

2 / Courtesy

RETURN TO AUSTIN TITLE / AMERICAN

ENTER RECORDING RETURN TO:  
AUSTIN TITLE COMPANY  
1717 W. 6th STREET, SUITE 120  
AUSTIN, TEXAS 78703  
OF #

FILM CODE

IV A  
IV B

LAKE POINTE IV

DECLARATION OF COVENANTS

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THIS LAKE POINTE IV DECLARATION OF COVENANTS (this "Declaration") is executed by BON TERRE-B, LTD., a Texas limited partnership ("Bon Terre").

**RECITALS:**

A. Bon Terre is the owner of the real property known as Lake Pointe Phase IV-A and IV-B, a real estate subdivision in Travis County, Texas shown by plat (the "Lake Pointe IV Plat") recorded in Volume 100, Pages 180-183 of the Plat Records of Travis County, Texas, which property is more particularly described in Exhibit A hereto (such property is herein called "Lake Pointe IV").

B. By Special Warranty Deed recorded in Volume 12867, Page 343 of the Real Property Records of Travis County, Texas, Bon Terre has conveyed to West Travis County Municipal Utility District Number 5 certain property described therein which is adjacent to Lake Pointe IV (the "Habitat Preserve"), to be used as conservation area for endangered species habitat.

C. Bon Terre desires to impose this Declaration on Lake Pointe IV to establish a uniform plan for the development of Lake Pointe IV to benefit the present and future owners of property within Lake Pointe IV.

NOW, THEREFORE, Bon Terre hereby declares that Lake Pointe IV shall be owned, developed, conveyed and occupied subject to the following covenants and restrictions:

1. Defined Terms. Reference is made to the Declaration of Covenants, Conditions and Restrictions for Lake Pointe recorded in Volume 12474, Page 1631 of the Real Property Records of Travis County, Texas, as amended by (i) First Amendment to Declaration of Covenants, Conditions and Restrictions recorded in Volume 12926, Page 833 of the Real Property Records of Travis County, Texas, (ii) Second Amendment to Declaration of Covenants, Conditions and Restrictions recorded in Volume 13124, Page 103 of the Real Property Records of Travis County, Texas, and (iii) Notice of Withdrawal of Land From Lake Pointe Declaration of Covenants, Conditions and Restrictions recorded in Volume 13124, Page 61 of the Real Property Records of Travis County, Texas (such Declaration of Covenants, Conditions and Restrictions, as so amended, is herein called the "Lake Pointe Declaration"). Lake Pointe IV is subject to the Lake Pointe Declaration. This Declaration is in addition to, and independent of, the Lake Pointe Declaration; however, certain terms used in the Lake Pointe Declaration are pertinent to the provisions of this Declaration. Accordingly, capitalized terms used in this Declaration without definitions have the respective meanings assigned to them in the Lake Pointe Declaration.

REAL PROPERTY RECORDS  
Travis County, Texas

2. Habitat Preserve Restrictions. Consistent with the requirements of the U.S. Fish and Wildlife Service as a condition to its issuance of an endangered species permit related to the development of Lake Pointe IV, the following restrictions shall apply to Lake Pointe IV:

(a) Pesticides. No organochlorine or organophosphate herbicide or pesticide shall be applied to or used on any Lot or other property within Lake Pointe IV. To the extent any other herbicides or pesticides are applied or used in Lake Pointe IV, they shall be applied and used strictly in accordance with the manufacturer's directions and all applicable laws and regulations.

(b) Animals. No cats shall be permitted to live outside on any Lot or other property within Lake Pointe IV. Household pets may be fed only within a residence, not outside. No bird feeders shall be placed on any Lot or other property within Lake Pointe IV except for feeders containing exclusively thistle or hummingbird food. No supplemental feed for deer may be placed on any property in Lake Pointe IV.

(c) Lots Adjacent to Habitat Preserve. The covenants and restrictions of this subparagraph (c) shall be applicable to the Lots and MUD Lots described in Exhibit B hereto (the "Specified Lots"), but not to the other property in Lake Pointe IV. To the extent any hardwood tree or shrub is removed from any Specified Lot, the Owner of the Specified Lot shall promptly thereafter replace the tree or shrub, as applicable, with a native tree or shrub (other than Ashe juniper) having a size at its maturity comparable to the mature size of the removed tree or shrub. All outside lights on the Specified Lots shall be turned off at night, and no outside light on any Specified Lot may be broadcast toward the Habitat Preserve. Within 30 days after completion of a new home on any Specified Lot, the Owner of the Specified Lot shall install wrought iron fencing, at least six feet in height, along the entire common boundary of the Specified Lot and the Habitat Preserve. Thereafter, the Owner of the Specified Lot shall maintain the wrought iron fence in good repair and in a sightly condition.

3. Minimum Floor Area. The minimum floor area for the main structure (including all air conditioned living areas, but excluding all open porches and garages) of each home constructed on a Lot in Lake Pointe IV shall be 3,000 square feet. The West Lake Pointe AC may, in its sole discretion, on a case by case basis and at the Lot Owner's request, grant a variance to reduce such minimum floor area requirement by up to 100 square feet.

