

**FIRST AMENDMENT TO RESTRICTIONS AS AMENDED
EFFECTIVE JANUARY 1, 1984
BRIARCLIFF SUBDIVISION - TRAVIS COUNTY, TEXAS**

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

This First Amendment to Restrictions As Amended Effective January 1, 1984 Briarcliff Subdivision - Travis County, Texas (the "First Amendment") is made by the owners of a majority of the Lots comprising the Briarcliff Subdivision, Travis County, Texas as more particularly described in plat recorded in Volume 34, Page 38 of the Plat Records of Travis County, Texas (collectively referred to as the "Owner"), and is as follows:

RECITALS:

A. Briarcliff, Inc., "Declarant", executed and recorded those certain Restrictive Covenants for Briarcliff Subdivision (the "Original Restrictions") as part of the subdivision plat of the Briarcliff Subdivision recorded in Volume 34, Page 38 of the Plat Records of Travis County, Texas (the "Original Subdivision") **and the Original Restrictions were incorporated into the other subdivisions within the Briarcliff Community and all such subdivision are more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes (collectively referred to herein as the "Subdivision");** and

B. The Owners of a majority of the Lots in the Subdivision, by their agent, Marguerite M. Bible, amended and restated the Original Restrictions in their entirety pursuant to that certain Declaration of Covenants, Conditions and Restrictions For Briarcliff, Inc. Subdivision, Travis County, Texas, dated November 12, 1977 (the "Restated Restrictions") and recorded in Volume 5985, Page 229 of the Deed Records of Travis County; and

C. The Owners of a majority of the Lots in the Subdivision, by their agent, Mary Lou McLean, amended and restated the Original Restrictions and the Restated Restrictions in their entirety pursuant to that certain Restrictions As Amended Effective January 1, 1984 Briarcliff Subdivision - Travis County, Texas (the "Second Restated Restrictions") and recorded in Volume 8341, Page 267 of the Deed Records of Travis County, Texas. The Original Restrictions, as amended and restated by the Restated Restrictions and the Second Restated Restrictions are hereinafter referred to as the "Declaration"; and

D. Section 14 of the Declaration provides that the Owners of the majority of the Lots in the Subdivision may amend the Declaration within six (6) months of the end of any two (2) year period; and

E. December 31, 1999 is the end of one such two (2) year period and the owners of the majority of the Lots in the Subdivision desire to amend the Declaration as set forth below.

NOW, THEREFORE, the undersigned Owners hereby ratify, amend and modify the Declaration as follows:

1. Definitions. Each capitalized term used herein shall have the meaning assigned to such term in the Declaration, unless the context hereof otherwise requires or provides. The term "Lot" or "Lots" means one or more subdivided lots within the Subdivision other than designated common areas.

2. Opening Paragraph. The opening paragraph of the Declaration is hereby amended to read in its entirety as follows:

All of the property within the Subdivision shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the covenants, conditions and restrictions contained herein which covenants, conditions and restrictions will be covenants running with the land and will be deemed included in any deed of property in the Subdivision regardless of whether specifically referenced therein;

3. Single Family, Quality. Section 2 of the Declaration is hereby amended to read in its entirety as follows:

2. **SINGLE FAMILY, QUALITY:** Not more than one single family dwelling house may be erected or constructed on any one Lot within the Subdivision (**other than commercial Lots as referenced in Section 1 above**) together with not more than one **detached** building used for any purpose **related to single family residential uses**; provided, however, that no building or structure of any kind shall be erected on a Lot prior to the erection of the principal dwelling house. **Any detached building, except a garage, must be located in the rear or side yard of the Lot (behind the front line of the principal dwelling) and concealed from street view.** If more than one Lot is used for the construction of a dwelling house, such combined Lots shall be considered as one Lot for architectural control purposes only. No house trailers, mobile homes, campers, tents, shacks, or similar structures shall be erected, moved to or placed upon a Lot. **The use of asphalt or any asphalt composite materials or commercial pre-engineered metal siding materials are prohibited for use as the finish exterior of a dwelling.** All building exteriors, **including driveways and aprons**, must be completed within six months from the date construction commences. **Driveways or parking aprons must be constructed of concrete or asphalt. No propane or other tank used for the storage of gasses or liquids for fuel shall be placed on a Lot or other property within the Subdivision unless the same is architecturally concealed from view from the street or adjacent Lots; provided however that this restriction does not apply to one ordinary sized fuel tanks for residential outdoor grills per Lot.** Gates and fences not abutting a Subdivision street may only be constructed of wood, wrought iron, stone or any combination thereof, **provided the enclosure does not extend beyond the front line of the residential dwelling on the Lot.** All fences and retaining walls may not exceed 6 feet in height. **The foregoing notwithstanding, the Architectural Control Committee may approve alternate gate and fence materials such as chain link and vinyl.**

