

23451

SECOND AMENDMENT TO DECLARATION

SEARCHED

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OF

COVENANTS, CONDITIONS AND RESTRICTIONS

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

WHEREAS, on the 22nd day of September, 1983, Eldridge Road Joint Venture; composed of E. R. LTD., a Texas limited partnership and General Homes Corporation, a Texas corporation, as Declarant and Owner of that certain property known as BARRINGTON PLACE, SECTION II, a subdivision in Fort Bend County, Texas, filed an instrument entitled Declaration of Covenants, Conditions and Restrictions for Barrington Place, Section II, a subdivision in Fort Bend County, Texas, in the Real Property Records of Fort Bend County, Texas, which document was filed under Fort Bend County Clerk's File Number 46583; and

WHEREAS, the Declaration has previously been amended by First Amendment to Declaration of Covenants, Conditions and Restrictions dated December 6, 1983, filed for record on December 13, 1983, under Clerk's File Number 60672; and

WHEREAS, Article I, Section 6, provides:

Section 6. "Declarant" shall mean and refer to General Homes Corporation, a Texas Corporation and its successors and assigns if such successors and assigns are so designated in writing by Declarant as the successors and assigns of all Declarant's rights hereunder.

WHEREAS, Article II, Section 1, provides:

ARTICLE II

Reservations, Exceptions and Dedications

Section 1. Recorded subdivision maps of the Properties. The recorded subdivision maps of the Properties dedicate for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon, and such recorded subdivision maps of the Properties further establish certain restrictions applicable to the Properties including without limitation certain minimum setback lines, and all dedications, limitations, restrictions and reservations shown on

the recorded plats or replats of the subdivision are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

WHEREAS, Article III, Section 1, provides:

ARTICLE III

Use Restrictions

Section 1. Single Family Detached; Single Family Zero Lot Line, Detached; or Single Family Zero Lot Line, Attached; Residential Construction. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single family dwelling unit, one detached zero lot line or one attached zero lot line residential family unit used for residential purposes only, and not to exceed two (2) stories in height. Each such dwelling unit as previously described in Barrington Place shall have parking space for no less than two (2) cars. Nor shall any dwelling exclusive of open porches, carports or garages, or patios be permitted on any lot in this subdivision at a cost of less than \$20,000, based upon cost levels prevailing on the date these covenants are recorded. As used herein, the term "residential purposes" shall be construed to prohibit apartment complexes, mobile homes or trailers being placed on the Lots, and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind, with the exception of lawn storage or children's playhouses, shall ever be moved onto any Lot within said subdivision. A minimum of 50% of the first floor wall area to the top of the first floor window height and exclusive of openings shall be of masonry, masonry veneer, or stucco construction unless otherwise approved in writing by the Architectural Control Committee.

WHEREAS, Article III, Section 2, provides:

Section 2. Minimum Square Footage Within Improvements. Those lots described above as shown on the plat of

Barrington Place, Section II, are restricted to a single family detached dwelling with a minimum of 1,000 square feet or a detached zero lot line dwelling with a minimum of 1,000 square feet or an attached zero lot line dwelling containing 900 square feet of livable area, exclusive of open porches and garages, carports or parking spaces.

WHEREAS, Article III, Section 4, provides:

Section 4. Location of the Improvements Upon the Lot. No building shall be located on any lot nearer to the front line or nearer to the street side line than the minimum building setback line shown on the recorded plats or replats. Single Family Detached: In no instance shall a building be located nearer to the front property line than twenty (20) feet unless approved in writing by the Architectural Control Committee. The main residential structure shall not be located on any lot nearer than ten (10) feet from the rear property line. Subject to the provisions of Section 5 below, no part of any house, building, carport or garage shall be located nearer than five (5) feet to an interior side lot line or ten (10) feet to any exterior lot line on a corner lot. Detached Zero Lot Line: Subject to the provisions of Section 5 below, one wall of the building, carport or garage shall be located on one side lot line on interior lots if the dwelling is a single detached zero lot line dwelling. However, this wall shall not have any windows, doors or other such related openings. The other wall of the building, carport or garage shall be a minimum of ten (10) feet to an interior lot line or ten (10) feet to an exterior lot line on a corner lot. Attached Zero Lot Line: Subject to the provisions of Section 5 below, the common wall of the attached zero lot line unit shall be built exactly upon the lot line on interior lots. This common wall shall have no openings, nor shall any penetration of this common wall of any kind be allowed, including the installation of electrical wiring or plumbing. The two outside walls of the attached zero lot line unit shall be a minimum of ten (10) feet to an interior lot line or to an exterior lot line on a corner lot.



On the ten (10) foot building setback side of the lot, eaves, steps and unroofed terraces shall not be considered as part of a building; however, this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot unless otherwise approved in writing by the Architectural Control Committee.

WHEREAS, Article III, Section 7, provides:

Section 7. Use of temporary structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot any any time as a residence, or for any other purpose, with the exception of lawn storage or children's playhouses; provided, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include, but not necessarily be limited to sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

WHEREAS, Article III, Section 8, provides:

Section 8. Storage of automobiles, boats, trailers and other vehicles. No motor vehicle may be parked or stored on any part of any Lot, easement, right-of-way, or common area or in the street adjacent to any Lot, easement, right-of-way or common area unless such vehicle is completely concealed from public view inside a garage or other approved enclosure, except passenger automobiles, passenger vans, motorcycles, pick-up trucks, or pick-up trucks with attached-bed campers, 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.

