

519-11-2996

T071578

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREEKSTONE, SECTION FOUR (4)

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THE STATE OF TEXAS § FILED FOR RECORD 06/10/98 100770225 T071578 \$73.00
8:00 AM
COUNTY OF HARRIS § JUN 10 1998

Beverly B. Kaufman

County Clerk, Harris County, Texas

WHEREAS, EFW REAL ESTATE COMPANY, a Texas corporation, filed of record those one certain restrictions for CREEKSTONE SECTION FOUR (4), under Harris County Clerk's File Number S706055, et seq. of the Real Property Records of Harris County, Texas, hereinafter referred to as the "Restrictions"; and

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WHEREAS, the Restrictions and annexation govern the construction, use, maintenance, administration, and management of a residential subdivision and common areas on a tract of real property more particularly described as:

Lots One (1) through Five (5) in Block One (1);

Lots One (1) through Twenty-Five (25) in Block Two (2);

Lots One (1) through Twenty-Two (22) in Block Three (3);

All of said lots being in CREEKSTONE, SECTION FOUR (4) according to the map or plat thereof recorded under Clerk's File #S61030, Film Code #391113, et seq, Map Records of Harris County, Texas;

WHEREAS, CREEKSTONE SECTION FOUR (4), desires to amend their restrictions; and

Ret: Jayne Cohen
10370 Richmond, Suite 850
Houston, Tx 77042

WHEREAS, pursuant to General Provisions, Article V, Section 5, this Amendment has been approved by the owners of ninety percent (90%) of the owners of lots in CREEKSTONE SECTION FOUR (4).

NOW THEREFORE, the undersigned hereby declares that all the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall constitute covenants running with the real property, shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof and the Creekstone Community Association, Inc.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Creekstone Community Association, Inc., its successors and assigns. The Association has the power to collect and disburse those maintenance assessments as described in Article IV.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a 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 3. "Properties" shall mean and refer to: (a) that certain real property first

hereinabove described, and (b) such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of property designed hereon as "Reserves" or "Common Area," if any.

Section 5. "Common Area" shall mean all real property together with the improvements thereon owned by the Association for the common use and benefit of the Owners.

Section 6. "EFW REAL ESTATE COMPANY" shall mean and refer to not only EFW REAL ESTATE COMPANY but also to such of its successors or assigns (whether immediate or remote), as successor developer of all or a substantial portion of the lots in the undeveloped state, but shall not include any purchaser of one or more developed Lots. For the purposes of this Declaration, "developed Lot" shall mean a Lot with the street on which it faces opened and improved and with utilities installed and ready to furnish utility service to such Lot, and "undeveloped Lot" is any Lot which is not a developed Lot.

ARTICLE II

USE RESTRICTIONS

Section 1. Single Family Residential Construction. No building shall be erected, altered or permitted to remain on any Lot other than one detached single-family residential dwelling not to exceed two and one-half (2 1/2) stories in height, a private garage for not more than three (3) cars and bona fide servants' quarters which structures shall not exceed the main dwelling in height and which structure may be occupied only by a member of the family

occupying the main residence on the building site or by domestic servants employed on the premises and no room(s) in the dwelling and no space in any other structure shall be let or rented. This shall not preclude the main residential structure from being leased or rented in its entirety as a single residence to one family or person.

Section 2. Architectural Control. No buildings or improvements of any character shall be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved in writing by the Architectural Control Committee, or its duly authorized representative, as to compliance with these restrictions, quality of material, harmony of external design with existing and proposed structures and as to location with respect to topography and finish grade elevation. The initial members of the Architectural Control Committee for new construction shall be Robert M. Ley, Michael L. Wilson and Robert B. Ferguson. The Architectural Control Committee for modifications shall be the Board of Directors of Creekstone Community Association, Inc. If there exists at any time one or more vacancies in the Architectural Control Committee, the remaining member or members of such Committee may designate successor member(s) to fill such vacancy or vacancies provided that EFW REAL ESTATE COMPANY may from time to time, without liability of any character for so doing, remove and replace any such members of the New Construction Architectural Control Committee as it may in its sole discretion determine. The EFW REAL ESTATE COMPANY, Architectural Control Committee and the Board of Directors' Architectural Control Committee and the individual members thereof shall not be liable for any act or omission in

