

THE STATE OF TEXAS |

C867415 102-32-0780

COUNTY OF HARRIS |

WHEREAS, WESTHEIMER DEVELOPMENT COMPNAY, a Texas Corporation, Vaughn Eugene Counts and wife, Rebecca Holder Counts, Charles K. Abernathy and wife, Jena Abernathy, William B. Morgan and wife, Anna D. Morgan, Alfred C. Estes, Jr., and wife, and Kenneth G. Reasons and wife, Carolyn Reasons are the owners of all of the following described property, joined herein by HEIGHTS SAVINGS ASSOCIATION, CONTINENTAL BANK, TENNESSEE LIFE INSURANCE COMPANY, and FIRST CITY NATIONAL BANK OF HOUSTON, lienholders of all the following described property, in Harris County, Texas, to-wit:

Lots One (1) through Ten (10), both inclusive, Block One (1); Lots One (1) through Twenty-Four (24), both inclusive, Block Two (2); Lots One (1) through Thirty-Seven (37), both inclusive, Block Three (3); Lots One (1) through Twenty-Four (24), both inclusive, Block Four (4); Lots One (1) through Forty-Four (44), both inclusive, Block Five (5); Lots One (1) through Twenty-Four (24), both inclusive, Block Six (6); Lots One (1) through Seventeen (17), both inclusive, Block Seven (7), and Lots One (1) through Nine (9), all in BRIAR PARK, SECTION ONE (1), a subdivision in Harris County, Texas, according to the Map or Plat thereof recorded at Volume 155, Page 118, Map Records of Harris County, Texas;

WHEREAS, it is the desire of said owners and lienholders to establish a uniform plan for the development, improvement and sale of said property, and to insure the preservation of such uniform plan for the benefit of both the present and the future owners of lots in said subdivision:

NOW, THEREFORE, the above-mentioned owners and lienholders of all of the above described property do hereby adopt, establish and impose the following reservations, restrictions, covenants and conditions upon said property, which shall constitute covenants running with the title of the land and shall insure to the benefit of said parties, their respective successors and assigns, and to each and every purchaser of lands in said addition and their assigns, and any one of said beneficiaries shall have the right to enforce the restrictions using whatever legal method is deemed advisable.

### **RESTRICTIONS, COVENANTS, AND CONDITIONS**

1. **Land Use and Building Type.** All lots shall be known and described as lots for residential purposes only (hereinafter sometimes referred to as "residential lots"). No structure other than one detached single family dwelling not to exceed two stories in height and a detached or attached garage shall be erected, altered, placed, or permitted to remain on any residential lot. No lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. No building of any kind or character shall ever be moved

- onto any lot within said subdivision, it being the intention that only new construction shall be placed and erected thereon.
2. **Architectural Control.** No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan showing the locations of the structure have been approved by the Architectural Control Committee hereinafter established as to quality of workmanship and materials, harmony of external design with existing structures, as to location with respect to topography and finished grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to the street than the minimum building set back lines as shown on the recorded plat.
  3. **Dwelling Size.** The ground floor area of the main residential structure, exclusive of open porches and garages, shall not be less than 1,200 square feet for a one-story dwelling, nor less than 950 square feet of ground floor area for a dwelling of more than one story.
  4. **Type of Construction, Materials, and Landscape.**
    - (a) No residence shall have less than 51% or equivalent masonry construction on its exterior wall area, except that detached garages may have wood siding of a type and design approved by the Architectural Control Committee.
    - (b) A concrete sidewalk 4 feet wide will be constructed parallel to the curb at the property line along the entire front of all lots; in addition thereto 4 foot wide sidewalks will be constructed parallel to the curb along the entire side of all corner lots at the property line, and the plans for each residential building on each of said lots shall include plans and specifications for such sidewalks and same shall be constructed and completed before the main residence is occupied.
    - (c) No window or wall type air conditioners will be permitted to be used, erected, place or maintained on or in any building in any part of Briar Park, Section One.
    - (d) Each kitchen in each dwelling or living quarters situated on any lot above described shall be equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in a serviceable condition.
    - (e) No landscaping shall be done in the front of any dwelling in Briar Park, Section One until the landscaping layout and plans shall have first been approved by the Architectural Control Committee.
    - (f) No roof of any building shall be constructed of a material other than wood shingles without the written approval of the Architectural Control Committee.
  5. **Building Location.** No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. No building shall be located nearer than five (5) feet to any interior lot line, except that garage or other permitted accessory building located sixty-five (65) feet or more from the front lot line may be located within three (3) feet of an interior lot line; provided however, the foregoing minimum side yard provision to the contrary notwithstanding, in no event shall the sum of the side yard dimensions on any lot (except in the case of a garage or other