No non-motorized vehicle, trailer, recreational vehicle, boat, marine craft, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored, in any part of any lot, easement, right-of-way, or common area or in the street



adjacent to such lot, easement, right-of-way, or common area unless such object is concealed from public view inside a garage or other approved enclosure.

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

WHEREAS, Article III, Section 13, provides:

Section 13. Lot 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. The drying of clothes in full public view is prohibited and the owners or occupants of any Lots at the intersection of streets of adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment, or storage piles, which are incident to the normal residential requirements of a typical family. 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. 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.

WHEREAS, Article III, Section 14, provides:

Section 14. Signs, advertisements, billboards. Except for signs owned by Declarant or 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. Declarant, or its assigns, 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.

WHEREAS, Article III, Section 15, provides:

Section 15. Maximum height of antenna. No radio or television aerial wires or antenna shall be maintained on any portion of any Lot that is visible from the front side of said Lot; nor shall any antenna of any style be permitted to extend above the roof line of the main residential structure on said Lot, nor be located behind the back building line of said Lot. No antenna or wires shall be visible from the street which runs in front of said Lot.

WHEREAS, Article III, Section 16, provides:

Section 16. Maintenance of building exterior. Zero lot line detached. Owner shall always have the right to enter the adjacent property to perform maintenance upon the building wall that is on the property line (zero lot line wall), and occupant shall at all times keep this wall in good repair. All Deeds of Trust upon these lots shall so convey this right of easement. This covenant shall in no way be construed as giving the owner the right to enter upon the adjacent property for any reason than for maintenance of the zero lot line wall. Zero lot line attached: The two owners of each building shall be responsible for the maintenance of the exterior of their

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building. No change of paint, brick or roof color shall be permitted without approval by the Architectural Control Committee. No maintenance, repairs or painting shall be done by one owner without the consent of the other owner. Each owner (unit) shall have one vote in all matters of exterior maintenance, repairs and painting, and the cost of these repairs. If the two owners (units) cannot agree on the maintenance, repairs, and painting then the owner (unit) that deems that the work needs to be accomplished shall prepare a written description and cost of the work to be accomplished to the Barrington Place Architectural Control Committee. The Architectural Control Committee shall rule on the need for accomplishing the work and shall set the time frame to accomplish the work if the work is required. Their ruling shall be binding on both owners. In the event an owner of any lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of Barrington Place Homeowners' Association, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, within sixty (60) days of written notification to said owner, through the Association's agents and employees, to enter upon said parcel and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

WHEREAS, Article III, Section 17, provides:

Section 17. General rules of law to apply. Each wall and roof which is built as a part of the original construction of the zero lot line attached building upon the Properties and placed on the dividing line between the lots shall constitute a common wall and roof, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding common walls and roofs and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Sharing of Repair and Maintenance: The cost of



reasonable repair and maintenance of a common wall or roof shall be shared by the Owners who make use of the wall and roof equally. Destruction by Fire or Other Casualty. If a common wall or roof is destroyed or damaged by fire or other casualty, any owner who has used the wall or roof may restore it, and if the other owner thereafter makes use of the wall or roof, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. In addition, for attached zero lot line building, the total exterior of both properties must be completely restored to their original condition before the destruction that resulted from fire or other casualty. Weatherproofing. Notwithstanding any other provision of this Article, an owner who, by his negligent or willful act, causes the common wall or roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Right to Contributions with Land. The right of any owner to contribution from any other owner under this Section will be appurtenant to the land and shall pass to such owner's successors in title. Arbitration. In the event of any dispute arising concerning a common wall or roof, or under the provisions of this Section, the Architectural Control Committee, as set forth under Article IV hererein, shall have full and complete authority in handling said dispute and the decision of the Architectural Control Committee shall be final. The decision of the Architectural Control Committee must be rendered on or before sixty (60) days following written notification to the Architectural Control Committee by one or both property owners involved.

WHEREAS, Article IV, Section 1, provides:

ARTICLE IV

Architectural Control Committee

Section 1. Approval of building plans. No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan showing the

location of the structure, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Architectural Control Committee of BARRINGTON PLACE, SECTION II, subdivision. A copy of the construction or improvement plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. The Architectural Control Committee shall have full and complete authority to approve construction of any improvement on any Lot, and its judgment shall be final and conclusive.

WHEREAS, Article IV, Section 2, provides:

Section 2. Committee Membership. The Architectural Control Committee members shall be initially composed of Terese Buess, Andrew Howard, and Kenneth Belanger, who by majority vote may designate a representative to act for them. At any time, the then record owners of a majority of the Lots shall have the power through a duly recorded instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. The address of the committee is 7322 Southwest Freeway, Suite 1600, Houston, Texas 77074.