performing or purporting to perform the functions delegated hereunder. In the event the Committee fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. EFW REAL ESTATE COMPANY shall assign the duties, powers and responsibilities of the New Construction Architectural Control Committee to Creekstone Community Association, Inc.'s Board of Directors when one hundred percent (100%) of all Lot in Creekstone, Section Four (4), are occupied by residents, and the term "Architectural Control Committee" herein shall include only the Association's Board of Directors as such assignee. The approval or lack of disapproval by any Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this Paragraph 2 or elsewhere in this Declaration to the contrary notwithstanding, the Architectural Control Committee(s), and its duly authorized representative, is hereby authorized and empowered, at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Subdivision Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of the Committee, or its duly authorized representative, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Subdivision and its

improvements as a whole.

The Architectural Control Committee(s) may require the submission to it of such documents and items (including as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee(s) shall approve such request for a variance, the Architectural Control Committee(s) may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committees to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved out building), and signed by a majority of the then members of the Architectural Control Committee(s) (or by the Committee's duly authorized representative). Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Architectural Control Committee(s); or (b) failure by the Architectural Control Committee(s) to respond to the request for variance. In the event the Architectural Control Committee(s) or any successor to the authority thereof shall not then be functioning and/or the term of the Architectural Control Committee(s) shall have expired and the Board of Directors of the Association shall not have succeeded to the authority thereof as herein

provided, no variances from the covenants of this Declaration shall be permitted it being the intention of EFW REAL ESTATE COMPANY that no variances be available except at the discretion of the Architectural Control Committee(s), or if it shall have succeeded to the authority of the Architectural Control Committee(s) in the manner provided herein, the Board of Directors of the Association. The Architectural Control Committee(s) shall have no authority to approve any variance except as expressly provided in this Declaration.

Section 3. Minimum Square Footage Within Improvements. The living area on the ground floor of the main residential structure (exclusive of porches, garages and servants' quarters) shall be not less than Twelve Hundred (1,200) square feet for one-story dwellings. The total living area for a multi-story dwelling shall be not less than Fourteen Hundred (1,400) square feet. The Architectural Control Committee, at its sole discretion, is hereby permitted to approve deviations in any building area herein prescribed in instances which in its sole judgment such deviation would result in a more common beneficial use. Such approvals must be granted in writing and when given will become part of these restrictions to the extent of the particular lot involved.

Section 4. Exterior Materials. The exterior materials of the main residential structure and any attached garage and servants' quarters shall be not less than fifty-one (51%) percent masonry on the ground floor, unless otherwise approved by the Architectural Control Committee.

Section 5. Location of the Improvements Upon the Lot. No building or other improvements shall be located on any lot nearer to the front lot line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall

be located on any lot nearer than ten (10) feet to any side street line. No building shall be located nearer than five (5) feet to any interior lot line, except that a garage or other permitted accessory building may be located within three (3) feet of an interior lot line; provided, however, that a dwelling may be located as near as three (3) feet to any interior lot line so long as the distance between any adjacent dwelling and the dwelling situated as close as three (3) feet to an interior lot line is not less than ten (10) feet; provided, however, in no event shall the sum of the side yard widths on any lot be less than fifteen (15) percent of the width of the lot (except in the case of a garage or other permitted accessory building set back sixty (60) feet as above prescribed). This distance shall be measured (to the nearest foot) along the front setback line shown on the recorded plat. For the purposes of this covenant or restriction, eaves, steps and unroofed terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of the construction on a Lot to encroach upon another Lot.

Section 6. Composite Building Site. Any Owner of one or more adjoining Lots (or portions thereof) may consolidate such Lots or portions into one single-family residence building site, with the privilege of placing or constructing improvements on such site, in which case setback lines shall be measured from the resulting side property lines rather than from the lot lines shown on the recorded plat. Any such proposed composite building site(s) must be approved by the Architectural Control Committee.

Section 7. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat and no structure of any kind shall be erected upon any of said easements. Neither EFW REAL ESTATE COMPANY nor any

utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land within or affected by said easements.