- permitted accessory building set back 65 feet as above provided) be less than fifteen per cent (15%) of the width of the lot, measured (to the nearest foot) along the front set back line shown on the recorded plat. No main residence building nor any part thereof shall be located on any interior lot nearer than fifteen (15) feet to the rear lot line. For the purpose of this covenant, caves, steps and open porches shall not be considered as a part of the building; provided, however, that this shall not be considered as a part of the building on any lot to encroach upon another lot. For the purposes of these restrictions, the front of each lot shall coincide with and be the property line having the smallest or shortest dimensions abutting a street. Each main residence building will face the front of the lot.
6. **Minimum Lot Area.** No lot shall be resubdivided, nor shall any building be erected or placed on any lot having area of less than 6,600 square feet; provided, however, that nothing herein contained shall be construed to prohibit the resubdivision of any lot or lots within said subdivision if such resubdivision increases the minimum lot area aforesaid of all building plots affected thereby, it being the intention of this restriction that no building plot within said subdivision shall contain less than the aforementioned minimum area.
  7. **Easements.** Easement for the installation and maintenance of utilities, drainage facilities, road, streets and pipe line easements heretofore granted are reserved as shown on the recorded plat. No utility company, water district or other authorized entity or political subdivision using the easements herein referred to shall be liable for any damage done by them or their assigns, agents employees or servants to shrubbery, trees or flowers or other property of the owner situated on the land coved by said easements.
  8. **Annoyance or Nuisances.** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance to the neighborhood.
  9. **Temporary Structures.** No structure of a temporary character whether trailer, basement, tent, shack, garage, barn or other out-building shall be maintained or used on any lot at any time as a residence, or for any other purpose either temporarily or permanently. No truck, trailer, automobile or other vehicle will be stored, parked or kept on any lot or in the street in front of the lot unless such vehicle is in day to day use off the premises and such parking is only temporary, from day to day; provided, however, that nothing herein contained shall be construed to prohibit the storage of an unused vehicle in the garage permitted on any lot covered hereby.
  10. **Signs and Billboards.** No signs, billboards, posters or advertising devices of any character shall be erected on any lot or plot except one sign of not more than five square feet advertising the property for sale or rent or signs used by the builder to advertise the property during the construction and sales period. The right is reserved by WESTHEIMER DEVELOPMENT COMPANY, its assigns and successors in interest to construct and maintain such signs, billboards or advertising devices as is customary in connection with the general development and sale of property in this type of subdivision.
  11. **Oil and Mining Operations.** No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in

any lot nor shall oil wells, tanks, tunnels, mineral excavations or shall be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

12. **Storage and Disposal of Garbage and Refuse.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers with sanitary covers or lids. No lot shall be used for the open storage of any materials whatsoever which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any lot may be placed upon such lot at the time construction is commenced and may be maintained thereon until the completion of the improvements.

### **ARCHITECTURAL CONTROL COMMITTEE**

1. The Architectural Control Committee shall be composed of Glenn W. Loggins, E. H. Monk, and Larry D. Johnson, of Houston, Texas. The foregoing members shall serve for a period of fifteen (15) years, or until their successors are duly appointed. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members of the Committee shall have full authority to designate a successor. Neither the members or the Committee nor their designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. At any time after the expiration of fifteen (15) years from date of these restrictions, the then record owners of a majority of the lots in this subdivision shall have the power through a written instrument executed by the then owners of a majority of such lots and duly recorded in the office of the County Clerk, Harris County, Texas, to change the membership of the Committee and restore to the Committee any of its original powers and duties.
2. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representatives fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.
3. At any time after fifteen (15) years from the date hereof the then record owners of a majority of the lots in this subdivision may elect to transfer all the right, powers, duties, purposes and functions of the committee to any non-profit civic club or similar association or organization shall succeed to all of the rights, powers, duties purposes, and functions of this Committee.
4. Specifically, but not by way of limitation, the Committee shall have the following rights, duties, privileges, functions, and purposes, to-wit:
  - (a) The right to approve or disapprove any of the building plans and specifications and plot plans submitted to it in accordance with the requirements of these restrictions.

