

# BAYOU ISLAND PARK



**SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK, A SUBDIVISION  
IN HOUSTON, HARRIS COUNTY, TEXAS**

*consisting of twelve Articles numbered I through XII  
and eight Exhibits labelled A through H (including Parking Rules in Exhibit C)*

**dated as of January 10, 2020**

**Return to:**

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# **BAYOU ISLAND PARK**

## **SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK, A SUBDIVISION IN HOUSTON, HARRIS COUNTY, TEXAS**

This Declaration supersedes and replaces, in their entirety, the Restated and Amended Covenants, Conditions, Restrictions and Easements for Bayou Island Park, a Subdivision in Houston, Harris, County, Texas, which was designated as document number 1-2004 and was recorded in the Official Public Records of Real Property of Harris County, Texas on January 30, 2004 under Clerk's File No. X361612 and Film Code No. 581-29-1584 et seq. (hereinafter referred to, as corrected by the instrument filed on March 9, 2004 under Clerk's File No. X447698 and Film Code No. 582-81-2011 et seq., as the "First Restatement of the Restrictions"), which First Restatement of the Restrictions superseded and replaced, in their entirety, the original restrictions recorded in the Official Public Records of Harris County, Texas on July 11, 1995 under Clerk's File No. R476105, and the First, Second and Third Amendments to such original restrictions, which were recorded on various dates in the Official Public Records of Real Property of Harris County, Texas under Clerk's File No. S387368, U098622 and U350237, respectively.

This Declaration also supersedes and replaces, in their entirety, (1) the three Dedicatory Instruments referred to in paragraph no. 3 of the Notice of Dedicatory Instruments for Bayou Island Park Homeowners Association, Inc., which Notice and Dedicatory Instruments were recorded as a single document in the Official Public Records of Real Property of Harris County, Texas on August 17, 2001 under Clerk's File No. V248151 and Film Code No. 543-19-2526 et seq., (2) the four Dedicatory Instruments referred to in the First Supplemental Notice of Dedicatory Instruments for Bayou Island Park Homeowners Association, Inc., which Notice and Dedicatory Instruments were recorded as a single document in the Official Public Records of Real Property of Harris County, Texas on April 10, 2012 under Clerk's File No. 20120154053 and Film Code Nos. RP 081-73-2313 through RP-081-73-2333 and (3) any other Dedicatory Instrument appertaining to the Subdivision or the Association that may have been so filed at any time thereafter and prior to the filing of this Declaration.

Upon the filing of this Declaration in the Official Public Records of Real Property of Harris County, Texas, this Declaration (which includes the exhibits hereto) shall constitute the sole Dedicatory Instrument thenceforth relevant to the Subdivision and the Association, and all prior Dedicatory Instruments shall be of no further force or effect.

As indicated in the attestation and certification of the President given on behalf of the Association and set forth at the end of this Declaration, this Declaration has been approved by (i) a majority of the Board of Directors of the Association and (ii) the votes of the requisite number of Owners, 22, which is more than sixty-seven percent (67%) of the total number of Lots, 32, within the Association.

**Article I**  
**Property Subject to this Declaration**

SECTION 1.01. Property Subjected to Declaration. The real property which, by the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration, is that certain real property located in Harris County, Texas, more particularly described as follows, to wit

That certain property known as “BAYOU ISLAND PARK”, a subdivision in Houston, Harris County, Texas, a Map or Plat thereof being of record at Film Code No. 365059 of the Map Records of Harris County, Texas.

SECTION 1.02. Other Property; Annexation. Only the real property as described in Section 1.01 is hereby made subject to this Declaration; provided, however, upon written consent of a majority of the Owners of all Lots then contained within the Subdivision, the Association may subject any other property to the scheme of this Declaration.

**Article II**  
**Definitions**

Unless the context otherwise prohibits, the following words, when used in this Declaration, shall mean and refer to the following:

SECTION 2.01. “Architectural Control Committee” or “ACC” shall mean the committee established pursuant to Article IV of this Declaration.

SECTION 2.02. “Architectural Control Criteria” shall have the meaning set forth in Section 4.03.

SECTION 2.03. “Architectural Guidelines” shall mean the procedural, aesthetic, environmental and architectural policies and procedures from time to time adopted by the Architectural Control Committee in accordance with Article IV hereof.

SECTION 2.04. “Association” shall mean BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation incorporated on January 29, 1996 for the purposes contemplated by this Declaration, and its predecessors (including the developer of the Subdivision), successors and assigns by merger, consolidation or otherwise.

SECTION 2.05. “Board” or “Board of Directors” shall mean the Board of Directors of the Association that is elected in accordance with applicable Governing Documents, and “Director” shall mean a member of such Board or Board of Directors.

SECTION 2.06. “Bylaws” shall mean the Bylaws of the Association, as from time to time amended in accordance with applicable provisions of the Bylaws, whether or not such Bylaws or amendments thereto are filed of record. Each Person acquiring any right, title or interest in the

Subdivision shall acquire and hold such right, title or interest subject to all of the terms and provisions of the Bylaws.

SECTION 2.07. “Community Properties” shall mean Shared Utility Facilities, if any, the Private Driveway, and the other properties, real or personal, conveyed to or dedicated to the use of, or otherwise acquired by, the Association for the common use and enjoyment of the Members of the Association, together with all improvements thereon and appurtenances thereto.

SECTION 2.08. “Declaration” shall mean this Second Restated and Amended Covenants, Conditions, Restrictions and Easements for Bayou Island Park, including each exhibit or annex hereto, and any amendments thereto.

SECTION 2.09. “Dedicatory Instrument” shall mean each document governing the establishment, maintenance, or operation of the properties within the Association, as more particularly defined in Section 202.001(1) of the Texas Property Code.

SECTION 2.10. “EDS” has the meaning attributed thereto in Section 9.07.

SECTION 2.11. “Governing Documents” shall mean all applicable provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association, Rules and Regulations, Architectural Guidelines, all written decisions and resolutions of the ACC and Board, and amendments to any of the foregoing.

SECTION 2.12. “Lot” shall mean a building site within the Subdivision, whether conveyed by metes and bounds or by reference to the Plat, upon which there has been built a single-family residential dwelling.

SECTION 2.13. “Maintenance Fund” shall have the meaning attributed thereto in Section 5.01(b).

SECTION 2.14. “Member” shall mean every Person who holds a membership in the Association as defined in Section 3.03.

SECTION 2.15. “Multiple Guidelines” shall mean the Guidelines Relating to Rain Barrels and Rain Harvesting System, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, Religious Items, and Political Signs set forth in Exhibit D hereto.

SECTION 2.16. “Owner” shall mean the owner, whether one or more Persons, of the fee simple title to any Lot, including any mortgagee or lien holder who acquires fee simple title to any Lot through judicial or non-judicial foreclosure or proceedings in lieu thereof, but excluding any Person holding a lien or other encumbrance, easement, mineral interest or royalty interest burdening the title thereto or otherwise having an interest merely as security for the performance of an obligation.

SECTION 2.17. “Person” shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other entity.

SECTION 2.18. “Plat” shall mean the map or plat of the Subdivision described in Section 1.01.

SECTION 2.19. “Private Driveway” shall mean the private street and private drive areas as described in the Plat, and any related curbs, gutters, lighting standards and fixtures and/or other facilities, including without limitation, any Subdivision Access Facilities constructed or maintained by the Association within the Private Driveway Easement. Private Driveway is not to be confused with the apron improvement that connects the Owner’s garage to the street or the circular drive that is occasionally installed as an improvement on the Owner’s Lot.

SECTION 2.20. “Private Driveway Easement” shall mean and refer to the area covered by the Private Driveway and appurtenant easement rights as set forth in Article IX.

SECTION 2.21. “Regulated Modification” shall mean the placement, construction, reconstruction or erection of, or modification, alteration, or addition to, any building, structure, improvement, thing or device, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the esthetics, environment, architectural appearance or standards, patterns of usage, or grades or topography generally prevailing in the Subdivision as of the date of establishment of the Regulated Modification, including, by way of illustration and not of limitation:

(a) any building, garage, porch, shed, greenhouse, bathhouse, coup or cage, covered or uncovered patio, swimming pool, clothes line, radio or television antenna, fence, wall or other screening device, curbing, paving, wall, trees, shrubbery and any other landscaping, fountains, statuary, lighting fixtures, signs or sign board, or any temporary or permanent living quarters (including any mobile home) or any other temporary or permanent modification or alteration;

(b) an excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the flow of surface or subsurface waters to, from, upon or across any Lot or any other portion of the Subdivision, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel to, from, upon, under or across any Lot or other portion of the Subdivision;

(c) any change in the grade of any Lot or other portion of the Subdivision, and any similar disturbance to the surface of the land within the Subdivision; and

(d) any erosion control system or devices permitted or required as to any Lot or other portion of the Subdivision.

SECTION 2.22. “Rules and Regulations” shall mean the policies and procedures from time to time adopted by the Board of Directors regulating the operation, use and occupancy of the Subdivision, including the Lots and Community Properties, in accordance with Article VII hereof.

SECTION 2.23. “Shared Utility Facilities” shall mean any sanitary sewer facilities, any drainage or storm water facilities, any water pipelines, water meters and related water facilities and any other common or shared facilities or services constructed, owned, maintained or provided

by the Association: (i) which connect, for any one or more of the Lots, the individual water and/or sewer lines which service any such Lot(s) to the water and/ or sewer facilities owned, maintained or operated by the City of Houston, State of Texas, or any other utility provider; or (ii) which connect or provide to multiple Lots common facilities or services.

SECTION 2.24. “Standby Electric Generator Guidelines” means the Guidelines Relating to Standby Electric Generators set forth in Exhibit H hereto.

SECTION 2.25. “Subdivision” shall mean and refer to BAYOU ISLAND PARK as more particularly described in Section 1.01 hereof any other real property subjected to this Declaration as herein provided.

SECTION 2.26. “Subdivision Access Facilities” shall mean (i) any controlled access gate, guardhouse and any other access limiting structure or devise and (ii) any fences, freestanding fence type walls, hedges, gates, gateposts, Subdivision identification signs and related improvements which are constructed or maintained by the Association within the Private Driveway Easement, Subdivision Service Easement or Common Areas.

SECTION 2.27. “Subdivision Service Easement” shall mean the area in which Subdivision fencing is placed and maintained, and all other areas designated by the Association for use as to Shared Utility Facilities or any Subdivision Access Facilities as provided in Article IX.

SECTION 2.28. “Utility Easement Area” shall mean all utility easements as provided for in Article IX.

**Article III**  
**Bayou Island Park Homeowners Association, Inc.**

SECTION 3.01. Organization. Bayou Island Park Homeowners Association, Inc. has been organized and formed as a non-profit corporation under the laws of the State of Texas. The Association shall have full power, authority and standing to enforce all provisions of the Governing Documents. The principal purposes of the Association are the collection, expenditure and management of the funds and financial affairs of the Association, enforcement of all provisions of the Governing Documents, providing for maintenance, preservation and architectural control within the Subdivision, the general overall supervision of all of the affairs and well-being of the Subdivision, and the promotion of the health, safety and welfare of the residents and Owners of Lots within the Subdivision.

SECTION 3.02. Board of Directors.

(a) Purpose. The Association shall act through the Board of Directors, which shall manage the affairs of the Association as specified in this Declaration and other applicable Governing Documents.

(b) Composition. The Board shall be composed and its members elected, as provided in the Bylaws.

(c) Open Meetings. All meetings of the Board of Directors during which (i) the Association's business is considered and (ii) the Board takes formal action shall be held in Harris County and shall be open to all Members; provided, the Board of Directors may adjourn such a meeting and reconvene in closed executive session to consider actions involving: (1) personnel; (2) pending or threatened litigation; (3) contract negotiations; (4) enforcement actions; (5) confidential communications with the Association's attorney; (6) matters involving the invasion of privacy of individual Owners; or (7) matters that are to remain confidential at the request of the affected parties and the agreement of the Board. Members shall be given notice of the date, hour, place, and general subject of a regular or special meeting of the Board of Directors at which the Board proposes to consider the Association's business and to take formal action. Such notice to Members shall (i) include a general description of any matter to be brought up for deliberation in executive session, and (ii) be given in the manner set forth in Section 12.01(b) not later than the tenth (10<sup>th</sup>) nor earlier than the sixtieth (60<sup>th</sup>) day before the date of the meeting when given by mail or at least seventy-two (72) hours before the start of the meeting when given by email or other electronic transmission.

SECTION 3.03. Membership. Every Person who is the record owner of a fee simple title or undivided fee simple title interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate any Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall automatically pass with the title to the Lot.

SECTION 3.04. Voting Rights of Members.

(a) Voting Rights. There shall be one (1) class of voting membership. All Members of the Association as defined in Section 3.03 shall be entitled to one (1) vote for each Lot owned on each matter coming before the Members, unless their voting rights have been suspended as herein provided.

(b) Multiple Owners. When more than one Person holds an ownership interest in a Lot, all such Persons shall be Members, but in no event shall they be entitled to more than one (1) vote with respect to that particular Lot. When more than two Persons hold an ownership interest in a Lot, the vote of all such joint Owners shall be controlled by a majority of such joint Owners. Any individual Owner from among such joint Owners shall be conclusively presumed to be acting in accordance with the decision of the majority in voting either in person or by proxy unless another joint Owner is voting to the contrary, either in person or by proxy. If more than one such joint Owner is voting in person or by proxy, the single vote of such joint Owners shall be cast in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners shall be permitted to vote as to any such matter upon which a majority decision cannot be reached. When two Persons hold an ownership interest in a Lot, if such joint Owners cannot reach a unanimous decision, then neither of the joint Owners shall be permitted to vote as to any such matter upon which a unanimous decision cannot be reached.

(c) Cumulative Voting Prohibited. Cumulative voting shall not be permitted as to any matter placed before the membership for a vote, including election of members of the Board of Directors.

(d) Suspension of Voting Rights. Voting rights of any Member may be suspended for breach of the Governing Documents as herein provided. Notwithstanding any other provision of this Declaration, however, a Member may not be disqualified from voting in an election of Directors or on any matter concerning the rights or responsibilities of the Member.

(e) Manner of Voting. A vote cast by a Member must be in writing and signed by the Member (or the Member's proxy, whenever applicable) if the vote is cast: (1) in an election to fill a position on the Board of Directors; (2) on a proposed adoption or amendment of a Dedicatory Instrument; (3) on a proposed increase in the amount of a regular assessment or the proposed adoption of a special assessment; or (4) on the proposed removal of a Director.

SECTION 3.05. Books and Records.

(a) Record Retention Policy. The Association shall retain the records of the Association listed in the record retention policy set forth in Exhibit F hereto for the periods of time set forth therein. The Association shall not be required to retain any other records.

(b) Rules for Inspection. The Association shall make its books and records, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the Owner as the Owner's agent, attorney, or certified public accountant, in accordance with the provisions of the open records policy set forth in Exhibit G hereto.

SECTION 3.06. Limitation of Liability; Indemnification.

(a) General. Except as provided in the Texas Business Organizations Code (including Article 22.221), no Director shall be liable to the Association or its Members, and the Association shall not be liable to any Member, for monetary damages or otherwise for any act or omission in the Director's capacity as a Director or any act or omission of the Association within the scope of its purposes. The Association shall indemnify and keep indemnified, and hold harmless, any Director or former Director to the fullest extent necessary to accomplish the foregoing and to the fullest extent otherwise allowed by law, and hold any such Director or former Director harmless from and against all claims, demands, suits, judgments, court costs, attorney's fees attachments and all other legal action as contemplated thereby. All provisions of this section shall also apply to any officer or former officer of the Association, and to all Association Committees and members thereof (current or former), including the Architectural Control Committee.

(b) Security Services. The Association may, from time to time, provide Subdivision Facilities, including devices or services, intended to or which may have the effect of limiting or controlling Subdivision access, or providing patrol services or otherwise monitor activities within the Subdivision (including Community Properties), and may from time to time provide information through newsletters or otherwise regarding same (all such Subdivision Facilities herein referred to as, "Security Services"). Without limitation of Section 3.06, each

Owner or Member and their respective tenants, family, guests and invitees, covenant and agree with respect to any and all Security Services provided directly or indirectly by the Association as follows:

(i) Security is the sole responsibility of local law enforcement agencies and individual Owners and Members, their tenants, and their respective guests and invitees. Security Services shall be provided at the sole discretion of the Board of Directors. The providing of any Security Services at any time shall in no way prevent the Board from thereafter discontinuing or temporarily or permanently removing same.

(ii) Any third party providers of Security Services shall be independent contractors, the acts or omissions of which shall not be imputed to the Association or its officers, Directors, committee members, agents or employees.

(iii) Providing of any Security Services shall never be construed as an undertaking by the Association to provide personal security or as a guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

(iv) The Association and its officers, Directors, Committee members, agents and employees shall not be liable for, and each Owner or Member, their tenants, and their respective guests and invitees, shall indemnify, keep indemnified and hold the Association and its officers, Directors, Committee members, agents and employees harmless at all times from, any injuries, loss or damages whatsoever, including without limitation any injury or damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any Person or property arising, directly or indirectly, from the providing or failure to provide any Security Services, or the discontinuation, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services.

(c) Liability Arising From Conduct of Owners. Each Owner, and each Owner's tenants, shall indemnify and keep indemnified, and hold harmless, the Association, and its officers, Directors, servants, agents and employees from and against all claims, damages, suits, judgments, court costs, attorney's fees, attachments and all other legal actions caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or the family, guest, invitees, servants, agents or employees of either.