3. Size, Set-Back, Access. Section 3 of the Declaration is hereby amended to read in its entirety as follows:

3. **SIZE, SET-BACK, ACCESS:** No residence shall have less than **1200** square feet of living space on **a single floor, or a split- level**, exclusive of porch and garage area, when measured to and including exterior walls. Minimum total living area square footage of **each residential dwelling** exclusive of porch and garage shall be 1600 square feet. No porch or projection of any building shall extend nearer than thirty (30) feet to any road right of ways, nor nearer than ten (10) feet to the property line of any abutting Lot, **except on corner Lots where**

side set-back from the side street is a minimum of twenty (20) feet. Lots on lake front or inlets of Lake Travis shall be judged and approved individually by the Architectural Control Committee for set-back from the Lake because of the irregular shoreline. Existing neighboring residences shall also be considered in evaluation of the set-back **of the Lot from Lake Travis.** No Lot may have direct access to a public road. Ingress and egress for all Lots shall be by way of **private** Subdivision streets and roads. **The maximum height of any building within the Subdivision shall be no more than twenty-five feet (25') measured according to the following definition: the vertical distance between the highest natural contour line of the lot to the highest ridge, peak, or gable of a roof, excluding chimneys, cupolas, or other design features (which determination will be made by the Architectural Control Committee in its sole and absolute discretion).**

4. Architectural Control. Section 4 of the Declaration is hereby amended to read in its entirety as follows:

4. ARCHITECTURAL CONTROL: An Architectural Control Committee (the "Committee") shall be appointed, from time to time, by Briarcliff Property Owners Association, Inc. (the "Association") **Board of Directors. The Committee will consist of up to five (5) members.** It shall be the purpose of such Committee, in reviewing plans, specifications, and plot plans, to insure, for all Owners, harmony of external and structural design and quality with existing structures. The Committee shall have the right to designate a representative to act for it on all matters arising hereunder. **The Architectural Control Committee shall have the authority to adopt such procedural and substantive rules and guidelines (including without limitation the imposition of any requirements for certificates of compliance or completion relating to any improvement), not in conflict with this Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder, including rules and guidelines establishing and describing its review procedures, and principles and criteria used in its review. The Architectural Control Committee may amend or modify or supplement its rules and guidelines from time to time as the Architectural Control Committee deems advisable. In addition the Architectural Control Committee shall have the power and authority to impose such reasonable charges for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Declaration. All rules and guidelines must be approved by the Association Board of Directors prior to becoming effective.**

No improvements shall be placed or altered on any Lot until the building plans, specifications, and plot plans showing the location of such improvements on the Lot have been approved in writing by the Architectural Control Committee, **according to the Declaration and the rules and guidelines promulgated by the Committee.** A septic system permit from the Lower Colorado River Authority (LCRA) and any other applicable governmental authority must be received by the Architectural Control Committee prior to approval of being issued by the Committee. In the event the Architectural Control Committee disapproves of any such plans, specification, and/or plot plans, notice of such disapproval shall be delivered in person or by **regular, post-prepaid** letter, addressed to the party submitting the same at an address which must be supplied with the submission. Any such notice must set forth in **reasonable** detail the elements disapproved, and the reason or reasons therefor, but need not contain suggestions as to the methods of curing any such matters or things disapproved. The judgment of the Architectural Control Committee in this regard, in the exercise of its **absolute and sole** discretion, shall be final and conclusive, unless submitting party appeals to the Board of Directors of the Briarcliff Property Owners Association, Inc., within thirty (30) days of notification of the Architectural Control Committee decision. If said Committee fails to approve or disapprove said plans,