- (b) The right, but not the obligation, to enforce these restrictions, and/or to prevent violations thereof.
5. The Committee shall have the right to adopt rules for the conduct of its business, which shall not be inconsistent with anything herein contained.

### **Maintenance Charge**

1. Each lot in Briar Park, Section One is hereby subjected to an annual maintenance charge and assessment not to exceed \$5.00 per month or \$60.00 per annum, for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the owner or owners of each lot within Briar Park, Section One to Briar Park Community Improvement Association in advance quarterly installments, commencing January 1, 1969. The rate at which each lot will assessed will be determined annually, and may be adjusted from year to year by Briar Park community Improvement Association as the needs of the subdivision may in the judgment of that association require, provided that such assessment will be uniform and in no event will such assessment or charge exceed \$5.00 per lot per month, or \$60.00 per lot per year. The present owners of the property hereinabove described and their successors and assigns agree to pay their and each of their proper proportion of said assessments for all lots in Briar Park, Section One which are fully developed and saleable building sites. Briar Park Community Improvement Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of Briar Park, Section One as well as all subsequent sections of Briar Park provided, however, that each future section of Briar Park to be entitled to the benefit of this Maintenance Fund, must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per lot basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of Briar Park Community Improvement Association; such uses and benefits to be provided by said association shall include, by way of clarification and not limitation and at its sole option, any and all of the following: construction and maintaining parks, swimming pools, parkways, right-of-way, easements, esplanades and other public areas, collecting and disposing of garbage, ashes, rubbish and the like; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting said property to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing policemen and watchmen, caring for vacant lots and doing any other thing or things necessary or desirable in the opinion of the Briar Park Community Improvement Association to keep the property in the subdivision neat and in good order, or which is considered of general benefit to the owners or occupants of the property, it being understood that the judgment of Briar Park Community Improvement Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

2. To secure the payment of the maintenance fund established hereby and to be levied on individual residential lots above described, there shall be reserved in each Deed by which the Owner (grantor herein) shall convey such properties, or any part thereof, the Vendor's Lien for benefit of the above mentioned property owners association, said lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be specifically made 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 or to be advanced on amount of the purchase price and/or the improvement of any such lot, and future provided that as a condition precedent to any proceeding to enforce such lien upon any lot upon which there is an outstanding valid and subsisting first mortgage lien, said beneficiary shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage holder by prepaid U.S. registered mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof.

3. The above maintenance charge and assessment will remain effective for the full term (and extended term, if applicable) of the within covenants.

### **GENERAL PROVISIONS**

1. Term. These covenants are to run with the land and shall be binding upon all of the parties and all the persons claiming under them for the period of forty (40) years from the date these covenants are recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. If these parties hereto, or any of the, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any real property, situated in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants and other to prevent him or them from so doing or to recover damages or other dues for such violations.

2. Severability. Invalidation of any one of these covenants by judgment or other court order shall in no-wise affect any of the other provisions which shall remain in full force and effect.

IN TESTOMNY OF WHICH, the undersigned have executed or caused these presents to be executed by and through its duly authorized President and Secretary, executing same in his own behalf and for the purposes aforesaid, this 15<sup>th</sup> day of February, A.D. 1969.

ATTEST  
Seal of Harris County Clerk

WESTHEIMER DEVELOPMENT COMPANY  
(Owner)

Unreadable Signature  
Secretary

By Unreadable Signature  
President



**BY-LAWS  
OF  
BRIAR PARK COMMUNITY IMPROVEMENT ASSOCIATION, INC.**

**ARTICLE I**

NAME AND LOCATION. The name of the corporation is Briar Park Community Improvement Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 1919 Allen Parkway, but meetings of members and directors may be held at such places within the State of Texas, County of Harris, as may be designated by the Board of Directors.

