

FIFTH AMENDED AND RESTATED RESTRICTIONS FOR  
LAS LOMAS, SECTIONS I AND II  
HAYS COUNTY, TEXAS

WHEREAS, the undersigned, being a minimum of sixty-seven (67%) percent of the owners of lots within Las Lomas Sections I and II, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 4, Page 225-226, Volume 4, Page 227-228 and Volume 4, Page 373-374, Hays County Plat Records, hereby amend, restate, combine and supersede all the previously filed of record Restrictive Covenants for Las Lomas Sections I and II, and do hereby declare, adopt, impose and designate, and by these presents have declared, adopted, imposed and designated, on behalf of themselves and their heirs, legal representatives, and assigns as the owners thereof, the hereinafter recited amended restrictive covenants.

NOW THEREFORE, these amended and restated restrictive covenants for Section I and Section II of Las Lomas 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 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 hereof.

1. "Owner" shall refer to the record Owner, whether one more persons or entities, of the fee simple title to a Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2. "Lot" shall refer to any of the plots of land shown upon the plat and subdivision map recorded in Volume 4, Page 225-226, Volume 4, Page 227-228, and Volume 4, Page 373-374, Plat Records, Hays County, Texas, and any subsequent changes to said lots, whether recorded or not recorded. The term "Lot" shall not include the Common Area or any other reserves shown on the said map or plat, in the event a Lot is subdivided as set forth below into one or more separate tracts, each resulting tract shall be a "Lot" for all purposes and usages herein.

3. "Property" shall refer to any part of the real estate that is located in Las Lomas Subdivision Section I or Las Lomas Subdivision Section II as they are presently platted in the Plat Records of Hays County, Texas, and such additions thereto as may hereafter be brought within the jurisdiction of the Architectural Control Committee. The term "Property" shall include all the lots within Section I and/or Section II.

**Building Set Back Lines**

4. The Wimberley Las Lomas Property Owners Association (the "WLLPOA"), its successors and assigns, shall have the right to grant easements for public utilities, communications and drainage as may be necessary from time to time on Property within the subdivision and along Property lines.

5. Building setback lines shall be fifty (50) feet on all Lot lines. No building shall be erected, built or kept nearer to the lot line or roadway than fifty (50) feet; provided, however, this restriction shall



not prevent the construction of perimeter fencing or cross fencing nearer than fifty (50) feet to a property line roadway; provided further that no fence shall be constructed or maintained that has not been approved by the Architectural Control Committee both as to fence materials and location.

### **Construction and Architectural Control**

6. Septic tanks or on-site sewage facilities (OSSF) will be permitted on all Lots where construction and location of said septic tanks or OSSF comply with all applicable Hays County and State of Texas requirements.

7. Individual Lots may be subdivided into smaller Lots of no less than five (5) acres each. No subdivision of Lots will be permitted where a resulting Lot would be less than five (5) acres in area. No Lot may be subdivided without the approval of the Architectural Control Committee and the Las Lomas Board of Directors. The septic tank or OSSF requirements of Paragraph 6 above shall apply to all subdivided Lots. Notwithstanding any other provision to the contrary herein, the Architectural Control Committee shall have sixty (60) days to act upon a request for subdivision of a Lot and the applicant shall promptly provide information that the Architectural Control Committee requests concerning the proposed division of a Lot and the impact on the subdivision as a whole. The failure to provide requested information shall be adequate grounds to deny the application.

8. No more than one (1) single family dwelling house may be constructed on each Lot as originally developed or hereafter legally subdivided, which may include a garage, playroom, or other such similar detached buildings. The house must contain a minimum of One Thousand Five Hundred (1,500) square feet of livable area (excluding the garage and detached buildings, if any). Any such construction must conform to all laws and governmental regulations pertaining thereto.

9. No Property Owner may place more than one (1) single family dwelling on a Lot except that one (1) guest house may be built, but said guesthouse must contain a minimum of Five Hundred (500) square feet and be approved by the Architectural Control Committee. No guest house, however, may be constructed as an attached house to the primary dwelling upon the Lot. No building shall be more than two (2) stories in height. An Owner of a Lot may rent his home but in the event such Owner has a guest house, only one of said residences, either the primary house or the guest house, may be rented simultaneously. The Owner of a rented Lot has the responsibility to ensure that the renter obtain a copy of the current deed restrictions and return a signed statement to the Owner acknowledging receipt of a copy of the current deed restrictions.