specification, and/or plot plans within thirty (30) days after same **and any and all requested supporting documents** have been submitted **together with the applicant's name and mailing address, they are automatically approved.** All building applications, permits, and Road Use Fees (as set by the Association from time to time) shall accompany the plans for initial construction submitted to the Architectural Control Committee. Such fees shall be non-refundable if the building plans are approved.

5. Section 6 of the Declaration is hereby amended to read in its entirety as follows:

6. NUISANCES: No noxious or offensive trade or activity shall be permitted on any Lot, nor shall anything be done thereon which shall be or become an annoyance or nuisance to the Subdivision. No fireworks, as that term is **defined in Article 5.43-4 of the Texas Insurance Code**, may be discharged within the Subdivision. **Construction activity within the Subdivision is limited to the hours between sun up and sun down.** No animals or fowl shall be kept or maintained on said lot except customary household pets. No hunting or trapping is allowed at any time within the Subdivision. All Lots must be kept in a tidy manner. Failure to do so will result in maintenance of said lot by the **Briarcliff Property Owners Association, Inc.** in which event a proper charge for same will be levied and collected as provided in Section 9 hereof. The Owner of each Lot shall keep grass, weeds and vegetation (except as a part of landscaping plan approved by the Architectural Control Committee) trimmed or cut so that the same shall remain in a neat and attractive condition; upon any failure of the Owner to comply within thirty (30) days after notice to said Owners of such condition, then Briarcliff Property Owners Association Inc., or its agent, may enter upon said Lot to remove **and/or maintain** the same at the expense of the Owner. **No boat or travel trailers or other trailers may be parked or stored on any street within the Subdivision for more than any five (5) day period or for more than eight (8) days in any thirty (30) day period. Any partial day counts as a full day for purposes of the foregoing calculation. Unsightly accumulation of tools, machines, boxes, equipment, trash, and/or construction materials on any Lot (as determined by the Committee in its sole and absolute discretion) so as to be visible from the street or any Lot is prohibited except during construction on the Lot which is being performed in a diligent and good and workmen like manner. If a Lot owner fails to cure a violation of the foregoing restriction within 30 days of notice thereof by the Committee or the Association, the Committee or the Association may come onto the Lot and remedy the violation at the sole cost and expense of such Lot owner and the expenses thereof will be a lien on such Lot until paid in full together with interest at the maximum lawful rate from the date demanded until paid.**

6. Maintenance and Membership Fees. Section 9 of the Declaration is hereby amended to read in its entirety as follows:

9. MAINTENANCE AND MEMBERSHIP FEES: An annual maintenance and membership fee shall be charged and assessed against all Lots within the Subdivision. **There are hereby established two classes of Lots subject to maintenance fees; a residential Lot class (the "Residential Class") and a commercial Lot class (the "Commercial Class").** The fees shall be for the maintenance and upkeep of the roads and various areas reserved for the use of property owners, irrespective of whether the privileges of using such areas are exercised or not, and for other operating expenses of the Briarcliff Property Owners Association, Inc. The fees shall apply to **each Lot as shown on the original recorded plat of the Subdivision, and** each building site which is established within a larger tract in the Subdivision either by conveyance of an individual building site out of the larger tract or by completion of a dwelling house within the larger tract. The fee is due and payable for Lots as shown on **original** plats of **the** Subdivision,