**ARTICLE II**

**DEFINITIONS**

**SECTION 1.** "Association" shall mean and refer to Briar Park Community Improvement Association, Inc., its successors and assigns.

**SECTION 2.** "Properties" shall mean and refer to that certain real property described in the Restrictions, and such additions thereto as any hereafter be brought within the jurisdiction of the Association.

**SECTION 3.** "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

**SECTION 4.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and commercial reserves excluded from the scope of the Restrictions.

**SECTION 5.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

**SECTION 6.** "Declarant" shall mean and refer to First General Realty Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

**SECTION 7.** "Restrictions" shall mean and refer to the Restrictions applicable to the Properties recorded in the Office of the County Clerk, Harris County, Texas, in Volume 7520, Page 1, and Volume 170, Page 90, Deed Records, and any amendments thereafter or such other restrictions created by additional properties dedicated to the subdivision by the Developer.

**SECTION 8.** "Member" shall mean and refer to those persons entitled to membership as provided in the Restrictions and Articles of Incorporation.



## ARTICLE III

### MEETING OF MEMBERS

**SECTION 1. Annual Meetings.** The first annual meeting of the members shall be held on the 1<sup>st</sup> of February 1972, and subsequent meetings shall be held on the anniversary dates at 8:00 p.m.; if a legal holiday, then on the next succeeding business day. No notice of annual meetings shall be required.

**SECTION 2. Special Meetings.** Special meetings of the members may be called at any time by the President or Board of Directors, or upon written request of the members who are entitled to vote one-fourth of all the votes of the Class A membership.

**SECTION 3. Notice of Meetings.** No written notice will be required for the Annual Meetings of the members. Written notice of each Special Meeting of the members shall be given by the Secretary or person authorized to call the meeting. Notice shall be mailed, postage prepaid, at least 15 days before such meeting to each member entitled to vote. Notice shall be addressed to the member's address last appearing on the books of the Association or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, date, hour and purpose of the meeting.

**SECTION 4. Quorum.** The presence at the meeting of the members entitled to cast, or of proxies entitled to cast, one-tenth of the votes of each class of membership shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation, Restrictions or these By-laws. If, however, a quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time without notice of other than an announcement at the meeting until a quorum shall be present or represented.

**SECTION 5. Proxies.** At all meetings, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

## ARTICLE IV

### BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

**SECTION 1. Number.** The affairs of this Association shall be managed by a Board of seven (7) Directors, who need not be members of the Association.

**SECTION 2. Term of Office.** Each director shall be assigned a position number based on the number of votes received. Each director shall serve for two years. Positions 1-4 shall be elected in even-numbered years, and positions 5-7 in odd-numbered years.

**SECTION 3. Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the un-expired term of his predecessor.

**SECTION 4. Compensation.** No director shall receive compensation for any service he may render to the Association.

**SECTION 5. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting, which they could take at a meeting by obtaining the

written approval consent of all the directors. Any action so approved shall have the same effect as through taken at a meeting of the directors.

## **ARTICLE V**

### **NOMINATION AND ELECTION OF DIRECTORS**

**SECTION 1.** *Nomination.* Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members and non-members.

**SECTION 2.** *Election.* Election to the Board of Directors shall be by secret written ballot. At such election the members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation and Restrictions. The persons receiving the largest number of votes shall be elected.

## **ARTICLE VI**

### **MEETINGS OF DIRECTORS**

**SECTION 1.** *Regular Meetings.* Regular meetings for the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**SECTION 2.** *Special Meeting.* Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

**SECTION 3.** *Quorum.* A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a July meeting at which a quorum is present shall be regarded as the act of the Board.

## **ARTICLE VII**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**SECTION 1.** *Powers.* The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing use of the Common Area and Facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for infractions thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Articles of Incorporation, or the restrictions.