Section 8. Garages. No garage shall ever be changed, altered or otherwise converted for any purpose inconsistent with the housing of a minimum of two (2) automobiles at all times. All Owners, their families, tenants and contract purchasers shall, to the greatest extent practicable, utilize such garages for the garaging of vehicles belonging to them.

Section 9. Landscaping. The Owner or builder of each Lot, as a minimum, prior to completion of the construction of a residential dwelling shall (1) solid sod with grass in the area between his residential dwelling and the curb line(s) of the abutting street(s), (2) plant no less than one (1) tree at least two (2) inches diameter in size in the front yard of each Lot. The grass, plants, shrubs and trees shall be of a type and within standards approved and published by the Architectural Control Committee's landscape requirements. These landscape requirements may be revised by the Architectural Control Committee from time to time. No Architectural Control application for landscape changes need be submitted so long as the Owner meets the Association's guidelines.

Section 10. Composite Building Site. Subject to the approval of the Architectural Control Committee, any Owner of one or more adjoining Lots or portions thereof may consolidate one or more adjoining Lots. The resulting consolidated Lots shall continue to be assessed for maintenance as multiple Lots.

Section 11. Prohibition of Offensive Activities. No activity, whether for profit or not, shall be carried on any Lot which is not related to single family residential purposes. No

noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be, or may become, an annoyance or a nuisance to the neighborhood. No loud noises or noxious odors shall be permitted on the Property, and the Board of Directors shall have the right to determine in accordance if any such noise, odor or activity constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes,) large power equipment or large power tools, or other items which may unreasonably interfere with television or radio reception of any Lot Owner in the Property, shall be located, used or placed on any portion of the Property or exposed to the view of other Lot Owners without the prior written approval of the Board. This restriction is waived in regard to the normal sales activities required to sell homes in the subdivision and the lighting effects utilized to display the model homes.

Section 12. Use of Temporary Structures or Outbuildings. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence, or for any other purpose, with the exception of lawn storage or children's playhouses which have received Architectural Control Committee approval.

Provided the express written consent of the Architectural Control Committee is secured prior to installation and placement on a Lot, one (1) lawn storage building and/or one (1) children's playhouse, each limited in maximum height to eight (8) feet from ground to highest point of structure, may be placed on a Lot behind the main residential structures. In no case can the outbuilding be placed in a utility easement; within five feet of side property line; nor

ten feet of the back property line. Additionally, no outbuilding structure of any type is permitted unless the specific Lot involved is completely enclosed by fencing. Otherwise, no outbuilding or temporary structure of any kind shall ever be moved onto or erected on any Lot. It is intended hereby that, unless otherwise specifically approved, only new construction shall be placed and erected on any Lot within the Property.

Section 13. Storage of Automobiles, Boats, Trailers, Recreational Vehicles and Other Vehicles. No motor vehicle may be parked or stored on any part of any Lot, easement, street right-of-way or common area or in the street adjacent to any Lot, easement, right-of-way or common area unless such vehicle does not exceed either six feet six inches in height, and/or seven feet six inches in width and/or twenty-one feet in length and is concealed from public view inside a garage or other approved enclosure (on the owner's lot), except passenger automobiles, passenger vans (the term "passenger vans" specifically excludes motor homes and recreation vehicles), motorcycles, pick-up trucks, or pick-up trucks with attached-bed covers, that are in operating condition, having current license plates and inspection stickers, and are in daily use as motor vehicles on the streets and highways of the State of Texas and which do not exceed either six feet six inches in height, and/or seven feet six inches in width and/or twenty-one feet in length.

No non-motorized vehicle, trailer, boat, marine craft, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any lot, easement, street right-of-way, or common area or in the street adjacent to such lot, easement, street right-of-way, or common area unless such object is concealed from public view inside a garage or other approved enclosure (on the owner's lot). The phrase "approved enclosure" as used

in this paragraph shall mean any fence, structure or other improvement approved by the Board of Directors. No one shall park, store or keep within or adjoining the Property any large commercial-type vehicle (dump truck, cement-mixer truck, oil or gas truck, delivery truck, tractor or tractor trailer, and any other vehicle equipment, mobile or otherwise, deemed to be a nuisance by the Board), or any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle deemed to be a nuisance by the Board). No one shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any street, driveway, lot or portion of the Common Elements, except for repairs to the personal vehicles of the residents conducted exclusively in the enclosed garage (and provided such personal vehicle repairs do not cause excessive noise or disturb the neighbors at unreasonable hours of the night).

