

RESTRICTIONS

WHEREAS, SOMERVILLE'S BIRCH CREEK PARK ESTATES, INC. hereinafter called "OWNER" is the owner of all the lots, tract or parcels of land shown upon that certain map or plat of a Subdivision known and designated as BIRCH CREEK PARK ESTATES, a subdivision out of the John Chesney Survey, Burleson County, Texas, according to the map or plat of such subdivision filed for record in the office of the County Clerk of Burleson County, Texas, on the 7th day of March, 1993; and recorded in Volume 1A3, Page 33-35 of the Map records of Burleson County, Texas, reference to which map or plat and the records thereof is made for all purposes.

NOW, THEREFORE, owner does hereby dedicate said property in accordance with the dedication appearing upon said map and agree that the land shown to be subdivided into numbered lots according to the said map and shall hereinafter be conveyed subject to the covenants, conditions, stipulations and restrictions, as hereinafter set forth.

For the purpose of creating and carrying out a uniform plan for the improvements and sale of said property in said subdivision, as a restricted subdivision, the following restrictions upon the use of said property are hereby established and adopted, and shall be made a part by appropriate reference to the instrument, of each and every contract, deed and lease by Developer covering the numbered lots set forth on said map, and same shall be considered a part of each such contract, deed and lease, as though fully incorporated therein.

The restrictions hereinafter set forth except as hereunder provided shall be imposed upon each lot in said subdivision and shall constitute covenants running with the land and shall be binding upon and shall inure to the benefit of Developer, his heirs, executors, successors and assigns and all subsequent purchasers of said property, their heirs, executors, administrators, successors and assigns, and each such party, by virtue of accepting a contract deed or lease covering said property, shall be subject to and bound by such restrictions, covenants and conditions as hereinafter set forth. Lots 17A, 18, 33, 37, 44, 49 in Block 1 and Lot 1 in Block 2 are specifically excepted from these restrictions, however; Somerville's Birch Creek Park Estates, Inc. reserves the right to subsequently restrict these lots in the manner it so elects to restrict.

1. These covenants are to run with the land and shall be binding upon all of the parties and all persons claiming under until June 1, 1995, at which time said covenants shall be automatically extended for successive periods of Ten (10) years; provided that, at the time for renewal, a majority of the then owner of the lots may amend, change or otherwise remove these covenants and restrictions in whole or in part by signing and filing for record an instrument evidencing such action. If the parties hereto, or any of them, or their heirs, successors and assigns shall violate or attempt to violate any of the covenants herein it shall be lawful for the Owner, their successors or assigns to enter and abate such violation without liability, or their successors or assigns, and any other person owning any real property situated in said subdivision shall have the right to prosecute any proceeding at law or equity against the person or persons violating or attempting to violate such restrictions, and either to prevent them from doing, or to cause to be removed such violation, or to recover damages for such violation.

2. The violation of any restriction or covenant herein shall not operate to invalidate any mortgage, deed of trust, or other lien acquired and held in good faith against said property or any part thereof, but such liens may be enforced against any and all property covered thereby, subject nevertheless to the restrictions herein.

3. If any one of such restrictions shall be held to be invalid, or for any reason is not enforced, none of the others shall be affected or impaired thereby, but shall remain in full force and effect.

4. No building shall be erected, placed or altered on any building lot in the subdivision until the plans, specification and plot plan showing the location of such building has been approved in writing as to conformity and harmony of external design with existing structures in the subdivision, and as to location with respect to topography and finished ground elevation by a majority of the Architectural Committee composed of W. M. Schmuck, J. B. Wells, and Yvonne Robertson or by a representative designated by a majority of the members of the said committee. In the event of death or resignation of any member or members of said committee, the remaining member or members shall have full authority to appoint a successor or successors with full authority. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or the designated representative, fail to approve or disapprove within thirty days after plans and specifications have been submitted to it, such approval will not be required and this covenant shall be deemed to have been complied with. Neither the members of such Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

5. No outside privies or toilets shall be permitted on any lot of land. All toilets shall be inside the house and except for chemical toilets, shall be connected to a sewage disposal or a septic tank, prior to occupancy, and at the expense of the owner of the lot. Such septic tank shall have a field line and shall be constructed and maintained in accordance with the requirements of the State Health Officer of Burleson County, Texas, or other government authority having jurisdiction, and shall be subject to the inspection and approval of such authorities and of the Architectural Committee. Sanitary chemical toilets may be used, provided they are located within the house. The drainage of septic tanks into a road, street, drainage ditch or easement or any line, either directly or indirectly is strictly prohibited.