WHEREAS, Article VI, Section 3, provides:

Section 3. Rate of assessment. The maintenance charge on Class B Lots shall be a minimum of 50% of the assessment for Class A Lots per month and shall begin to accrue on a monthly basis on each such Lot on the date these Covenants, Conditions and Restrictions are recorded. The entire accrued charge (of said rate stated above per month) on each Lot shall become due and payable on the date such Lot converts from a Class B to a Class A Lot by reason of the Owner's purchase of a residence

thereon. For the first year of ownership or any fraction thereof, the assessment shall be the number of months the Lot has been occupied by a homeowner times the monthly assessment rate payable on January 1, for the preceding first year or fraction of the first year. After the first year, the maintenance charge will be collected annually in the amount of the annual assessment; payable on January 1, of the specific year for the preceding year. The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year by the Board of Directors of the Association as the needs of the subdivision may, in the judgment of the Board of Directors of the Association, require; provided that such assessment will be uniform and in no event will such assessment or charge exceed \$20.00 per Lot per month, or \$240.00 per Lot per year, unless increased as provided below. The Association can collect special assessments as well as annual charges above described whenever the members so vote.

WHEREAS, Article VI, Section 4, provides:

Section 4. Maximum annual assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$20.00 per Lot, per month. From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual assessment period, which shall begin on the first day of January of each year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The dates shall be established by the Board of Directors.

WHEREAS, Article VI, Section 5, provides:

Section 5. Effect of nonpayment of assessments. Any assessment not paid within thirty (30) days after the due date



shall bear interest from the date at the rate of six (6%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the facilities or services provided by the Association or by abandonment of his Lot.

WHEREAS, Article VI, Section 6, provides:

Section 6. Subordination of the lien to mortgages. To secure the payment of the maintenance fund and 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) by which the Declarant shall convey such lots, a Vendor's Lien for benefit of the Association, said lien to be enforceable through appropriate proceedings at law by 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 instance and request of the Declarant and 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 Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U.S. Registered Mail, and shall contain a statement of the delinquent maintenance charges or annual or special assessments upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give

the foregoing notice with respect to the particular Lot covered by such mortgage lien to the holder thereof. 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 payments which became due prior to such sale of transfer.

WHEREAS, Article VI, Section 7, provides:

Section 7. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of Barrington Place Homeowners' Association any additional properties in future stages of the development of Barrington Place, upon approval of the Board of Directors of the Association with consent of two-thirds (2/3) of each class of membership or FHA/VA approval. Any additions authorized under this and the succeeding subsections, shall be made by filing of record a Declaration of Covenants and Restrictions and Annexation Agreement with respect to the additional property or properties which shall extend the scheme of the covenants and restrictions of this Declaration to such property and the execution thereof by the President of the Board of Directors. Such Declaration must impose an annual maintenance charge assessment on the property covered thereby, on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed by this Declaration, and may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands.

(b) Other Additions. Upon the approval of the Board of Directors of the Association, in its sole discretion, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record an Annexation Agreement and Declaration of Covenants and Restrictions upon the satisfaction of the conditions specified in subsection (a) above.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration and all Supplemental Declarations, together with the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

WHEREAS, Article VII, Section 1, provides:

ARTICLE VII

General Provisions

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. The terms and provisions of these restrictions may be amended at any time when an instrument setting forth said changes and signed by those persons holding a majority of votes in the Association is placed on record in the real property records of Fort Bend County, Texas. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such



violations. Failure by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

WHEREAS, the Declarant desires to add to and supplement the existing restrictions as described below.

NOW, THEREFORE, pursuant to the above recitals, Eldridge Road Joint Venture, composed of E. R. Ltd., a Texas limited partnership and General Homes Corporation, a Texas corporation, hereby amends Article I, Section 6; Article II, Section 1; Article III, Sections 1, 2, 4, 7, 8, 13, 14, 15, 16, and 17; Article IV, Sections 1 and 2; Article VI, Sections 3, 4, 5, 6, and 7; and Article VII, Section 1; and adds to and supplements the existing restrictions by adopting Section 5 of Article II; Section 18 of Article III, and Sections 8 and 9 of Article VI; and adopts, establishes and imposes upon all the lots described above and declares the following reservations, restrictions, covenants and conditions applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the land, which reservations shall run with the land shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof, and which shall supersede and be controlling over any previously executed and recorded restrictions, covenants and conditions:

ARTICLE I

Section 6. "Declarant" shall mean and refer to General Homes Corporation, a Texas Corporation, and its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development or are so designated in writing by Declarant as the successors and assigns of all Declarant's rights hereunder.

ARTICLE II

Reservations, Exceptions and Dedications

Section 1. Recorded subdivision maps of the Properties. The recorded subdivision maps of the Properties dedicate for use as such, subject to the limitations as set forth

therein, the streets and easements shown thereon, and such recorded subdivision maps of the Properties further establish certain restrictions applicable to the Properties including without limitation certain minimum setback lines, and all dedications, limitations, restrictions and reservations shown on the recorded plats or replats of the subdivision are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Declarant shall have the right, but shall never be obligated, to resubdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the property contained within the outer boundaries of the Subdivision Plat and such Lots as replatted shall be subject to these restrictions as if such Lots were originally included herein. Any such replat must comply with all local, state, FHA and VA replatting ordinances, statutes, regulations and requirements.