This restriction shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

No vehicle or other object of any type shall be parked on streets or driveways so as to obstruct ingress or egress by other owners, their families, guests and invitees. The Board of Directors may designate certain areas as fire zones, or no parking zones or guest parking only zones. The Board of Directors shall have the authority to tow any vehicle parked or situated in violation of these restrictions, the cost to be at the vehicle owner's expense.

No motor bikes, motorcycles, motor scooters, "go-carts" or other similar vehicles shall be permitted to be operated in the Properties, if, in the solid judgment of the Board of Directors of the Association, such operation, by reason of noise or fumes emitted, or by reason

of manner of use, shall constitute a nuisance or jeopardize the safety of the Owner, his tenants, and their families. The Board of the Association may adopt rules for the regulation of the admission and parking of vehicles within the subdivision, the Common Areas, and adjacent public street right-of-ways, including the assessment of charges to Owners who violate, or whose invitees violate, such rules. If a complaint is received about a violation of any part of this section, the Board of Directors will be the final authority on the matter.

Section 14. Advertisement and Garage Sales. The Board of Directors shall have the right to make rules and regulations governing and limiting the advertisement of and holding of garage sales.

Section 15. Air Conditioners. No window or wall type air conditioner shall be installed, erected, placed, or maintained on or in any building without prior written permission of the Architectural Control Committee.

Section 16. Window and Door Coverings. No aluminum foil or similar reflective material shall be used or placed over doors or on windows.

Section 17. Unsightly Objects. No unsightly objects which might reasonably be considered to give annoyance to neighbors of ordinary sensibility shall be placed or allowed to remain on any yard, street or driveway. The Board of Directors shall have the sole and exclusive discretion to determine what constitutes an unsightly object.

Section 18. Pools and Playground Equipment. Playhouse or fort style structures or pool ancillary structures are limited to a maximum overall height of ten (10) feet and an above ground grade deck maximum height of forty-two (42) inches. Basketball Goals and supports shall not be permitted in any street or sidewalk. the location of any Basketball Goal or support

shall be subject to Architectural Control approval and Association rules on its location, type, and if necessary, hours of allowed usage. The intent of this provision is to offer optimum private enjoyment of adjacent properties. Additionally, playground equipment of any type or amenity structures of any type are permitted only when the specific Lot involved is completely enclosed by fences.

Section 19. Mineral Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structures designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 20. Animal Husbandry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other common household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes. No Owner shall allow any pets to become a nuisance by virtue of noise, odor, dangerous proclivities, excessive pet debris or unreasonable numbers of animals. No more than two (2) of any type of animal may be kept on any Lot, the total number of animals allowed shall be within the discretion of the Board of Directors but shall not be reduced to less than four (4) animals. If common household pets are kept, they must be confined to a fenced backyard (such fence shall encompass the entire backyard) or within the house. When away from Lot, pet must be on a leash at all times. It is the pet owner's responsibility to keep the Lot clean and free of pet debris and to keep pets from making noise which disturbs neighbors.

Section 21. Visual obstruction at the intersection of public streets. No object or thing

which obstructs site lines at elevations between two (2) feet and six (6) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty five (25) feet from the intersection of the street property lines or extension thereof shall be placed, planted or permitted to remain on any corner lots.

Section 22. Lot and Building Maintenance. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereof cut in a sanitary, healthful and attractive manner, edge curbs that run along the property lines, and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. All fences and buildings (including but not limited to the main residence and garage if any, which have been erected on any Lot shall be maintained in good repair and condition, by Owner, and Owner shall promptly repair or replace the same in the event of partial or total destruction or ordinary deterioration, wear and tear.

Any modification of any building due to repairs, replacement, or maintenance shall be first submitted to the Architectural Control Committee for approval.