6. No lot shall be used except for residential purposes. The term "residential purposes", as used herein shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, boarding houses, hotels and to exclude all commercial and professional uses whether from homes or otherwise and all such uses of said property are hereby expressly prohibited. No building shall be erected, altered, placed or permitted to remain on any residence lot other than one single family dwelling not to exceed two stories in height and a private garage for not more than two cars.

7. No improvements shall be located on any lot nearer than twenty-five (25) feet to a front line, nor nearer than ten (10) feet to any side street line nor nearer than five (5) feet from any side lot line, nor nearer than twenty (20) feet from the rear lot line, except that a detached garage, boat shed or storage shed may be located within five (5) feet of the rear lot line and except that on any tract fifty (50) feet or less in width, improvements may be located within three (3) feet from any side line provided that it is not nearer than ten (10) feet to any side street line. In the event improvements constructed on more than one lot or on a divided lot then the outer property line shall be considered the side lot line and the inside lot line shall thereafter be considered abandoned and of no effect. The word "improvement" shall include galleries, porches, protrocoeheres and every other pertinent part of the improvements, except a parapet wall, steps or the extension of the eaves of the roof. Any person or persons owning one or two or more adjoining lots may subdivide and consolidate such lots into one or more building sites with a privilege of placing or constructing a residence on each resultant building sites. No dwelling shall be built on any tract containing less than 4,000 square feet. In no event shall any lot be subdivided into two or more lots without permission of the Architectural Committee.

8. No fence or hedge shall be erected or maintained on the property which shall unreasonably restrict or block the view from an adjoining lot or which shall materially impair the continuity or the general landscaping plan. All fences shall be chain link, western cedar, red wood, or masonry and must be approved by the Architectural Committee.

1B/98

. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood or a violation of the law.

O. Permanent residential structures shall be placed on any lot provided the structure has a living area of at least eight hundred (800) square feet of floor area excluding open or screened-in porches, carports and garages.

10A. Mobile homes or permanent residential structures in compliance with the above restrictions shall be installed on a permanent basis on the following lots only (or on a tract of land subdivided out of any of these lots provided the tract of land subdivided is at least twenty-five (25) feet wide and extends the entire length of the lot from which the tract is subdivided. Lots 1 through 8 in block 1, and Lots 46 through 57 in Block 1; Lots 2,3,4 in Block 2; Lots 1,2,3,4,5,6,7 in Block 3; Lots 1,3,5,7,9 in Block 4. Mobile homes must be located at least twenty-five (25) feet from the front property line and at least five (5) feet from each property line on inside lots, and at least ten (10) feet from any side property line. Mobile homes may not be buses, railroad cars or homemade trailers and must be factory built. All Mobile homes must be approved by the Architectural Committee prior to installation.

1. Boat houses may be constructed on any tract of land. The boat house may not provide for the storage of more than one boat, must be located at least sixty (60) feet from the front property line and ten (10) feet from each side property line for inside lots and twenty-five (25) feet from any side street property line for corner lots. The boat house shall be used for boat storage and may not be used for residential or camping purposes.

2. No structure other than a permanent residential structure or a mobile home may be used at any time as a residence either temporarily or permanently, however any lot may be used as a camp site for week ends, vacations or other temporary outings, provided that any tent, camper or trailer is removed from the lot at the end of the camping trip.

3. No junked automobiles, trucks, trailers or boats may be stored on any lot. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes. Garbage and waste shall not be kept except temporarily in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

The owners of all lots shall at all times keep all the weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any lot for storage of material and equipment except for normal residential requirements. In the event of default on the part of the owner or occupant of any lot in observing the above requirements or any of them, Owner may without liability to the owner or occupant trespassing or otherwise, enter upon said lot and cut, or cause to be cut, such weeds and grass and remove or cause to be removed, such garbage, trash, rubbish and so on, so as to place lot in a neat, attractive, healthful and sanitary condition and the occupant or owner of such lot shall owe for the cost of such work. The owner or occupant, as the case may be, agrees by the purchase or occupation of any lot to pay such costs immediately upon notice.