(d) Subsequent Statutory Authority. If the Texas Business Organizations Code or any other applicable statute, state or federal, is construed or amended subsequently to the filing of this Declaration to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Section 3.06, then liability shall be eliminated or limited and right to indemnification shall be expanded to the fullest extent permitted by such construction or amendment.

(e) No Impairment. Any repeal or modification of this Section 3.06 by the Members of the Association shall not adversely affect any rights or protection existing at the time of such repeal or modification.

## **Article IV Architectural Control Committee**

### SECTION 4.01. Organization.

(a) General. There is hereby established an Architectural Control Committee (herein sometimes referred to as the “ACC”). The ACC shall be composed of either: (i) all members of the Board of Directors; or (ii) an executive committee of the Board of Directors formed and designated as the ACC by resolution adopted by the Board of Directors. The ACC may designate any one (1) of its members to act in its behalf on any action that has been approved by a quorum of the ACC.

(b) ACC Executive Committee. If an executive committee is appointed by the Board of Directors to act as the ACC, then the provisions of this Section shall apply. Such executive committee shall be composed of three (3) or five (5) members, a majority of whom shall at all times also be Directors. All such members shall serve at the discretion of the Board, and all of the decisions of the ACC shall be subject to review and modification by the Board except as herein otherwise expressly provided. In the event of the death or resignation of any person serving on the Committee, the Board of Directors shall designate a successor or successors who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been appointed, the remaining member or members shall have full authority to exercise all powers of the ACC.

(c) Compensation. No person serving on the ACC shall be entitled to compensation for services performed; provided, the ACC may employ one or more architects, engineers, attorneys or other consultants, as approved by the Board of Directors, to assist the ACC in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the ACC, and members of the ACC may be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board of Directors.

### SECTION 4.02. Function and Powers.

(a) Submission of Plans Required. Except as to any building or construction by the Association, no Regulated Modification shall be commenced, constructed, erected, placed, maintained or made unless and until complete plans and specifications have been submitted to and approved in writing by the ACC as to compliance with applicable Architectural Review Criteria as set forth in Section 4.03. Any plans and specifications to be submitted shall specify, in such form as the ACC may reasonably require, the location upon the Lot or within the Subdivision where the Regulated Modification will occur or be placed; the dimensions, nature, kind, shape, height, and color scheme of and all materials to be used in connection with the Regulated Modification; appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details; intended uses; and such other information, plans or specifications as may be requested or required by the ACC which in the sole opinion of the

ACC is reasonably necessary to fairly and fully evaluate all aspects of the proposed Regulated Modification.

(b) Architectural Guidelines. The ACC may, from time to time, promulgate, modify and delete such reasonable Architectural Guidelines applicable to the Subdivision including Lots and Community Properties, as it shall deem appropriate, to maintain or enhance the architectural, environmental or aesthetic standards of the Subdivision. Such authority shall include, but shall not be limited to, the right to specify:

(i) specific procedural guidelines for submission of requests for, and plans, specifications and other information necessary to obtain, ACC approval to commence, erect, construct or maintain any Regulated Modification, and procedural requirements for the conducting of all activities necessary to accomplish same;

(ii) the amount and manner of payment of any fees or charges reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advice or consultation and all other costs and expenses in connection with review and evaluation of an application and monetary work thereunder (such costs and expenses herein referred to as the "Architectural Review Fee," which shall not exceed \$300.00);

(iii) specific types of Regulated Modifications which may be commenced, constructed, erected or maintained upon any Lot or anywhere within the Subdivision, as well as specific types of Regulated Modifications which will not be permitted upon any Lot or within the Subdivision;

(iv) permissible uses of any Regulated Modification;

(v) a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of Regulated Modifications;

(vi) minimum setbacks;

(vii) the location, height and extent of fences, walls or other screening devices, walls, decks, patios or courtyards;

(viii) the orientation of structures and landscaping with respect to streets, walks, driveways and structures on adjacent properties; and

(ix) in general, all requirements reasonably deemed necessary to maximize compliance with Architectural Review Criteria as set forth in Section 4.03.

(c) Manner and Effect of Adoption of Architectural Guidelines. Architectural Guidelines shall be of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, provided: (i) such Architectural Guidelines shall not be deemed a waiver, modification, or repeal of any of the provisions of this Declaration and shall not be less restrictive than provided herein, but same may be more restrictive than provided herein in

accordance with the esthetics, environment or architectural appearance or standards generally prevailing in the Subdivision as of the date of enactment, and may supplement the provisions hereof; (ii) such Architectural Guidelines shall not be enacted retroactively except that if any Regulated Modification existing at the time of enactment is in violation of an Architectural Guideline when enacted, then any reconstruction or replacement of such Regulated Modification thereafter shall be in conformity with applicable Architectural Guidelines, and all repairs, modifications or maintenance performed thereon shall be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with applicable Architectural Guidelines; and (iii) Architectural Guidelines shall not become effective until thirty (30) days after true and correct copies thereof are delivered or mailed to each Member of the Association.

(d) Variances. The ACC or Board, by vote, of two-thirds (2/3<sup>rds</sup>) of all members of the ACC or Board as the case may be, may grant specific variances to Architectural Guidelines and to the architectural and use restrictions set forth in Articles VII and VIII of this Declaration upon specific findings of compliance with the grounds for granting of a variance as set forth hereafter. A variance shall be granted only with respect to specific instances upon written request therefor, shall not be binding with respect to any other request for a variance whether or not similar in nature, and shall not constitute a waiver, modification or repeal of any of the provisions of this Declaration or other Governing Documents except for the limited purpose and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings that:

- (i) denial of the variance will cause the applicant a substantial hardship;
- (ii) the variance is necessary due to unusual circumstances not occasioned by the conduct of the applicant for the variance, and which are reasonably beyond the control of the applicant and the Association to mitigate or rectify;
- (iii) the applicant for a variance has acted in good faith in seeking a variance or in his failure to otherwise comply with the provisions of this Declaration or other Governing Documents; and
- (iv) the granting of a specific variance will not materially and adversely affect the architectural, aesthetic or environmental integrity of the Subdivision or the scheme of development therein.

SECTION 4.03. Architectural Review Criteria General. The ACC shall evaluate all submitted applications for ACC approval on the individual merits of the particular application. Judgments and decisions of the ACC shall be based on the following criteria (the "Architectural Review Criteria") applied in accordance with the esthetics, environment or architectural appearance or standards generally prevailing in the Subdivision as of the date of submission of an application:

(a) Compliance With Government Documents and Governmental Laws. The proposed Regulated Modification shall substantially comply with applicable provisions of the Governing Documents and governmental laws, ordinances and regulations.

(b) Harmony and Compatibility. The Regulated Modification shall relate favorably to its surroundings and the Subdivision in terms of harmony, compatibility and

conformity with surrounding buildings, structures, grades, topography, location, color, workmanship, materials, usage and design.

(c) Precedence for Approval or Disapproval. The ACC shall use all reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated Modifications. To this end, consideration will be given to similar applications for architectural approval, and the decisions and actions of the ACC with regard thereto.

SECTION 4.04. Basis for Disapproval by ACC. The ACC may disapprove any request for approval submitted pursuant to this Article IV for any of the following reasons:

(a) failure to comply with any applicable Architectural Review Criteria as set forth in Section 4.03; or

(b) lack of sufficient information, plans or specifications as reasonably determined by the ACC to enable the ACC to fairly and fully evaluate the aesthetic, environmental or architectural impact of a proposed Regulated Modification or the uses thereof, or failure to include any information, plans or specifications required by applicable Governing Documents, or as may be requested by the ACC.

In the event of disapproval, the ACC shall so notify the applicant in writing; and if disapproval is based on lack of sufficient information, plans or specifications, then the ACC shall also notify applicant of the additional information, plans or specifications required. The ACC shall specify the reason(s), other than those noted in the preceding sentence, for disapproval in all cases.

SECTION 4.05. Approval and Conditional Approval by ACC.

(a) Manner. The ACC may fully approve any request for approval made pursuant to this Article IV, or the ACC may approve any such request subject to compliance with conditions stated in a conditional approval. A conditional approval shall be effective only upon full compliance with the stated condition(s). The ACC shall notify the applicant in writing of such approval (together with any qualifications or conditions of approval).

(b) Effect. Except for fraud, misrepresentation, accident or mistake, approval or conditional approval shall be final as to each Regulated Modification covered thereby, and such approval or conditional approval may not be revoked or rescinded thereafter. Approval or conditional approval shall not constitute a waiver, modification or repeal of any covenant, condition or restriction contained in this Declaration, or other Governing Documents, or preclude by estoppel or otherwise full enforcement of all provisions hereof, except as to compliance with Sections 4.02 (a) and 4.02(b) and except to the extent of a specific variance granted pursuant to Section 4.02(d). Approval of any plans and specifications shall not be deemed a waiver of the right of the ACC to subsequently disapprove similar requests for approval, or any of the features or elements included therein.

SECTION 4.06. Submission and Response, Failure of ACC to Act.

(a) Submission and Response. Applications for ACC approval and requests for variances, shall be delivered to the ACC in accordance with Section 12.01 hereof and shall be

deemed submitted to the ACC only upon actual receipt thereof. All responses by the ACC shall be in writing, and shall be deemed given when deposited in the United States mail, postage prepaid and addressed to the applicant for request for variance or the last known address of the applicant according to the records of the Association. The ACC shall have no duty to respond to, and the provisions of this Section shall not apply regarding, any application or request for variance if the Person(s) identified in the application do not appear as Members or Owners according to the books and records of the Association. Lessees shall file applications or requests for variance in the name of their lessors, and shall also join therein. Where more than one (1) Member or Owner applies for approval or a variance with respect to the same Lot, the mailing of a response to any such Member or Owner as aforesaid shall constitute notice to all such Members or Owners.

(b) Failure to Respond – Applications. If any applicant for ACC approval has not received notice from the ACC approving, conditionally approving or disapproving such request for approval within thirty (30) days after the application was originally received by the ACC, said applicant may notify the ACC in writing of that fact. If notice of failure to respond as aforesaid is not received by the ACC within forty-five (45) days after submission of an application, approval of the application shall be deemed denied. If notice of failure to respond is given to the ACC as aforesaid, then the request for approval to which such notice relates shall be deemed approved by the ACC unless the ACC shall respond to the contrary not later than fifteen (15) days after the date such notice is received by the ACC.

(c) Failure to Respond – Variances. Failure of the ACC to respond to any request for a variance within thirty (30) days after the request was originally received by the ACC shall operate as a denial in all respects of the request for variance.

SECTION 4.07. Implied Conditions of Approval. Unless expressly waived or modified by the ACC in writing, each and every approval or conditional approval by the ACC of a Regulated Modification shall be subject to compliance with the following conditions whether or not stated in the approval or conditional approval:

(a) Commencement and Completion of Work. Work on each Regulated Modification shall commence within thirty (30) days after ACC approval or conditional approval thereof. Upon commencement, the work shall be prosecuted diligently to obtain completion of all the work as reasonably soon thereafter as possible, and in any event the work shall be substantially completed within one hundred twenty (120) days after ACC approval or conditional approval.

(b) Equipment and Materials. No equipment or building or other materials necessary for completion of a Regulated Modification shall be placed or stored upon a Lot more than thirty (30) days prior to commencement of the work on the Regulated Modification. All such equipment and materials shall be placed within the property lines of the affected Lot. So far as practical, all such equipment and materials shall be stored in locations not visible from any street, Lot or the Community Properties. Upon completion of the work on the Regulated Modification, any such equipment and materials shall be immediately removed from the Lot and Subdivision.

(c) New Construction Materials Required. Only new construction materials (except for used brick if approved by the ACC) may be used in construction of any Regulated Modification,

(d) Compliance With Plans. All work on a Regulated Modification shall proceed in strict compliance with the plans and specifications approved by the ACC, all conditions stated by the ACC and all applicable Governing Documents and governmental regulations and ordinances.

SECTION 4.08. Inspection Rights. Upon reasonable notice (oral or written), any member of the ACC or the Board of Directors and their designated representatives may enter upon a Lot without liability for trespass or otherwise for purposes of confirming compliance with any applicable provisions of the Governing Documents regarding a proposed Regulated Modification, the work in progress, and the completed Regulated Modification.

SECTION 4.09. Records of Architectural Control Committee. The ACC shall not be required to maintain records of any of its meetings. The ACC shall keep and maintain records evidencing the final decision(s) of the ACC regarding all requests for approval and requests for variance for not less than four (4) years after the date of such records, and all current Architectural Guidelines.

SECTION 4.10. Liability of Architectural Control Committee. Neither the Association nor the ACC, nor any member, subcommittee, employee or agent of either, shall be liable to any Owner, Member or any other Person for any actions or failure to act as a member of the Board or ACC, or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of plans or specifications and no publication of Architectural Guidelines shall ever be construed as representing or implying that, or as a warranty or guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements, or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. Any Person submitting plans and/or specification and/or any other matter for approval hereunder, and any Person on whose behalf said plans and/or specifications or any other matter are submitted, by submitting of same, agrees to indemnify and hold the ACC, the Board and the Association, and all officers, agents or employees thereof, harmless from and against any cost, claim, damage, penalty, fine, expense or liability whatsoever, including reasonable attorney's fees and court costs at all judicial levels, arising out of or in connection with any approval, conditional approval or denial of approval of plans and/or specifications or any other matter submitted to the ACC.

## **Article V Maintenance Fund**

SECTION 5.01. Obligation for Payments to Maintenance Fund.

(a) Establishment of Maintenance Fund. A Maintenance Fund has been established by the Association as the repository for all assessments as provided for herein. The Board shall be responsible for the collection, management, control and expenditure of the Maintenance Fund, and its funds shall be deposited into such accounts for the Association as are specifically designated, from time to time, by the Board.

(b) Payment of Assessments. Each Owner of any Lot, by acceptance of a contract for deed, deed or other instrument of conveyance therefor and whether or not it shall be so expressed therein, covenants and agrees to pay the following assessments (collectively herein referred to as the "Maintenance Fund"), to wit:

- (i) regular or annual assessments;
- (ii) Shared Utility Facilities assessments, if any;
- (iii) special assessments, such assessments to be established and collected as hereinafter provided; and
- (iv) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration and fees for the extension of the time for repair, replacement or other construction to start as set forth herein.

(c) Purpose of Maintenance Fund. The Maintenance Fund shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and other occupants of the Subdivision, including the maintenance of all Community Properties and Shared Utility Facilities, if any, the discharge of all obligations of the Association pursuant to this Declaration and other Governing Documents, and the doing of any other thing necessary or desirable in the opinion of the Board for accomplishment of the foregoing, including the establishment and maintenance of reserves for repairs, maintenance, taxes, insurance, and other charges, and the expenditure of funds, limited to \$5,000 per expenditure, for the benefit of other properties within the vicinity of the Subdivision if in the judgment of Board the Subdivision as a whole will benefit thereby. The judgment of the Board in establishing any assessments and in the collection, management and expenditure of the Maintenance Fund shall be final and conclusive so long as exercised in good faith.

(d) Personal Obligation; Transferees. In addition to the assessment lien herein established, all assessments shall be and remain the personal obligation of the Owner or Owners who owned the Lot at the time the assessment became due notwithstanding any subsequent transfer of such Lot. Except as provided in Sections 5.01(e) and 5.07(c), each Owner's transferee, whether by purchase, gift, devise or otherwise, and whether voluntary or by operation of law, shall also be jointly and severally liable for payment of all unpaid assessments at the time of transfer without prejudice to the rights of the transferee to recover from the transferor the amounts paid by said transferee.

(e) Statement of Assessments. Any transferee (or prospective transferee upon presentment of an earnest money contract or other writing satisfactory to the Board) shall be entitled to a statement from the Association setting forth all assessments due as of the date of the written request. Any such request shall be in writing, shall be addressed to the Association and shall be delivered in accordance with the provisions of Section 12.01(a). The Board may set a reasonable charge for providing a statement of indebtedness, the payment of which shall be a condition precedent to the Board's obligation to provide it. If the Association fails to respond to a

proper written request for a statement of indebtedness within the time specified by the requesting party, which specified time shall not be less than ten (10) business days after receipt of same by the Association and upon submission of a properly executed certified mail return receipt to the Association, such transferee (or prospective transferee) shall not be liable for, nor shall the Lot transferred be subject to a lien for, any unpaid assessments against the subject Lot accruing prior to the date of the written request. Except for fraud or misrepresentation, any statement of indebtedness provided as aforesaid shall be conclusive upon the Association.

SECTION 5.02.        Management of Maintenance Fund.

(a)        When Assessed; Payment; Rates.

(i)        Regular assessments and Shared Utility Facilities assessments shall be assessed on a monthly basis. Except as otherwise determined by the Board, regular assessments and Shared Utility Facilities assessments shall be due and payable annually, in advance, on the first (1<sup>st</sup>) day of January of each calendar year. The Board may elect to collect either regular assessments or Shared Utility Facilities assessments, or both, in advance on a monthly or quarterly basis in which case such assessments shall be due and payable, in advance, on or before the first (1<sup>st</sup>) day of each month or each quarter, as the case may be.

