

THIRD AMENDMENT
to
DECLARATION OF COVENANTS, CONDITIONS,
RESERVATIONS AND RESTRICTIONS
of
DUCK HAVEN ESTATES

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

WHEREAS, Duck Haven, Ltd., a Texas limited partnership, as Developer, caused the instrument entitled "Declaration of Covenants, Conditions, Reservations and Restrictions of Duck Haven Estates" (the "**Declaration**") to be recorded in Volume 5883, Page 224, *et seq.* of the Official Public Records of Real Property of Brazos County, Texas on February 24, 2004, which instrument imposes covenants, conditions and restrictions on the Subdivision (as defined in the Declaration); and

WHEREAS, additional land was thereafter annexed and made a part of the Subdivision and subjected to the provisions of the Declaration and the jurisdiction of Duck Haven Homeowners Association, Inc. (the "**Association**") by instruments duly recorded in the Official Public Records of Real Property of Brazos County, Texas; and

WHEREAS, the Declaration was amended by instrument entitled "First Amendment to Declaration of Covenants, Conditions, Reservations and Restrictions of Duck Haven Estates" recorded in Volume 7538, Page 21, *et seq.* of the Official Public Records of Real Property of Brazos County, Texas on August 21, 2006; and

WHEREAS, the Declaration was further amended by instrument entitled "Amendment to the Declaration of Covenants, Conditions, Reservations and Restrictions of Duck Haven Estates" recorded at Clerk's File No. 2013-1179537 and Volume 11768, Page 202, *et seq.* of the Official Public Records of Real Property of Brazos County, Texas on December 20, 2013; and

WHEREAS, Article 9, Section 9.09, of the Declaration, as amended, provides that the Declaration may be amended by Developer without the joinder or consent of any other party at any time prior to the end of the Development Period; and

WHEREAS, the Development Period has not expired and Developer desires to further amend the Declaration.

NOW, THEREFORE, Developer hereby amends the Declaration as follows:

1. Article 3, Section 3.05, of the Declaration, entitled "**Board of Directors**", is amended and restated to read as follows:

3.05 Board of Directors. During the Development Period, the affairs of the Association shall be managed by a board of three (3) individuals elected or replaced by the Class B Member. However, after the Development Period, the Board shall consist of at least three (3) individual Directors elected by the Members.

During the Development Period, the Directors need not be Members of the Association. After the end of the Development Period, Directors must be Members of the Association. The term of each Director shall be as stated in the Bylaws. After the Development Period, any vacancy which occurs in the board, by reason of death, resignation, removal, or otherwise, may be filled at any meeting of the board by the affirmative vote of a majority of the remaining Directors.

2. Article 4, Section 4.02, of the Declaration, entitled "**General Restrictions**" is amended and restated to read as follows:

4.02 GENERAL RESTRICTIONS

4.02.01 Residential Use. Each Owner may use his Lot and the Dwelling Unit and other Improvements to his Lot for single family residential purposes only. As used in this Declaration, "single family residential purposes only" specifically prohibits, without limitation, any business use (whether for profit or not), commercial use or activity (whether for profit or not), industrial use, apartment homes, duplex houses, multi-family dwellings, hospitals, clinics, transient housing, hotels, motels, tourist home, rooming house, renting or leasing of a room(s) in the Dwelling Unit on a Lot, boarding house or Short Term Rentals (as defined in this Declaration) and such uses are expressly prohibited. No room(s) in the Dwelling Unit on a Lot and no space in any other structure on a Lot may be leased or rented, however, this section shall not preclude a Lot from being leased or rented in its

entirety as a single residence to one (1) family or person in accordance with Section 4.02.15 of this Declaration. Only one (1) single family residential dwelling and appurtenances ordinary to single family residential living are permitted on a Lot. Mobile homes and manufactured housing are not permitted on a Lot.

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(s), organizer(s), manager(s), partner(s), member(s), shareholder(s), business associate(s) or guest(s) to live in the property for a time period that is less than one hundred eighty (180) consecutive days.