on or before December 1 of each year; and for all building sites established within larger tracts, on December 1 following the replat, conveyance of an individual building site, or completion of a dwelling house within a larger tract, which ever occurs first. **It is the intent of the foregoing that the re-subdivision of multiple Lots into a single Lot will not reduce the obligation to pay fees for each of the original Lots but that the creation of multiple Lots from a larger Lot or tract will cause all of the resulting Lots or tracts to be responsible for each paying the applicable fees.** The fee is payable in advance so that the payment due December 1 applies to the year beginning on the following January 1. The annual maintenance and membership fee per Lot or building site shall be approved at the special budget meeting of the members of the Briarcliff Property Owners Association, Inc, held in October of each year. At the October budget meeting of members, the Board of Directors will present for consideration at the meeting, the proposed budget for the year beginning on the following January 1 and the proposed maintenance and membership fees **for the Residential Class and the Commercial Class** necessary to support the budget. **It is anticipated that the fees payable by each Residential Class Lot will differ from the fees payable by each Commercial Class Lot. As part of the maintenance fees and the liens securing same, individual Lots may be assessed attorney's fees, costs of court, expenses of litigation incurred by the Association or the Committee arising out of violations of this Declaration attributable to such Lot.** All persons owning residential property shall be members of said association, and the property owner agrees that use of any of the above mentioned areas by Grantee, his executors and each of his assigns shall be subject to the rules and regulations promulgated from time to time by said Association. Payment of annual charges **received in the office of the Briarcliff Property Owners Association, Inc.** on or before December 1 of the year in which the charge is due shall be subject to a five percent (5%) discount. If the annual charge is paid after December 1 but before January 31 of the following year, the full amount is due. Amounts not paid by the aforementioned January 31 shall be assessed a late charge for each **day** that the charge **or any portion thereof** is unpaid **in the amount of 18% per annum. The late charge will in no event exceed the maximum lawful rate of interest allowed under the laws of the State of Texas. In addition to the maintenance fees described above, the Association has the authority to assess a road use fee ("Road Use Fees") against a Lot owner prior to the commencement of construction of an improvement on a Lot or the remodeling of any improvement on a Lot. The Road Use Fees will be used to defer the cost of road maintenance and repair within the Subdivision due to construction activities. The initial amount of the Road Use Fee is \$500 per project and may be adjusted by the Board of Directors.** Grantee, for himself, his heirs, executors and assigns, further agrees that the charges herein set forth shall be and constitute a debt which may be collected by suit in any court of competent jurisdiction or otherwise in Travis County, Texas, and that upon the conveyance of any part of the land described herein, the purchaser thereof, and each and every successive owner and or owners, shall from the time of acquiring title and covenant to the land , agree as aforesaid to pay to Briarcliff Property Owners Association, Inc. its successors and assigns, all charges past and/or future as provided in and in strict accordance with the terms and provisions hereof. It is understood and agreed that the above-mentioned considerations, if unpaid, shall constitute a lien encumbrance on or against said Lot, tract or parcel of land, which lien shall be **subordinate to first mortgage liens.** In the event that collection by an attorney is necessary, the Grantee agrees and promises to pay a reasonable attorney's fee for collection, which in no event shall be less than ten percent (10%) of the **maintenance fees and late charges** then owing.

7. Water Availability, Connection and Fees. Section 11 of the Declaration is hereby amended to read in its entirety as follows:

11. WATER AVAILABILITY, CONNECTION AND FEES, ETC:
Briarcliff, Inc. has sold its potable water supply system serving the Subdivision the Village

of Briarcliff, a Texas municipality. Application may be made to the Village of Briarcliff (or its successors or assigns) for water service to a Lot subject to the applicable rules, regulations and fees of the Village of Briarcliff, its successors or assigns and any other applicable governmental authority with jurisdiction. The Association does not assure the availability of water service to Lots within the Subdivision.