(ii)        In the event of foreclosure of a first mortgage or first deed of trust lien or in the event of a discharge in bankruptcy, the purchaser at foreclosure or the Owner discharged in bankruptcy shall be liable for unpaid regular assessments and Shared Utility Facilities assessments which are assessed or assessable from and after the first (1<sup>st</sup>) day of the month following the date of foreclosure or filing of bankruptcy, and any installments for special assessments or under any agreement for payment of any assessments over a period of time which become due and payable after said date. The foregoing shall apply regardless of whether assessments are payable annually, quarterly or monthly.

(iii)        Except as provided in Sections 5.02(b) and 5.05, both regular and special assessments and Shared Utility Facilities assessments on all Lots shall be fixed at a uniform rate and shall be determined on a per Lot basis.

(b)        Application of Payments. All payments made by or on behalf of an Owner shall be deemed made upon the date of receipt of the payment by the Association or its designated agent. All payments received for assessments (regular, Shared Utility Facilities, special or specific), including payments received in consequence of judicial or non-judicial foreclosure, shall be applied first to payment of all Shared Utility Facilities assessments due, then to payment of all specific assessments due, such application to be made in inverse order of the specific assessments listed in Sections 5.06(a)(i) through (a)(viii), then to payment of all special assessments due, and finally to payment of all regular assessments due, application within each category to be on a first in, first out basis.

SECTION 5.03. Commencement, Base Rate and Subsequent Computation of Regular Assessments.

(a) Annualized Rate of Regular Assessment. Regular assessments shall commence as to each Owner upon the first (1<sup>st</sup>) day of the month following conveyance of a Lot to the Owner. The full-annualized rate of regular assessments (unless modified as herein provided) shall not exceed one thousand seven hundred fifty dollars (\$1,750.00) per Lot per year, assessed at the rate of one hundred forty-five dollars and eighty-three cents (\$145.83) per Lot per month. This annualized rate of regular assessments does not include any Shared Utility Facilities Assessment as further described in Section 5.05.

(b) Establishment of Budget and Rate of Regular Assessment. Annually, prior to the close of each fiscal year, the Board shall:

(i) prepare a budget covering the estimated costs and expenses of operations during the coming year;

(ii) fix an annualized rate of regular assessment and Shared Utility Facilities assessment, if any, per Lot based upon and applicable to such budget, which rate of assessment may be the same, higher or lower than the rate of assessment then in effect; and

(iii) specify separately as to such annualized rate of regular assessment and Shared Utility Facilities assessment if any, whether same shall be payable monthly, quarterly or annually.

Any such budget may be modified, corrected or amended and/or the rate of assessment changed by the Board from time to time as the Board may determine.

(c) Notice of Rate of Assessment. At any time when the existing rate of assessment will be changed, the Board shall cause a notice of rate of assessment to be levied against each Lot to be mailed or delivered to each Owner. The notice of rate of assessment shall become effective on the date stated in the notice of rate of assessment (which date shall not be less than thirty (30) days after mailing or delivery of same), unless the budget or notice of rate of assessment is disapproved by vote of the Owners of two-thirds (2/3<sup>rds</sup>) of the Lots then contained within the Subdivision at a special meeting of the Owners called within thirty (30) days and actually conducted within sixty (60) days after the effective date of the notice of rate of assessment. Such special meeting shall be called and conducted upon the written request of any two (2) members of the Board or the Owners of at least twenty percent (20%) of the Lots then contained within the Subdivision. In the event a notice of rate of assessment is mailed or delivered later than thirty (30) days prior to the effective date of the rate of assessment stated therein, then the stated rate of assessment shall become effective on the first (1<sup>st</sup>) day of the month following expiration of thirty (30) days from mailing or delivery of same, again subject to the right of the membership to disapprove the rate of assessment as aforesaid.

(d) Disapproved or Undetermined Rate of Assessment. Notwithstanding anything to the contrary herein, in the event the Owners disapprove any proposed rate of assessment or the Association fails for any reason to establish a rate of assessment, then and until

such time as a rate of assessment shall have been determined, as provided herein, the rate of assessment then in effect shall continue in full force and effect; and the omission or failure for any reason to determine a rate of assessment or to mail or deliver a notice of rate of assessment shall not be deemed a waiver, modification or release of an Owner's obligation to pay assessments or other charges.

SECTION 5.04. Special Assessments. In addition to the other assessments authorized herein, the Board may levy special assessments at any time during each fiscal year for purposes of defraying, in whole or in part any expenses not anticipated by the budget then in effect, or to replace part or all of any contingency or reserve fund. So long as the total amount of special assessments allocable to each Lot does not exceed Five Hundred Dollars (\$500.00) in any one fiscal year, the Association may impose the special assessment without vote or approval of any Owner. Any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by the Owners of two-thirds (2/3<sup>rd</sup>s) of the Lots then contained within the Subdivision. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

SECTION 5.05. Shared Utility Facilities Assessment. Each occupied residence or Lot and the Owner thereof shall be subject to such Shared Utility Facilities assessments as may be set by the Board, payable and to be determined in the same manner as regular assessments except as herein provided. The amount of the Shared Utility Facilities assessment shall reflect the anticipated costs and expenses of providing the Shared Utility Facilities, including without limitation any charges by the City of Houston, State of Texas or any other shared utility or service provider for water, sewer, garbage collection and all other shared facilities or services, as well as all anticipated construction, maintenance, repair or replacement expenses. The Shared Utility Facilities assessment shall be uniform as to each residence or Lot except that the Board may apply surcharges to individual residences or Lots to cover added expenses for abnormal and excessive water usage, swimming pools, spas, or similar appurtenances, or other factors unique to individual residences or Lots causing higher expenses related to such residence or Lot.

SECTION 5.06. Specific Assessments.

(a) Specific assessments shall be assessed against individual Lots and the Owner thereof at the time liability for same shall accrue as follows:

(i) Interest. Interest at the rate of the lesser of eighteen percent (18%) per annum or the maximum legal rate shall be charged on all delinquent assessments, whether regular, Shared Utility Facilities, special or specific, which are not paid in full within thirty (30) days after the due date from and after the date payment of same is due.

(ii) Late Charges. A late charge in the amount of ONE HUNDRED DOLLARS (\$100.00) per month, or such other reasonable amount as from time to time determined by the Board, is hereby imposed as to any regular, Shared Utility Facilities or special assessment, and as to any of the specific assessments which are not paid in full within thirty (30) days after payment of same is due.

(iii) Compliance Costs. All expenses incurred by reason of a breach or violation of or to obtain compliance with any provisions of this Declaration or other Governing Documents shall be assessed against the Owner of the Lot who occasioned the incurrence of such expenses, including reasonable attorney's fees, whether incurred prior to, during the pendency of or after successful completion of any actions in a court of competent jurisdiction.

(iv) Foreclosure of Assessment Lien. In the event of foreclosure of the assessment lien as herein provided, the Owner shall be required to pay to the Association a reasonable rental as determined by the Board for the use of the Lot and improvements thereon during the period of foreclosure, and the Board shall be entitled to a receiver to collect same. The "period of foreclosure" shall commence on the date of posting of the Lot for foreclosure in the event of non-judicial foreclosure, or on the date of entry of judgment granting foreclosure in the event of judicial foreclosure. The "period of foreclosure" shall continue through the date of acquisition of actual possession of the Lot by the purchaser at the foreclosure sale.

(v) Fines. The Board may from time to time assess and impose such reasonable fines as the Board may determine for each violation by the Owner of any of the covenants, conditions, restrictions or easements created by or under this Declaration, which fines shall only be assessed and imposed after notice to the offending Owner to cease and desist from any further violation.

(vi) Transfer Fee. Upon transfer of ownership of any lot a transfer fee shall be paid to the Association in an amount, which shall be set by the Board from time to time. Initially, the transfer fee shall be two hundred and fifty dollars (\$250.00) and shall be due from the acquiring Owner.

(vii) Other Assessments. Should the Owner of any Lot or his representative request the Association to provide information, certificates, certification or legal opinions regarding this Declaration, the status of the Association, the status of fees assessed against any Lot or any other information of a similar nature, such cost of obtaining such information, documents, legal opinions, certificates or certifications shall be assessed as a fee to be paid by such requesting Owner.

(viii) Other Obligations. All other monetary obligations established by or pursuant to this Declaration, or other Governing Documents, including such reasonable charges as the Board may by resolution from time to time determine for providing a statement of indebtedness, and charges for processing of applications for architectural approval, if any, which are intended to apply to one (1) or several but not all Lots shall be assessed against the Owner(s) of the Lot(s) incurring same.

(b) Payment; Waiver. Specific assessments shall become due and payable immediately upon the occurrence of the event giving rise to liability for payment of same. Failure of the Association to impose or collect any specific assessment shall not be grounds for any action against the Association, or any Director, officer, agent or employee thereof, and shall not constitute a waiver of the Association's right to exercise its authority under this Section in the future. For

good cause shown as determined in the sole good faith discretion of the Board, the Board may waive, wholly or partially, imposition of any specific assessment; provided, any such waiver shall be conditioned upon payment in full of all remaining monetary obligations then owed to the Association or receipt of written commitment that same will be paid within a specified period of time.

SECTION 5.07.      Lien for Assessments.

(a)      Establishment of Lien. All sums assessed against any Lot pursuant to this Declaration, whether by regular, Shared Utility Facilities, special or specific assessment as provided herein, shall be secured by a continuing lien on such Lot in favor of the Association.

(b)      Perfection of Lien. The recordation of this Declaration constitutes record notice and perfection of the Association's continuing lien, effective from the date of recordation of this Declaration. No further recordation of a claim of lien or other notice of any type or kind whatsoever shall be required to establish or perfect such lien. To further evidence such lien, the Association may, but shall not be required to, prepare and file in the Official Public Records of Real Property of Harris County, Texas, written notice of default in payment of assessments in such form as the Association may direct.

(c)      Priority of Lien. The Association's continuing lien shall be superior to all other liens or encumbrances on each Lot except:

(i)      a first purchase money mortgage or deed of trust lien covering a Lot or any lien for work and materials used in constructing improvements thereon if duly recorded before the date sums assessed pursuant to this Declaration became due, and only to the extent of sums unpaid under such liens or encumbrances; and

(ii)     liens for real estate taxes and other governmental assessments or charges.

Any sale or transfer of a Lot shall not affect the Association's lien; provided, however, in the event of sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a superior lien as aforesaid or discharge of an Owner in bankruptcy, the Association's lien shall be extinguished only to the extent same secures payment of assessments or charges due up to the date of foreclosure or as of the date of filing of bankruptcy. Foreclosure of a superior lien shall not relieve the former Owner of the Lot from the personal obligation for payment of assessments due up to the date of foreclosure. Foreclosure of a superior lien or discharge in bankruptcy shall not relieve the affected Lot or any Owner thereof subsequent to the date of foreclosure or filing of bankruptcy from liability for assessments thereafter assessed or from the Association's lien therefor. Except as set forth above, all other Persons acquiring liens or encumbrances on any Lot shall be deemed to consent that such liens or encumbrances shall be inferior to the Association's lien for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances. In addition to the automatic subordination provided hereinabove, the Board may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as the Board may determine.

SECTION 5.08. Effect of Nonpayment of Assessments.

(a) Effect. Any assessments, which are not paid when due, shall be delinquent and, subject to the provisions of Section 3.04(d), the rights of the Owner shall be automatically suspended until all assessments are paid in full as follows: (1) such Owner shall not be entitled to vote upon any matters coming before the Members, and (2) no such Owner shall be counted in determining the total number of Lots within the Subdivision for purposes of determining a quorum or for any other purposes when voting by a designated percentage of Owners is required by this Declaration or other Governing documents; and if any assessments are not paid within thirty (30) days after the due date, then:

(i) late charges, interest from the due date, and all costs of collection (including reasonable attorney's fees), all as set forth in Section 5.06, shall be added to and included in the amount of such assessment; and

(ii) upon ten (10) days' written notice, the Association may: (1) accelerate through the end of the twelve month period from the first (1<sup>st</sup>) day of the month following the date of giving of notice of acceleration all regular and Shared Utility Facilities assessments, and any installments for special or specific assessments due or to become due during said period; (2) suspend all rights of the delinquent Owner, and the Owner's tenants, and the guests and invitees of either, to the usage of Community Properties (including all recreational facilities); and (3) suspend all maintenance, utility or other services (including Shared Utility Facilities) provided by the Association to the Owner, and the Owner's tenants, and the guests and invitees of either.

(b) Action for Debt; Foreclosure. Each Owner vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of all delinquent assessments as a debt, and to foreclose the Association's lien by all methods available for the enforcement of such lien, including foreclosure by an action brought in the name of the Association either judicially or non-judicially by power of sale, and each Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Association's lien. Non-judicial foreclosure shall be conducted by notice and posting of sale in accordance with the then applicable laws of the State of Texas; and the Association is expressly empowered hereby to designate a trustee in writing from time to time to post or cause to be posted any required notices and to conduct any such non-judicial foreclosure sale. The Association may include in a non-judicial foreclosure sale an amount of attorney's fees equal to the greater of (1) one-third (1/3<sup>rd</sup>) of the amount of all actual costs and assessments, excluding attorney's fees, plus interest and court costs, or (2) \$2,500. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same.

SECTION 5.09. Assessments as Independent Covenant. No Owner may waive or otherwise escape liability for the payment of assessments as provided for herein for any reason, including, by way of illustration but not limitation, by nonuse of the Community Properties or abandonment of the Lot; and no diminution or abatement of assessments shall be claimed or allowed by reason of any alleged actions or failure to act by the Association, whether or not

required under this Declaration or other Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or by reason of any action taken by the Association to comply with any law, ordinance, or any order or directive of any governmental authority, the obligation to pay assessments hereby expressly declared to be a separate and independent covenant and contractual obligation on the part of each Owner.

## **Article VI Maintenance**

SECTION 6.01.       Responsibility of Association. The Association, acting through the Directors and any other Persons the Board may specifically designate by resolution from time to time, and only such Persons, shall maintain the Community Properties and Shared Utility Facilities, if any, and keep same in good repair. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Community Properties. Should an Owner have a usage easement over Community Properties, such Owner shall be solely responsible for the maintenance of such area contained in the usage easement. The Association shall also construct and maintain such drainage facilities and devices upon the Community Properties, and upon area bayous or other drainage courses and area lands to the extent it may reasonably do so, as may be reasonably necessary to protect Lots and to provide effective erosion control for the Subdivision.

### SECTION 6.02.       Owner's Responsibility.

(a)       General. All maintenance of the Lots, usage easements, and all improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot and any area subject to a usage easement, in a manner consistent with the standards of use, conduct, appearance and maintenance generally prevailing in the Subdivision or as may be more specifically determined by this Declaration and other Governing Documents, including, as determined from time to time, by duly adopted Architectural Guidelines and Rules and Regulations established by the Association.

(b)       Disturbance of Community Properties. In the event that the performance of any Owner's maintenance responsibilities shall require that any portion of the Community Properties, including any Shared Utility Facilities, be modified, removed or disturbed, then such Owner's obligations shall be performed, at the option of the Association, either under the supervision of the Association in accordance with plans and specifications approved by the Association, or by the Association at the expense of the Owner. If the Association shall perform such obligations at the expense of the Owner, the Owner shall pay such expense upon demand. Such indebtedness shall be added to and become a part of the specific assessment to which such Owner and the Owner's Lot shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Lot.

(c)       Owner's Default. In the event that the Board determines that (i) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible under this Declaration or other Governing Documents, or (ii) the need for maintenance, repair, or replacement which is the responsibility of

the Association hereunder has been caused through the willful or negligent act of an Owner, the Owner's tenants, or the family, guests, or invitees of either, then the Association may perform the repair, replacement or maintenance at such Owner's sole cost and expense; provided, the Association shall, except in the event of an emergency, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall be given to the Owner affected in accordance with Section 12.01 and shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work within ten (10) days and to complete same within a reasonable time not to exceed thirty (30) days unless otherwise specifically approved by the Association. If any Owner does not comply with the provisions hereof, the Association shall have the right (but not the obligation), through its officers, Directors, agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements located thereon; and in case of emergency, or to the extent necessary to prevent rat infestation, or to diminish health, fire or other safety hazards, the Association shall have the right (but not the obligation), through its officers, Directors, agents and employees, to enter any residence or improvement located upon such Lot. Neither the Association nor its officers, Directors, agents or employees shall be liable for trespass or any other tort or claim for damages in connection with the performance of maintenance and the other work authorized under this Article VI. All costs of such maintenance, repair or replacement shall be added to and become a part of the specific assessment to which such Owner and the Owner's Lot shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Lot.

## **Article VII Use Restrictions**

SECTION 7.01. Residential Use. Each and every Lot is hereby restricted to residential dwellings for single-family residential use only. No business, professional, commercial or manufacturing use shall be made of any Lot or any improvement located thereon, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence. This section does not preclude residents working out of their home office, as long as the work does not involve the manufacture, receipt or distribution of tangible goods or products at the residence or clients, customers, employees and the like coming to and going from the residence for any business, professional, commercial, or manufacturing purpose. No structure other than one single-family residence and its permitted outbuildings shall be constructed, placed on or permitted to remain on any Lot in the Subdivision. Without limitation of the foregoing, as used in this Declaration: (i) the term "residential use" shall be construed to prohibit the use of any Lot for apartment houses or other type of dwelling designed for multi-family dwelling, or for more than one (1) residential unit upon any single Lot or the use of any garage as a garage apartment or residential living quarters; (ii) the term "single-family" shall be construed to mean and include only parents, children, grandparents, and grandchildren and domestic servants; and (iii) in no event shall a single-family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single-family residence multiplied by two (2).