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- (d) Declare the office of a member of the Board of Directors to be vacant in the event each such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) Employ a manger, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

**SECTION 2.** Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote.
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Restrictions, to:
  - (1) Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
  - (2) Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period;
  - (3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same, if in the judgment of the Association it is necessary.
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board before the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) To procure and maintain adequate liability and hazard insurance on the property owned by the Association;
- (f) To cause all officers or employees having fiscal responsibilities to be bonded; as the Board may deem appropriate;
- (g) To cause the Common Area to be maintained.

## **ARTICLE VIII**

### **OFFICERS AND THEIR DUTIES**

**SECTION 1.** Enumeration of Offices. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, a Treasurer, and such other officers as the board, from time to time, by resolution create.

**SECTION 2.** Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**SECTION 3.** Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or otherwise be disqualified to serve.

**SECTION 4.** Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**SECTION 5.** Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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**SECTION 6.** Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**SECTION 7.** Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of Special Offices created pursuant to Section 4 of this Article.

**SECTION 8.** Duties. The duties of the officers are as follows:

- (a) President – The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.
- (b) Vice President – The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.
- (c) Secretary – The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it upon the minutes of the meeting of the Board of Directors and members and upon all other papers requiring said seal; serve notice of meetings of the board and of the members; keep appropriate records showing the number of the Association together with their addresses; and perform such other duties as required by the Board.
- (d) Treasurer – The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause a report of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual audit and budget and a statement of income and expenditures.

## **ARTICLE IX COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Restrictions, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

## **ARTICLE X BOOKS AND RECORDS**

The books, records and papers of the Association including annual audit of books, annual budget and statement of income and expenditures shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation, By-Laws of the Association, and Restrictive Covenants shall be available for inspection by any member at the principal office of the Association.

## **ARTICLE XI REMEDIES FOR NON-PAYMENT OF ASSESSMENT**

As more fully provided in the Restrictions, each member is obligated to pay to the Association annual and special assessments, which are secured by a continuing lien upon the property against which the assessment is made. Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 10 percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and

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reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

**ARTICLE XII  
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: BRIAR PARK COMMUNITY IMPROVEMENT ASSOCIATION, INC.

**ARTICLE XIII  
AMENDMENTS**

SECTION 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy; except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

SECTION 2. While there is Class B membership, any effort by the Board of Directors to mortgage the Common Area or dedicate the Common Area to any public authority must be submitted to the Federal Housing Administration for approval prior to the act.

SECTION 3. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Restrictions and these By-Laws, the Restrictions shall control.

**ARTICLE XIV  
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the BRIAR PARK COMMUNITY IMPROVEMENT ASSOCIATION, INC., have hereunto set our hand this 25th day of November 1970.

Signature of R. H. Basden

Signature of J. R. Dupuy

Signature of W. R. Stromatt

Signature of John Plant

Signature of Robert Briggs

**ARTICLES OF INCORPORATION OF THE  
BRIAR PARK COMMUNITY IMPROVEMENT ASSOCIATION**

We, the undersigned natural persons of the age of twenty-one (21) years or more, at least two of whom are citizens of the State of Texas, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following articles of incorporation of such corporation:

ARTICLE I. The name of the corporation is Briar Park Community Improvement Association, Inc., hereinafter referred to as the "Association".

ARTICLE II. The corporation is a non-profit corporation.

ARTICLE III. The period of its duration is perpetual.

ARTICLE IV. The purpose or purposes for which the corporation is organized are: To provide for maintenance, preservation and architectural control of the residential lots and Common Area within Briar Park, Section 1, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 155, Page 118, Map Records of Harris County, Texas, and Briar Village, Section 1, according to the map or plat thereof recorded in Volume 170, Page 90, Map Records of Harris County, Texas, or any other areas created by the dedication of additional property to the subdivision by the developer and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

