

P022367

117-42-1431

Amended

FIRST AMENDMENT TO RESTRICTIONS
OF PARKWEST SECTION ONE

THE STATE OF TEXAS }
COUNTY OF HARRIS }

12/30/92 00743294 P022367 \$ 191.50

WHEREAS, the undersigned are owners of lots in PARKWEST, SECTION ONE, a subdivision in Harris County, Texas according to the map or plat thereof recorded under Clerk's File No. 1826035, and in Volume 56, Pages 9-10, of the Map Records of Harris County, Texas (the "Subdivision"); and

WHEREAS, the Subdivision is subject to restrictive covenants recorded in Volume 3468, Page 333, of the Deed Records of Harris County, Texas (the "Restrictions"), reference to which is here made for all purposes; and

WHEREAS, the Restrictions provide that the Restrictions may be changed, in whole or in part, by a duly recorded instrument signed by a majority of the property owners in the Subdivision; and

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WHEREAS, there are 199 lots in the Subdivision, and

WHEREAS, the undersigned constitute a majority of the property owners in the Subdivision as of January 1, 1993; and

WHEREAS, in accordance with the provisions of the Restrictions, the undersigned have executed this instrument in order to amend and supplement the Restrictions as hereinafter provided:

NOW THEREFORE, in consideration of the benefits to be derived by the property owners in the Subdivision from the matters set forth herein, the Restrictions are hereby amended and supplemented as set forth below.

1. The following is hereby added to the fourth paragraph on the first page of the Restrictions:

"Additionally, in the event of a violation by the owners or occupants of any lot of any covenant, condition or restriction herein and the continuance of such violation after ten (10) days written notice thereof, or in the event the owner or occupant has not proceeded with due diligence to correct such violation after such notice, the Westbury Civic Club, Inc. (the "Club") shall have the right (but not the obligation), through its officers, directors, volunteers, agents or employees, to repair, maintain or restore the lot and any unoccupied improvement located thereon to

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ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESK USED REAL PROPERTY BECAUSE OF COLOR, OR RACE, IS INVALID AND UNENFORCEABLE UNDER THE FEDERAL LAW.

A CERTIFIED COPY

ATTEST **AUG 27 1998**
BEVERLY B. KAUFMAN, County Clerk
Harris County, Texas

[Signature] Deputy

DOI 0828 10/92

the condition required by these Restrictions. The Club may enter onto any lot and/or unoccupied improvements and cut the weeds and grass, edge the lawn around the curb, cause to be removed garbage, trash, rubbish, signs, vehicles or do any other thing necessary to secure compliance with these Restrictions. The Club may render a statement of charge to the Owner or occupant of such lot for the cost of any work performed as result of a violation of the terms of these restrictions hereof: The Owner and occupant agree by the purchase and occupation of the lot to pay such statement immediately upon receipt, and all Owners and occupants of such lot shall be jointly and severally liable therefore. The cost of such work, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of the Maintenance Assessment payable by said Owners and payment thereof shall be secured by the maintenance lien hereinafter retained. The Club, its officers, directors, volunteers, agents and employees, shall not be liable, and are hereby expressly released from any liability, for trespass or other tort in connection with the exercise of its remedies herein."

2. The phrase "single family" is hereby inserted between the words "for" and "residential" in the first sentence of paragraph (a) of the Restrictions.
3. In the second sentence of paragraph (a) of the Restrictions, the phrase "one story" is hereby deleted and the phrase "two stories" is hereby substituted therefor.
4. In the second sentence of paragraph (a) of the Restrictions, the phrase "two cars" is hereby deleted and the phrase "three cars" is hereby substituted therefor.
5. The following is hereby added to paragraph (f) of the Restrictions:
 "No outbuilding shall be permitted on any lot unless the same is eight feet (8') in height or less, is 240 square feet in floor area or less, and is otherwise not in public view."
6. The following is hereby added to paragraph (g) of the Restrictions:
 "All structures, including houses and fences, located on residential lots shall at all times be kept in good condition and repair. If any structure is damaged by fire, hurricane or other casualty, work shall be commenced in order to restore the structure to its previous condition within six months of the date of such damage, or the structure shall be razed to ground level within such six month period."

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 Harris County, Texas

Dolores Lopez Deputy
 DOLORIS LOPEZ

7. The following is hereby added to paragraph (j) of the Restrictions:
"The number of household pets kept on any lot shall not exceed the number permitted by any applicable law."
8. The following is hereby added to the Restrictions as paragraph (v):
"(v) All lawns shall be cut and maintained at a height which does not exceed the height permitted by the ordinances of the City of Houston or other applicable laws. No car or other vehicle shall be parked on any lawn."
9. The following is hereby added to the Restrictions as paragraph (w):
"(w) None of the following may be parked or stored on any part of any lot or the street or any easement adjacent thereto unless it is concealed from public view:
- (1) Any motor vehicle which exceeds either seven feet in height, seven feet in width or twenty-one feet in length.
 - (2) Any inoperable motor vehicle of any size.
 - (3) Any recreational vehicle, camper, boat, marine craft, trailer or aircraft.
- None of the foregoing shall apply to any vehicle temporarily parked and in use for the construction or repair of a house."
10. The following is hereby added to the Restrictions as paragraph (y):
"(y) No satellite dish or similar apparatus shall be erected or maintained on any lot unless the same is adequately screened from public view and is located within all applicable building lines."
11. The following additional provisions are hereby added to the Restrictions:
- (1) Grandfather Clause. The provisions of this Article 11 shall not be binding upon any lot hereto until such time as legal fee title to such lot is conveyed from the owners of the lot as of this date to a new owner or owners (excluding foreclosure of a lien existing as of the date hereof). From and after such time, such lot and its owners and occupants shall be subject to all of the provisions of this Article 11.