SECTION 7.02. Animals and Livestock. No hogs, horses, livestock or poultry of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, dogs, cats or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business purpose, and further provided that no more than a total of three (3) such pets shall be kept on a Lot. All such household pets must be kept on a leash or otherwise maintained under the control of their Owner when not maintained in an enclosed yard. In the event permitted pets, as aforesaid, are permitted to roam free, or, in the sole discretion of the Association, endanger the health or safety, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to or in the vicinity of the Subdivision, the Association may cause any such pet to be removed from the Subdivision and may prohibit the return of any such pet to the Subdivision, all at the sole expense of the Owner and without liability of any kind whatsoever to the Association or any Person which the Association may direct to remove any such pet. Without prejudice to the Association's right to remove any household pets, no household pet that has caused damage or injury may be walked in the Subdivision regardless of whether such pet is leashed.

SECTION 7.03. Vehicles.

(a) Street and Driveway Parking. No vehicle of any kind shall be parked, stored or otherwise permitted to remain upon any Community Properties, or upon the Private Driveway, except as provided in Section 7.03(b), unless prior written consent of the Board is obtained. No boat, mobile home, trailer, boat rigging, truck larger than a three-quarter ton pickup, bus, unused vehicle, or inoperable vehicle of any kind (including any vehicle requiring same which does not have both a current and valid license plate and current and valid state inspection sticker) shall be parked or kept on any street in front of, or along the side or back of any Lot, or on any Lot, or on any driveway at any time unless such vehicle is stored within a garage.

(b) Permitted Parking and Speed Limit. All vehicular parking in the Subdivision shall conform to the parking rules set forth in Exhibit C hereto. In addition, the vehicular speed limit on the Bayou Island Drive shall be as indicated in Exhibit C hereto.

(c) Repair of Vehicles. No Person shall be permitted to perform work on any vehicle on any street in front of or along the side or back of any Lot, or on any Lot, at any time other than temporary emergency repairs required in order to promptly remove an inoperable or disabled vehicle from the Subdivision or to and within a garage.

(d) Vehicle Defined. As used in this Section, "vehicle" shall include without limitation, motor homes, boats, trailers, motorcycles, scooters, trucks, campers, buses, and automobiles.

(e) Towing. The Association may cause any vehicle which is parked or stored (whether or not pending repairs) in violation of this Declaration or other Governing Documents to be removed from the Subdivision to any vehicle storage facility within Harris County, Texas at the sole cost and expense of the Person owning such vehicle (whether or not such Person is an Owner) and/or the Owner as to whom such Person is a tenant, visitor, guest or invitee. Neither the Association nor any officers, Directors, agents or employees thereof, shall have any liability whatsoever in consequence of such removal, and the Owner as to whom the Person whose vehicle

has been so removed shall hold the Association, and its officers, Directors, agents and employees harmless from any and all claims, suits, actions, liabilities or damages arising, directly or indirectly, as a result of such removal

SECTION 7.04. Nuisance; Unsightly or Unkept Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye. No hobbies or activities which will cause disorderly, unsightly, or unkempt conditions, including without limitation the assembly or disassembly of motor vehicles or other mechanical devices, shall be performed within the Subdivision. No substance, thing, or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or a nuisance to any residents of the Subdivision or to any Person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Subdivision. No spirituous, vinous, malt, medicated bitters, alcohol, drugs or other intoxicants shall be sold or offered for sale on any part of any Lot or any other place within the Subdivision. No Lot or any part thereof shall be used for any immoral or illegal purposes. Upon the good faith determination of the Board that a violation of this Section exists, the Board may take such actions as it shall deem necessary to abate the violation in the manner provided in Section 6.02(c) at the sole cost and expense of the violating Owner.

SECTION 7.05. Septic Tanks. No septic tank, private water well or similar private sewage or water systems shall be permitted upon any Lot.

SECTION 7.06. Disposal of Trash. No trash, rubbish, garbage, manure, debris or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. No incinerator may be maintained on any portion of the Subdivision. All trash and similar matter to be disposed of shall be placed in plastic bags tied or otherwise tightly secured, and shall be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition, and shall comply with all current laws and regulations and those which may from time to time be promulgated by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. All such prohibited matter shall be removed from each Lot at regular intervals if not removed or removable by a regular garbage and sanitation service. Trash and garbage for pickup by a regular service shall be placed in such area or areas as the Board may from time to time direct, or as the garbage and sanitation service or City of Houston, State of Texas may require; provided, trash and garbage shall not be placed for pickup earlier than eight (8) hours prior to a scheduled pickup day.

SECTION 7.07. Contractor Activities. Builders or other contractors may or will be required, from time to time, to engage in repair, maintenance, construction or similar activities upon multiple Lots or Community Properties, store equipment or materials on one or more Lots or Community Properties, create accumulations of trash and debris and otherwise engage in activities and create conditions related to the care, upkeep or maintenance of the Subdivision and the residences therein.

SECTION 7.08. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist as determined by the Board, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 am to 6:00 p.m. on Saturdays. Construction work shall be permitted on Sunday between the hours of 12:00 p.m. to 6:00 p.m. provided that the activity is not offensive in nature.

SECTION 7.09. Building Materials. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction or repair of improvements upon any Lot may be placed upon such Lot at the time construction or repair is commenced. Building materials may remain on Lots for a reasonable time, so long as the construction or repair progresses without undue delay, after which time such materials shall be removed from such Lot and the Subdivision. Under no circumstances shall building materials be placed or stored on any street or walkway or upon any Community Properties unless approved by the Board.

SECTION 7.10. Outdoor Cooking. Outdoor cooking shall be permitted on any Lot only in equipment especially constructed for same, and only in such manner as not to create a hazard of fire or injury to persons or property. Outdoor cooking is prohibited upon Community Properties unless authorized by the Board. All outdoor cooking equipment shall be properly maintained, and shall be stored in an area screened from public view when not in use.

SECTION 7.11. Firearms. The use of firearms in the Subdivision is prohibited, except to the extent (and only to the extent) permitted by applicable law to protect an Owner's household or property. The term "firearms" includes "B-B" guns, pellet guns, and small or large firearms of all types.

SECTION 7.12. Basketball Goals. No basketball goals or backboards shall be mounted on a garage or on a pole, or otherwise erected or maintained upon any Lot, without the prior written approval of the ACC.

SECTION 7.13. Leases.

(a) Restrictions. No Lot may be leased other than for use as a single-family residence as herein provided and defined. No Owner may lease a Lot and attendant use of the residence and improvements thereon for transient or hotel purposes. No Owner may lease less than an entire Lot and attendant use of the residence and improvements thereon. All leases shall be:

- (i) in writing; and
- (ii) specifically subject in all respects to all provisions of this Declaration and all other Governing Documents (whether or not expressly stated in the lease), and

any failure by lessee to comply with the terms and conditions of the Governing Documents shall be a default under the lease and grounds for termination of the lease and eviction by the Owner or the Association.

(b) Liabilities. Lessor(s) and lessee(s) shall be jointly and severally liable for the observance and performance of all of the terms and provisions of this Declaration, all other Governing Documents and lessor(s) and lessee(s) shall be jointly and severally liable for all damages, costs and expenses resulting from any violation of, and/or all fines and assessments imposed thereby.

(c) Surrender of Use of Community Properties and Services by Lessor(s). During all periods of time during which a Lot is occupied by lessee(s), lessor(s) shall surrender all of lessor(s)' rights as an Owner to the use of all of the Community Properties unto such lessee(s), including without limitation all rights of use of recreational facilities, if any. The provisions of this Section shall not impair the voting rights of any lessor as Owner of any Lot, and shall not affect the rights of the lessor(s) to inspect the leased premises or to exercise any other rights or remedies customarily reserved for the protection of lessor(s).

SECTION 7.14. Unoccupied Residences. The Owner of a Lot with an unoccupied residence, any mortgagee in possession and any mortgagee obtaining title to a Lot by foreclosure or by any deed or other arrangement in lieu of foreclosure, shall remain liable for full observance and performance of all terms and conditions of this Declaration and all other Governing Documents, including in particular but without limitation: (i) proper maintenance of the Lot and all improvements thereon; and (ii) securing of the unoccupied residence including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use.

SECTION 7.15. Visitors, Guests and Invitees. Each Owner and each Owner's tenant shall insure that their respective visitors, guests and invitees fully comply with applicable provisions of this Declaration and all other Governing Documents, and shall be liable for all costs, expenses, losses, damages and fines caused by violations by any such visitor, guest or invitee.

SECTION 7.16. Children and Other Dependents. Owners and their tenants shall insure that their children and other dependents, and the children and other dependents of their visitors, guests or invitees, are properly supervised at all times, and shall not permit such children and other dependents to engage in any activity or conduct that will cause damage to or require additional maintenance of any of the Community Properties or other Lots, including landscaped areas and recreational facilities, or which otherwise are in violation of this Declaration. The parent(s), guardian(s) or other Person(s) with whom any child or dependent resides or who are otherwise legally responsible for the care and custody of the child or dependent shall be responsible for ensuring such child or dependent complies with applicable provisions of the Declaration and other Governing Documents, and shall be liable for the consequences of any violations(s) thereof by any such child or dependent

SECTION 7.17. Garage Usage. No portion of any garage shall be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. In particular but not in limitation of the foregoing, no portion of any garage shall be used as a

residence or game room, or for similar residential purpose. Garage doors shall be kept in a closed position when the garage area is not being actively used.

SECTION 7.18. Mineral Production. No drilling, development, operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 7.19. Clotheslines. No outside clotheslines shall be constructed or maintained on any Lot, nor shall any other outside drying of clothes be permitted.

SECTION 7.20. Rules and Regulations. The Board is hereby specifically authorized to promulgate, modify and delete such reasonable Rules and Regulations applicable to the operation, use and occupancy of the Subdivision, including all Lots and the Community Properties, as the Board shall from time to time deem beneficial to the Subdivision. Such authority shall include, but is not limited to, the right to limit, in addition to the provisions of Section 7.03, the type and size of vehicles within the Subdivision, traffic and parking regulations and other traffic control procedures, and the maximum permissible noise levels of vehicles within the Subdivision. The Rules and Regulations shall be enforceable in the same manner as the provisions of this Declaration, provided:

(a) Such Rules and Regulations shall not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity shall cease after enactment of the Rules and Regulations covering same, then the Rules and Regulations shall apply to the activity thereafter); and

(b) Rules and Regulations shall not become effective until thirty (30) days after true and correct copies thereof are delivered or mailed to all Owners.

**Article VIII**  
**Architectural Restrictions**

SECTION 8.01. Type of Residence.

(a) Type of Structures. Only one single-family residence not to exceed two and one-half stories and not to exceed forty feet (40') in height shall be built or permitted on each Lot.

(b) Garages. All single-family residences shall have an attached or detached enclosed garage. Each such garage shall contain a minimum of three hundred seventy five (375) square feet of interior floor space, and shall not be larger than a three-car garage. Except for porte-cocheres, carports on Lots are prohibited. All garages must be enclosed with permanent walls and their front enclosed with standard type metal overhead doors customarily used in the building industry unless otherwise approved by the ACC, and shall be equipped with an automatic door opener which shall be maintained in good working order by the Owner at all times. Any replacement garage door shall be painted to match the then existing color scheme of the residence. No modification of the interior or exterior of any garage as originally constructed shall be permitted without prior written approval of the ACC as herein provided.

(c) New Construction Required. When built or rebuilt, all structures shall be of new construction, and no structure shall be moved from another location to any Lot. All residences must be kept in good repair, and must be painted when necessary to preserve their attractiveness.

(d) One-Half Story. A dwelling containing a one-half story for the purpose of this Article VIII shall include any residence containing a loft, any residence where the perimeter walls of the one-half story portion are hidden below the roof line of the story below or the ceilings of the second-story rooms at the eaves are comparatively low, or as may otherwise be designated and determined by the ACC.

SECTION 8.02. Living Area Requirements. All single-family dwellings, exclusive of porches and garages, shall contain not less than two thousand five hundred (2,500) square feet, and no such dwelling containing at least three thousand two hundred (3,200) square feet, exclusive of porches and garage, may be rebuilt, downsized or otherwise constructed upon any Lot if the result of such activity is that such dwelling no longer contains at least three thousand two hundred (3,200) square feet, exclusive of porches and garage.

SECTION 8.03. Location of Residence on Lot.

(a) General. No building or structure (including any single-family dwelling, but excluding any roof overhang, fireplace, chimney, bay window, steps or similar architectural detail which is part of a single-family residence) shall be located upon any Lot (i) except in accordance with building setback lines shown on the Plat, or as established by this Declaration or applicable ordinances of the City of Houston, State of Texas, or (ii) within any easement existing at the time of construction as shown on the Plat or otherwise prohibited by Article IX hereof.

(b) Setback. Other than as the ACC may authorize, a single-family residence on any Lot, once constructed, shall not thereafter be modified, replaced or reconstructed except within the footprint of the single-family residence as originally constructed.

(c) Encroachment. In addition to the provisions of Section 9.03, any roof overhang, fireplace, chimney, bay window, steps or similar architectural detail of a single-family residence may encroach across any setback line up to a maximum distance of thirty inches (30”) if approved by the ACC.

(d) Zero Lot Line. A dwelling may have one outside wall located within one (1) foot of the side Lot line designated as the “zero setback line” for that Lot. Corner Lots may have a “zero setback line” opposite the side street. Roofs on the zero setback line shall be constructed in such a manner as not to drain on to the adjacent Lot. No windows, except for glass block, doors or other openings may be placed in the wall built on or parallel to the zero setback line except as otherwise approved by the ACC.

SECTION 8.04. Construction Standards. Except as may be otherwise authorized by the ACC and in addition to all other applicable requirements of this Declaration, any repair to or replacement of all residences and appurtenant structures shall be in accordance with, and such residences or appurtenant structures shall be maintained in accordance with, the following:

(a) Maximum Period for Commencement and Completion of Rebuilding. If all or substantially all the residence on any Lot is damaged or destroyed by fire or other casualty event, including, without limitation, if such residence is determined to be a total loss for insurance purposes, then the replacement or rebuilding thereof must be commenced by the Owner within three (3) months after such damage or destruction, provided that the Board of Directors shall have the authority, upon a showing of good cause, to extend the date of commencement of construction for up to another three (3) months. After commencement of construction the work thereon shall be prosecuted diligently to the end that the same shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof, and in any event construction shall be substantially complete (as reasonably determined by the Board) within one (1) year from the date of commencement of construction; provided, however, that the Board of Directors shall have the authority, upon showing of a good faith effort to complete construction within such one-year period, to extend the period for completion by up to two (2) additional six (6) month periods, in each case without charge. After notice is given by the Association that any of the aforesaid times has been exceeded (after taking into consideration any extension thereof), the Board may assess an extension fee of up to two thousand dollars (\$2,000) per month against such Lot, which fee shall accrue during each month or portion thereof after notice to the Owner of the Lot in question shall have been given by the Association and until the date that construction commences or is substantially complete, whichever is the case.

(b) Zero Lot Line Wall. The side wall of a residence or appurtenant structure built on the zero Lot line shall be constructed using permanent low-maintenance material consisting of stucco or masonry with brick-face exterior or similar material as approved by the ACC or as required by applicable building codes or other governmental regulations or ordinances. Glass block shall be permitted as qualified per applicable building codes. Except as otherwise approved by the ACC, the Owner of any adjacent Lot shall not attach anything to a sidewall or fence located upon the zero Lot line.

(c) New Construction Materials Required. Only new construction materials (except for used brick if approved by the Association) may be used unless otherwise approved by the ACC.

(d) Storage of Materials; Clean Up. No building material of any kind or character shall be placed or stored upon any Lot more than thirty (30) days before the construction is commenced. All materials permitted to be placed on a Lot shall be placed within the property lines of the Lot. At the completion of such building or improvements, any unused materials shall be removed immediately.

(e) Landscape Sprinkler System. All landscaping installed on any Lot shall be in accordance with the plans and specifications approved by the ACC. Approved landscaping of any Lot and a sprinkler system as hereinafter provided shall be installed and maintained by and at the expense of each Owner in a clean, neat and attractive manner.

Each residence shall have an underground yard water sprinkler system covering all areas intended for grass planting and maintenance of flower and shrubbery beds, and with adequate lap of spray such that the pattern provides full coverage of all such areas. All water sprinkler systems shall be connected to the Shared Utility Facilities and shall be subject to all Architectural Guidelines and

Rules and Regulations regarding same, and shall not be individually metered except upon written consent of the ACC, but shall otherwise be owned and properly maintained at all times by the Owner of the Lot upon which they are situated and shall be operated by the Owner as necessary to properly maintain grass and landscaping in all yard areas. The controls for such system shall be located in a location approved by the ACC, which may be on the exterior of the residence or in the garage. Each Owner shall supply a valve, which shall be located at the connection of the sprinkler system and the Shared Utility Facilities, and in a box for easy access to same.

(f) Home Address Numbers. Any house address number markers shall be subject to the prior written approval of the ACC, and as to the same the ACC shall maintain uniformity as developed from initial approved number markers.

(g) Driveways. Each Lot shall contain a driveway constructed of concrete, pavers or other material as approved by the ACC.

(h) Exterior Materials. The exterior materials for a single-family residence and appurtenant structures constructed on a Lot must be brick, stone or stucco. Any brick used on the exterior of a residence and appurtenant structures constructed on a Lot shall appear aged and traditional, and the specific brick to be used shall otherwise be expressly approved by the ACC. All stucco colors shall be approved by the ACC.