4. Wrought Iron Fencing. All rear and side Lot property lines which are adjacent to MUD Lot 27 of Lake Pointe Phase IV-A, Block A, as shown on the Lake Pointe IV Plat, shall either be unfenced or fenced with wrought iron fencing at least six feet in height. To the extent wrought iron fencing is installed, the Lot Owner shall maintain same in good repair and in a sightly condition.

5. Concrete Foundations. All front, side and rear concrete foundations of all homes constructed in Lake Pointe IV shall comply with the following restrictions:

(a) Front concrete foundation -- maximum above-ground exposure of 18 inches.

(b) Front half of side concrete foundation -- maximum above-ground exposure of 18 inches.

(c) Rear half of side concrete foundation -- maximum above-ground exposure of 48 inches.

(d) Rear concrete foundation -- maximum above-ground exposure of 48 inches.

6. Height Restrictions. Homes constructed on the following Lots, as shown on the Lake Pointe IV Plat, may be no more than one story in height: Phase IV-A, Block A, Lots 60, 62, 71, 73, 80 and 81.

7. Term. This Declaration shall run until December 31, 2025, unless amended or terminated as provided in Paragraph 8 below. Thereafter, this Declaration shall be automatically extended for successive periods of 10 years each, unless amended or terminated as provided in Paragraph 8 below.

8. Amendment.

(a) By Bon Terre. So long as Bon Terre owns any real property within Lake Pointe IV, this Declaration may be amended for any purpose or terminated, in whole or in part, by an instrument signed and acknowledged by Bon Terre and recorded in the Real Property Records of Travis County, Texas.

(b) By Owners. This Declaration may be amended for any purpose or terminated, in whole or in part, by an instrument signed and acknowledged by the Owners of at least 75% of the Lots within Lake Pointe IV and recorded in the Real Property Records of Travis County, Texas, provided that (i) so long as Bon Terre owns any real property within Lake Pointe IV, the instrument must also be signed and acknowledged by Bon Terre to be effective, and (ii) no amendment may impose any additional restrictions or covenants on a MUD Lot or any Common Area without the written consent, included in the amendment, of the Owner of the applicable MUD Lot or Common Area.

9. Covenants Running With Land. The covenants and restrictions herein constitute covenants running with the land and shall be binding on all parties having any right, title or interest in or to any real property within Lake Pointe IV, their heirs, successors and assigns, and shall inure to the benefit of each Owner of such real property.

10. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration as the same may be amended from time to time. Except as otherwise provided

herein, any Owner at his own expense, Bon Terre and/or the Board shall have the right to enforce all of the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision. The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

11. Assignment by Bon Terre. Bon Terre may assign, in whole or in part, any of its rights or interests under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its rights or interests hereunder. The conveyance of a property interest by Bon Terre shall not alone constitute an assignment of Bon Terre's rights or interests hereunder.

12. Exhibits. Each exhibit attached to this Declaration is made a part hereof for all purposes.

13. Restrictions Severable. The provisions of this Declaration shall be independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

14. Counterparts. This Declaration may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

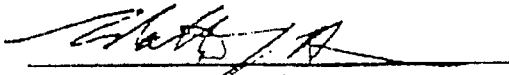
IN WITNESS WHEREOF, Bon Terre has executed this Declaration as of

JUNE 24, 1998.

BON TERRE-B, LTD., a Texas limited  
partnership

By: WJH Corporation, a Delaware  
corporation, its General Partner

By:

  
Walter J. Humann, President

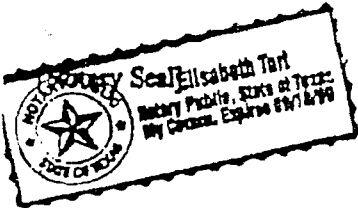
THE STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 21<sup>st</sup> day of June, 1998, by Walter J. Humann, President of WJH Corporation, a Delaware corporation, on behalf of such corporation acting in its capacity as General Partner of Boa Terre-B, Ltd., a Texas limited partnership, on behalf of such limited partnership.

*Elizabeth Tart*

Notary Public Signature



For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BANK ONE, TEXAS, NATIONAL ASSOCIATION, a national banking association, the holder of a lien on Lake Points IV, pursuant to a First Amended and Restated Deed of Trust (with Security Agreement and Assignment of Rents and Leases) dated March 19, 1998, recorded in Volume 13143, Page 72 of the Real Property Records of Travis County, Texas, hereby consents to the execution and recordation of this Declaration and subordinates the lien of such Deed of Trust to the terms and provisions of this Declaration, it being agreed that this Declaration shall survive foreclosure of the lien of such Deed of Trust and that any sale of any property covered by such Deed of Trust at foreclosure will be made subject to this Declaration.

BANK ONE, TEXAS, NATIONAL ASSOCIATION, a national banking association

By: Dale W. Renner  
Dale W. Renner, Vice President

THE STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on this 25<sup>th</sup> day of June, 1998, by Dale W. Renner, Vice President of Bank One, Texas, National Association, a national banking association, on behalf of said association.

 SANDRA HODGES  
NOTARY PUBLIC  
THE STATE OF TEXAS  
COMMISSION EXPIRES  
09-30-2000  
Sandra Hodges  
Notary Public Signature

[Notary Seal]