

Amend

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FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
PARK WEST COMMUNITY ASSOCIATION, INC.

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This First Amendment to Declaration of Covenants,
Conditions and Restrictions for Park West Community Association,
Inc. (the "Amendment") is made by the undersigned Owners to be
effective June 1, 1988.

130.25
b

W I T N E S S E T H:

I. References and Recitals:

Section 1.01. On October 13, 1977, The W.R.H. Corporation
(the "Declarant"), a Texas corporation, executed that certain
Declaration of Covenants, Conditions and Restrictions for Park
West Communities Association, Inc. (the "Original Declaration"),
the Original Declaration having been filed for record in the
Official Public Records of Real Property of Harris County, Texas,
under Clerk's File No. F-342266, and under Film Code Reference
No. 178-09-2284, et seq.

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Section 1.02. Pursuant to Article VI, Section 3 of the
Original Declaration, the Original Declaration may be amended
during the first twenty (20) years after its recordation by an

RETURN TO: *SJB/mc*
BROWN & FOWLER, P.C.
900 THREADNEEDLE
SUITE 250
HOUSTON, TEXAS 77079

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instrument signed by not less than ninety percent (90%) of the record owners (the "Lot Owners") of Lots within the properties (the "Properties") covered by the Original Declaration, as the Properties are more particularly described therein.

Section 1.03. Ninety percent (90%) of the Lot Owners have agreed to amend the Original Declaration, as set forth more particularly herein, and have evidenced their agreement by executing this Amendment.

II. Assessments:

Section 2.01. Notwithstanding the provisions of Article IV, Section 6 of the Original Declaration, the annual or any other assessments levied pursuant to the Original Declaration with respect to any Unimproved Lot (as hereinafter defined) within the Properties shall be equal to twenty-five percent (25%) of the annual assessment (or any other assessments) levied by the Board of Directors. For purposes of this Amendment, the term "Unimproved Lot" shall refer to any Lot within the Properties on which construction of a townhouse has not yet been substantially completed, notwithstanding whether such Lot is owned by Declarant or by some other Owner.

III. Miscellaneous:

Section 3.01. Except as expressly defined otherwise herein, all capitalized terms used herein have the respective meanings ascribed to them in the Original Declaration.

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By-Laws of the
Park West
Community Association, Inc.

Article I
Name and Location

The name of the corporation is Park West Community Association, Inc., hereinafter referred to as the "Association." The principle office of the Association shall be located at 904 Westcott, Suite 234, Houston, Texas, 77007, but meetings of members and directors may be held at such places within Harris County, State of Texas, as may be designated by the Board of Directors.

Article II
Definitions

Section 1. "Association" shall mean and refer to the Park West Community Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, and Restrictions, and such additions thereto as may 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 designated as a building site on the Plat, except the Common Area, upon which there is or will be constructed a single-family townhouse which is individually and separately owned.

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 an obligation.

Section 6. "Townhouse" shall mean a single-family residence unit joined together with at least one more single-family residence by a common wall or walls, and/or roof and/or foundation.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the properties, as recorded in the Office of the County Clerk, Harris County, Texas.

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Section 8. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

Article III
Meetings of Members

Section 1. Annual Meetings. The first annual meeting of the members shall be on May 10, 1978, and each subsequent regular annual meeting of the members shall be held on the third (3rd) Saturday of January of each year thereafter, at the hour of 11 o'clock, a.m. If the day for the annual meeting is a legal holiday, the meeting shall be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President of the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the members 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, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such 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 other than announcement at the meeting, until a quorum shall be present or represented.

Section 5. Proxies. At all meetings of members, 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 the Association shall be managed by a Board of five (5) Directors, who need not be members of the Association. *

Section 2. Term of Office. At the first annual meeting, the membership shall elect one director for a term of one year, two directors for a term of two years,

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and two directors for a term of three years. At each annual meeting thereafter, the members shall elect directors for a term of three years, as may be needed.

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 the successor shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association; however, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

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 of all directors.. Any action so approved shall have the same effect as though 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, and shall 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 of non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes in each office shall be elected. Cumulative voting is not permitted.

Article VI

Meetings of Directors

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

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Section 2. Special Meetings. 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 days notice to each director.

Section 3. Quorum. A majority of the number of directors (three) shall constitute a quorum for the transaction of business by the Board. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Article VII Powers and Duties of Board of Directors

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

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction 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 of not more than 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant, in the event such member shall be absent from three consecutive regular meetings of the Board; and
- (e) employ a manager, 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 the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration;
- (1) fix the amount of the annual assessment against each lot at least thirty days in advance of each annual assessment period;
- (2) send a written notice of each assessment to every owner subject thereto at least thirty days in advance of each annual assessment period; and
- (3) foreclose the lien against any property for which assessments are not paid within thirty days after due date or to bring an action at law against the owner personally obligated to pay such assessment, if in the judgment of the Board it is necessary;
- (d) issue, or cause an appropriate officer to issue, upon demand by any person,

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a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association required by Article V, Section 12 of the Declaration;
- (f) cause all officers and employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Area to be maintained; and
- (h) cause the exterior of the townhouses to be maintained.

Article VIII Officers and Their Duties

Section 1. Enumeration of Officers. The officers of the Association shall be a President, and Vice President who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may 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 the Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or be removed or otherwise 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 notice in writing to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice 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.