(i) Drainage. All construction of residences and appurtenant structures or other improvements, and all grading and all other work in relation thereto shall be performed in such manner as to prevent drainage from such Lot to another Lot or the Community Properties except where such properties contain a drainage ditch or related facilities, and to such end gutters on roofs, drains, drainage lines and similar devices may be required by the ACC when circumstances reasonably require.

(j) Garage Height. No garage shall exceed in height the dwelling to which it is appurtenant.

(k) Frame Construction. No structure of any kind or character which incorporates frame construction on the exterior shall be erected on any Lot unless such structure has been approved by the ACC.

(l) Tree Removal. No living tree shall be cut down or removed from any Lot unless approved by the ACC.

(m) Mailboxes. All residences shall have a mailbox constructed at the curb edge in front of the residence, which mailbox shall be constructed of a material and design approved by the ACC.

SECTION 8.05. Maximum Density. No more than thirty-three (33) single-family residential dwellings shall be constructed upon the land described in the Plat.

SECTION 8.06. Metal Building Structures. No metal buildings or structures of any kind are permitted anywhere within the Subdivision without the prior approval of the ACC.

SECTION 8.07. Mobile Homes, Temporary Structures, Sales Office. No mobile homes, modular homes or similar prefabricated residential structures of any kind shall be permitted upon any Lot. Temporary buildings or structures shall not be permitted on any Lot; provided, the Board may permit temporary toilet facilities to be used in connection with the construction of residences at such locations as the Board shall direct.

SECTION 8.08. Roof Materials. Roofs of all residences shall be constructed so that the exposed material is minimum 300# composition shingles of a GAF Timberline type and design, or such other material and design approved by the ACC, and all storm and energy efficient shingles shall comply with the provisions of Section 4 of the Multiple Guidelines.

SECTION 8.09. Fences, Walls and Hedges. Except as approved by the ACC, all fences and freestanding fence-type walls, gateposts and planters wherever located on a Lot, must be constructed of ornamental iron, wood or masonry construction and must be finished on all sides. No fence, freestanding fence-type wall, gatepost, planter or hedge shall exceed eight (8) feet in height. No chain link fences shall be permitted. The ACC may authorize construction or placement, of a fence, freestanding fence-type wall or hedge even with the wall of a residence on the zero lot line as provided in Section 8.03(b) in which event a perpetual easement shall be deemed granted to the adjacent Lot as to such portion of the Lot which is closed off by same. No fences are to be permitted in the front yard of any Lot or residence.

SECTION 8.10. Antennas and Satellite Dish Systems. No radio or television wires or antenna shall be placed on any Lot between a residence and any adjoining street, and no freestanding antenna shall be placed anywhere upon a Lot or within the Subdivision. Any permitted exterior antenna shall be placed on a portion of the roof of the residence which does not face a street, shall be securely anchored and fastened, and shall not extend more than five feet (5') above the peak of the roof of the residence to which it is attached. Citizen band radio and other publicly or privately owned radio operation antenna are strictly prohibited. No satellite dish system of any type shall be permitted on any Lot or elsewhere in the Subdivision unless approved by the ACC. The ACC may (but shall not be required to) permit installation of a satellite dish system only if no part of same is visible from any street or any other Lot at ground level.

SECTION 8.11. Signs. No Owner shall display on his property any political sign except in compliance with the provisions of Section 7 of the Multiple Guidelines. No other signs, billboards, posters or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, shall be permitted on any Lot, or upon any residence, or within any residence if visible from the exterior of the residence, or within the Subdivision without the prior written consent of the ACC other than one sign of not more than six (6) square feet advertising the particular Lot on which the sign is situated for sale. For rent signs are prohibited. The Association shall also have the right to erect identifying signs at the entrance to the Subdivision. Any member of the ACC or Board of Directors, or an authorized representative of either, may remove any sign, billboard, poster or advertising device located upon or within the Subdivision in violation of the foregoing and dispose of same as trash without liability for trespass or in tort, or otherwise.

SECTION 8.12. Exterior Lighting. Any exterior lighting of a residence or Lot shall be subject to prior ACC approval. No exterior lighting shall be directed outside lot lines of the Lot

upon which same is located except as specifically approved by the ACC. All lighting fixtures shall be compatible in style and design to the residence where located. Each resident shall have one or more exterior fixtures as approved by the ACC, which come on automatically each evening and remain on until dawn.

SECTION 8.13. Traffic Sight Areas. No fence, wall, hedge, tree, shrub planting or any other thing or device which obstructs sight lines at elevations between two and six feet above a street shall be permitted to remain on any corner Lot within the triangular area formed by the two (2) Lot lines abutting the street and a line connecting them at points twenty-five feet (25') from their intersection, or within the triangular area formed by the Lot line abutting a street, the edge line of any driveway or alley pavement and a line connecting them at points ten feet (10') from their intersection.

SECTION 8.14. Solar Energy Devices. No solar energy device (as defined in Section 3 of the Multiple Guidelines) shall be placed, allowed, or maintained upon any portion of the Subdivision, including any Lot, without the prior written consent of the ACC. Any such installation shall also comply with the other provisions of Section 3 of the Multiple Guidelines.

SECTION 8.15. Exterior Colors. Unless otherwise approved by the ACC, all residences must be painted or repainted in a color used in the original construction of residences within the Subdivision which color shall be approved by the ACC.

SECTION 8.16. Maintenance of Utilities. All utility services provided to each residence, including without limitation, sewage, electric and gas services, shall be maintained by the Owner at all times.

SECTION 8.17. Air Conditioners. No window, wall or exterior roof mounted type air conditioners shall be permitted unless approved by the ACC. No exterior components of an air conditioner shall be located in front of the residence. A wall-mounted air conditioner shall be permitted in the entrance guardhouse.

SECTION 8.18. Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the ACC, and shall be maintained at all times by the Owner of the Lot upon which located.

SECTION 8.19. Miscellaneous Items. The installation, placement and maintenance by any Owner on his Lot of (i) a rain barrel or rain harvesting system or a flagpole shall comply with the applicable provisions of Sections 2 and 5 of the Multiple Guidelines and (ii) a standby electric generator (as defined in Section 1 of Exhibit H) shall comply with the Standby Electric Generator Guidelines. Likewise, an Owner's display of any flag or religious item on his property shall comply with the applicable provisions of Sections 5 and 6 of the Multiple Guidelines.

SECTION 8.20. Compliance with Laws. All construction of any single-family residence shall be in compliance with applicable governmental laws, ordinances and regulations, including applicable building codes or permit or licensing requirements.

## **Article IX Easements**

SECTION 9.01. Incorporation of Other Easements. All easements, dedications, limitations, restrictions and reservations shown on the surveys of each Lot, the Subdivision Plat and any plat or map filed in the plat or map records of Harris County, Texas, and grants and dedications of easements and related rights heretofore made by the Association and its predecessors in title affecting the Subdivision or any Lots and filed in the Official Public Records of Real Property of Harris County, Texas, are incorporated herein by reference and made a part of this Declaration for all purposes 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 the Association covering any portion of the Subdivision or any Lot.

SECTION 9.02. Owner's Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use, and enjoyment in and to the Community Properties (except for perpetual easements granted by the Board) and a private easement for vehicular and pedestrian ingress and egress over, across and upon the Private Driveway which shall be appurtenant to and shall pass with the title to the Lot, subject to the following provisions:

(a) Usage Control. The Association shall have the right to establish and regulate a limited access gate and such other security oriented systems and procedures as the Board may determine, to issue, charge for, and require as a condition of entry to the Subdivision and Community Properties such identification cards, passes, keys, or similar devices as the Board may from time to time determine, to limit the number of guests of Lot Owners and tenants who may use the Community Properties, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees; and to charge reasonable admission and other fees for the use of any portion of the Community Properties.

(b) Suspension of Usage Rights. Except as to ingress and egress upon the Private Driveway, the Board shall have the right upon ten (10) days' written notice to suspend the right of an Owner, and the Owner's tenant, and the guests or invitees of either, to use all or any part of the Community Properties for any infraction of the Declaration until all such infractions are cured.

SECTION 9.03. Easements for Encroachment and Overhang. In the event that any portion of any roadway, walkway, parking area, driveway, water line, sewer line, utility line, sprinkler system, building or any other structure or improvement, including without limitation any building steps, fences, paving, decking, footings, piers, piles, grade beams or similar improvements, or any overhang of walls or roofs of any such building or structure as originally constructed encroaches on any Lot or the Community Properties due to the unintentional placement or settling or shifting of any of the foregoing to a distance of not more than twenty-four inches (24"), as measured from any point on the common boundary between each Lot and the adjacent portion of the Community Properties or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point, it shall be deemed that the Owner of such Lot or the Association has granted a perpetual easement to the Owner of the adjoining Lot or the Association for continuing maintenance and use of such encroaching structure or improvement.

The foregoing shall also apply to any necessary maintenance, repair or replacement of any of the foregoing if performed in substantial compliance with the original construction. So long as necessary, the foregoing easements shall be perpetual in duration, and once established shall not be subject to amendments or terminate.

SECTION 9.04. Owners' Access Easement.

(a) Defined. Each Lot and the Community Properties shall be subject to a non-exclusive access easement for the construction, maintenance, repair and replacement of improvements located upon any adjacent Lot (the "Accessing Lot") for usage by accessing Lot Owner or occupant, or their respective agents or employees. The Lot or Community Properties being accessed is herein referred to as the "Easement Lot." This access easement area on the Easement Lot (the "Access Area") shall consist of a three foot (3') strip of land abutting the zero setback line of the Accessing Lot unless such Lot has an approved residential structure constructed within such area, in which case the Access Area shall be limited to the area between the residences.

(b) Notice, Duration. Prior to use of the Access Area, the Owner or occupant of the Accessing Lot shall give written notice of intent to utilize the Access Area stating therein the nature of intended use and the duration of such usage. Such notice shall be delivered to the Owner or occupant of the Easement Lot by regular or certified mail or personal delivery, or by attaching same to the front door of the residence located upon the Easement Lot. If by mail, such notice shall be given at least five (5) business days prior to use of the Access Area; and if by personal delivery or affixing to the front door, such notice shall be given at least forty-eight (48) hours prior to use of the Access Area. In case of emergency the Accessing Lot Owner or occupant may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the emergency and complete work necessitated thereby, but shall proceed with giving of required notice as soon as practical after commencement of usage.

(c) Usage. Usage of the Access Area shall be limited to the minimum reasonable amount of time required to complete necessary work to preserve, protect, construct, maintain, repair and replace the Accessing Lot and the residence or other structures and improvements located thereon. Work during the usage period shall be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Easement Lot and its occupants. Except in case of emergency or unless otherwise authorized by the Owner or occupant of the Easement Lot, work during the usage period shall be confined to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays.

(d) ACC Approval of Access Area Improvements. No structure or improvements other than grass, flower and shrubbery beds and sprinkler system shall be placed within the Access Area at any time without the prior written approval of the ACC.

(e) Restoration. Promptly after completion of usage of an Access Area, the Accessing Lot Owner or occupant shall thoroughly clean the Access Area and repair and restore same to substantially the same condition that existed at the time of commencement of usage; provided, such obligation for restoration shall not apply to exotic structures or improvements which substantially exceed the norms for Access Areas existing in the Subdivision at the time notice is given of intent to access the Access Area.

SECTION 9.05.      Utilities.

(a)      Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, and to garbage and trash collection vehicles and other service vehicles to enter upon the Lots in the performance of their duties. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Subdivision in performance of mail delivery or any other United States Post Office services.

(b)      Changes and Additions. Upon the written consent of a majority of the Owners, the Association shall have the right to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public, quasi-public or private utility purposes, including, without limitation, gas, electricity, telephone, sanitary or storm sewage, cable television, security systems, and drainage in favor of any corporation or other Person furnishing or to furnish utility services to the Subdivision, along, over, above, across and under the Subdivision and any Lot; provided, such additional easements shall not interfere with any existing building (including a residence) or swimming pool within the Subdivision or upon any Lot.

SECTION 9.06.      Community Service Easements.

(a)      Defined. To the extent that the Association constructs or provides the services, facilities and amenities the Association is permitted or required to construct or provide under this Declaration, each Lot and the Community Properties shall be subject to a non-exclusive access easement to conduct such services or construct, maintain, repair and replace such facilities and amenities as provided in this Article IX.

(b)      Blanket Easement. An easement is hereby granted to the Association, and its Directors, officers, agents, employees and management personnel to enter in or cross over any Community Properties and/or the Lots to render any service or to perform any maintenance which the Association is permitted or required to provide or perform under this Declaration, including work permitted under Section 6.01, and all work necessary to construct, maintain, repair, replace and operate the Private Driveway; and by virtue of said easement to do all things reasonably necessary to provide services or perform maintenance.

(c)      Shared Utility Facilities. The Association with approval of a majority of the then Lot Owners, shall have the right, but not the obligation, at the sole option and at the sole cost and expense of the Association, to construct Shared Utility Facilities, and in such event the Association shall thereafter maintain the Shared Utility Facilities in good condition and repair; and for such purposes an easement is hereby granted to the Association. Any easement areas established by this Section 9.06(c) shall be evidenced as soon as practical after establishment by filing notice of same in the Official Public Records of Real Property of Harris County, Texas.

SECTION 9.07.      Electrical System. An underground electric distribution system has been installed within the Subdivision (“EDS”), which EDS embraces all of the Lots within the Subdivision and consists of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as are necessary to make

underground service available. The Owner of each Lot shall at such Owner's sole cost and expense furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. The Association has either by designation on the Plat or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its EDS, and has also granted to the various Owners reciprocal easements providing for access to the area occupied by and centered on the service wires. In addition, the Owner of each Lot shall at such Owner's sole cost and expense furnish, install, own and maintain a meter loop (in accordance with the then current standard and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each residential dwelling involved. For so long as the EDS is maintained, the electrical service to each residential dwelling within the Association shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

SECTION 9.08. Title to Easements and Appurtenances Not Conveyed. Title to any Lot conveyed by contract, deed or other conveyance shall not be held or construed in any event to include the title to any easement established by this Article IX, including but not limited to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way or any pipes, lines, poles, or conduits on or in any utility facility, service equipment or appurtenances thereto, constructed by or under the Association or the ACC, as the case may be, or their respective agents, through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Lots; and the right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in the ACC.

SECTION 9.09. Reserve Easements. The Board may grant, as appurtenant to any Lot, usage easements covering any of the reserves designated by the Plat on such terms as the Board shall determine, including perpetual usage easements but subject, in any event, to all applicable building codes and ordinances of the City of Houston, State of Texas and all other easements which have or may be granted under this Declaration. The Owner of the Lot to which any such easement is appurtenant shall be solely liable and responsible for all costs or maintenance of and payment by reimbursement to the Association of all property and other taxes covering the entire easement area during the full term of the easement, shall be solely liable for damages or otherwise regarding the easement area and any usage thereof by any Person and shall indemnify and hold the Association harmless regarding same to the fullest extent provided herein. The Board shall have the right, but not the obligation, to include additional conditions and restrictions of use in any such usage easement. All usage easements shall automatically transfer to any subsequent Owner of the Lot to which they were originally granted. Any Owner who has such a usage easement shall maintain such easement as if such were a part of said Lot.

**Article X**  
**Insurance, Casualty Losses and Indemnification**

SECTION 10.01. Insurance. The Association or its duly authorized agent shall have the authority to obtain, with such deductibles as the Board shall determine, the following insurance coverage or substantial equivalent, and to pay all premiums or other costs thereof from the Maintenance Fund:

(a) insurance for all insurable improvements on the Community Properties covering loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard (exclusive of land, foundations or slabs, excavations and such other items usually excluded from insurance coverage);

(b) officers' and directors' liability insurance and public liability insurance applicable to the Community Properties covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its officers, Directors, Members, agents or employees; and

(c) workers' compensation of and to the extent required by law.

SECTION 10.02. Damage and Destruction of Lots. Usability and property insurance for Lots and all improvements thereon (including residences and appurtenant structures, and the contents of residences) shall be the sole responsibility of the Owners thereof. At a minimum, the Owner(s) of each Lot shall obtain property insurance to insure the residence thereon, and all fixtures, equipment and other improvements pertaining thereto normally insured under building coverage. Said building coverage shall be on a current replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value against risks of loss or damage by fire and other hazards as are covered by standard extended coverage, and shall include coverage against vandalism. Said building coverage shall be obtained effective as of the date of acquisition of ownership of a Lot by an Owner, and shall remain continuously in effect to the date of acquisition of ownership by the next succeeding Owner(s). Each Owner of a Lot shall provide to the Association proof of said building coverage satisfactory to the Board upon not less than five (5) days' written notice, failing which the Board may obtain said building coverage on behalf of the Owner and assess as a specific assessment all premiums and all other costs and expenses related thereto to the defaulting Owner.

SECTION 10.03. Repair or Replacement Required. Whether or not insured, the damage or destruction by fire or other casualty event to less than all or substantially all of any residence or other improvement on a Lot shall be repaired, or the improvement shall be replaced, by the Owner thereof within seventy-five (75) days after such damage or destruction, or, where repairs or replacement cannot be completed within seventy-five (75) days, they shall commence within such period and shall be completed within a reasonable time thereafter as determined by the Association. In the event of noncompliance with this provision, the Association shall have all enforcement powers permitted by law and this Declaration, including without limitation, the right to seek specific performance and/or to invoke the powers specified in Section 6.02(c) of this Declaration.