8. Duration of Restrictions. Section 14 of the Declaration is hereby amended to read in its entirety as follows:

14. DURATION OF RESTRICTIONS: The restrictions, conditions, covenants and agreements set forth in Paragraphs 1, 5, 8 and 12 shall continue in perpetuity. All other restrictions, conditions, covenants or agreements contained herein shall remain in full force and effect until January 1, 2002. As of January 1, 2002 and at the end of each two year extension herein provided, the restrictions and covenants herein provided for shall be automatically renewed and extended for successive periods of two (2) years each, unless within six (6) months prior to the date such restrictions and covenants would otherwise be automatically extended, **an instrument shall have been recorded in the office of the County Clerk of Travis County, Texas, which will have been certified by the President and Secretary of the Briarcliff Property Owners Association, Inc. that the then owners of the majority of the Lots in the Subdivision voted to approve such amendments or modifications of the Declaration at a duly called meeting of the Association.**

9. Grandfather clause. Section 15 of the Declaration is hereby added to read in its entirety as follows:

15. GRANDFATHER CLAUSE: The enforcement of one or more of the restrictions set forth in Paragraph 2 and/or 3 against any permanently affixed single-family residence, fence, wall, structure, or flat concrete improvement (collectively, an *Existing Improvement*) shall be held in abeyance; provided, that the condition which caused the Existing Improvement to fail to comply with such restriction exists on the date this instrument is recorded in the Real Property Records of Travis County, Texas. In the event an Existing Improvement is substantially destroyed or removed, any replacement and/or repair of the Existing Improvement must comply with each term and provision of this instrument. An Existing Improvement shall be considered substantially destroyed or removed if at least eighty percent (80%) of the Existing Improvement is rendered uninhabitable or may not be used for its intended purpose, which determination shall be made by the Board of Directors of the Association, in their sole and absolute discretion.

10. Ratification of Declaration. Unless expressly amended by this First Amendment, all of the terms and provisions of the Declaration remain in full force and effect as written. The Owners hereby ratify in all respects the Declaration as amended hereby and all prior restrictions and amendments as referenced above.

IN WITNESS WHEREOF, the owners of a majority of Lots within the Subdivision have executed this First Amendment to be effective as of the 1st day of January, 2000.

[SIGNATURE PAGES FOLLOW]

EXHIBIT "A"
PROPERTY DESCRIPTION

Briarcliff Inc. as recorded in Vol. 34, Pages 36-38 of the Plat Records of Travis County, Texas

Briarcliff Sec. 1 as recorded in Vol. 34, Page 38-40 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 2 as recorded in Vol. 35, Pages 13-14 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 3 as recorded in Vol. 35, Pages 25-26 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 4 as recorded in Vol. 35, Pages 27-28 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 5 as recorded in Vol. 35, Pages 40-42 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 5 revised as recorded in Vol.49, Pages 87-88 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 6 a recorded in Vol. 36, Pages 6-8 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 7 as recorded in Vol. 36, Pages 37-38 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 8 as recorded in Vol. 37, Pages 36-38 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 9 as recorded in Vol. 39, Pages 13-17 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 9 Sheet 1 of 5 as amended Sheet 4 of 5 as recorded in Vol. 60, Pages 89-90 of the Plat Records of Travis County, Texas

Briarcliff Inc. Sec. 10 as recorded in Vol. 41, Pages 67-68 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 11 as recorded in Vol. 41, Pages 23-25 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 12 as recorded in Vol. 41, Pages 26-27 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 13 as recorded in Vol. 41, Pages 47-49 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 13 as amended as recorded in Vol. 49, Pages 18-20 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 14 as recorded in Vol. 49, Pages 43-46 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 14 as amended as recorded in Vol. 49, Pages 21-24 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 15 as recorded in Vol. 42, Pages 47-49 of the Plat Records, Travis County, Texas

Briarcliff Sec. 15 as amended as recorded in Vol. 49, Page 14-15 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 16 as recorded in Vol. 43, Pages 37-39 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 17 as recorded in Vol. 44, Pages 27-28 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 17 as amended as recorded in Vol. 49, Pages 16-17 of the Plat Records, Travis County, Texas

Briarcliff Inc. Sec. 9 replat of lots 324, 325, 326 as recorded in Vol. 102, Page 107 of the Plat Records, Travis County, Texas

Briarwood Knoll Sec. 1 as recorded in Vol.53, Page 40-41 of the Plat Records, Travis County, Texas

Briarwood Knoll Sec. 2: The replat of Briarwood Knoll, Sec. 2, instrument number 199900114.