two lots (and if the ownership of said lot is subsequently legally divided, neither such divided lot shall contain less than 75 feet of road frontage [or ½ of the now existing road frontage if it is less than 150 feet]).

We, the undersigned property owners of Blue Water Key Subdivision, have read and do understand the attached Restrictive Covenants applicable to Blue Water Key Subdivision. We, the undersigned property owners of Blue Water Key Subdivision, constitute a majority of the lot owners in said subdivision as of the effective date of this amendment and agree to the change reflected herein to the restrictions, covenants, and conditions that exist on Blue Water Key Subdivision.