SECTION 10.04. Condemnation. Whenever all or any part of the Community Properties shall be taken (or conveyed in lieu of and under threat of condemnation by the Association, acting on the written direction of a majority of Owners of Lots then contained within the Subdivision) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners.

## **Article XI Enforcement**

SECTION 11.01. General. The Association and any Owner shall have the right to enforce observance and performance of all restrictions, covenants, and conditions set forth in this Declaration and in other Governing Documents, and in order to prevent a breach or to enforce the observance or performance thereof shall have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory. Failure of the Association or any Owner to enforce any of the provisions of this Declaration or any other Governing Documents shall in no event be deemed a waiver of the right to do so thereafter as to the same or similar violation whether occurring prior or subsequent thereto. No liability shall attach to the Association or to any of its officers, Directors, agents, employees or Members for failure to enforce the provisions of this Declaration or any other Governing Documents.

SECTION 11.02. Obligation for Payment of Costs and Expenses Resulting from Violations. Each Owner and tenant of an Owner found to have committed, or who is responsible for, a violation or violations of any of the provisions of this Declaration or any other Governing Documents, shall be jointly and severally liable for payment to the Association for, and to indemnify the Association and to hold and save it harmless from, any and all claims, liabilities, damages, loss, costs and expenses of whatsoever kind, including reasonable attorney's fees, whether incurred prior to, during or after formal proceedings in a court of competent jurisdiction, incurred or attributable to any such violation(s). All such sums shall be assessed as a specific assessment, and shall be due and payable upon demand by the Association or its representatives upon presentment of a written statement setting forth the Association's payment or liability to pay such sums without the necessity of any other or further notice of any act, fact or information concerning the Association's rights or such Owner's or tenant's liabilities under this Section.

SECTION 11.03. Cumulative Rights and Remedies. Each right and remedy set forth herein shall be separate, distinct and non-exclusive, and all shall be deemed cumulative; the pursuit of any right or remedy provided for herein or by law shall not preclude pursuit of any other right or remedy provided for herein or by law; and the failure to exercise any particular right or remedy shall not be construed as a waiver of such right or remedy or any other right or remedy.

## **Article XII General Provisions**

SECTION 12.01. Notices to Association, ACC and Owners. Unless otherwise expressly provided herein or by statute, all notices or other communications permitted or required under this Declaration shall be in writing (in the English language) and shall be deemed properly given if, but only if, given in accordance with the following:

(a) Notices to Association or ACC. All notices or other communications to the Association or ACC shall be given by United States mail, postpaid and properly addressed to the Association or ACC, as the case may be, such notice or other communications shall be deemed given upon receipt of same by the Association and ACC. The address of the Association or ACC for such purposes shall be the address of the President of the Association, or such other address as Association shall designate by written notice thereof filed in the Official Public Records of Real Property of Harris County, Texas.

(b) Notice to Owners. All notices or other communications to any Owner may be given by (1) personal delivery or (2) mail, and each shall be deemed given (1) upon personal delivery or (2) when deposited in the United States mail, postage prepaid, and properly addressed to the street address of the Owner's Lot located within the Subdivision, or to the most current street address provided by an Owner for purposes of notice. In addition, all notices or other communications to any Owner may be given by email or other means of electronic transmission and shall be deemed given when the notice or other communication is: (1) transmitted to a facsimile number provided by the Owner for the purpose of receiving notice; (b) transmitted to an email address provided by the member for the purpose of receiving notice; or (3) communicated to the Owner by any other form of electronic transmission consented to by such Owner. Where more than one (1) Person is the Owner of a single Lot, the giving of any notices or other communications as aforesaid to any single Owner shall constitute notice given to all such Owners.

The foregoing provisions shall also apply to notices or other communications permitted or required by the Governing Documents other than this Declaration, except as otherwise expressly provided in such other Governing Documents.

SECTION 12.02. Ownership of Community Properties. The Community Properties shall remain undivided and shall at all times be owned by the Association.

SECTION 12.03. Term. These covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, predecessors, successors and assigns, and all Persons claiming under them, for a period of twenty (20) years from the date this Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas, unless amended in accordance with Section 12.04 hereof and in such event shall be binding as amended, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended for successive periods of ten (10) years each, in any case unless an instrument agreeing to terminate all said covenants, conditions, restrictions, reservations, easements, liens and charges is signed by the Owners of sixty-seven percent (67%) of the total number of Lots then contained within the Subdivision and duly filed for record in the Official Public Records of Real Property of Harris County, Texas.

SECTION 12.04. Amendment.

(a) By Owners. The Owners of sixty-seven percent (67%) of the total number of Lots then contained within the Subdivision shall always have the power and authority to amend, modify or repeal this Declaration, in whole or in part, at any time and from time to time, and any such amendment shall become effective upon the date an instrument of amendment covering same

is signed by the requisite number of Owners and filed for record in the Official Public Records of Real Property of Harris County, Texas.

(b) By Association. The Association, by vote of the Board of Directors, shall have the right from time to time and at any time to amend, modify or repeal this Declaration, in whole or in part, without joinder of any Owner or any other Person, effective upon recordation of an instrument of amendment in the Official Public Records of Real Property of Harris County, Texas:

(i) to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, errors or omissions herein; or

(ii) to conform this Declaration to the requirements of any governmental agency, including the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration or Federal Housing Administration.

SECTION 12.05. Interpretation. The provisions hereof are to be liberally construed to give full effect to their intent and purposes. If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and the scheme of development thereunder shall govern. The captions of each Article and Section hereof and each Exhibit hereto as to the contents of each Article, Section and Exhibit are inserted only for convenience, and are in no way to be construed as limiting, extending, or otherwise modifying or adding to the particular Article, Section or Exhibit to which they refer. In particular and without limitation, the subdivisions of use restrictions under Article VI hereof and architectural restrictions under Article VII hereof are for convenience of reference, it being the intent that all such provisions be given full effect in an integrated manner in light of the general purposes and objectives of this Declaration and the scheme of development accomplished thereby. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. All references in this Declaration (including the Exhibits hereto) to any section of a statute or code shall be deemed to refer to any successor of such section, statute or code.

SECTION 12.06. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable. This Declaration shall be governed by, and construed in accordance with, the laws of the State of Texas.

**ARTICLES OF INCORPORATION  
of  
BAYOU ISLAND PARK  
HOMEOWNERS ASSOCIATION, INC.**

[Conformed Copy, as filed with the Secretary of State of Texas on Jan. 29, 1996]

I, the undersigned natural person over the age of eighteen (18), acting as incorporator, adopt the following Articles of Incorporation of BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC. (referred to as the "Corporation") under the Texas Non-Profit Corporation Act (referred to as the "Act").

**ARTICLE I.**

The name of the Corporation is BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.

**ARTICLE II.**

The Corporation is a non-profit corporation.

**ARTICLE III.**

The period of its duration is perpetual.

**ARTICLE IV.**

The purpose of this corporation is to conduct and administer all functions of a homeowners association for that subdivision known as Bayou Island Park located in the City of Houston, Harris County, Texas and to enforce and carry out functions as set out in the Declaration of Covenants, Conditions, Restrictions and Easements for Bayou Island Park, as amended from time to time, and of record in the Real Property Records of Harris County, Texas.

**ARTICLE V.**

The street address of the initial registered office of the Corporation is 728 Kuhlman Road, Houston, Texas 77024, and the name of its initial registered agent at such address is Daniel Bruce Beeler.

**ARTICLE VI.**

The number of Directors constituting the initial board of directors of the Corporation is three (3). The name and address of the persons who are to serve as the initial directors are:

Joanne K. Davis  
5555 Del Monte, Unit 2405  
Houston, Texas 77056

Daniel Bruce Beeler  
728 Kuhlman Road  
Houston, Texas 77024

Helen M. Beeler  
728 Kuhlman Road  
Houston, Texas 77024

ARTICLE IX.

The name and address of the initial incorporator of the Corporation is:

Daniel Bruce Beeler  
728 Kuhlman Road  
Houston, Texas 77024

In witness whereof, I have hereunto set my hand, this 24th day of January, 1996.

/s/ Daniel Bruce Beeler  
Daniel Bruce Beeler, Incorporator

State of Texas           §

County of Harris       §

Before me the undersigned authority did appear, Daniel Bruce Beeler and after being duly sworn declared that he is the person who signed the foregoing document as incorporator, and that the statements therein contained are true.

In witness whereof, I have hereunto set my hand and seal this 24th day of January, 1996.

/s/ Carol W. Reese  
Notary Public, State of Texas

[Carol W. Reese, Notary Public, State of Texas

My Commission Expires 4/19/98]

**Bayou Island Park Homeowners Association, Inc.**

**BYLAWS**

**ARTICLE II.  
OFFICES**

The registered office of the corporation in the State of Texas shall be located in the City of Houston, County of Harris. The corporation may have such other offices, either within, or without the State of Texas as the Board of Directors may designate or as the business of the corporation may require from time to time.

**ARTICLE III.  
MEMBERS**

Section 1. Annual Meeting. The annual meeting of the members shall be held each year, on such day in the month of January and at such time and place as the Board of Directors shall fix and set forth in the notice of the meeting, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Texas, such meeting shall be held on the next succeeding business day.

Section 2. Special Meetings. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of not less than fifty per cent (50%) of all members entitled to vote at the meeting.

Section 3. Place of Meeting. The Board of Directors may designate any place, within the City of Houston, State of Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors.

Section 4. Notice of Meeting. Written notice stating the place, day and hour of the meeting and, in case of special meeting, the purpose or purposes for which the meeting is called, shall be, unless otherwise prescribed by statute, given to each member of record not less than ten (10) days and not more than sixty (60) days before the date of the meeting, either personally, by email or other means of electronic transmission or by mail, by or at the direction of the President, or by the Secretary, or by the persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the membership records of the corporation, with postage thereon prepaid. Notice by electronic transmission shall be deemed given when the notice is: (a) transmitted to a facsimile number provided by the member for the purpose of receiving notice, (b) transmitted to an electronic mail address provided by the member for the purpose of receiving notice, or (c) communicated to the member by any other form of electronic transmission consented to by the member.

Section 5. Quorum. A majority of the members of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of members. If less than a majority of the voting members are represented at a meeting, a majority of the members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 6. Proxies. At all meetings of members, a member may vote in person or by proxy executed in writing by a member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the corporation before or at the time of the meeting. No proxy shall be valid after two (2) months from the date of its execution, unless otherwise provided in the proxy. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the chairman of the meeting, who shall decide all questions touching upon the qualification of voters, the validity of the proxies and the acceptance or rejection of votes.

Section 7. Voting of Members. Each member entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of members. At any meeting at which a quorum is present, the vote required for the approval of any matter shall be the vote of a majority of the votes that the members present in person or by proxy are entitled to cast with respect to the matter, except as otherwise provided by statute or the Second Restated and Amended Covenants, Conditions, Restrictions and Easements of Bayou Island Park, a Subdivision in Houston, Harris County, Texas, as the same may be further restated or amended from time to time (hereinafter referred to as the "Covenants and Restrictions"). Voting for directors shall be by ballot, but voting on any other matter shall be by voice vote unless (i) the Covenants and Restrictions or a statute require voting in writing or (ii) the chairman of the meeting shall determine otherwise. Every vote by ballot shall be taken by signed written ballots, each of which shall state the name of the member or proxy voting and such other information as may be required under the procedure established by the chairman for the meeting.

Section 8. Tabulation of and Access to Ballots. No person who is a candidate in an election of directors or who is otherwise the subject of a member vote (or who is related to such person as determined under Chapter 573 of the Texas Government Code) may tabulate or otherwise be given access to the ballots cast in that election or vote. Each person who tabulates votes may not disclose to any other person how an individual voted, and no other person may be given access to the ballots cast in the election or vote.

Section 9. Voting of Member's Representatives. An administrator, executor, guardian, conservator, or other authorized representative of a member may vote on behalf of the member at any meeting, either in person or by proxy.

Section 10. Informal Action by Members. Unless otherwise provided by law, any action required to be taken at a meeting of the members, or any other action which may be taken at a meeting of the members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

Section 11. No Cumulative Voting. Cumulative voting in the election of directors shall not be permitted.

Section 12. Conduct of Meetings. The chairman of any meeting of members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him to be in order.

#### ARTICLE IV. **BOARD OF DIRECTORS**

Section 1. General Powers. The business and affairs of the corporation shall be managed by its Board of Directors.

Section 2. Number, Tenure and Qualifications. The number of directors of the corporation shall be five (5), subject to increase or decrease from time to time by resolution of the Board of Directors (provided that no decrease in the number of directors that would have the effect of shortening the term of an incumbent director shall be made by the Board of Directors and no such decrease shall lower the number of directors to fewer than three). Each director shall hold office until the next annual meeting of members and until his successor shall have been elected and qualified. No more than one (1) director when elected may reside outside Bayou Island Park, and, except as provided in Section 209.00591 of the Texas Property Code, any member may run for a position on the Board of Directors.

Section 3. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide, by resolution, the date, time and place for the holding of additional regular meetings without other notice than such resolution.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons calling special meetings of the Board of Directors may fix the date, time and place for holding any special meeting of the Board of Directors called by them.

Section 5. Notice. Notice of any regular or meeting shall be given at least ten (10) days previously thereto, and it shall be given in written form, delivered either personally, by mail, or by email or other means of electronic transmission. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon. Notice by electronic transmission shall be deemed given when the notice is: (a) transmitted to a facsimile number provided by the director for the purpose of receiving notice, (b) transmitted to an electronic mail address provided by the director for the purpose of receiving notice, or (c) communicated to the director by any other form of electronic transmission consented to by the member. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 6. Quorum; Act of the Board of Directors. A majority of the number of directors fixed in accordance with Section 2 of this Article III shall constitute a quorum for the

transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 7. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 8. Action Without a Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all of the directors. The consent must state the date of each director's signature.

Section 9. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors, unless otherwise provided by law. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by election by the Board of Directors for a term of office continuing only until the next election of directors by the members.

Section 10. Compensation. No director or officer shall receive compensation from the corporation.

Section 11. Presumption of Assent. A director of the corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the Secretary (or the other person acting as the secretary of the meeting) before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 12. Committees. The Board of Directors, by resolution adopted by the majority of the directors at a meeting at which a quorum is present, or the President, if authorized by a similar resolution of the Board of Directors, may designate and appoint one or more committees that do not have the authority of the Board of Directors in the management of the corporation. Any committee designated pursuant to this Section 12 shall choose its own chairman and secretary, shall keep regular minutes of its proceedings and report the same to the Board of Directors when requested, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules, or by resolution of such committee or of the Board of Directors. At every meeting of any such committee, the presence of a majority of all the members thereof shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for the adoption by it of any resolution. The Board of Directors may dissolve any committee at any time in its discretion.

## ARTICLE V. OFFICERS

Section 1. Number. The officers of the corporation shall be a President, Vice President, Secretary and a Treasurer, each of whom shall be elected by the Board of Directors. Such other

officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

Section 2. Election and Term of Office. The officers of the corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent may be removed by the Board of Directors whenever, in its judgment, the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. President. The President shall be the principal executive officer of the corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the corporation. He shall, when present, preside as chairman at all meetings of the members and of the Board of Directors and, in the absence of the Secretary, he may appoint another person to act as secretary of any such meeting. He may sign, with the Secretary or any other proper officer of the corporation thereunto authorized by the Board of Directors, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President. In the absence of the President or in event of his death, inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation, if any, and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep a register of the post office address or other contact information of each member which shall be furnished to the Secretary by such member;

and (e) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositaries as shall be selected in accordance with the provisions of Article V of these Bylaws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors. If and only if required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

## ARTICLE VI. CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. The corporation may enter into a contract with a current Director (or another person or company affiliated with such Director and specified in Section 209.0052 of the Texas Property Code) only if the conditions set forth in such Section 209.0052 are satisfied.

Section 2. Loans. No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositaries as the Board of Directors may select.

## ARTICLE VII. MEMBERS; COVENANTS AND RESTRICTIONS

Section 1. Members. The members in the corporation shall be the persons qualifying as "Owners" as such term is defined in, and determined in accordance with, the Covenants and Restrictions. The members shall have such voting rights as are provided in these Bylaws, the Covenants and Restrictions and the Texas Business Organizations Code.

Section 2. Covenants and Restrictions Control. Should anything in these Bylaws or any resolution adopted by the members or directors conflict with the Covenants and Restrictions, the Covenants and Restrictions shall control.

ARTICLE VIII.  
FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of January and end on the thirty first day of December each year.

ARTICLE IX.  
WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be given to any member or director of the corporation under the provisions of these Bylaws or under the provisions of the articles of incorporation or the Texas Business Organizations Code, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the date such notice is required, shall serve as a full waiver of such notice.

ARTICLE X.  
MISCELLANEOUS PROVISIONS

Section 1. Amendments. The Board of Directors may amend or repeal these Bylaws, or adopt new Bylaws, unless: (a) the TBOC reserves the power exclusively to the members in whole or part; or (b) the members, in amending, repealing or adopting a particular bylaw, expressly provide that the Board of Directors may not amend or repeal that bylaw. Unless a Bylaw adopted by the members provides otherwise as to all or some portion of the corporation's Bylaws, the members may amend, repeal or adopt the corporation's Bylaws even though the Bylaws may also be amended, repealed or adopted by the Board of Directors.