10. All driveways off subdivision roads to a Lot shall be constructed and installed so as not to obstruct drainage or flow of water. If necessary, the Owner of the Lot being served by the driveway will install at his own cost appropriate culverts or drainage pipe under the driveway.

11. No building, fence, wall, alternative energy installation, or other structure shall be commenced, erected, or maintained, nor shall any exterior addition to, or change or alteration therein, be made, until the plans and specifications showing the nature, kind, shape, height, colors, materials and location of the same shall have been submitted to, and approved in writing by, the Architectural Control



Committee as to harmony of external design and location in relation to surrounding structures and topography.

12. All construction of improvements to a Lot shall be completed within nine (9) months after commencement of construction activities. Construction activities will be deemed to have commenced whenever either construction equipment or construction materials are first placed on the Lot. The Architectural Control committee, for good cause shown, shall have the power to grant one (1) or more extensions of time to complete construction of improvements.

13. The Architectural Control Committee, for good cause shown, shall have the power to grant waivers and variances as to any matter over which it exercises discretion, authority or control. No decision of the Architectural Control Committee shall be enforceable unless it is reduced to writing, signed by the members of the Architectural Control Committee who acted in support thereof and is included in the records of the Architectural Control Committee. Such written waiver or variance must state specifically the reasons why it was granted. The decision of the Architectural Control Committee in all such matters is subject to the review by the Board of Directors of WLLPOA upon the written request for such hearing by the Owner requesting the variance. The WLLPOA shall hold a hearing not later than the 30<sup>th</sup> day after the date the WLLPOA receives written notice from the Owner requesting such a hearing and shall notify the Owner of the date, time and place of hearing not less than the 10<sup>th</sup> day before the date of the hearing. The WLLPOA or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting. No individual member of the Architectural Control Committee shall have authority to bind the Architectural Control Committee. The Architectural Control Committee may act only as a Committee sitting as such.

14. In the event that any plans and specifications are submitted to the Architectural Control Committee as provided herein, and such Committee shall fail to either approve or reject such plans and specification for a period of thirty (30) days following such submission, approval by the Committee shall not be required and full compliance with the Article shall be deemed to have been had, provided Paragraph 7 shall govern plans for subdivision of lots.

### **Land Use**

15. Recreational areas such as the tennis court and pavilion shall be under the control and maintenance of the Property Owners Association. Use of the tennis courts is allowed by adult residents or children accompanied by adult residents. Resident use of the pavilion is allowed with permission of the Grounds Committee chairperson.

16. No business or commercial structure of any kind or nature whatsoever shall be built on any portion of the property, nor shall any sign indicating a business operation will be allowed. A business operated from the home will be allowed, provided that such business is not conspicuous, does not result in excessive use of the roads, and does not result in unsightly or excessive storage.

17. No mobile home, old or new prefabricated houses, or other temporary structure shall be placed, erected, or maintained upon a Lot for any purpose whatsoever. Recreational vehicles, campers,



motor homes, horse trailers, utility trailers, boat trailers, or any other similar vehicle shall not be parked on the street but kept as inconspicuously as possible on the owner's lot.

18. No portion of the property shall be used in a manner that adversely affects adjoining property owners or creates an annoyance or nuisance to other property owners. This shall include noise pollution such as barking dogs, loud music, dirt bikes, or any animal that causes a nuisance.

19. No oil drilling or development operations or refining, quarrying or mining operations of any kind shall be permitted upon any Property in the subdivision, nor shall oil wells, tanks or tunnels, mineral excavations or shafts be permitted thereon. No derrick or other structure designed for use in boring for oil or natural gas or other minerals shall be erected or maintained upon Property in the subdivision. No exploratory work may be performed upon, above or under Property in the subdivision.

20. No part of the Property shall be used or maintained as a dumping ground for rubbish, garbage or other waste materials and same shall not be kept on the Property except in sanitary containers for regular and frequent removal from the Property. Yard waste (tree trimmings, etc) shall be maintained as far from street visibility as possible. Burning of any kind shall be permitted only when county burn ban is off, during daylight hours and only if contents do not present a health hazard to residents, such a burning of Styrofoam, batteries, paint, or other chemical waste. Large waste materials (unused household appliances, machinery parts, tires, etc.) shall be removed promptly from the Property.