Each Owner shall maintain in good condition and repair all structures on the lot including, but not limited to, all windows, doors, garage doors, roofs, siding, brickwork, stucco, masonry, trim, plumbing, fences, gas and electrical. By way of example, not of limitation, wood rot, damaged brick, fading, peeling or aged paint or stain, mildew, broken doors or windows, rotting or falling fences shall be considered violations of these deed restrictions, which the owner of a lot shall repair or replace upon association demand. The drying of clothes in full public view is prohibited. All walks, driveways, carports and other

areas shall be kept clean and free of debris, oil or other unsightly matter. The Board of Directors shall be the final authority of the need for maintenance or repair. 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 constructed of metal, plastic or masonry materials with sanitary covers or lids. Containers for the storage of trash, garbage and other waste materials must be stored out of public view except on trash collection days when they may be placed at the curb not earlier than 6:00 p.m. of the night prior to the day of scheduled collections. No Lot shall be used or maintained as a dumping ground for trash, nor will the accumulation of garbage, trash or rubbish of any kind thereon be permitted. Burning of trash, garbage, leaves, grass or anything else will not be permitted. Equipment for storage or disposal of such waste materials shall be kept in a clean and sanitary condition and shall be stored out of public view. 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 for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

In the event of default on the part of the Owner or Owners of any Lot in observing the above requirements or any of them, such default continuing after Association has served ten (10) days written notice thereof, being placed in the U. S. Mail without the requirement of certification, then Association, by and through its duly authorized agent may, without liability to the Owner or Occupant in trespass or otherwise, enter upon said Lot and cut the weeds and grass, edge the lawn around the curb, cause to be removed garbage, trash and rubbish or do

any other thing necessary to secure compliance with these restrictions so as to place said Lot in a neat, attractive, healthful and sanitary condition. The Association may charge the Owner or Occupant of such Lot for the cost of such work. The Owner or Occupant, as the case may be, agrees by the purchase or occupancy of the property to pay for such work immediately upon receipt of a statement thereof. In the event of failure by the Owner or Occupant to pay such statement within fifteen (15) days from the date mailed, the amount thereof may be added to the annual maintenance charge provided for herein and the collection of such additional maintenance charge shall be governed by Article IV of these Restrictions.

Section 23. Signs, Advertisements, Billboards. Except for signs owned by builders advertising their model homes during the period of original construction and home sales, no sign, poster, advertisement or billboard or advertising structure of any kind other than a normal "For Sale" sign, not to exceed five (5) square feet in total size may be erected or maintained on any Lot in said Subdivision. The Association will have the right to remove any sign, advertisement, billboard, or advertising structure that does not comply with the above, and in so doing, shall not be subject to any liability of trespass or other sort in the connection therewith or arising with such removal.

Section 24. No Business or Commercial Use.

a. Subject to the provisions of this Declaration and the Association By-Laws, no part of the Property may be used for purposes other than single family residential housing and the related common purposes for which the Property was designed. Each lot and structure shall be used for single family residential purposes or such other uses permitted by this Declaration, and for no other purposes. No lot or structure shall be used or occupied for any

business, commercial trade or professional purpose or as a church either apart from or in connection with, the use thereof as a residence, whether for profit or not. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit an Owner from:

- (1) Maintaining a personal professional library:
- (2) Keeping personal business or professional records or accounts; or
- (3) Handling personal business or professional telephone calls or correspondence, which uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

Section 25. Holiday Decorations. Exterior Thanksgiving decorations may be installed November 10 of each year and must be removed by December 1 of each year. Exterior Christmas decorations may be installed the day after Thanksgiving each year and must be removed by January 15 of the new year.

Section 26. Walls, Fences and Hedges. No wall, fence or hedge shall be erected or maintained nearer to the front lot line than the front building line on such Lot, nor on corner lots nearer to the side lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than six and one-half (6 1/2) feet in height. All fences must be constructed of ornamental iron, wood, or masonry. No chain link fence type construction will be permitted on any Lot. No wood fence may be painted or stained, only natural unpainted wood is permitted. Any wall, fence or hedge erected on a Lot by EFW REAL ESTATE COMPANY, or its assigns, shall pass ownership with title to the Lot and it

shall be owner's responsibility to maintain said wall, fence or hedge thereafter.