Section 2. Resignations. Any director, member of a committee or officer may resign at any time. Such resignation shall be made in writing (including by electronic transmission) and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

**Bayou Island Park Homeowners Association, Inc.**

**PARKING RULES**

**PARKING IN BAYOU ISLAND PARK**

Vendors and construction personnel may park on the inside curb of the development only during the day, and residents and their guests may park on the inside curb only from 6:30 A.M. to midnight, in each case so long as no mail boxes or driveways are blocked by so doing. Parking is not allowed on the outside curb at any time. From midnight to 6:30 A.M., residents' and guests' vehicles may not be parked in the street, but may be parked in the driveways in front of their respective garages or preferably inside their garages. Parking spaces outside the entrance gate may be used at any time.

**SPEED LIMIT**

The vehicular speed limit on Bayou Island Drive is ten (10) miles per hour.

**EXHIBIT D**

**GUIDELINES RELATING TO RAIN BARRELS AND RAIN HARVESTING SYSTEMS,  
SOLAR ENERGY DEVICES, STORM AND ENERGY EFFICIENT SHINGLES,  
FLAGS, RELIGIOUS ITEMS, AND POLITICAL SIGNS  
*for*  
BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.**

Section 1. **Definitions.** The following terms used in these Guidelines have the following respective meanings:

- 1.1. **Bayou Island Park** - The residential development located in Harris County, Texas according to the plat for Bayou Island Park recorded under Film Code No. 365059 of the Map Records of Harris County, Texas.
- 1.2. **ACC** - The Architectural Control Committee of the Board of Directors of the Association.
- 1.3. **Dedictory Instrument (or dedicatory instrument)** - Each document governing the establishment, maintenance, or operation of the properties within Bayou Island Park, as more particularly defined in Section 202.001(1) of the Texas Property Code.
- 1.4. **Guidelines** - These Guidelines Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items for Bayou Island Park Homeowners Association, Inc.
- 1.5. **Restrictions** - The Second Restated and Amended Covenants, Conditions, Restrictions and Easements for Bayou Island Park to which these Guidelines are appended as Exhibit D thereto.

Section 202.001(4) of the Texas Property Code defines “restrictive covenant” to mean any covenant, condition, or restriction contained in a dedicatory instrument, and such term has the same meaning wherever it appears in these Guidelines. Other capitalized terms used in these Guidelines have the same meanings as those ascribed to them in the Restrictions.

Section 2. **Rain Barrels and Rain Harvesting Systems.** Section 202.007 of the Texas Property Code provides that a property owners’ association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing rain barrels or a rain harvesting system on the property Owner’s Lot. However, Section 202.007 of the Texas Property Code further provides that a property owners’ association is not required to permit a rain barrel or rainwater harvesting system to be installed on a Lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners.

The following Guidelines shall be applicable to rain barrels and rain harvesting systems in Bayou Island Park:

- 2.1. **ACC Approval.** In order to confirm the proposed rain barrel or rain harvesting device is in compliance with these Guidelines, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove a rain barrel or rain harvesting device that does not comply with the requirements of these Guidelines.
- 2.2. **Location.** A rain barrel or rain harvesting system is not permitted on a Lot between the front of the residential dwelling on the Lot and an adjacent street.
- 2.3. **Color and Display.** A rain barrel or rain harvesting system is not permitted:
- a. unless the color of the rain barrel or rain harvesting system is consistent with the color scheme of the residential dwelling on the Owner's Lot; or
  - b. if the rain barrel or rain harvesting system displays any language or other content that is not typically displayed by the rain barrel or rain harvesting system as it is manufactured.
- 2.4. **Regulations if Visible.** If a rain barrel or rain harvesting system is located on the side of the residential dwelling on the Lot or at any other location on the Lot that is visible from a street, another Lot, or a Community Property, the rain barrel or rain harvesting system must comply with the following regulations:
- a. Rain Barrel:
    - (i) Size: A maximum height of forty-two (42) inches and a maximum capacity of fifty (50) gallons.
    - (ii) Type: A rain barrel that has the appearance of an authentic barrel and is either entirely round or has a flat back to fit flush against a wall. A rain barrel must have a manufactured top or cap to prevent or deter the breeding of mosquitoes.
    - (iii) Materials: Wood, metal, polyethylene or plastic resin designed to look like an authentic barrel in brown or other earth tone color.
    - (iv) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another Lot, and Community Property, unless otherwise approved in writing by the ACC.
    - (v) Downspout: The downspout which provides water to the rain barrel must be the same color and material as the gutters on the residential dwelling. Further, the downspout must be vertical and attached to the wall against which the rain barrel is located.

- b. **Rain Harvesting System:** A rain harvesting system must collect and store the water underground. The portion of a rain harvesting system that is above-ground must appear to be a landscape or water feature. The above-ground portion of the rain harvesting system shall not extend above the surface of the ground by more than thirty-six (36) inches. The above-ground portion of the rain harvesting system must be screened with evergreen landscaping to minimize visibility from a street, another Lot, and Community Property, unless otherwise approved in writing by the ACC.

Provided that, the regulations in this Section 2.4 shall be applicable only to the extent that they do not prohibit the economic installation of the rain barrel or rain harvesting system on the Lot and there is a reasonably sufficient area on the Lot in which to install the rain barrel or rain harvesting system.

Section 3. **Solar Energy Devices.** Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Texas Tax Code, which defines the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power." The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

The following Guidelines shall be applicable to solar energy devices in Bayou Island Park:

- 3.1. **ACC Approval.** The installation of a solar energy device requires the prior written approval of the ACC. Provided that, the ACC may not withhold approval if these Guidelines are met or exceeded, unless the ACC determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist.
- 3.2. **Location.** A solar energy device is not permitted anywhere on a Lot except on the roof of the residential dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot.
- 3.3. **Devices Mounted on a Roof.** A solar energy device mounted on the roof of the residential dwelling or other permitted structure on a Lot:
  - a. shall not extend higher than or beyond the roofline;
  - b. shall conform to the slope of the roof and have a top edge that is parallel to the roofline;

- c. shall have frames, support brackets, or visible piping or wiring that is in a silver, bronze or black tone, as commonly available in the marketplace; and
  - d. shall be located on the roof as designated by the ACC unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the ACC. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.
- 3.4. **Visibility.** A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio.
- 3.5. **Warranties.** A solar energy device shall not be installed on a Lot in a manner that voids material warranties.
- 3.6. **Limitations.** A solar energy device is not permitted on a Lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

Section 4. **Storm and Energy Efficient Shingles.** Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing shingles that:

- a. are designed to:
    - (i) be wind and hail resistant;
    - (ii) provide heating and cooling efficiencies greater than those provided by customary composition shingles; or
    - (iii) provide solar generation capabilities; and
  - b. when installed:
    - (i) resemble the shingles used or otherwise authorized for use on property in the subdivision;
    - (ii) are more durable than and are of equal or superior quality to the shingles described below; and
    - (iii) match the aesthetics of the property surrounding the Owner's property.
- 4.1. **ACC Approval.** In order to confirm the proposed shingles conform to the foregoing Guidelines, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove shingles that do not comply with these Guidelines.

- 4.2. **Regulations.** The Restrictions require roofing materials to be a minimum 300# composition shingle of a GAF Timberline type and design or such other material and design approved by the ACC. Accordingly, when installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in Bayou Island Park. In addition, the storm or energy efficient shingles must match the aesthetics of the Lots surrounding the Lot in question.

Section 5. **Flags.** Section 202.012 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting an Owner from displaying the flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein.

The following Guidelines shall be applicable to flagpoles and the three (3) types of flags listed in Section 202.012 of the Texas Property Code:

- 5.1. **ACC Approval.** Above-ground flagpole stands and/or footings, and illumination under Section 5.6 must be approved by the ACC. Additionally, in order to confirm a proposed flagpole conforms to the following standards, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with these Guidelines.
- 5.2. **Flag of the United States.** The flag of the United States must be displayed in accordance with applicable provisions of 4 United States Code, Sections 5-10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.
- 6.3. **Flag of the State of Texas.** The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things, the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States, and the display of the flag outdoors.
- 5.4. **Flagpoles.**
- a. Not more than one (1) freestanding flagpole or flagpole attached to the residential dwelling or garage (on a permanent or temporary basis) is permitted on a Lot.
  - b. A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.
  - c. A flagpole attached to the residential dwelling or garage shall not exceed six (6) feet in length.

- d. A flagpole, whether freestanding or attached to the residential dwelling or garage, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the residential dwelling on the Lot on which it is located.
- e. A flagpole shall not be located in an easement or encroach into an easement.
- f. A freestanding flagpole shall not be located nearer to a property line of the Lot than the applicable setbacks as either shown on the recorded plat or as set forth in the Restrictions.
- g. A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.
- h. An Owner is prohibited from locating a flagpole on property owned or maintained by the Association.
- i. A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.
- j. If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the ACC may require the installation of landscaping to screen the stand and/or footing from view.

5.5. **Flags.**

- a. Only the three (3) types of flags addressed in this Section shall be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall-mounted flagpole as otherwise provided in architectural guidelines adopted by the Association or as otherwise permitted by the Association.
- b. Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any given time.
- c. The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the residential dwelling or garage shall be three (3) feet by five (5) feet.
- d. The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.
- e. A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.
- f. A flag must be displayed on a flagpole. A flag shall not be attached to the wall of the residential dwelling or other structure on a Lot or a fence, or be displayed in a window of the residential dwelling or other structure on a Lot.

- 5.6. **Illumination.** Illumination of a flag is permitted but the lighting must be in-ground and have a maximum of 150 watts. High intensity lighting such as mercury vapor, high pressure sodium, or metal halide is not permitted. The lighting is required to be compatible with exterior lighting within the subdivision and appropriate for a residential neighborhood. Lighting used to illuminate a flag shall be positioned in a manner so that the lighting is not directed toward an adjacent Lot or a street adjacent to the Lot and does not otherwise unreasonably affect an adjacent Lot.
- 5.7. **Noise.** An external halyard on a flagpole is required to be securely affixed to the flagpole so that it is not moved by the wind and thereby permitted to clang against the flagpole.

Section 6. **Religious Items.** Section 202.018 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying or affixing on the entry to the Owner's or resident's dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief, except as otherwise provided therein. The Association may remove an item displayed in violation of this Section 6.

The following Guidelines shall be applicable to the display of religious items in Bayou Island Park:

- 6.1. **ACC Approval.** As authorized by the Restrictions and, therefore, allowed by Section 202.018(c) of the Texas Property Code, any alteration to the entry door or door frame must first be approved by the ACC.
- 6.2. **Location.** Except as otherwise provided in this Section, a religious item is not permitted anywhere on a Lot except on the entry door or door frame of the residential dwelling. A religious item shall not extend past the outer edge of the doorframe.
- 6.3. **Size.** The religious item(s), individually or in combination with each other religious item displayed or affixed on the entry door or door frame, shall not have a total size of greater than twenty-five (25) square inches.
- 6.4. **Content.** A religious item shall not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.
- 6.5. **Limitation.** A religious item shall not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.
- 6.6. **Color of Entry Door and Door Frame.** An Owner or resident is not permitted to use a color for an entry door or door frame of the Owner's or resident's residential dwelling or change the color of an entry door or door frame that is not authorized by the ACC.
- 6.7. **Other.** Notwithstanding the above provisions: (i) the ACC shall have the authority to allow a religious statue, such as by way of example and not in limitation, a statue

of St. Francis of Assisi or other religious item in a landscape bed or other portion of a Lot, and (ii) these Guidelines shall not prohibit or apply to temporary seasonal decorations related to religious holidays as otherwise permitted in Bayou Island Park.

Section 7. **Political Signs**. Section 202.009 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying on such property one or more signs advertising a political candidate or ballot item for an election, except as otherwise provided therein.

The following Guidelines shall be applicable to the display of political signs in Bayou Island Park:

- 7.1. **Time of Display**. Any political sign may be displayed only during the period beginning on the ninetieth (90<sup>th</sup>) day before the date of the election to which the sign relates and ending on the tenth (10<sup>th</sup>) day after that election date.
- 7.2. **Other Requirements**. Except as approved by the ACC, the sign shall be ground-mounted, and an Owner may display only one sign for each candidate or ballot item. The sign shall not: (a) contain any roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (b) include the painting of architectural surfaces; (c) threaten the public health or safety; (d) be larger than four (4) feet by six (6) feet; (e) violate a law; (f) contain language, graphics, or any display that would be offensive to the ordinary person; or (g) be accompanied by music or other sounds or by streamers or be otherwise distracting to motorists.

**PAYMENT PLAN POLICY  
FOR  
BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.**

It is the policy of the Association to provide an alternative payment schedule by which an Owner may make payments to the Association for delinquent regular or special assessments or other amounts owed to the Association without accruing additional monetary penalties, as follows:

1. **Applicability; Definitions.** This policy only applies to delinquent regular assessments, special assessments or other amounts owed the Association prior to the debt being turned over to a “collection agent” as that term is defined by Section 209.0064 of the Texas Property Code. All capitalized terms used in this payment plan policy have the same meanings as those ascribed to them in the instrument of which this Exhibit E is a part.
2. **Term.** The term for a payment plan offered by the Association shall be three (3) months, with the payments being in equal monthly amounts over the duration of the payment plan period.
3. **Payment Plan Agreement.** The Owner shall be obligated to execute a payment plan agreement (“Payment Plan Agreement”) which sets forth the total amount to be paid, the term of the payment plan, the due date for and amount of each payment, and the address to which payments are to be mailed or delivered. A payment plan shall not be effective until the Owner executes the required Payment Plan Agreement.
4. **Sums Included in Plan.** The payment plan shall include all delinquent regular and/or special assessments and other sums owed to the Association as of the effective date of the Payment Plan Agreement. The payment plan shall not include any assessments which have not become due and payable to the Association as of the effective date of the Payment Plan Agreement. The Payment Plan Agreement shall provide that any assessments or other valid charges that become due and payable to the Association per the Dedicatory Instruments of the Association during the term of the payment plan must be paid in a timely manner.
5. **Grace Period.** There will be a grace period of three (3) business days from the due date for a payment. If a payment is not received at the address set forth in the Payment Plan Agreement by the close of business on the third (3<sup>rd</sup>) business day following the date on which the payment is due, the Owner shall be deemed to be in default of the Payment Plan Agreement,
6. **Administrative Costs and Interest.** The Association shall add to the delinquent assessments and other amounts owed to the Association to be paid in accordance with the Payment Plan Agreement reasonable costs for administering the payment plan, as follows: \$25.00 for the preparation of a Payment Plan Agreement and \$5.00 per payment for receiving, documenting and processing each payment. During the term of the payment plan, interest shall continue to accrue on delinquent assessments at the rate provided in the Second Restated and Amended Covenants, Conditions, Restrictions and Easement for Bayou Island Park, of which this Exhibit E is a part.

7. **Monthly Penalties.** During the term of the payment plan, the Association shall not impose any monetary penalties with respect to the delinquent assessments and other charges included in the payment plan, except as provided in Section 6. Monetary penalties include late charges and fees otherwise charged by the management company and/or Association and added to the Owner's account as a result of the account being delinquent, if any.

8. **Default.** If an Owner fails to make a payment to the Association by the end of the grace period applicable to the due date for that payment, the Owner shall be in default of the Payment Plan Agreement, at which point the Payment Plan Agreement shall automatically become void. The Association may notify the Owner that the Payment Plan Agreement is void as a result of the Owner's default, but notice to the Owner shall not be a prerequisite for the Payment Plan Agreement to become void. If the Association receives a payment after the expiration of the grace period and before the Association notifies the Owner that the Payment Plan Agreement is void, the Association may accept the payment and apply it to the Owner's account. The acceptance of a payment made by an Owner after the Payment Plan Agreement has become void shall not reinstate the Payment Plan Agreement.

9. **Owners Not Eligible for a Payment Plan.** The Association is not required to enter into a payment plan with an Owner who failed to honor the terms of a previous payment plan during the two (2) years following the Owner's default under the previous payment plan.

**EXHIBIT F**

**RECORD RETENTION POLICY**  
*for*  
**BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.**

It is the policy of the Association to retain the records of the Association listed below for the periods of time set forth below. The Association is not required to retain any other records. As used herein, "records" means documents originated or obtained by the Association in connection with its operations, whether a paper document or a document in electronic form. All capitalized terms used in this record retention policy have the same meanings as those ascribed to them in the instrument of which this Exhibit F is a part.