Section 5. Reservation of Right to Contract and Power-of-Attorney. Declarant hereby reserves the right to hereafter enter into non-exclusive franchise agreement(s) with one or more cable television companies, together with the right to obtain and retain all income, revenue and other things of value paid or to be paid by such cable television companies to Declarant pursuant to any such agreement(s) between Declarant and such cable television companies.

Declarant hereby makes, constitutes and appoints Barrington Place, Section II, Homeowners' Association, a Texas non-profit corporation, its true and lawful attorney for it, and in its name, place and stead, to negotiate, contract and execute non-exclusive agreements for cable television services with cable television providers for a price and under terms and conditions which, in the sole judgment of the Barrington Place, Section II, Homeowners' Association, are deemed by Barrington Place, Section II, Homeowners' Association to be in the best interest of the

homeowners who now or in the future reside in the Subdivision; provided, however, any such non-exclusive agreement shall always provide that the cable television provider shall place all cable, equipment, lines or any other materials used by said provider in underground conduits.

Giving and granting unto said Attorney full power and authority to do and perform every act necessary and proper to be done in the exercise of the foregoing special power as fully as Declarant might or could do, hereby ratifying and confirming all that its said attorney shall lawfully do or cause to be done by virtue hereof.

For value received, receipt of which is hereby acknowledged, Declarant does hereby grant said attorney-in-fact the right to contract for, collect, obtain, retain and use for its own benefit all income, revenue and other things of value paid or to be paid by any cable television provider which Barrington Place, Section II, Homeowners' Association contracts with for cable television services within the subdivision. Declarant herein releases all rights to contract for, collect, obtain, retain and use for its own benefit all income, revenue and other things of value paid or to be paid by any cable television provider which Barrington Place, Section II, Homeowners' Association contracts with for cable television services within the subdivision, and by such grant, Declarant intends that this Power of Attorney be coupled with an interest, and Declarant does hereby make and declare this Power of Attorney to be irrevocable by it, its successors or assigns, renouncing all right to revoke this power or to appoint any other person or entity to perform any of the acts enumerated herein.

#### ARTICLE III

##### Use Restrictions

Section 1. Single family detached; single family zero lot line, detached; single family side yard concept option; or single family zero lot line, attached; residential construction. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single



family dwelling unit, one detached zero lot line unit, one detached side yard concept option or one attached zero lot line residential family unit used for residential purposes only, and not to exceed two (2) stories in height. Each such dwelling unit as previously described in Barrington Place shall have parking space for no less than two (2) cars. Nor shall any dwelling exclusive of open porches, carports or garages, or patios be permitted on any lot in this subdivision at a cost of less than \$20,000.00 based upon cost levels prevailing on the date these covenants are recorded. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots, or the use of said Lots for garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind, with the exception of lawn storage or children's playhouses, shall ever be moved onto any Lot within said subdivision, it being the intention that only new construction shall be placed and erected thereon, except with the prior written consent of the Architectural Control Committee. A minimum of 50% of the first floor wall area to the top of the first floor window height and exclusive of openings shall be of masonry, masonry veneer, or stucco construction unless otherwise approved in writing by the Architectural Control Committee.

Section 2. Minimum square footage within improvements. Those lots described above as shown on the plat of BARRINGTON PLACE, SECTION II, are restricted to a single family detached dwelling with a minimum of One Thousand (1,000) square feet, or a detached zero lot line dwelling with a minimum of One Thousand (1,000) square feet or a detached side yard concept option with a minimum of One Thousand (1,000) square feet, or an attached zero lot line dwelling with a minimum of Nine Hundred (900) square feet of livable area, exclusive of open porches and garages or carports.

Section 4. Location of the improvements upon the Lot. No structure shall be located on any lot nearer to the

front line or nearer to the street side line than the minimum building setback line shown on the recorded plats or replats;

Single Family Detached: In no instance shall a building be located nearer to the front property line than twenty (20) feet unless approved in writing by the Architectural Control Committee. The main residential structure shall not be located on any lot nearer than ten (10) feet from the rear property line. Subject to the provisions of Section 5 below, no part of any house, building, carport or garage shall be located nearer than five (5) feet to an interior side lot line or ten (10) feet to any exterior lot line on a corner lot.

Detached zero lot line: Subject to the provisions of Section 5 below, one wall of the building, carport or garage shall be located on one side lot line on interior lots if the dwelling is a single detached zero lot line dwelling. However, this wall shall not have any windows, doors or other such related openings. The other wall of the building, carport or garage shall be a minimum of ten (10) feet to an interior lot line or ten (10) feet to an interior lot line or ten (10) feet to an exterior lot line on a corner lot.