Section 27. Visual Screening on Lots. The drying of clothes in public view is prohibited, and the Owner or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to the public shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, woodpiles or storage piles shall be kept screened by a service yard or other similar facility so as to conceal them from view of neighboring Lots, streets or other property.

Section 28. Roofing Material. The roof of any building (including any garage or servant's quarters) shall be constructed or covered with asphalt or composition type shingles, the color to be approved by the Architectural Control Committee. Any other type of roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 29. Maximum Height of Antennae. No electronic antenna or device of any type other than an antenna or dish for receiving normal television or satellite signals shall be erected, constructed, placed or permitted to remain on any Lot, houses or buildings. Television antenna must be located to the rear of the roof ridge line, gable or center line of the principal dwelling. Freestanding antennae and dishes must be located behind the rear wall of the main residential structure and dishes shall not be larger than thirty six (36) inches in diameter. No antennae, either freestanding or attached, shall be permitted to extend more than five (5) feet above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole. No dish shall be permitted to extend above the roof of the main residential

structure on the lot. These rules are subject to variance by the Architectural Control Committee, provided that any variance granted provide for screening deemed appropriate by the Architectural Control Committee, so that no such antennae or dishes shall be visible from the street which runs in front of said Lot or the street which runs on the side of any corner lot.

Section 30. Sidewalks. Before the dwelling unit is completed and occupied, the Lot Owner shall construct a concrete sidewalk four (4) feet in width parallel to the street curb two (2) feet back from the boundary lines of the Lot into the street right-of-way and/or to street curbs in the case of corner lots. Owners of corner lots shall install such a sidewalk both parallel to the front lot line and parallel to the side street lot line. Such sidewalks shall comply with all Federal, State and County regulations respecting construction and/or specifications, if any. All sidewalks not being maintained by Harris County shall be maintained in good, safe, and clean condition by the Owner of the Lot to which it is adjacent.

Section 31. Underground Electric Service. An underground electric distribution system will be installed in that part of Creekstone, Section Four (4), designated Underground Residential Subdivision, which underground service area shall embrace all Lots in Creekstone, Section Four (4). The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirement of local governing authorities and the National electrical Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company

furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition the Owner of each such Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/140 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable) upon Developer's representation that the Underground Residential Subdivision is being developed for single-family dwellings and/or townhouses of the usual and customary type, constructed upon the premises, designed to be permanently located upon the Lot where originally constructed and built for sale to bona fide purchasers (such category of dwelling and/or townhouses expressly excludes, without limitation, mobile homes and duplexes). Therefore, should the plans of Lot Owners in the Underground Residential Subdivision be changed so that dwellings of a different type will be permitted in such Subdivision, the company shall not be obligated to provide electric service to a Lot where a dwelling of a different type is located unless (a) Developer has paid to the company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision, or (b) the Owner of such Lot, or the applicant for service, shall pay to the electric

company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such Lot, plus (2) the cost of rearranging and adding any electric facilities serving such Lot, which rearrangement and/or addition is determined by the company to be necessary.

ARTICLE III

CREEKSTONE COMMUNITY ASSOCIATION, INC.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership;

All Owners 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 for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Holders of future interests not entitled to present possession shall not be considered as Owners for the purposes of voting hereunder.

ARTICLE IV

Maintenance Assessments

Section 1. The Maintenance Fund. Association: All funds collected as hereinafter provided for the benefit of the Association from the regular and/or special maintenance

charges, for capital improvements, shall constitute and be known as the "Maintenance Fund". The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance and acquisition of Common Areas. The responsibilities of the Association may include, by way of example but without limitation, at its sole discretion, any and all of the following: maintaining parkways, esplanades, repair of the walkways, steps, entry gates, or fountain areas, if any; maintaining rights-of-way, easements, esplanades and other public areas, if any; construction and operation of street lights; purchase and/or operating expenses of recreation areas, pools, playgrounds, and tennis courts, if any collecting garbage, insecticide services; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties 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; if desired, employing CPA's and property management firms, attorneys, porters, lifeguards, or any type of service deemed necessary or advisable by the Association, caring for vacant Lots and doing any other thing necessary or desirable in the opinion of the Association to keep the properties in the subdivision neat and in good order, or to which is considered of general benefit to the owners or occupants of the Properties. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 2. Creation of the lien and personal obligation of assessments. Each Lot in the Properties is hereby subjected to the annual maintenance charges as set out in Article IV,

