

**HOMEOWNERS' ASSOCIATION OF AUSTIN PARK, INC.  
SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR AUSTIN PARK**

**WHEREAS**, the Declaration of Covenants, Conditions, and Restrictions for Austin Park was recorded in the Official Records of Real Property of Galveston County on January 27, 2005, under Clerk's File No. 2005005739, et. seq., and the First Amendment to the same was filed of record on September 30, 2013, at Clerk's File No. 2013062160, et. seq. (hereinafter collectively, the "Restrictions");

**WHEREAS**, Texas Property Code, Section 209.0041 (h) gives property owners the right to amend a declaration by a vote of sixty-seven percent (67%) of the total votes allocated to the property owners in the Association. Specifically, Texas Property Code, Section 209.0041 (h) states, "[e]xcept as provided by this subsection, a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law."; and

**WHEREAS**, Texas Property Code, Section 209.0041 (h-1) states, "[i]f the declaration contains a lower percentage than prescribed by Subsection (h), the percentage in the declaration controls." [Emphasis added.];

**WHEREAS**, Article XIII, Paragraph 2 of the Restrictions provides that "[a]fter the termination of Class B membership, approval by the Owners of a majority of the Lots shall be required to amend, modify, or terminate this Declaration." [Emphasis added.];

**WHEREAS**, Texas Property Code, Section 209.0041 (e) states, "[t]his section applies to a dedicatory instrument regardless of the date on which the dedicatory instrument was created.";

**WHEREAS**, Texas Property Code, Section 209.0041 (f) states, "[t]his section supersedes any contrary requirement in a dedicatory instrument.";

**WHEREAS**, the Restrictions have been amended by a vote of at least a majority of the total votes allocated to property owners in the HOMEOWNERS' ASSOCIATION OF AUSTIN PARK, INC. (the "Association"), thereby approving this Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Austin Park as described below and as attested to by the President of the Association herein;

**NOW THEREFORE**, Article VI, Section A of the Restrictions is hereby amended and replaced in its entirety in regard to "Residential Uses Permitted" as follows:

**"Article VI. USE RESTRICTIONS**

**A. Residential Uses Permitted.**

1. Homesites within Austin Park shall be used exclusively for single-family residential purposes. The term "Single Family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single Family shall mean the use of, and improvement to, a Lot with no more than one building designed for and containing facilities for living, sleeping cooking, and eating therein. In no case may a Lot contain more than one Dwelling. No multi-family Dwellings may be constructed on any Residential Lot. No building, outbuilding or portion thereof shall be constructed for income property.

The residence shall be occupied only by owners comprised of only one single family as defined below. By way of illustration, the following chart depicts an example of an approved single family: (For purposes of this example, the Owner(s) are considered the control level which establishes the other approved residents.)

EXAMPLE NO. 1: No more than a total of 2 parents of the control level

|  |            |           |
|--|------------|-----------|
| <u><b>Control Level:</b></u>           | One Person | One       |
| Owners                                 | Not so     | Household |
| Husband &/or Wife                      | Related    | Employee  |
| <u>Children of Husband and/or Wife</u> |            |           |

EXAMPLE NO. 2: No more than a total of 2 parents of the control level

|   |               |
|---|---------------|
| <u><b>Control Level:</b></u>                | One Household |
| Roommate One                                | Employee      |
| Roommate Two                                |               |
| <u>Children of either or both Roommates</u> |               |

Property owners of record as of April 17, 2016 (or their heirs) shall be permitted to rent their property only until the property(s) is sold and title is transferred to any other title owner. Once the property is sold and title is transferred to any other title owner, no rentals shall be allowed by any future owners.

It is not the intent of these provisions to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this definition is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law."

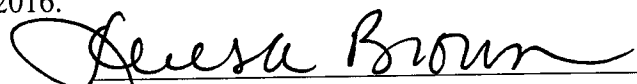
Nothing herein is intended to alter, modify or amend the Original Restrictions, except as specifically provided hereinabove.

#### CERTIFICATION

I, the undersigned, am the duly elected and acting President of the HOMEOWNERS' ASSOCIATION OF AUSTIN PARK, INC., a non-profit corporation, and I do hereby certify:

That the within and foregoing SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR AUSTIN PARK was properly approved by a vote of at least a majority of the total votes allocated to property owners in the Association.

IN WITNESS WHEREOF, I have executed this Second Amendment to be effective as of the 17th day of April, 2016.

  
(Signature)

Teresa Brown  
(Print Name)

President, Homeowners' Association of  
Austin Park, Inc.

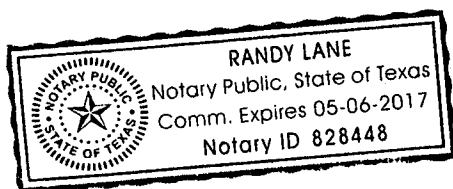
THE STATE OF TEXAS

COUNTY OF

Babson

§  
§  
§

This instrument was acknowledged before me, on the 25<sup>th</sup> day of April, 2016, by Teresa Brown, President of the Homeowners' Association of Austin Park, Inc., a Texas Non-Profit Corporation.



Randy Lane  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

## FILED AND RECORDED

Instrument Number: *2016025540*

Recording Fee: 34.00

Number Of Pages: 4

Filing and Recording Date: 05/05/2016 12:21PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in cursive script, reading "Dwight D. Sullivan".

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Dwight D. Sullivan, County Clerk  
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

**DO NOT DESTROY** - *Warning, this document is part of the Official Public Record.*