

Amend

P623117

196-50-0937

FIRST AMENDMENT TO RESTRICTIONS OF PARKWEST, SECTION TWO

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THE STATE OF TEXAS §
COUNTY OF HARRIS §

12/28/93 00386281 P623117 \$ 1157.00

WHEREAS, the undersigned are owners of lots in PARKWEST, SECTION TWO, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 58, Page 11, of the Map Records of Harris County, Texas (the "Subdivision"); and

WHEREAS, the Subdivision is subject to restrictive covenants recorded in Volume 3616, Page 94, of the Deed Records of Harris County, Texas (the "Restrictions"), reference to which is made here 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

WHEREAS, there are 443 lots in the Subdivision; and

WHEREAS, the undersigned constitute a majority of the property owners in the Subdivision as of January 1, 1994; and

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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 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

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ATTEST: AUG 27 1998
BEVERLY E. KAUFMAN, County Clerk
Harris County, Texas

David M. Brown

196-50-0938

be removed garbage, trash, rubbish, signs, vehicles that do not comply with these Restrictions 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 actual and reasonable cost of any work performed as a result of a violation of the terms of these Restrictions. The Owner and occupant agree by the purchase and occupation of the lot to pay such statement within ten (10) days upon receipt, and all Owners and occupants of such lot shall be jointly and severally liable therefor. The cost of such work, plus interest thereon at the rate of ten percent (10%) per annum, 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. Paragraph (b) of the Restrictions is hereby deleted in its entirety and the following is hereby substituted therefor:

"(b) No building or decorative appurtenance shall be erected, placed or altered on any building plot in the Subdivision until the building plans, specifications and plot plan showing the location of such building or decorative appurtenance have been approved in writing by a committee (the "Architectural Control Committee") appointed by the Board of Directors of the Club. The Architectural Control Committee shall have the duty to approve all plans and specifications for buildings and decorative appurtenances that (i) are in compliance with these Restrictions, (ii) are in compliance with all applicable setback lines, and (iii) are harmonious with the exterior design of existing structures in the Subdivision (in the reasonable judgment of the members of the Architectural Control Committee). In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days from the date such plans and specifications are submitted to it, or, in the case of a building, if no suit to enjoin the erection of such building has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with. During the period in which they are being reviewed, the plans and specifications submitted shall be kept at the main office of the Club.

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Harris County, Texas

Susan L. McCall

Deputy

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"The Architectural Control Committee shall consist of three (3) members. Each member of the Architectural Control Committee shall be both an owner and a resident of a house in the Subdivision. In the event of the death or resignation of a member of the Architectural Control Committee, the remaining members shall have full authority to approve or disapprove such design or location. The members of the Architectural Control Committee shall not be entitled to compensation for services performed pursuant to this covenant. The members of the Architectural Control Committee shall not be liable in damages for any action taken by them so long as such action is taken in good faith and is not arbitrary or capricious."

6. The following is hereby added to paragraph (f) of the Restrictions:

"No outbuilding (other than a garage) 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."

7. 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, the owner of the lot shall either (i) exercise all reasonable efforts to cause work to be commenced within six months of the date of such damage in order to restore the structure to its previous condition or (ii) cause the structure to be razed to ground level within such six month period."

8. 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."

9. 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; provided, however, that the foregoing restriction shall not be deemed to prohibit circular driveways on any lot."

10. 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 by the house, by a garage or by a wood or masonry fence at least six (6) feet in height:

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Lucinda M. Brown

196-50-0940

- (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."

11. 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. No television or radio antenna shall be erected or maintained on any lot unless the same is (i) located to the rear or the side of the house, and (ii) extends no higher than ten (10) feet above the peak of the roof of the house. The foregoing shall not prohibit any ham radio antenna owned and operated by any duly licensed ham radio operator."

12. The following is hereby added to the Restrictions as paragraph (z):

"(z) Each house shall display its street number so that such street number is visible from the street and so that such house is in compliance with any applicable ordinance of the City of Houston pertaining to the display of street numbers."

13. The following is hereby added to the Restrictions as paragraph (aa):

"(aa) No owner or occupant shall regularly park more than two vehicles on the street adjacent to the lot. The foregoing applies only to vehicles driven by owners and occupants and does not apply to social guests."

14. The following additional provisions are hereby added to the Restrictions:

(1) Grandfather Clause. The provisions of this Article 14 shall not be binding upon any lot or owner thereof 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 shall be subject to all of the provisions of this Article 14.

(2) Club Membership. The Westbury Civic Club, Inc., a Texas non-profit corporation, has been organized; 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

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Beverly B. Kaufman

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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 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 1994 shall be \$160.00. 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

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[Signature] Deputy

196-50-0942

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. In order to give public notice of the failure of an owner to pay any Maintenance Assessment, the Club may file an affidavit in the Real Property Records of Harris County, Texas, stating that the required Maintenance Assessments have not been paid. 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. Any notices which may be required to be given to any lot owner in connection with the nonpayment of Maintenance Assessments shall be given by certified mail, addressed to the last known owner of the lot in question at such owner's last known address, all as reflected in the records of the Club.

(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 for any reason 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 any valid lien under Texas law against 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 consensual 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 lienholder specified in the recorded instrument creating the lien, by prepaid U. S. Certified Mail, and shall contain a statement of the Maintenance Assessments owing. Upon the request of any such lienholder, the Club shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular lot covered by such lien to the holder thereof. The sale or transfer of any lot pursuant to mortgage

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Beverly B. Kaufman

Dep. Secy

196-50-0943

foreclosure or a proceeding in lieu thereof, shall extinguish the lien of such Maintenance 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 Maintenance Assessments thereafter becoming due or from the lien thereof.

15. 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 owners and occupants of said lots and on all persons claiming under them for a period of ten (10) years from the effective date hereby, 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) Continuation of Restrictions. Except as expressly modified by this First Amendment, the Restrictions shall remain in full force and effect as therein written.

(3) 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.

(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.

(6) Counterparts. This first amendment may be executed in multiple original counterparts and with multiple signature pages, all of which shall constitute one instrument.

IN WITNESS WHEREOF, this First Amendment to Restrictions is executed on the dates set forth in the acknowledgements below but to be effective as of January 1, 1994.

[Signatures on the following pages]

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Harris County, Texas

Deputy

196-50-6944

Each of the undersigned certifies that he or she has read, understands and consents to the adoption of the foregoing First Amendment to Restrictions of Parkwest, Section Two, consisting of seven (7) pages, exclusive of signature pages. Each of the undersigned also certifies that he or she is the lawful owner or co-owner of the lot described by his or her signature.

OWNER(S) of Lot 4
in Block 147 of
Parkwest, Section Two

W.D. Scott
Name: William D. Scott

10615 Ashcroft Dr.
Street Address

Geneva E. Scott
Name: Geneva E. Scott

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 29th day of October, 1993, by William D. & Geneva E. Scott.



Julie Marcum Savage
Notary Public, State of Texas

Julie Marcum Savage
Printed Name of Notary

My Commission expires: 5/18/97

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David M. [Signature] Deputy