21. Junk, unlicensed or inoperable cars or machinery shall not be kept or stored on the Property unless enclosed in storage building or garage.

22. The sale of beer, liquor and other intoxicants shall never be permitted on the Property. No part of the Property shall be used for malicious, illegal or immoral purposes nor for any purpose in violation of the laws of the state of Texas, the United States of America, or Hays County, Texas or the police, health, sanitary or fire building codes, regulation or instructions relating to or affecting the use, occupancy or possession of the Property.

23. No fireworks or firearms of any kind shall be discharged or hunting permitted on the Property. The Board may authorize the wildlife committee chairman, or other so appointed individually, to legally dispatch animals when that person deems it necessary, and is reportable to the Board for his actions.

24. No animals or fowl shall be permitted other than those types of animals or fowl normally found on rural property which are raised for personal family use and/or pleasure on a strictly non-commercial basis. Permitted types of animals shall include horses, chickens, goats, donkeys, cattle. No swine, roosters, or guinea fowl shall be permitted. Large animals shall be allowed one per acre. Fencing and shelter for these animals is required and must be neatly maintained. This restriction does not apply to blackbuck antelope, fallow deer, or other exotic game animals owned by the Wimberley Las Lomas Property Owners Association for the benefit of the property owners.

25. Dogs must be kept within the Property of the owner. If outside the owner's Property, the dog must be on a leash in accordance with county ordinances.



26. All swimming pools must be fenced or a retractable cover approved by the Architectural Control Committee

27. Garage/yard/estate sales are not permitted on homeowner's property. The pavilion may be reserved for sales with advance permission of the board.

### **Landowners Agreement**

28. Each person who accepts a deed or conveyance of a Lot in the subdivision accepts the personal obligation to pay the Property owners annual assessment fees or other special assessment herein provided. No other form of acceptance is required to impose this obligation other than the acceptance of such a deed or conveyance, even if the deed of conveyance does not express the obligation to pay the annual assessment fees or other special assessment. The obligation to pay Lot owners annual assessment fees or other special assessment shall be deemed to be a part of the purchase price of the Lot, and an Assessment Lien is hereby reserved to secure the payment of the same. No Lot Owner may exempt himself or herself by waiving their right to use any part or parts of the subdivision.

29. The annual assessment fees shall be used for maintenance, repair, upkeep, improvement and/or construction of roads in the subdivision, perimeter fencing, recreational areas, and the entrance to the subdivision including gates lighting, surveillance cameras and landscaping; casualty and liability insurance, management of the wild game population in Las Lomas, legal fees, court costs and expenses to enforce these restrictive covenants, and such other purposes as the Property Owners Association acting through the Board of Directors deems appropriate and beneficial.

30. Annual assessment fees shall be due no later than the thirty-first (31<sup>st</sup>) day of January each year. All sums that remain unpaid 30 days past this due date shall be considered past due and will accrue interest at the rate of eight percent (8%) per annum, compounded annually. If unable to pay fees by the due date, Owner may request in writing a payment plan for up to six months past the due date, but in no case later than the thirty-first (31<sup>st</sup>) day of July of the same year. Interest shall continue to accrue on any unpaid balance. For all such sums that remain unpaid as of July 31<sup>st</sup>, the treasurer for the Property Owners' Association or any other officer appointed by the Board for such purposes shall prepare and record a written notice of a Property Owners' Association Assessment Lien with the Hays County Clerk. The notice shall include the name of the Owner of the Lot, the description of the Lot for which the fees are delinquent, and the amount of the annual assessment fees that are due and unpaid including accrued interest and reasonable costs associated with administering the payment plan. The annual assessment fee may be increased or decreased by a majority vote of the property owners. The Board of Directors of the Property Owners Association shall adopt rules respecting the election which rules shall be deemed to be reasonable unless they are clearly arbitrary and capricious. Notice of any change in the annual assessment fee shall be given in writing to the record Owner of each Lot as shown in the records of the Property Owners Association. A Property Owner may change his or her address for purpose of notice by giving written notice of the change to the secretary of the association.