Detached side yard concept option: The residence dwelling shall not be located on the Lot nearer than two (2) feet from either side Property line except that on all corner Lots no structure shall be erected nearer than ten (10) feet from the side Lot line abutting a street and shall not be nearer than five (5) feet on the other side Lot line of such corner Lot. Each residence dwelling shall be designed so as to provide that a minimum of fifty percent (50%) of the linear distance of one (1) wall of the residence structure, hereinafter called the Side Yard Wall, shall be constructed adjacent to and two (2) feet from the side Lot line. The two (2) foot area bounded by the Side Yard Line and the Side Yard Wall and running the depth of the Lot shall hereinafter be referred to as and hereinbelow be defined as "Side Yard Land Maintenance Easement". Provided, however, that an open court or patio may be built to the residence structure adjacent and abutting the aforementioned Side Yard Land Maintenance Easement and within the Side Yard Wall area, but said open court

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or patio must be enclosed by a masonry or wood wall having a minimum height of six (6) feet. This wall must, as in the case of the Side Yard Wall, be constructed adjacent to and abutting in such manner as to complement the residence dwelling. The Side Yard Wall shall have no exterior objects or appurtenances such as, for example, electric panels, vents, plumbing cleanouts, windows of any kind, unless such Side Yard Wall is on the street side of a corner Lot. If on the street side of a corner Lot, regular openings may be constructed on such dwelling abutting the street side Lot line. There must be a minimum distance of six (6) feet between the Side Yard Wall and the residence dwelling situated upon the adjoining Lot. No dwelling shall be located on any Lot within any rear Lot Utility Easement. Attached zero lot line: Subject to the provisions of Section 5 below, the common wall of the attached zero lot line unit shall be built exactly upon the lot line on interior lots. This common wall shall have no openings, nor shall any penetration of this common wall of any kind be allowed, including the installation of electrical wiring or plumbing. The two outside walls of the attached zero lot line unit shall be a minimum of ten (10) feet to an interior lot line or to an exterior lot line on a corner lot. For the purposes of this section, 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 building on any lot to encroach upon another lot. Unless otherwise approved in writing by the Architectural Control Committee, each main residence building shall face the front building line.

Section 7. Use of temporary structures. 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, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may be necessary or



convenient while selling Lots, selling or constructing residences and constructing other improvements upon the Properties. Such facilities may include, but not necessarily be limited to, sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

Section 8. 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, 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, 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 campers, 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, right-of-way, or common area or in the street adjacent to such lot, easement, right-of-way, or common area unless such object is concealed from public view inside a garage or other approved enclosure. The phrase "approved enclosure" as used in this paragraph shall mean any fence, structure or other improvement approved by the Architectural Control Committee. If a complaint is received about a violation of any part of this Section, the Architectural Control Committee will be the final authority on the matter. This restriction shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and in use for the

# OFFICIAL RECORDS

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construction, repair or maintenance of a house or houses in the immediate vicinity.

Section 13. Lot 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 as incident to construction of improvements thereon as herein permitted. All fences, if any, which have been erected on any Lot by Declarant or otherwise shall be maintained in good repair by Owner, and Owner shall promptly repair or replace the same in the event of partial or total destruction. The drying of clothes in full public view is prohibited and the owners 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 public view shall construct and maintain a drying yard or other suitable enclosure to screen the following from public view: the drying of clothes, yard equipment, or storage piles, which are incident to the normal residential requirements of a typical family. 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. 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 violation by the Owner or occupant of any Lot of any covenant, condition or restriction imposed upon the Owner or Lot in this Article III and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete the appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to repair, maintain or restore the Lot, the exterior of the residence, the fence and any other improvement located thereon. To the extent necessary to prevent rat infestation, diminish fire hazards and accomplish any of the above needed repairs, maintenance and/or restoration, the Association shall have the right, through its agents and employees, to enter any residence or improvements located upon such Lot. The Association may enter onto any Lot and/or improvement 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. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot to pay such statement immediately upon receipt. The cost of such work, plus interest thereon at the maximum rate permitted under the laws of the State of Texas shall become a part of the assessment payable by said Owners and payment thereof shall be secured by the maintenance lien hereinafter retained. The Association, its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

Section 14. Signs, advertisements, billboards. Except for signs owned by Declarant or 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. Declarant, or its assigns, 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 tort in connection therewith or arising out of such removal.

Section 15. Maximum height of antenna. No radio or television aerial wires, radio or television antenna, or satellite dishes of any kind shall be maintained on any portion of any Lot that is visible from the front side of said Lot; nor shall any antenna of any style, to include satellite dishes, be permitted to extend above the roof line of the main residential structure on said Lot, nor be located behind the back building line of said Lot. No antenna of any style, including satellite dishes, or antenna wires 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 16. Maintenance of building exterior.  
Detached zero lot line: Owner shall always have the right to enter the adjacent property to perform maintenance upon the building wall that is on the property line (zero lot line wall), and occupant shall at all times keep this wall in good repair. All Deeds of Trust upon these lots shall so convey this right of easement. This covenant shall in no way be construed as giving the owner the right to enter upon the adjacent property for any reason than for maintenance of the zero lot line wall. Detached side yard concept option: The Owner of the Side Yard Wall Lot, upon twenty-four (24) hours notice to the adjacent Lot Owner, shall have the right of entry unto the easement area between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday for the sole purposes of maintenance, painting, repairing and rebuilding of the Side Yard Wall or foundation and fencing which is situated adjacent to and abutting the easement area. The owner of the Side Yard Wall Lot must replace any fencing, landscaping or other items on the easement area or the adjacent Lot that he may disturb during such