No Dwelling Unit, building, garage, outbuilding or structure on a Lot may be used as income property unless leased in accordance with this Declaration. Any use of a Lot or the Dwelling Unit 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 section. The street address of a Lot shall not be used as the business/activity address for a federal firearms license and the use of the street address of a Lot as the business/activity address for a federal firearms license is a business use of the Lot in violation of this section.

Unless otherwise approved in writing by Duck Haven, Ltd during the Development Period and, thereafter, by the Board, not more than: (a) one (1) bona fide full time, live-in domestic worker; or (2) one (1) bona fide "nanny" is entitled to reside on a Lot.

This section shall not apply to any property owned by DH, the Common Areas, any unrestricted reserves or reserves, or property designated for commercial

development as shown on any plat or map of the Property, or any amendment or supplement thereto.

4.02.02 No Noxious Use. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done which may be or become an annoyance or nuisance to other Owners or the Subdivision. The Board may determine if a trade or activity on a Lot constitutes a noxious or offensive trade or activity in violation of this provision.

4.02.03 No Commercial Activities. No commercial activity of any kind shall be conducted on any Lot. The term "commercial activity" shall include, but not be limited to, the offering for sale of any product or service, of the manufacture or growth of any product, for purposes of sale, without regard to whether such activities are conducted in or from a Dwelling Unit or otherwise. This section shall not apply to any property owned by DH or any property designated for commercial development as shown on any plat or map or any amendment or supplement thereto.

4.02.04 Animal Restrictions. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot within the Subdivision for commercial purposes. No swine or poultry may be kept or maintained on any Lot. There will be no wild, exotic, or naturally undomesticated animals allowed to be caged or otherwise kept on any Lot. No animals including dogs and cats will be allowed to roam free in the Subdivision. In the event any animal creates a nuisance to the Subdivision in the sole and exclusive opinion of the ACC such animal will be removed from the Subdivision. The ACC shall have the right to enter and remove any such animal which is placed on any Lot in violation of this Section, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal. Each Lot shall be allowed one horse (or mare and colt less than 12 months) or other large animal unit per one (1) acre. A large animal unit means one horse, one mule, four (4) adult

rabbits, one cow, one goat, one sheep or one llama. Cats and dogs shall not constitute animal units; however, the total number of cats and dogs on any Lot shall not exceed five (5).

4.02.05 Signs. No sign, except:

- (a) signs (not exceeding 5 square feet in size) advertising property for sale or rent;
- (b) not more than two (2) political signs;
- (c) school spirit signs; or
- (d) security signs, advertisement, billboard, or advertising structure of any kind may be erected or maintained on any Lot without the consent in writing of the ACC.

DH or the ACC shall have the right to enter and remove any such sign, advertisement, billboard, or structure which is placed on any Lot without such consent, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.

4.02.06 Disposal of Trash. No part of the Subdivision shall be used or maintained as dumping grounds for rubbish. Trash, garbage or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

4.02.07 Neat and Clean Condition. Owners shall not permit the accumulation of trash, rubbish, weeds, or other unsightly obstacles on their Lots or on the Easements or on the streets abutting the same. Each Owner shall be responsible for proper disposition of his trash and garbage. Owners must maintain all portions of their Lots visible from an Access Road, Trail, Common Area or Dwelling Unit on another Lot in a neat and clean condition.

4.02.08 Drainage Maintenance. Owners shall be responsible for keeping

Drainage Easements and Drainage Maintenance Easements free of obstructions and shall not permit fences or other obstructions to be placed in said easements. Owners shall also be responsible for stabilization of slopes in Drainage Easements and Drainage Maintenance Easements.

4.02.09 No Pollution. No act may be performed which is likely to pollute the air or water in any part of the Subdivision, nor may any Owner violate any federal, state or local ordinance or regulation designed to eliminate pollution at that time in force.

4.02.10 Firearms. Except as otherwise provided herein, no firearms may be discharged in the Subdivision or on any Lot, Easement Area or Common Area.