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:

(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

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shall consign 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 be responsible for the following: recording the votes and keeping the minutes of all meetings and proceedings of the Board and of the members, keeping the corporate seal of the Association and affixing it on all papers requiring said seal, serving notice of meeting of the Board and of the members, keeping appropriate records showing the members of the Association together with their addresses, and performing 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, sign all checks and promissory notes of the Association, keep proper books of account, cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year, prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of such statement and budget to each member.

Article IX

Liability and Indemnification of Officers and Directors

The Association shall indemnify every officer and Director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association) to which he may be made a party by reason of being or having been an officer or director of the Association whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be owners of units), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association, or former officer or director of the Association, may be entitled.

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Article X Committees

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided herein. In addition, the Board shall appoint such other committees as deemed appropriate in carrying out its purposes.

Article XI Insurance

Section 1. Insurance. The Board of Directors shall obtain and maintain, to the extent available, at least the following:

- (a) Casualty or physical damage insurance in an amount equal to the full replacement value (i.e., 100% of "replacement cost") of all improvements required to be insured under the provisions of Article V, Section 12, of the Declaration without deduction or allowance for depreciation, (as determined annually by the Board of Directors), such coverage to afford protection against at least the following:
 - (i) Loss or damage by fire, lightning and hazards covered by the standard extended coverage endorsement, and vandalism and malicious mischief;
 - (ii) Such other risks as shall customarily be covered with respect to projects similar in construction, location and use.
- (b) Public liability insurance in such amounts and in such forms as may be considered appropriate by the Board of Directors.
- (c) Workmen's compensation insurance to the extent necessary to comply with any applicable law; and
- (d) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature; as are or shall hereafter be considered appropriate by the Board of Directors.

Section 2. Limitations. Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

- (a) All policies shall be written with a company or companies licensed to do business in the State of Texas and holding a rating of A+AAA or better in Best's Insurance Guide.
- (b) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be hereinafter referred to as the "Insurance Trustee."
- (c) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the units or their mortgages, as herein permitted,

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- and any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.
- (d) All policies shall provide that such policies may not be cancelled or substantially modified without at least five (5) days prior written notice to any and all insureds named thereon.
- (e) All policies shall contain a waiver or subrogation by the insurer as to any and all claims against the Association, the Board of Directors, the owner of any unit, and of any defenses based upon co-insurance.

Article XII

Casualty Damage - Reconstruction or Repair

Section 1. Use of Insurance Proceeds. In the event of damage or destruction by fire or other casualty, the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications with the proceeds of insurance available for that purpose, if any.

Section 2. Proceeds Insufficient. In the event that the proceeds of insurance are not sufficient to repair damage or destruction by fire or other casualty, or in the event such damage or destruction is caused by any casualty not herein required to be insured against, then the repair or reconstruction of the damaged common elements shall be accomplished promptly by the Association at its common expense and the repair or reconstruction of any unit shall be accomplished promptly by the Association at the expense of the owner of the affected unit. The ratable share of the expense of such repairs or reconstruction may be assessed and the lien for the same shall have all the priorities provided for in Article IV of the Declaration of Covenants, Conditions and Restrictions.

Article XIII

Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except that the first fiscal year of the Association shall begin on the date of incorporation. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 2. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures affecting the Association and its administration and shall specify the maintenance and repair expenses of the general and limited common elements and services and any other expenses incurred. That amount of any assessment required for payment on any capital expenditures of the Association shall be credited upon the books of the Association to the "Paid-In-Surplus" accounts as a capital contribution by the members.

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Section 3. Auditing. At the close of each fiscal year, the books and records of the Association shall be audited by a Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards. Based upon such report, the Association shall furnish its members with an annual financial statement including the income and disbursements of the Association.

Section 4. Inspection of Books. The books and accounts of the Association, and vouchers accrediting the entries made thereupon, shall be available for examination by the members of the Association, and/or their duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their interests as members.

Section 5. Execution of Corporate Documents. With the Prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice-President, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 6. Seal. The Board of Directors shall provide a suitable corporate seal containing the name of the Association ("Park West Community Association, Inc.") which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

Article XIV Amendment

Section 1. Amendment. These By-Laws may be amended by an affirmative vote of a majority of a quorum of members present in person or by proxy at any regular or special meeting of the members. Amendments may be proposed by the Board of Directors or by petition signed by members representing at least thirty percent (30%) of each class of members. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

Article XV Miscellaneous

Section 1. Interpretation. 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 Declaration and these By-Laws, the Declaration shall control.

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IN WITNESS WHEREOF, WE, being all of the Directors of the Park West Community Association, Inc., have hereunto set our hands this the _____ day of _____, A.D., 19____.

I, the undersigned, do hereby certify as follows:

THAT I am the duly elected and acting Secretary of the Park West Community Association, Inc., a Texas corporation and

THAT the foregoing By-Laws constitute the original By-Laws of said corporation as duly adopted at a meeting of the Board of the Directors of said Association held on the _____ day of _____, 19____.

Secretary

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, LEASE, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS }
COUNTY OF HARRIS }
I hereby certify that this instrument was FILED in File Number _____
Sequence _____ on the _____ day of _____, 19____, and was
duly RECORDED in the Official Public Records of Real Property of
Harris County, Texas on _____.

DEC 30 1999



Barbara A. Stegman
COUNTY CLERK
HARRIS COUNTY TEXAS

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.