32. 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 Property Owners Association shall have the right, through its agents and employees, to enter upon said Lot to repair, maintain, and restore the Lot and exterior to the buildings and any other improvements erected thereon at the expense of the Owner.



33. A Property Owners Association known as the Wimberley Las Lomas Property Owner's Association (WLLPOA) has been formed for the purpose of exercising all of the rights, duties and responsibilities with respect to the maintenance fund, enforcement of these covenants and restrictions, and maintenance of the Common Areas in the subdivision. All references herein to a property owners association refers to the WLLPOA. Each Lot Owner shall automatically be a member of the Property Owners Association and shall be entitled to one vote for each Lot owned for any matter that is submitted to Lot owners. The Property Owners Association shall adopt by-laws to govern its affairs. The Property Owners Association Board of Directors shall not have the power to amend these restrictive covenants.


34. These covenants shall run with the land and be binding upon the Property and each individual Lot unless by a vote of sixty-seven percent (67%) of the owners of the Property agree to change the covenants or restrictions in whole or in part, which must be done in writing and filed of record in the Deed Records of Hays County, Texas. The writing shall be sufficient if it is in the form of an affidavit signed by at least two of the officers of the Property Owner's Association, under oath that the amendments were approved by the required number of votes.

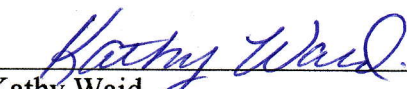
35. Whenever the Restrictive Covenants provide that a matter may be submitted to the vote of Lot owners, one vote may be cast for each Lot owned. If a Lot is owned by more than one Owner, the owners shall decide among themselves how to cast the vote, but if they are unable to agree, their vote shall not be counted nor shall their Lot or lots be counted in determining whether the proposal is carried by the necessary majority.

36. These covenants may be enforced by the Property Owner's Association as well as any Lot Owner acting on his or her own behalf. The first action by the property owner would be to approach the neighbor with a statement of the violation and suggestion to seek a peaceful resolution. If a resolution is not found, then the property owner seeking resolution may write a letter to the board stating the violation and the action they sought to resolve. Legal action is not recommended unless a last resort, however a party who successfully enforces these Restrictive Covenants is entitled to recover reasonable attorney fees and costs from the person or persons against whom the enforcement action was taken.

37. The sale or transfer of title to property in the subdivision subject the property to the deed restrictions in effect at the time of the sale or transfer.

WIMBERLEY LAS LOMAS PROPERTY OWNER'S ASSOCIATION

By: , President  
Lon Krieger

By: , Secretary  
Kathy Waid

**ACKNOWLEDGMENT AND JURAT****STATE OF TEXAS****COUNTY OF HAYS**

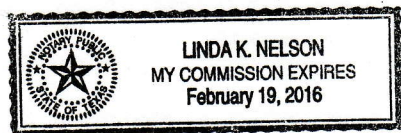
LON KRIEGER, President of the WIMBERLEY LAS LOMAS PROPERTY OWNER'S ASSOCIATION, certifies, acknowledges and swears under oath that a minimum of sixty-seven (67%) percent of the property owners of the WIMBERLEY LAS LOMAS PROPERTY OWNER'S ASSOCIATION have ratified, agreed and approved the FIFTH AMENDED AND RESTATED RESTRICTIONS FOR LAS LOMAS, SECTIONS I AND II, HAYS COUNTY, TEXAS contained herein this 14 day of May, 2013.



Linda K Nelson  
Notary Public, State of Texas

**ACKNOWLEDGMENT AND JURAT****STATE OF TEXAS****COUNTY OF HAYS**

KATHY WAID, Secretary of the WIMBERLEY LAS LOMAS PROPERTY OWNER'S ASSOCIATION, certifies, acknowledges and swears under oath that a minimum of sixty-seven (67%) percent of the property owners of the WIMBERLEY LAS LOMAS PROPERTY OWNER'S ASSOCIATION have ratified, agreed and approved the FIFTH AMENDED AND RESTATED RESTRICTIONS FOR LAS LOMAS, SECTIONS I AND II, HAYS COUNTY, TEXAS contained herein this 14 day of May, 2013.



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