4.02.11 Oil and Gas Drilling. No oil or gas drilling, boring, development, refining, quarrying or mining operations of any kind shall be permitted on the surface of any Lot, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted on the surface of any Lot. No derrick or other structures designed for use in boring or drilling for oil, natural gas, or other mineral shall be erected, maintained or permitted on any Lot. This paragraph does not prohibit the pooling of all or part of the Subdivision with other property for drilling of horizontal or slant hole wells, which do not interfere with the use of the surface of the Property.

4.02.12 No Vehicles in Common Areas. No motorized, including without limitation vehicles powered by electric, gasoline, diesel, propane or hydrocarbon-fueled engines, other than passengers of service automobiles shall be used in the Common Areas, used on paved areas designed for parking or vehicular traffic, including without limitation, on any Trails, and excluding any paved areas specifically designed for the parking or driving of automobiles; provided however, the Association and/or DH may use motorized vehicles on the Trails for the construction, maintenance, inspection and repair of the Trails. Bicycle use in the Common Areas is restricted on Trails as provided by Section 4.04.03 and may be

restricted in other portions of the Common Areas to areas designated by the Association.

4.02.13 Lot Subdivision Restrictions. No Lot may be subdivided into smaller lots within twenty-five (25) years after the date of this Declaration, without the prior written consent of DH. This provision does not apply to any portion of the Property owned by DH.

4.02.14 Storage of Vehicles. No trailer, recreational vehicle, tent, boat, or stripped down, wrecked, junked, or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of a Lot visible from an Access Road or another Lot for more than forty-eight (48) hours in a thirty (30) day period. No large commercial truck (larger than a standard pickup) or 18 wheel truck shall be kept, parked, stored or maintained on any portion of a Lot or on an Access Road, unless such truck is a provider of equipment or services to a Lot and in no such case shall such a vehicle be parked overnight on an Access Road or Lot.

4.02.15 Leasing. The term "lease" as used herein means any type of agreement or arrangement which provides to a person(s) or entity(s) other than the Owner of the Lot the use of and right to possess a Lot and/or the Dwelling Unit on a Lot. A Lot and/or the Dwelling Unit 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 single family. Single family residential purposes requires the intent to occupy the Lot and the Dwelling Unit on the Lot for the entire term of the lease. A lease must be for a term of not less than one hundred eighty (180) consecutive days. A lease for a term of less than one hundred eighty (180) consecutive days is prohibited. Upon the end of a lease term of at least one hundred eighty (180) consecutive days, a new lease for a period of at least one hundred eighty consecutive (180) days is required, however, a "month-to-month" lease is allowed if the lessee(s) is the same person(s) who signed the original lease. The Association's Board of Directors 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 Dwelling Unit situated on the Lot. An Owner may not lease a room or any portion less than the entire Lot and the entire Dwelling Unit on the Lot. The lessee(s) of a Lot is not permitted to sublease the Lot or the Dwelling Unit on the Lot or any portion thereof.

Short Term Rentals are expressly prohibited. A Short Term Rental is any type of lease, agreement, or arrangement which provides to a person or entity other than the Owner of the Lot the use of and the right to possess the Lot and/or the Dwelling Unit on the Lot for less than one hundred eighty consecutive (180) days.

A lease must be in writing. Leasing the Lot and/or the Dwelling Unit on a Lot does not relieve the Owner of the Lot from the obligation to comply with this Declaration and/or the Association's Dedicatory Instruments [as that term is defined by Texas Property Code Section 202.001(1) or its successor statute]. All lessees are subject to this Declaration and the Association's Dedicatory Instruments. There may only be one lease for a Lot (including the Dwelling Unit on the Lot) at a time. Upon written demand from the 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 request is mailed. The Owner may redact any sensitive personal information as defined in the Texas Property Code §209.016 or its successor statute prior to providing a copy of the lease to the Association. Upon written demand of the Association, the Owner of the Lot must provide to the Association the name(s) and phone number(s) for all lessees of a Lot and/or the Dwelling Unit on a Lot who have reached the age of at least eighteen (18) years within fourteen (14) business days of the date such request is mailed.