- a) Exercise the powers and privileges and to perform all of the duties and obligations as set forth in those restrictions applicable to the property and recorded in Volume 7520, Page 1, and in Volume 170, Page 90, Harris County Deed Records;
- b) Fix, levy, collect and enforce payment by any lawful means all charges and assessments pursuant to the terms of the restrictions, to pay all expense in connection therewith and all office and other expenses incident to the conduct of the business of the Association including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;
- c) Acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- d) Borrow money and with the assent of two thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for borrowed money or debts incurred;
- e) Dedicate, sell, or transfer all or any part of the common area to any public agency, authority, to utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication nor transfer shall be effective unless an instrument has been signed by two thirds (2/3) of each class of members authorizing the Directors to act in behalf of the members for the purpose of accomplishing such dedication, sale, or transfer;
- f) Participate in mergers and consolidations with other non-profit corporations organized for the same purpose or annex additional residential property and common area, provided that any such merger, consolidation, or annexation shall have the assent of two thirds (2/3) of each class of members;
- g) Have and to exercise any and all powers, rights and privileges, which a corporation organized under the Non-Profit Corporation Law of the State of Texas by law, may now or hereafter have to exercise.

ARTICLE V. The street address of the initial registered office of the corporation is 1919 Allen Parkway, Houston, Texas and the name of its initial registered agent at such address is R. H. Basden.

ARTICLE VI. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record as to assessment of the Association including contract sellers shall be a member of the Association. The foregoing is not intended to include persons or entitles who hold an

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interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot, which is subject to assessment, by the Association.

ARTICLE VII. The name and street address of each incorporator is:

<u>Name</u>	<u>Address</u>
R. H. Basden	1919 Allen Parkway Houston, Texas
W. R. Stromatt	1919 Allen Parkway Houston, Texas
J. R. Dupuy	1919 Allen Parkway Houston, Texas

ARTICLE VIII. The Association shall have two classes of voting membership:

- a. Class A. Class A members shall be all owners with the exception of First and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot all such persons shall be members. The vote of such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to a lot.
- b. Class B. Class B members shall be First or its assigns and shall be entitled to three votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (1) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership including duly annexed areas; or (2) on January 1 of 1977.

ARTICLE IX. The affairs of this Association shall be managed by a board of five directors, who need not be members of the Association. The number of directors may be changed by amendment of the by-laws of the Association. The names and addresses of the persons who are to act in the capacity of initial directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
R. H. Basden	1919 Allen Parkway Houston, Texas
W. R. Stromatt	1919 Allen Parkway Houston, Texas
J. R. Dupuy	1919 Allen Parkway Houston, Texas
John Plant	1919 Allen Parkway Houston, Texas
Robert Briggs	1919 Allen Parkway Houston, Texas

As the first annual meeting the members shall elect one director for a term of one year, two directors for a term of two years, and two directors for a term of three years and at each annual meeting thereafter the members shall elect one director for a term of three years, as needed.

ARTICLE X. The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to



a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event of such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be voted to such similar purposes.

ARTICLE XI. Amendment of these articles shall require the assent of two thirds (2/3) of the entire membership.

ARTICLE XII. As long as there is a Class B membership, the following action will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, mergers and consolidations, and the dissolution and amendment of these articles, mortgaging of Common Area, dedication of Common Area.

IN WITNESS HEREOF, we have hereunto set our hands, this 11<sup>th</sup> day of November 1970.

Signature of R. H. Basden  
R. H. Basden

Signature of W. R. Stromatt  
W. R. Stromatt

Signature of J. R. Dupay  
J. R. Dupay

THE STATE OF TEXAS        §  
                                         §  
COUNTY OF HARRIS       §

I, Mary Kueben ?, a Notary Public, do hereby certify on this 11<sup>th</sup> day of November, 1970 personally appeared before me, R. H. Basden, W. R. Stromatt, and J. R. Dupay who each being by me first duly sworn severally declared that they are the persons who signed the foregoing documents of incorporation, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year written above.

Signature of Notary  
Notary Public in and for Harris County, Texas

**AMENDED DEED RESTRICTIONS  
BRIAR PARK, SECTION ONE  
F059876  
159-20-0883**

THIS AGREEMENT, made and entered into the 15<sup>th</sup> day of February, A.D. 1977, by and between a majority of the owners of lots located in BRIAR PARK, SECTION ONE, a subdivision in Harris County, Texas, according to the map at plat thereof recorded at Volume 155, page 118, Map Records of Harris County, Texas.