construction, maintenance or repair. This easement, when used by the Owner of the Side Yard Wall Lot for such construction, repair or maintenance, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced. Neither Owner shall attach any object to the Side Yard Wall, fencing onto any access easement area and the Owner of the adjacent Lot will not use the Side Yard Wall as a playing surface for any sport. In addition, no structure shall be constructed or placed upon the access easement area by either Owner, except the roof overhang and guttering as provided for above, and a fence by the Owner of the adjacent Lot, which allows drainage; however, access to the access easement must be preserved for the Owner of the Side Yard Wall Lot. Both the Owner of the Side Yard Wall Lot and the adjacent Lot Owner shall have the right of surface drainage over, along and upon the access easement area. Neither Owner shall use the access easement area in such a manner as will interfere with such drainage. Zero lot line attached: The two owners of each building shall be responsible for the maintenance of the exterior of their building. No change of paint, brick or roof color shall be permitted without approval by the Architectural Control Committee. No maintenance, repairs or painting shall be done by one owner without the consent of the other owner. Each owner (unit) shall have one vote in all matters of exterior maintenance, repairs and painting, and the cost of these repairs. If the two owners (units) cannot agree on the maintenance, repairs, and painting then the owner (unit) that deems that the work needs to be accomplished shall prepare a written description and cost of the work to be accomplished to the Barrington Place, Section II, Architectural Control Committee. The Architectural Control Committee shall rule on the need for accomplishing the work and shall set the time frame to accomplish the work if the work is required. Their ruling shall be binding on both owners. In the event an owner of any lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of Barrington Place, Section II, Homeowners'

Association, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, within sixty (60) days of written notification to said owner, through the Association's agents and employees, to enter upon said parcel and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

Section 17. General rules of law to apply. (a) The following terms, conditions and uses of the Side Yard Land Maintenance Easement are hereby declared and established by the Owner of said Side Yard Wall Lot and the Owner of the adjacent Lot, which terms shall be a covenant running with the land and binding both of the mentioned Owners and all of the respective heirs and assigns forever:

The Side Yard Land Maintenance Easement (herein called the easement area) may be used by either Owner for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of a Lot so as to improve the drainage of water from the Lots or the easement area. It shall be the responsibility of each Owner to take appropriate measures, whether by landscaping or otherwise to protect an adjoining Owner's Lot or the easement area from water running off such Owner's roof onto an adjoining owner's Lot or onto the easement area and no Owner shall have liability or otherwise be responsible to any other Owner for any loss, expense or damage resulting from such roof run-off.

The Owner of the adjacent Lot, except as otherwise provided in this Section, shall have the exclusive use of the surface of the easement area for the purposes of maintaining the lawn and/or other landscaping located within such easement area which maintenance shall be the obligation of the adjacent Lot Owner, and for all uses and enjoyments except as expressly limited or prohibited by the rules in this Section 17 and other applicable provisions of these Restrictions.

The Owner of the adjacent Lot shall indemnify and hold harmless the Side Yard Wall Lot Owner against any and all claims,



demands, actions and causes of action of any nature arising out of the general use of the easement by the Owner of the adjacent Lot, his licensees or invitees.

It is recognized by Declarant that the Side Yard concept is best suited for regularly shaped adjoining Lots and that if such option is exercised on adjoining irregularly shaped Lots, such as those common to Lots located on either a cul-de-sac or Lots on a curved street, that a strict adherence to the above terms may result in a disproportionate and inconvenient location of the easement area.

Accordingly, Declarant hereby reserves and retains the right unto itself, its successors and those who purchase Lots directly from it, to vary the easement area on Lots in the addition which are irregularly shaped and upon which the Side Yard concept is exercised. The variance, if any, will be accomplished in the convenience from either the Declarant or its successors or those who purchase Lots directly from it so as to clearly identify of record the variance involved. All Owners of Lots so involved will be requested to join in and consent to such variance, if any.

By irregularly shaped Lots, as used herein, is meant a Lot where the front and back Lot lines are not of equal length and side Lot lines are not of equal length.

(b) Each wall and roof which is built as a part of the original construction of the zero lot line attached building upon the Properties and placed on the dividing line between the lots shall constitute a common wall and roof, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding common walls and roofs and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a common wall or roof shall be shared by the Owners who make use of the wall and roof equally. Destruction by Fire or Other Casualty. If a common wall or roof is destroyed or damaged by fire or other casualty, any owner who has used the wall or roof may restore it,

and if the other owner thereafter makes use of the wall or roof, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. In addition, for attached zero lot line building, the total exterior of both properties must be completely restored to their original condition before the destruction that resulted from fire or other casualty.

Weatherproofing. Notwithstanding any other provision of this Article, an owner who, by his negligent or willful act, causes the common wall or roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Right to Contributions with Land. The right of any owner to contribution from any other owner under this Section will be appurtenant to the land and shall pass to such owner's successors in title. Arbitration. In the event of any dispute arising concerning a common wall or roof, or under the provisions of this Section, the Architectural Control Committee, as set forth under Article IV herein, shall have full and complete authority in handling said dispute and the decision of the Architectural Control Committee shall be final. The decision of the Architectural Control Committee must be rendered on or before sixty (60) days following written notification to the Architectural Control Committee by one or both property owners involved.