The Association may, after the notice required by law, if any, is given, levy a fine on

the Owner of the Lot in the amount of five hundred and 00/100 dollars (\$500.00) per day for a violation of any term or provision of this Section 4.02.15. This fining provision supersedes any conflicting provision in any fining policy, if any, adopted by the Association.

In the event of a violation of this Section 4.02.15, the Association may exclude an Owner's tenant(s) or lessee(s) from vehicular access to any private street(s), if any, owned by or under the jurisdiction of the Association and any such tenant or lessee will not be given access to the Association's Common Areas.

It is not the intention of this Section 4.02.15 to exclude from a Lot or the Dwelling Unit 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.

The Association's Board of Directors may adopt any rules, guidelines or policies necessary to further define, interpret and/or clarify this Section 4.02.15 and any such rules, guidelines or policies will have the same force and effect as if stated in this Declaration.

Capitalized terms used herein have the same meanings as that ascribed to them in the Declaration.

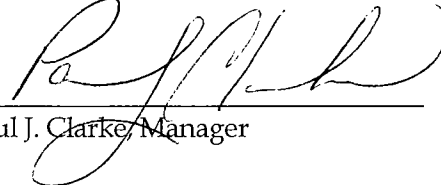
This amendment is deemed to be a part of and is to be interpreted in accordance with the Declaration. Except as amended herein, all provisions of the Declaration, as previously amended, are hereby ratified and confirmed and continue in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this instrument on the date set forth, to be effective upon recording in the Official Public Records of Real Property of Brazos County, Texas. As evidenced by the signature of the President of the Association's Board of Directors below, this instrument was also approved in the open session of a properly noticed meeting of the Association's Board of Directors by at least a majority of the members of the Association's Board of Directors.

DEVELOPER:

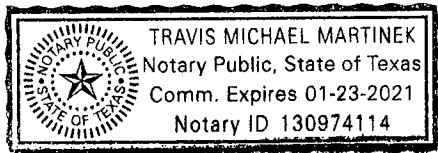
DUCK HAVEN LTD.,
a Texas limited partnership


By: Duck Haven Management, LLC,
Its General Partner

By: 
Paul J. Clarke, Manager

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

BEFORE ME, the undersigned notary public, on this 20TH day of DECEMBER, 2019 personally appeared Paul J. Clarke, as Manager of Duck Haven Management, LLC, General Partner of Duck Haven, Ltd., a Texas 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

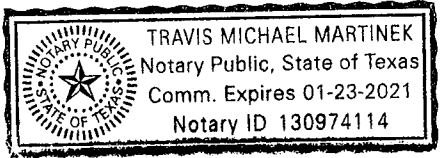
DUCK HAVEN HOMEOWNERS ASSOCIATION, INC.

By: *Paul Clarke*
Its: President

Printed: Paul Clarke

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

BEFORE ME, the undersigned notary public, on this 20TH day of DECEMBER, 2019, personally appeared PAUL CLARKE, as President of Duck Haven Homeowners Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and in the capacity therein expressed.



Travis Michael Martinek
Notary Public in and for the State of Texas

**Brazos County
Karen McQueen
County Clerk**

Instrument Number: 1380972
Volume : 15760
ERecordings - Real Property

Recorded On: December 26, 2019 08:09 AM

Number of Pages: 12

" Examined and Charged as Follows: "

Total Recording: \$70.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

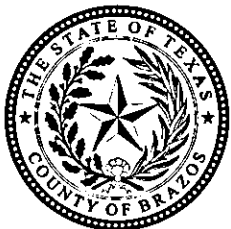
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 1380972
Receipt Number: 20191223000001
Recorded Date/Time: December 26, 2019 08:09 AM
User: Patsy D
Station: CCLERK03

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eRx
8600 Harry Hines Blvd. Ste 300
Dallas TX



STATE OF TEXAS
COUNTY OF BRAZOS

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Brazos County, Texas.

Karen McQueen
County Clerk
Brazos County, TX