

DECLARATION OF COVENANTS AND RESTRICTIONS**PRESTON WOODS**

THIS DECLARATION made this 22nd day of October, 2001 by 81st & Memorial L.L.C., an Oklahoma Limited Liability Company hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of:

Lots 1 thru 15, Block 1
Lots 1 thru 3, Block 2
Lots 1 thru 38, Block 3
Lots 1 thru 3, Block 4
(single family lots)

All the above described single family lots being located within Preston Woods a subdivision in the City of Tulsa, Tulsa County, Oklahoma, Recorded as Plat No. 5440 in the records of the County Clerk of Tulsa County, Oklahoma. (hereinafter referred to as "Preston Woods" or as the "Property")

and

That portion of Reserve A, B & C, Preston Woods designated on the recorded plat of Preston Woods "Common Area and Right-away along 111th St.

WHEREAS, Declarant intends that Preston Woods shall be held, sold, and conveyed subject to covenants and restrictions as hereinafter set forth.

THEREFORE, Declarant hereby declares that Preston Woods shall be held, sold, and conveyed subject to the following covenants and restrictions, which are for the purpose of protecting the value and

desirability of the single family lots within Preston Woods, and which shall be covenants running with the land, and shall be binding on all persons having any right, title or interest in the properties comprising Preston Woods, their heirs, successors and assigns, and shall inure to the benefit of each owner of a single family lot as above described.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Preston Woods Homeowners Association, Inc. its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot, as hereinafter defined, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 3. "Properties" or " Preston Woods " shall mean and refer to the real property above described, and such annexations and additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned or maintained by the Association for the common use and enjoyment of the Owners, and shall include but shall not be limited to the following:

That portion of Reserve A, B & C, designated on the recorded plat of Preston Woods as "Common Area" and Right-away along 111th St. and the perimeter fencing easements heretofore established within the Deed of Dedication of the recorded plat of Preston Woods or hereafter established by separate grant or conveyance.

Section 5. "Lot" shall mean and refer to any single family lot shown upon the recorded subdivision plat of Preston Woods, and any single family lot shown upon a recorded subdivision plat of any property hereafter annexed within the jurisdiction of the Association.

Section 6. "Declarant" shall mean and refer to 81st & Memorial L.L.C. its successors and assigns.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Common Area 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 fees for the use of any facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. A dedication or transfer of Common Area by the Association shall require the assent of two-thirds (2/3rds) of each class of members.

Section 2. Delegation of Use. The owner of a Lot may delegate, in accordance with the adopted By-Laws of the Association, his right of use and enjoyment of the Common Area to the members of his family, his tenants, or contract purchasers who reside on the Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members, and the vote for the Lot shall be exercised as they among themselves determine, but only one vote shall be cast for the Lot.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant for each Lot owned within Preston Woods, hereby covenants, and each Owner of a Lot within Preston Woods by acceptance of a deed therefor, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay to the Association:

- (a) annual maintenance assessments
- (b) special assessments for capital improvements

the above assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which the assessment is made. Each assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in Preston Woods and for the improvement and maintenance of the Common Area and the facilities thereon situated.

Section 3. Maximum Annual Assessment. The maximum annual assessment shall be \$300.00 per Lot; provided, however, the Board of Directors may increase each year, subsequent to the initial assessment year, the maximum assessment by the percentage increase, if any, of the Consumer Price Index occurring over the twelve (12) months ending sixty (60) days prior to the current assessment period, or five percent (5%), whichever is greater. "Consumer Price Index" shall mean the index published by the U.S. Department of Labor for the area including Tulsa, Oklahoma. Increases in the maximum annual assessment greater than those above provided for shall require the assent of two-thirds (2/3rds) of the eligible votes of each class of members who are 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.

Section 4. Special Assessments for Capital Improvements. 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 fifty-one percent (51%) 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 5. Notice and Quorum for any Action Authorized Under Sections 3. and 4. Written notice of any meeting for the purpose of taking any action authorized under Section 3, and 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event two-thirds (2/3rds) of the membership do not assent at the time of the meeting, members not present may within 30 days thereafter give assent by delivery of written assent to the Secretary of the Association, and such assents shall be deemed votes cast at the meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for each Lot; provided, however, the first annual assessment for each Lot shall be adjusted on the number of months remaining in the calendar year.

Section 7. Commencement of Annual Assessments. The annual assessments for each Lot shall commence on the 1st day of January 2002, or on the first day of the month following occupancy of the dwelling located on the Lot, whichever event last occurs; provided, however, the assessments for each Lot shall commence not later than the 1st day of January 2002. Notwithstanding the foregoing provisions, the Declarant may defer the initial commencement of assessments by the recording of an instrument establishing a deferred commencement date and setting forth the Declarant's assumption of the obligation and cost of maintenance of the Common Area until the deferred date of commencement of assessments.