4. All residences shall be completed within six (6) months from date of beginning construction unless such period is extended in writing by the Architectural Committee.

15. All driveways shall connect to roads over culvert pipe of ample size to permit adequate flow of water through the road ditches or if a bridge is used it shall be of sufficient height to permit free flow of water under it. These bridges or culvert pipes shall be approved by the Architectural Committee prior to installation. Owner may remove any culvert or bridge which obstructs flow of water through the ditches.

16. All lot owners shall pay the Owner, its successors and assigns \$18.00 per year, payable on the first day of January each year, or at the option of the owner at the rate of \$1.50 per month, for the purpose of creating a maintenance fund, to be used by it for the upkeep and maintenance of roads, as well as parks, rest rooms and lakes. Owner or its assigns shall act as the custodian and administrator of said maintenance fund, and it shall have the right to collect and expend any and all monies paid or to be paid into said maintenance fund to carry out the provisions hereof. Owner shall not be liable or responsible to any person or persons, whomsoever for failure or inability to collect such maintenance charge or any part thereof from any person or persons and Owner shall not be accountable to any person for such fund, or how the same is spent. All funds collected from said maintenance charge from the various sections of BIRCH CREEK PARK ESTATES, now or hereafter, may be pooled, merged and combined into a single maintenance fund, to be expended by Owner for the general common good and benefit of the various sections of BIRCH CREEK PARK ESTATES paying into such fund, without regard to the amount collected from each section. Owner may use such funds or any part thereof, as far as the same will go, towards safety and/or health projects; for improving and maintaining the streets, roads, lanes and drive-ins in any of the sections of BIRCH CREEK PARK ESTATES, picnic grounds and/or other recreational facilities, for providing various services to the owners and/or occupants of lots in the various sections of BIRCH CREEK PARK ESTATES it being agreed and understood that the judgement of the corporation or its successors or assigns as custodian and administrator of said maintenance fund, when used in good faith in the expenditure of said funds or any part thereof shall be binding, final and conclusive on all parties of interest. Owner shall not be entitled to any compensation for acting as custodian and administrator of said Maintenance Fund. The above maintenance charge and provisions shall be in effect for the duration of the restrictions, covenants and conditions imposed by this instrument and such duration shall be governed by the provisions contained in paragraph 1 above. The payment of the maintenance charge hereby imposed shall be secured by a vendor's lien which is hereby retained and imposed against and upon each and every lot which is subject to such charge; but such lien shall be inferior and subordinate to any bona fide construction loan to provide improvements on any lot and to all extensions and renewals thereof.

183/99

7. The digging of dirt or the removal of any dirt from any lot is expressly prohibited, except when necessary in conjunction with the landscaping of such lot. No trees shall be cut on any lot except to provide room for construction of buildings, or to remove dead or unsightly trees.

8. No firearms of any nature or description shall be discharged or allowed outside of the residence or improvements of any lot.

9. Owner reserves the right and privilege to make minor changes and additions for dedication of easements for the purpose of more efficiently and economically installing improvements.

WITNESSETH

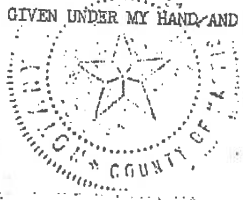
[Signature]

SOMERVILLE'S BIRCH CREEK PARK ESTATES, INC.
Marion M. Hazard

The State of Texas
County of Harris

BEFORE ME, the undersigned authority, on this day personally appeared Marion M. Hazard of Somerville's Birch Creek Park Estates, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of March A.D., 1970



Maime Clay
Notary Public in and for Harris County, Texas. 183
100

THE STATE OF TEXAS
COUNTY OF BURLESON

I, JOHN J. TOUPAL, COUNTY CLERK OF SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 24 DAY OF March 19 70 AT 3:20 O'CLOCK P. M., AND DULY RECORDED ON 24 DAY OF March 19 70 AT 4:00 O'CLOCK P. M., IN THE Deed RECORD OF SAID COUNTY, IN VOL. 183 PAGE 98-100

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF SAID COUNTY, AT MY OFFICE IN CALDWELL, TEXAS, THE DAY AND DATE ABOVE WRITTEN.

JOHN J. TOUPAL
COUNTY CLERK, BURLESON COUNTY, TEXAS
By _____ DEPUTY

183/100