Section 1., Subparagraphs (a) and (b), and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Maintenance assessments or charges, and (2) special assessments for such assessments to be established and collected as hereinafter provided. The maintenance assessments and special assessments and chargebacks, together with the interests, costs, late charges, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which such assessments are made. All such assessments as to a particular property, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them. Late charges shall initially be set at \$25.00 per month for 1998 and may be increased by the Board of Directors in the same percentage as any increase in assessments in future years.

Section 3. Rate of assessment. The maintenance assessments set out in Section 1. of this Article shall be paid by the Owner or Owners of each Lot in the Association, in annual installments. The annual periods for which maintenance charges shall be levied shall be January 1 through December 31, with payment being due by January 15, of each year. The rate at which each Lot shall be assessed as to the maintenance assessment set out in Section 1. shall be determined annually, shall be billed in advance, shall be due and payable in advance and may be adjusted from year to year by the Board of Directors of the Association as the needs of the subdivision may, in the judgment of the Board of Directors of the Association, require; provided that such assessments shall be uniform. The Association's assessments as

well as annual assessments above described may be increased by majority vote of its members at a meeting duly called for that purpose.

Section 4. Maximum Annual Assessment. Association Maintenance Fund: Until January 1, 1998, the maximum annual Association maintenance assessment shall be Two Hundred Forty Eight Dollars (\$248.00) per lot, per annum. From and after January 1, of the year immediately following 1997, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership which increase may be deferred and accumulated for up to three (3) years and assessed in any subsequent year not later than three (3) years from the year that the original increase could have been put into effect. The maximum annual assessment may be increased above the ten percent (10%) increase described above only by approval of a majority of the Members in the Association present and voting in person or by proxy, at a meeting duly called for this purpose at which a quorum is present. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 5. Special Assessments. In addition to the annual assessments authorized above, the Board of Directors may levy, in any assessment year, a special assessment applicable to the current 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, or for any other purpose approved by the membership, provided any such assessment shall have the approval of two-thirds (2/3) of the votes of those members of each class who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present.

Section 6. Notice and Quorum for any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be mailed (by U.S. first class mail) to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present at any such meeting, the meeting shall be adjourned but another meeting may be called subject to the same notice requirement, but the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum applicable in the case of the preceding meeting to each class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Rate of Assessment. All Lots in Creekstone, Section Four (4) shall commence to bear their applicable maintenance fund assessment simultaneously and Lots in Creekstone, Section Four (4), owned by EFW REAL ESTATE COMPANY, are not exempt from assessment. Lots which are occupied by residents shall be subject to the annual assessment determined by the Board of Directors in accordance with the provisions of Sections 3 and 7 hereof. Improved Lots in Creekstone, Section Four (4) which are not occupied by a resident and which are owned by EFW REAL ESTATE COMPANY, a builder, or a building company, shall be assessed at the rate of one-half (1/2) of the annual assessment above. The rate of assessment for an individual Lot, within a calendar year, can change as the character of ownership and the status of occupancy by a resident changes, and the applicable assessment for such Lot shall be prorated according to the rate required during each type of ownership.

Section 8. Subordination of the Lien to Mortgages. To secure the payment of the Maintenance Fund all annual and special assessments established hereby and to be levied on individual residential Lots, there is hereby reserved in each Deed (whether specifically stated therein or not) a Vendor's Lien and a Contract Lien for benefit of the Association, said liens to be enforceable as set forth in Article IV, Sections 7 & 8 hereof by the Association on behalf of such beneficiary; provided, however, that each such lien shall be secondary, subordinate and inferior to all liens, present and future given, granted and created by or at the Owner of any such Lot to secure the payment of monies advanced on account of the purchase price and/or the construction of improvements on any such lot to the extent of any such maintenance fund charge or annual or special assessments accrued and unpaid prior to foreclosure of any such purchase money lien or construction lien; and further provided that as a condition precedent to any proceeding by the Association to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, for the aforesaid purpose or purposes. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payment which became due prior to such sale of transfer.