Section 18. Private Utility Lines. All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits unless otherwise approved in writing by the Architectural Control Committee.

#### ARTICLE IV

##### Architectural Control Committee

Section 1. Approval of building plans. No building, fence, wall or other structure shall be commenced, erected,

placed, or altered on any Lot, nor shall any exterior addition to or change or alteration therein be made until the construction plans and specifications describing the nature, kind, shape, height, materials and a plot plan showing the location of same, have been approved in writing as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards by the Architectural Control Committee of BARRINGTON PLACE, SECTION II, subdivision. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee, or its designated representative prior to commencement of construction. The Architectural Control Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect at its entire discretion. The Architectural Control Committee shall have full and complete authority to approve construction of any improvement on any Lot, and its judgment shall be final and conclusive. The approval or lack of approval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty or representation to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations.

Section 2. Committee Membership. The Architectural Control Committee members shall be initially composed of Terese Buess, Andrew Howard, and Ken Belanger, who by majority vote may designate a representative to act for them. Declarant hereby retains its rights to assign the duties, powers and responsibilities of the Architectural Control Committee to the Barrington Place Homeowners' Association when one hundred percent (100%) of all lots and all subsequent sections of Barrington Place are occupied by residents, and the term "Architectural Control Committee" herein shall include the Association, as such



assignee. At any time, the then record owners of a majority of the Lots shall have the power through a duly recorded instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. The address of the committee is 7322 Southwest Freeway, Suite 1820, Houston, Texas 77074.

#### ARTICLE VI

Section 3. Rate of assessment. The maintenance charge on Class B Lots and Builder owned Lots shall be a minimum of 50% of the assessment for Class A Lots per month and shall begin to accrue on a monthly basis on each such Lot on the date these Covenants, Conditions and Restrictions are recorded. The entire accrued charge (of said rate stated above per month) on each Lot shall become due and payable on the date such Lot converts from a Class B to a Class A Lot by reason of the Owner's purchase of a residence thereon. For the first year of ownership or any fraction thereof, the assessment shall be the number of months the Lot has been occupied by a homeowner times the monthly assessment rate payable on January 1, for the preceding first year or fraction of the first year. After the first year, the maintenance charge will be collected annually in the amount of the annual assessment; payable on January 1, of the specific year for the preceding year. The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year by the Board of Directors of the Association as the needs of the subdivision may, in the judgment of the Board of Directors of the Association, require; provided that such assessment will be uniform and in no event will such assessment or charge exceed \$20.00 per Lot per month, or \$240.00 per Lot per year, unless increased as provided below. The Association can collect special assessments as well as annual charges above described whenever the members so vote.

Section 4. Maximum annual assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$20.00 per Lot, per month. From and after January 1, of the year

immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership. The maximum annual assessment may be increased above the ten percent (10%) increase described above only by approval of two-thirds (2/3) of each class of Members in the Association present and voting, in person or by proxy, at a meeting duly called for this purpose. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual assessment period, which shall begin on the first day of January of each year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The dates shall be established by the Board of Directors.

Section 5. Effect of nonpayment of assessments. Any assessment not paid within thirty (30) days after the due date shall bear interest from the date at the rate of ten (10%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the facilities or services provided by the Association or by abandonment of his Lot.

Section 6. Subordination of the lien to mortgages. To secure the payment of the maintenance fund and 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) by which the Declarant shall convey such lots, a Vendor's Lien for benefit of the Association, said lien to be enforceable through appropriate proceedings at law by 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 instance and request of the Declarant and 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 Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage holder by prepaid U.S. Registered Mail, and shall contain a statement of the delinquent maintenance charges or annual or special assessments upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Lot covered by such mortgage lien to the holder thereof. 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 payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

(a) Additions by Declarant. Additional land contiguous to the area described on Slide 592B, 593A, 593B and 594A, in the Map Records of Fort Bend County, may be annexed by the Declarant without the consent of members within ten (10) years of the date of this instrument provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore approved by them. The Declarant, its successors and assigns, shall have the right to bring within the scheme of Barrington Place, Section II, Homeowners' Association any



additional residential properties in future stages of the development of Barrington Place, Section II, upon approval of the Board of Directors of the Association, with consent of two-thirds of each class of membership or FHA/VA approval. Any additions authorized under this and the succeeding subsections, shall be made by filing of record a Declaration of Covenants and Restrictions and Annexation Agreement with respect to the additional property or properties which shall extend the scheme of the covenants and restrictions of this Declaration to such property. Such Declaration must impose an annual maintenance charge assessment on the property covered thereby, on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed by this Declaration, and may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands.

(b) Other Additions. Upon the approval of the Board of Directors of the Association, in its sole discretion, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record an Annexation Agreement and Declaration of Covenants and Restrictions upon the satisfaction of the conditions specified in subsection (a) above.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration and all Supplemental Declarations, together with the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the

covenants established by this Declaration or any Supplemental Declaration.