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Dolores S. Lopez
DOLORES LOPEZ, Deputy

(2) Club Membership. The Westbury Civic Club, Inc., a Texas non-profit corporation has been organized; and it shall be governed by its articles of incorporation and by-laws, as the same may be amended from time to time in accordance with the provisions thereof. Every owner of a lot in the Subdivision who has paid his or her dues to the Club as established by the Club shall be a member of the Club and of the Westbury Area Patrol or such other security organization with which the Club may be affiliated, and shall have all rights and obligations appurtenant thereto. Membership in the Club is appurtenant to ownership of a lot and may not be separated therefrom.

(3) Maintenance Assessments. Subject to the provisions of paragraph (1) above, each lot in the Subdivision is hereby subjected to an annual Maintenance Assessment, and each Owner of any lot, by acceptance of a deed thereto, whether or not it shall be expressly so stated in such deed, is deemed to covenant and agree to pay the Club the annual dues and charges established by the Club for membership in the Club, for membership in the Westbury Area Patrol or such other security organization with which the Club may be affiliated, and for the maintenance of the esplanades in the Westbury and Parkwest subdivisions. As used herein, the term "Maintenance Assessment" shall include the aforesaid dues and charges for membership in the Club, for membership in the security organization and for esplanade maintenance. The Maintenance Assessments, together with interest, costs and reasonable attorneys' fees, shall be a continuing charge and lien on the lot as set forth below.

(4) Purpose of Maintenance Assessments. The Maintenance Assessments shall be used exclusively to promote the recreation, health, safety, welfare and property values of residents of the Subdivision and of the neighboring subdivisions known as Westbury and Parkwest, and for enhancing the attractiveness of said subdivisions. The foregoing shall include, but not be limited to, security, esplanade maintenance, mosquito fogging, enforcement of these Restrictions, insurance expenses, general administrative expenses of the Club and the establishment of reserves. It is understood that the judgment of the Board of Directors of the Club in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

(5) Amount of Maintenance Assessments. The Maintenance Assessments on the lots shall be established by the Board of Directors of the Club, subject to the limitations described in the

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Deputy

following provisions of this subparagraph (5). The Maintenance Assessments shall be assessed on a calendar year basis and shall be payable on or before February 1 of each calendar year. The Maintenance Assessment for 1993 shall be \$160. In each subsequent year, the Maintenance Assessments may be increased by a percentage not to exceed the then most recently published annual percentage increase in the Consumer Price Index for all Urban Wage Earners, U. S. city average, established by the United States government. If the Consumer Price Index is ever discontinued or unavailable, annual increases in the Maintenance Assessments shall be limited to the annual percentage increase in the cost of living as determined by such other objective measure as the Board of Directors of the Club may determine, in its reasonable judgment. For any lot which is subject to the Maintenance Assessment for only a portion of a calendar year by reason of subparagraph (1), the Maintenance Assessment shall be prorated on per diem basis.

(6) Effect of Nonpayment of Maintenance Assessments. Any Maintenance Assessments which are not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Club may bring an action at law against the owner of the property personally obligated to pay the same, and it also may foreclose the lien against the property as set forth below. No owner may waive or otherwise escape liability for the dues provided herein by non-use of the services provided by the Club or by abandonment of his lot. Any owner who fails to timely pay Maintenance Assessments also shall pay the Club all reasonable attorney's fees incurred by the Club in connection with the collection of the Maintenance Assessments.

(7) Lien To Secure Maintenance Assessments. To secure the payment of all annual Maintenance Assessments established hereby and levied on individual residential lots, there is hereby created upon each lot (subject to Section (8) below) a lien for benefit of the Club. Said lien may be judicially foreclosed or may be nonjudicially foreclosed in accordance with Section 51.002 of the Texas Property Code (and any successor statute) in the same fashion as a Deed of Trust with power of sale, a power of sale being expressly granted hereby. The Club may designate in writing a Trustee to effectuate such power of sale and may change such Trustee at any time by written instrument.

(8) Subordination. Each such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted and created by or at the instance and request of the owner of any such lot, to secure the payment of monies advanced on account of the


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purchase price and/or the construction of improvements on any such lot. As a condition precedent to any proceeding by the Club to enforce such lien upon any lot upon which there is an outstanding valid and subsisting purchase money or construction lien, the Club shall give the holder of such lien thirty (30) days written notice of such proposed action, which notice shall be sent to the such lien holder specified in the recorded instrument creating the lien, by prepaid U.S. Certified Mail, and shall contain a statement of the dues. Upon the request of any such lien holder, the Club shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular lot covered by such mortgage lien to the holder thereof. The sale or transfer of any lot pursuant to mortgage foreclosure or an proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

12. General Provisions

- (1) Term. The Restrictions, as amended hereby, shall run with the land comprising the lots in the Subdivision and shall be binding upon all parties and all persons claiming under them for a period of ten (10) years from the effective date hereof, after which time the Restrictions, as amended hereby shall be automatically extended for successive periods of ten (10) years each, unless or until an instrument signed by the majority of the property owners in the Subdivision has been recorded agreeing to change or terminate said Restrictions, as amended hereby, in whole or in part.
- (2) Severability. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.
- (3) Continuation of Restrictions. Except as expressly modified by this First Amendment, the Restrictions shall remain in full force and effect as therein written.
- (4) Reverter. In the event that this instrument is held to be invalid, unenforceable as a whole or otherwise of no legally binding effect, then the Restrictions shall continue in full force and effect as therein written.
- (5) Gender: Number. Where the context so requires, words in the masculine, feminine or neuter gender shall refer to any or all genders, and the singular shall include the plural and the plural shall include the singular.

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