Section 9. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the General Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to charge reasonable admission and other fees for the use of designated recreational facility situated upon the General Common Areas if any, respectively that the Owners may elect to use; failure of Owner to pay such fees after having

made such election shall give rise to the same liability and lien rights as set forth above, and shall be subject to the same subordination as set forth hereinabove in the case of assessments.

B. The right of the Association to suspend the voting rights and right to use the General Common Areas, and any recreational facility, respectively, by an Owner for any period during which any assessment against his Lot remains unpaid, and to publish rules and regulations for the use of the common areas within their jurisdiction, including the right of suspension of the right and easement for any infraction of these Declarations or the Association's published rules and regulations.

C. The right of the Association to dedicate or transfer all or any part of the General Common Areas, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be placed upon the Association. No such dedication or transfer shall be effective unless an instrument is signed by two-thirds (2/3) of members agreeing to such dedication or transfer has been recorded.

Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the General Common Areas, if any, and the facilities to the members of his family, his tenants, or contract purchasers who occupy the residential dwelling of the Owner's Lot.

Section 10. Setting of Assessments. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. The payment dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a

specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

Section 11. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence as to all Lots in Creekstone, Section Four (4), on the first day of January, 1998. The annual assessment shall be adjusted according to the number of months remaining in the then current calendar years. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be mailed (by U.S. First Class Mail) to every Owner subject thereto. The payment dates shall be established by the Board of Directors. The Association, shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting same.

ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens

and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Property Code. The Association shall have all of the rights provided under Texas Property Code, Section 204.010 or any amended or successive statute.

Section 4. Delegation of Use. Any Owner may delegate in accordance with the By-Laws of the Creekstone Community Association, Inc. his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 5. Amendment. The covenants and restrictions of this declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by those Owners owning sixty six percent (66%) of the Lots within Creekstone, Section Two (2), or by those Owners comprising sixty six percent (66%) of all Owners of Creekstone Community Association, Inc. No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed for record in the Official Public Records of Real Property of Harris County, Texas.

Section 6. Annexation. Additional residential property and Common Area may be

annexed to the Properties with the consent of the Creekstone Community Association, Inc. Board of Directors without such approval by the membership.

Section 7. Books and Records. The books, records and papers of the Association shall, 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 where copies may be purchased at a reasonable cost.

Section 8. Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 9. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted here from, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provisions shall be supplied by inference.

Section 10. Lienholder. Lienholder joins herein solely for the purpose of subordinating the liens held by it of record upon the Properties to the covenants, conditions and restrictions hereby imposed by EFW REAL ESTATE COMPANY, with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in this Declaration.

(2)

EXECUTED this the 22nd day of May, ¹⁹⁹⁸ 1997.

CORPORATION:

EFW REAL ESTATE COMPANY,
a Texas Corporation

1 ok

By:

[Signature]

Title:

vice president

ATTEST:

[Signature]

Title

LIENHOLDER:

SOUTHWEST BANK OF TEXAS

107

By:

[Signature]
Steve Bertram

Title:

SVP

ATTEST:

[Signature]

Title

STATE OF TEXAS §

519-11-3028

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Stephan F. Ferguson Vice President of EFW REAL ESTATE COMPANY, a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 22 day of May, 1998.



Heather Nguyen
Notary Public in and for the State of Texas

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Steve Bertram, Senior Vice President of SOUTHWEST BANK OF TEXAS, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 1st day of June, 1998.



Tracy Goldenstein
Notary Public in and for the State of Texas

ANY PROVISION HEREIN WHICH ATTEMPTS THE SALE, RENTAL, 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 date and at the time stipulated herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

Jr880c/creek4.ccr

JUN 10 1998

RECORDER'S MEMORANDUM ALL BLACKOUTS, ADDITIONS AND CHANGES WERE PRESENT AT THE TIME THE INSTRUMENT WAS FILED AND RECORDED.



Beverly B. Kaufman
COUNTY CLERK HARRIS COUNTY TEXAS