Section 8. Establishment of the Amount of Assessment. The Board of Directors of the Association shall fix the amount of the first annual assessment at least 30 days prior to the commencement date, or at least 30 days prior to the expiration of a deferred commencement period, and shall fix the amount of subsequent assessments against each Lot at least 30 days in advance of each annual assessment period. The due dates for payment of the annual assessments shall be established by the Board of Directors, and the Board of Directors may provide for the payment of the annual assessments on a monthly basis, semi-annual basis, or annual basis. Written notice of the annual assessment and the due dates for payment shall be sent to each Owner. The omission or failure of

the Board of Directors to timely fix the annual assessment or to give notice thereof shall not be deemed a waiver or release of any Owner from the obligation to pay the assessment when fixed, and notice thereof given.

Section 9. Certificate of Assessment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 10. Nonpayment of Assessments; Remedies of the Association. An assessment which is not paid when due shall be delinquent and shall constitute a lien on the Lot against which the assessment is made. If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the date of delinquency at a rate of interest per annum as set by the Board of Directors from time to time, but not to exceed the maximum rate of interest allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose its lien against the property, or both, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Lot.

Assessment liens shall continue for a period of one (1) year from the date of delinquency; provided that if, within such period, judicial proceedings shall have been instituted to enforce the lien in a court in Tulsa County, Oklahoma, having jurisdiction, then the lien shall continue until the termination of the judicial proceeding and the sale of such Lot pursuant to execution of judgment.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the Lot from the lien for assessments thereafter becoming due.

Section 12. Exempt Property. Properties dedicated to and accepted by a local public authority or conveyed to a public utility, and the Common Area, shall be exempt from assessments.

ARTICLE V

MERGERS, CONSOLIDATIONS, ANNEXATIONS

Section 1. Merger or consolidation or annexation of additional property shall require the assent of two-thirds (2/3rds) of each class of members.

Section 2. Merger or consolidation or annexation requiring assent of the members shall be considered at a meeting duly called for such purpose, written notice of which shall be sent to all members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. The presence of sixty percent (60%) of the membership required to assent shall constitute a quorum, but in the event two-thirds (2/3rds) of each class of members do not assent at the time of the meeting, members not present may within thirty (30) days thereafter deliver written assent to the Secretary of the Association, and such assents shall be deemed votes cast at the meeting in favor of merger, consolidation, or annexation, as the case may be.

Section 3. Upon satisfaction of the prerequisites for annexation of additional lands, the annexation shall be evidenced by notice of annexation executed by the owners of the annexed lands and filed of record in the office of the County Clerk of Tulsa County, Oklahoma. The notice shall describe the lands annexed and shall provide that the lands are subject to the covenants, conditions, and restrictions set forth in this Declaration.

ARTICLE VI

RESERVATION OF DECLARANT

Section 1. Common Area Easement. The Declarant herein reserves the right and easement to enter upon the Common Area and, at Declarant's cost, to construct, repair, and maintain improvements; provided, however, the right and easement above set forth shall terminate ninety (90) days subsequent to the commencement of assessments.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Conflicting Provisions. To the extent that this Declaration is in conflict with any provision of the Deed of Dedication, and Restrictive Covenants which accompanied the recorded plat of Preston Woods, or amendment thereof, the provisions of this Declaration shall control.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all easements, restrictions, and covenants now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter. In any judicial action to enforce the covenants or restrictions established by the Declaration or amendments thereto, or to recover damages for the breach thereof, the prevailing party shall be entitled to receive his or its reasonable attorney fees and costs and expenses incurred in such action.

Section 3. Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. Term and Amendment. The restrictions and covenants of this Declaration shall run with and bind the land and to the extent permitted by applicable law, shall be perpetual, but in any event shall be in force and effect for a term of not less than thirty (30) years from the date this Declaration is recorded, unless terminated or amended as hereinafter provided. This Declaration may be amended or terminated at any time and from time to time, by a written instrument signed by the owners of more than fifty percent (50%) of the Lots. An instrument amending this Declaration shall be recorded in the real estate records of the Office of the County Clerk of Tulsa County, Oklahoma, and shall be effective from and after the date of recording.

IN WITNESS WHEREOF, Declarant has executed this instrument to be effective the date first above written.

DECLARANT

81st & Memorial L.L.C.,
an Oklahoma Limited Liability Company

ATTEST:

(Danny R. Brumble) By (Richard Dodson)

(SEAL)

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

This instrument was acknowledged before me this 17th day of December 2001, by Richard L. Dodson, as of 81st & Memorial L.L.C., an Oklahoma Limited Liability Company

(Della Sue Thornbury)
Notary Public

My commission expires:
05-13-05