Section 8. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 9. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Association Common Areas, if any, 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 Association Common Area, if any. 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 herein in the case of assessments.

B. The right of the Association to suspend the voting rights and right to use the Common Area, if any, by an Owner for any period during which any assessment against his Lot remains unpaid, and to publish rates and regulations for the use of the common areas including the right of suspension of the right and easement for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

C. The right of the Association to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be placed upon the Association or any portion of the Common Area, if any, to the Association. No such

dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each Class 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 Common Area, if any, and the facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

#### ARTICLE VII

##### General Provisions

Section 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change or terminate said covenants in whole or in part. The terms and provisions of these restrictions may be amended at any time when an instrument setting forth said changes and signed by those persons holding a majority of votes in the Association is placed on record in the real property records of Fort Bend County, Texas. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violations. The Association or Lot Owner who successfully prosecutes an action in law or in equity shall be entitled to recover from the defendant any and all costs, fees and expenses, including attorney's fees, incurred by the Association and/or Lot Owner in compelling compliance with these Restrictions. Failure by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

PURSUANT to Article VII, Section 3, of the original Declaration, the Federal Housing Administration and the Veterans



Administration have evidenced their approval of the terms and conditions hereof.

IN WITNESS WHEREOF, this Second Amendment of Declaration of Covenants, Conditions and Restrictions is executed this 7th day of May, 1984.

ELDRIDGE ROAD JOINT VENTURE, COMPOSED OF:


E. R., LTD., a Texas limited partnership, acting herein by its undersigned General Partners:

ATTEST:

By: Dorothy L. Cross  
DOROTHY L. CROSS

By: Milton C. Cross  
Milton C. Cross, General Partner

ATTEST:

By: Dorothy L. Cross  
DOROTHY L. CROSS  


By: CROSSRIDGE CORP., General Partner

By: Milton C. Cross  
Milton C. Cross, President

ATTEST:

By: Patricia G. Klein  
Patricia G. Klein,  
Assistant Secretary

GENERAL HOMES CORPORATION

By: Andrew E. Howard  
Andrew E. Howard, Vice President

ATTEST:

By: Wanda Ashcroft  
WANDA ASHCROFT  


GIBRALTAR SAVINGS

By: John W. Chomicki MB  
JOHN W. CHOMICKI - VICE PRESIDENT

FEDERAL HOUSING ADMINISTRATION

By: William Robertson, Jr.  
WILLIAM ROBERTSON, JR.

VETERANS ADMINISTRATION

By: Amil C. Stafford  
AMIL C. STAFFORD

THE STATE OF TEXAS §  
§  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared Milton C. Cross, General Partner of Eldridge Road, Ltd., 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 17th day of April, 1984.



TAMMY L. SIMICH  
Notary Public in & for the State of Texas  
My Commission Expires October 26, 1986

*Tammy L. Simich*

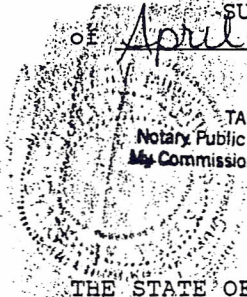
Notary Public in and for  
the State of T E X A S

My commission expires: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared Milton C. Cross, President of Crossridge 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 17th day of April, 1984.



TAMMY L. SIMICH  
Notary Public in & for the State of Texas  
My Commission Expires October 26, 1986

*Tammy L. Simich*

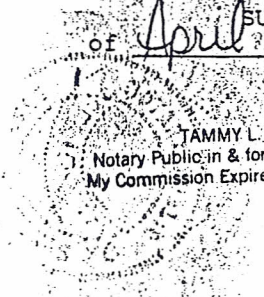
Notary Public in and for  
the State of T E X A S

My commission expires: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Andrew E. Howard, Vice President of General Homes 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 17th day of April, 1984.



TAMMY L. SIMICH  
Notary Public in & for the State of Texas  
My Commission Expires October 26, 1986

*Tammy L. Simich*

Notary Public in and for  
the State of T E X A S

My commission expires: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared John W. Chromicki, Vice President of Gibraltar Savings, 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 17th day of April, 1984.

TAMMY L. SIMICH  
Notary Public in & for the State of Texas  
My Commission Expires October 26, 1986

*Tammy L. Simich*

Notary Public in and for the State of T E X A S

My commission expires: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared William Robertson, Jr., of the Federal Housing Administration, 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 26th day of April, 1984.



*Glenda L. Powell*

Glenda L. Powell  
Notary Public in and for the State of T E X A S

My commission expires: 8-11-85

THE STATE OF TEXAS §  
§  
COUNTY OF §

BEFORE ME, the undersigned authority, on this day personally appeared AMIC C. STAFFORD, of the Veterans Administration, 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, in the capacity therein stated.

SUBSCRIBED AND SWORN to before me this 7th day of May, 1984.



*G. M. Ference*

G. M. FERENCE  
Notary Public in and for the State of T E X A S

My commission expires: March 29, 1988

Return to:  
General Homes Corporation  
7322 Southwest Freeway  
Suite 1820  
Houston, Texas 77074  
Attention: Karen Beck