**WITNESSETH**

WHEREAS, on the 15<sup>th</sup> day of February, A.D. 1969, the then owners and lienholders of all the lots located within BRIAR PARK, SECTION ONE established a uniform plan for the development, improvement, sale and preservation of the property within said BRIAR PARK, SECTION ONE, for the benefit of both the present and future owners of lots in said subdivision; and

WHEREAS, said uniform plan for the development, improvement, sale, and preservation of said subdivision was embodied in an agreement recorded at Volume 7520, Page 1 of the Deed Records of the Harris County, Texas on or about February 24, A.D. 1969; and

WHEREAS, said agreement, under "General Provisions", provides that said agreement may be changed in whole or in part by an instrument signed by a majority of the owners of the lots of said subdivision; and

WHEREAS, a majority of the owners of lots within said subdivision have consented to change the deed restrictions as hereinafter set out;

NOW THEREFORE, a majority of the owners of lots of the above described property do hereby adopt, establish and impose the following changes to the reservations, restrictions, covenants, and conditions imposed upon the aforementioned property by the original owners and lienholders thereto, which amendments and/or changes shall constitute covenants running with the title of the land and shall inure to the benefit of the undersigned and all other owners of lots within the property, their respective successors, assigns, heirs, and representatives and to each and every purchaser of lands in said addition and their successors, heirs, representatives, and assigns, and any one of said beneficiaries shall have the right to enforce the amendments.

**MAINTENANCE CHARGE**

1. "Each lot in BRIAR PARK, SECTION ONE is hereby subjected to an annual maintenance charge and assessment not to exceed TEN DOLLARS (\$10.00) per month or \$120.00 per annum, for the purpose of creating a fund to be designated and known as the "maintenance fund", which maintenance charge and assessment will be paid by the owner or owners of each lot within BRIAR PARK, SECTION ONE to the Briar Park Community Improvement Association in advance by quarterly installments, commencing January 1, 1977. The rate at which each lot will be assessed will be determined annually and may be adjusted from year to year by the Board of Directors of the Briar Park Community Improvement Association as the needs of the subdivision may in the judgment of that Association require, provided that such assessment will be uniform and in no event will such assessment or charge exceed \$10.00 per lot per month, or \$120.00 per lot per year.

Notwithstanding any of the foregoing, from and after January 1, A.D. 1978 and from and after the first day of January in each succeeding year, the maximum annual assessment as provided for above may be increased not more than 10% by the Board of Directors of the Briar Park Community Improvement Association without a vote of the membership of the Association or owners of lots within BRIAR PARK, SECTION ONE. Any increase in the maximum annual assessment of more than 10% of the maximum annual assessment for the previous year must have the assent of two-thirds (2/3) of the votes of the members of the Association who are voting in person or by proxy at a meeting duly called for this purpose. Any increase in the maximum annual assessment may be cumulative.

The present owners of the property hereinabove described and their successors and assigns agree to pay their and each of their proper proportion of said assessments for all lots in BRIAR PARK, SECTION ONE which are fully developed and saleable building sites. Briar Park Community Improvement Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of BRIAR PARK, SECTION ONE as well as all subsequent sections of Briar Park provided, however, that each future section of Briar Park to be entitled to the benefit of this Maintenance Fund, must be impressed with and subjected to the annual maintenance charge and assessment on a uniform, per lot basis, equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of Briar Park Community Improvement Association; such uses and benefits to be provided by said Association shall include, by way of clarification and not limitation and at its sole option, any and all of the following: construction and maintaining parks, swimming pools, parkways, rights-of-way, easements, esplanades and other public area, collecting and disposing of garbage, ashes, rubbish and the like; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting said property to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing policemen and watchmen, caring for vacant lots and doing any other thing or things necessary or desirable in the opinion of the Board of Directors of the Briar Park Community Improvement Association to keep the property in the subdivision neat and in good order, or which is considered of general benefit to the owners or occupants of the property, it being understood that the judgment of the Board of Directors of the Briar Park Community Improvement Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

In addition to the annual assessments authorized above, the Board of Directors of the Briar Park Community Improvement Association may levy in any assessment year, a "Special Assessment", applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the members of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

2. To secure the payment of the maintenance fund established hereby and to be levied on individual residential lots above described, there shall be reserved in each Deed by which the owner (grantor herein) shall convey such properties, or any part thereof, a Vendor's Lien for the benefit of the above mentioned Association, said lien to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be specifically made 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 or to be advanced on account of the purchase price and/or the Improvement of any such lot, and further provided that as a condition precedent to any proceeding to enforce such lien upon any lot upon which there is an outstanding valid and subsisting first mortgage lien, said beneficiary shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage holder by prepaid U.S. registered mail, to contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof.
3. The above maintenance charge and assessment will remain effective for the full term (and extended term, if applicable) of the within covenants."

IN TESTIMONY OF WHICH, a majority of landowners of Briar Park, Section One have executed the same in their own behalf and for the purposes and considerations therein expressed, on the 15<sup>th</sup> day of February, A.D. 1977.

Scanned Image of Signatures (for larger image, see index web page):

<i>Leslie J. Hurley</i> Lot 31 Block 5	<i>Kenneth Chaloud</i> Lot 66 Block 5	<i>Ken C. Ben</i> Lot 17 Block 6
<i>John C. S. Hurley</i> Lot 31 Block 5	<i>James J. Bauer</i> Lot 8 Block 8	<i>William P. Pinner</i> Lot 17 Block 6
<i>James R. Bauer</i> Lot 20 Block 5	<i>William H. Brown</i> Lot 8 Block 8	<i>David M. Pinner</i> Lot 17 Block 6
<i>Sam E. Bauer</i> Lot 20 Block 5	<i>Barry K. Bauer</i> Lot 6 Block 8	<i>David M. Pinner</i> Lot 17 Block 6
<i>Alfred H. Miller</i> Lot 27 Block 5	<i>Kama K. Bauer</i> Lot 6 Block 8	<i>William P. Pinner</i> Lot 17 Block 6
<i>Kimberly Miller</i> Lot 27 Block 5	<i>Leon A. Bauer</i> Lot 27 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>Ken A. Bauer</i> Lot 28 Block 5	<i>William D. Bauer</i> Lot 27 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>James M. Bauer</i> Lot 28 Block 5	<i>Robert M. Bauer</i> Lot 27 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>John M. Bauer</i> Lot 12 Block 6	<i>Robert M. Bauer</i> Lot 27 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>Richard M. Bauer</i> Lot 12 Block 6	<i>David M. Bauer</i> Lot 20 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>John M. Bauer</i> Lot 35 Block 5	<i>John M. Bauer</i> Lot 20 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>Mrs. G. K. Bauer</i> Lot 35 Block 5	<i>John M. Bauer</i> Lot 19 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>Richard E. Bauer</i> Lot 37 Block 5	<i>John M. Bauer</i> Lot 19 Block 6	<i>William P. Pinner</i> Lot 17 Block 6
<i>David M. Bauer</i> Lot 24 Block 5	<i>John M. Bauer</i> Lot 18 Block 5	<i>William P. Pinner</i> Lot 17 Block 6
<i>Michael F. Bauer</i> Lot 42 Block 5	<i>John M. Bauer</i> Lot 21 Block 5	<i>William P. Pinner</i> Lot 17 Block 6
<i>John M. Bauer</i> Lot 43 Block 5	<i>John M. Bauer</i> Lot 46 Block 5	<i>William P. Pinner</i> Lot 17 Block 6
<i>John M. Bauer</i> Lot 44 Block 5	<i>John M. Bauer</i> Lot 46 Block 5	<i>William P. Pinner</i> Lot 17 Block 6
<i>Victoria F. Hurley</i> Lot 42 Block 5	<i>David M. Bauer</i> Lot 22 Block 5	<i>William P. Pinner</i> Lot 17 Block 6

THE STATE OF TEXAS     §  
                                           §  
 COUNTY OF HARRIS       §

BEFORE ME, the undersigned authority, on this day personally appeared David R. Hurley and wife, Victoria F. Hurley, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 15<sup>th</sup> day of February, A.D. 1977.

Signature of Notary  
 Notary Public in and for  
 Harris County, Texas  
 Commission expires on July 1, 1977