1. **Retention Periods.**

<b>Record Description</b>	<b>Record Retention Period</b>
a) Financial records (including budgets, financial reports, bank records, and paid invoices)	Seven (7) years
b) Account records (including records relating to assessments and other sums owed and paid to the Association and records relating to violations of any Dedicatory Instrument of the Association) of current Owners	Five (5) years
c) Account records (including records relating to assessments and other sums owed and paid to the Association and records relating to violations of any Dedicatory Instrument of the Association) of former Owners	One (1) year after the former Owner ceases to own a Lot in the Subdivision
d) Contracts	Four (4) years after expiration or termination of the contract
e) Minutes of meetings of the Board of Directors	Seven (7) years
f) Minutes of meetings of the Members	Seven (7) years
g) Federal tax returns	Seven (7) years
h) State tax returns, if any	Seven (7) years
i) Audit reports	Seven (7) years
j) Articles of Incorporation and Bylaws of the Association and all amendments; Second Restated and Amended Covenants, Conditions, Restrictions and Easements and all amendments and supplements to the	Permanently

Second Restated and Amended Covenants, Conditions, Restrictions and Easements; annexation documents; and deeds conveying real property to the Association	
k) Other Dedicatory Instruments of the Association not listed in (j) above, including, without limitation, Architectural Guidelines, Rules and Regulations and Policies	One (1) year after the date the document is rescinded or superseded by another document
l) Minutes and reports of committees	Seven (7) years
m) Insurance policies	Four (4) years after expiration or termination of the policy
n) Insurance claims and related documents	Four (4) years after the claim is resolved
o) Personnel records, excluding payroll records	Permanently
p) Payroll records	Five (5) years after the date of termination of employment
q) Reserve study	For the period of time covered by the study, plus two (2) years
r) Legal opinions issued by counsel for the Association	Permanently
s) Suit files	Seven (7) years after the date the suit is resolved

2. **Destruction of Documents.**

The documents listed in Section 1 above, will be destroyed as soon as practicable when the applicable retention period expires. Other documents of the Association not listed in Section 1 above, will be destroyed when deemed appropriate by the Board of Directors of the Association. Destruction of paper documents shall be by shredding, bagging and trash pick-up, unless another method of destroying the documents is approved by the Board of Directors of the Association. Destruction of electronic documents shall be by deletion from hard disks and reformatting of removable disks.

**OPEN RECORDS POLICY  
FOR  
BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.**

It is the policy of the Association to make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the Owner as the Owner's agent, attorney, or certified public accountant (the "Owner's Representative") in accordance with the following provisions:

1. **Request.** An Owner or the Owner's Representative must submit a written request for access or information. The written request must:

- a. be sent by certified mail to the mailing address of the Association or to the authorized representative of the Association as reflected on the most current Management Certificate of the Association filed of record in accordance with Section 209.004 of the Texas Property Code;
- b. describe with sufficient detail the books and records of the Association that are requested; and
- c. state whether the Owner or the Owner's Representative elects to inspect the requested books and records before obtaining copies or have the Association forward copies of the requested books and records.

2. **Election to Inspect.** If an inspection is requested, the Association shall send written notice to the Owner or the Owner's Representative of dates during normal business hours that the Owner or the Owner's Representative may inspect the requested books and records. Such written notice shall be sent on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4 below.

3. **Election to Obtain Copies.** If copies of the identified books and records are requested, the Association shall produce copies of the requested books and records on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4.

4. **Inability to Produce Records Within 10 Days.** If the Association is unable to produce requested books and records on or before the tenth (10<sup>th</sup>) business day after the date the Association receives the request, the Association shall provide written notice to the Owner or the Owner's Representative that:

- a. informs the Owner or the Owner's Representative that the Association is unable to produce the requested books and records on or before the tenth (10<sup>th</sup>) business day after the date the Association received the request; and

- b. states a date by which the requested books and records will be sent or made available for inspection, which date shall not be later than the fifteenth (15<sup>th</sup>) business day after the date such notice is given.

5. **Extent of Books and Records.** The Association shall produce books and records requested by an Owner or an Owner’s Representative to the extent those books and records are in the possession, custody or control of the Association.

6. **Time of Inspection; Copies.** If an inspection of books and records is requested or required, the inspection shall take place at a mutually agreed upon time during normal business hours. At the inspection, the Owner or the Owner’s Representative shall identify the books and records to be copied and forwarded. The Association shall thereafter make copies of such books and records at the cost of the Owner and forward them to the Owner or the Owner’s Representative.

7. **Format.** The Association may produce books and records requested by an Owner or an Owner’s Representative in hard copy, electronic or other format reasonably available to the Association.

8. **Costs.** The Association may charge an Owner for the compilation, production or reproduction of books and records requested by the Owner or the Owner’s Representative, which costs may include all reasonable costs of materials, labor, and overhead. Costs will be billed at the rates established by Title 1 of the Texas Administrative Code, Section 70.3 (“Section 70.3”) as same may be amended from time-to-time. As of the date of this policy, April 1, 2012, the rates set forth below are established by Section 70.3. Should the rates set forth in Section 70.3 ever be different than in this Policy (either through amendment or error by this Policy) the then current rates set forth in Section 70.3 shall control.

Labor for locating, compiling and reproducing records	\$15.00 per hour
Copies (8½ x 11 and 8½ x 14)	\$0.10 per page
Oversize paper copies (11 x 17, greenbar and bluebar)	\$0.50 per page
Specialty papers (blue print and maps)	actual cost
Diskette	\$1.00
Magnetic tape or data or tape cartridge	actual cost
CD	\$1.00
DVD	\$3.00
VHS video cassette	\$2.50
Audio cassette	\$1.00
Other	At the rate provided for in Section 70.3

9. **Advance Payment of Estimated Costs.** The Association shall estimate the costs of compiling, producing and reproducing books and records requested by an Owner or an Owner's Representative on the basis of the rates set forth in Section 8 above. The Association may require advance payment of the estimated costs of compiling, producing and reproducing the requested books and records.

10. **Actual Costs.**

- 10.1. If the actual costs of compiling, producing and reproducing requested books and records are less than or greater than the estimated costs, the Association shall submit a final invoice to the Owner on or before the thirtieth (30th) business day after the date the requested books and records are delivered.
- 10.2. If the final invoice includes additional amounts due from the Owner, the Owner shall be required to pay the additional amount to the Association before the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- 10.3. If the final invoice indicates that the actual costs are less than the estimated costs, the Association shall refund the excess amount paid by the Owner not later than the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- 10.4. If the Owner fails to pay to the Association the additional amounts shown in the final invoice in accordance with Subsection 10.1 above, the Association may add the additional amount to the Owner's assessment account as an assessment.

11. **Books and Records Not Required to be Produced.**

- 11.1. Unless an Owner whose records are the subject of a request provides express written approval to the Association or unless a court order is issued directing either the release of books and records or that books and records be made available for inspection, the Association is not required to release or allow inspection of books and records that:
  - a. identify the history of violations of Dedicatory Instruments of an individual Owner;
  - b. disclose an Owner's personal financial information, including records of payment or nonpayment of amounts due the Association;
  - c. disclose an Owner's contact information, other than the Owner's address; or
  - d. disclose information related to an employee of the Association, including personnel files.

- 11.2. The Association is not required to release or allow inspection of ballots cast in an election or removal of Directors, except as required by a recount procedure in accordance with Section 209.0057 of the Texas Property Code.
- 11.3. In addition, information may be released in an aggregate or summary manner that will not identify an individual property Owner.

12. **Definitions**. As used in this policy, “business day” means a day other than a Saturday, Sunday or state or federal holiday. All capitalized terms used in this policy and not defined herein have the same meanings as those ascribed to them in the instrument of which this Exhibit G is a part.

**GUIDELINES RELATING TO STANDBY ELECTRIC GENERATORS**  
*for*  
**BAYOU ISLAND PARK HOMEOWNERS ASSOCIATION, INC.**

Section 1. **Definitions.** The term “standby electric generator” means a device that converts mechanical energy to electrical energy and is:

- (1) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen;
- (2) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure;
- (3) connected to the main electrical panel of a residence by a manual or automatic transfer switch; and
- (4) rated for a generating capacity of not less than seven kilowatts.

Other capitalized terms used in these Guidelines have the same meanings as those ascribed to them in the instrument of which this Exhibit H is a part.

Section 2. **Solar Energy Devices.** Section 202.019 of the Texas Property Code provides that a property owners’ association may not adopt or enforce a Dedicatory Instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator, except as provided therein.

Section 3. **Guidelines.** The following Guidelines shall apply to the operation and installation of standby electric generators, but only to the extent that these Guidelines do not increase the cost of (i) installing the standby electric generator by more than ten (10) percent or (ii) installing and connecting the electrical and fuel lines for the standby electric generator by more than twenty (20) percent:

- (1) the standby electric generator shall be installed and maintained in compliance with:
  - (A) the manufacturer’s specifications; and
  - (B) applicable governmental health, safety, electrical, and building codes;
- (2) all electrical, plumbing, and fuel line connections shall be installed only by licensed contractors;
- (3) all electrical connections shall be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(4) all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections shall be installed in accordance with applicable governmental health, safety, electrical, and building codes;

(5) all liquefied petroleum gas fuel line connections shall be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes;

(6) all nonintegral standby electric generator fuel tanks shall be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes;

(7) the standby electric generator and its electrical lines and fuel lines shall be maintained in good condition;

(8) the repair, replacement, or removal of any deteriorated or unsafe component of a standby electric generator, including electrical or fuel lines;

(9) the owner of the Lot on which the standby electric generator is installed shall screen the standby electric generator if it is:

(A) visible from the street faced by the dwelling;

(B) located in an unfenced side or rear yard of the Owner's residence and is visible either from an adjoining residence within the Subdivision or from any Community Property; or

(C) located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence within the Subdivision or from any Community Property;

(10) to the extent consistent with the manufacturer's recommendations, the periodic testing of the standby electric generator shall occur during ordinary daylight workday hours;

(11) the standby electric generator shall not be used to generate all or substantially all of the electrical power to a residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence; and

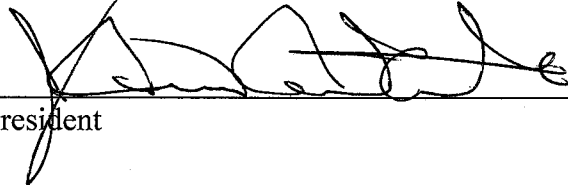
(12) the standby electric generator shall be located only in the side or rear yard of the Owner of the property on which it is installed;

Section 3. **ACC Approval**. In order to confirm that the proposed installation of a standby electric generator is in compliance with these Guidelines, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove a standby electric generator that does not comply with the requirements of these Guidelines.

**CERTIFICATION AND ATTESTATION**

I, J. Christopher Cantele , am the duly elected, qualified and acting President of Bayou Island Park Homeowners Association, Inc., a Texas non-profit corporation (the "Association"), and in such capacity I hereby certify and attest that the foregoing Declaration has been approved by a majority vote of the Board of Directors of the Association and by the votes of the requisite number of Owners, 22, which is more than sixty-seven percent (67%) of the total number of Lots, 32, within the Association and that such Declaration now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

In witness whereof, I have hereunto set my hand, this <sup>th</sup>10 day of January, 2020.

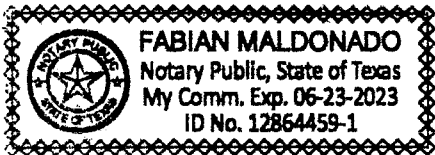
  
\_\_\_\_\_  
President


State of Texas        §

County of Harris    §

Before me the undersigned authority did personally appear J. Christopher Cantele, and after being duly sworn declared that he is the person who signed the foregoing as President of the Association, and that his statements hereinabove are true.

In witness whereof, I have hereunto set my hand and seal this <sup>th</sup>10 day of January, 2020.



  
\_\_\_\_\_  
Notary Public, State of Texas

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Amend  
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**BAYOU ISLAND PARK HOMEOWNERS  
ASSOCIATION, INC.**

RP-2021-77754  
02/11/2021 RP1 \$26.00



**FIRST AMENDMENT**

**TO**

**SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK, A SUBDIVISION  
IN HOUSTON, HARRIS COUNTY, TEXAS**

**Return Acknowledgement to:**

**C. Michael Harrington  
Vinson & Elkins LLP  
1001 Fannin Street, Suite 2500  
Houston, TX 77002**

✓✓

**BAYOU ISLAND PARK HOMEOWNERS  
ASSOCIATION, INC.**

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**FIRST AMENDMENT**

**TO**

**SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK, A  
SUBDIVISION IN HOUSTON, HARRIS COUNTY, TEXAS**

109


This instrument (herein referred to as this "Amendment") amends the Second Restated and Amended Covenants, Conditions, Restrictions and Easements for Bayou Island Park, a Subdivision in Houston, Harris, County, Texas, which was recorded in the Official Public Records of Real Property of Harris County, Texas, on January 16, 2020, under Film Code Nos. RP-2020-21351 et seq. (hereinafter referred to as the "Second Restatement of the Restrictions").

Unless otherwise defined herein, all capitalized terms used in this Amendment have the meanings ascribed thereto in the Second Restatement of the Restrictions.

As indicated in the attestation and certification of the President given on behalf of the Association and set forth at the end of this Amendment, this Amendment has been approved by (i) all of the members of the Board of Directors of the Association and (ii) the votes of the requisite number of Owners, 24, which is more than sixty-seven percent (67%) of the total number of Lots, 33, within the Association (such Owners being referred to hereinafter as the "Approving Owners").

Section 2.12 of the Second Restatement of the Restrictions is hereby amended by adding to the end thereof the following sentence: **Notwithstanding any other provision of this Declaration or the Bylaws, the two adjoining Lots 24 and 25 with the street address of 1146 Bayou Island Drive, Houston, Texas, shall be deemed to be a single Lot for purposes of determining regular or special assessments under Article V of this Declaration and for purposes of determining voting rights under Section 3.04 hereof, so long as (and only for so long as) only one single-family residential dwelling is located on such two Lots.**


In setting his name hereunto, the undersigned President of the Association is executing this Amendment as attorney-in-fact for, and on behalf of, the Approving Owners.

Signed by: , President  
Reginal Spiller

**CERTIFICATION AND ATTESTATION**

I, Reginal Spiller, am the duly elected, qualified and acting President of Bayou Island Park Homeowners Association, Inc., a Texas non-profit corporation, and in such capacity I hereby certify and attest that the foregoing document has been approved by all of the members of the Board of Directors of the Association and by the votes of the requisite number of Owners, 24, which is more than sixty-seven percent (67%) of the total number of Lots within the Association and that such document now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

In witness whereof, I have hereunto set my hand, this 9<sup>th</sup> day of January, 2021.

  
\_\_\_\_\_  
President **Reginal Spiller**

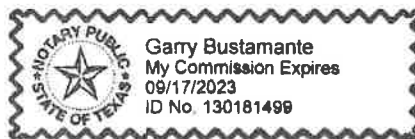
State of Texas           §

County of Harris       §

Before me the undersigned authority did personally appear Reginal Spiller, and after being duly sworn declared that he is the person who signed the foregoing document as President, and that his statements hereinabove are true.

In witness whereof, I have hereunto set my hand and seal this 9<sup>th</sup> day of January, 2021.

  
\_\_\_\_\_  
Notary Public, State of Texas



FILED FOR RECORD

8:00:00 AM

Thursday, February 11, 2021



COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED; in the Official Public Records of Real Property of Harris County Texas

Thursday, February 11, 2021



COUNTY CLERK  
HARRIS COUNTY, TEXAS

**RP-2021-77754**

Please find enclosed your instrument as recorded in the Office of the County Clerk. It has been a pleasure to serve you.



Teneshia Hudspeth  
County Clerk  
Harris County, Texas

VINSON & ELKINS LLP  
C MICHAEL HARRINGTON  
1001 FANNIN STREET, SUITE 2500  
HOUSTON, TX 77002

RP-2021-77754

RP-2022-77617  
02/11/2022 RP1 \$26.00

3.  
Amend  
Z

**BAYOU ISLAND PARK HOMEOWNERS  
ASSOCIATION, INC.**



**SECOND AMENDMENT**

**TO**

**SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK, A SUBDIVISION  
IN HOUSTON, HARRIS COUNTY, TEXAS**

W Ret

**Return Acknowledgement to:**

**C. Michael Harrington  
1010 Bayou Island Drive  
Houston, Texas 77063-1063**

**BAYOU ISLAND PARK  
HOMEOWNERS ASSOCIATION, INC.**

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**SECOND AMENDMENT TO**

**SECOND RESTATED AND AMENDED COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR BAYOU ISLAND PARK,  
A SUBDIVISION IN HOUSTON, HARRIS COUNTY, TEXAS**

This instrument (herein referred to as this "Amendment") amends the Second Restated and Amended Covenants, Conditions, Restrictions and Easements for Bayou Island Park, a Subdivision in Houston, Harris, County, Texas, which was recorded in the Official Public Records of Real Property of Harris County, Texas, on January 16, 2020, under Film Code No. RP-2020-21351, as such document was amended by the First Amendment thereto, which was recorded in the Official Public Records of Real Property of Harris County, Texas, on February 11, 2021, under Film Code No. RP-2021-77754 (such former document, as so amended by such First Amendment thereto, being hereinafter referred to as the "Amended Second Restatement of the Restrictions"). lll

Unless otherwise defined herein, all capitalized terms used in this Amendment have the meanings ascribed thereto in the Amended Second Restatement of the Restrictions.

As indicated in the attestation and certification of the President given on behalf of the Association and set forth at the end of this Amendment, this Amendment has been approved by (i) all of the members of the Board of Directors of the Association and (ii) the votes of the requisite number of Owners, twenty-three (23), which is more than sixty-seven percent (67%) of the total number (32) of Lots for voting purposes within the Association (such Owners being referred to hereinafter as the "Approving Owners").

Section 7.13 of the Amended Second Restatement of the Restrictions is hereby amended by adding to the end thereof the following clauses (d), (e) and (f):

**(d) Protection of Integrity of the Subdivision. In order to protect the integrity of the Subdivision as a neighborhood of predominantly owner-occupied residences, (i) each lease of a Lot shall specify a primary term (exclusive of renewals) of at least fifty-two (52) consecutive weeks, and (ii) , unless the Board shall in its sole discretion otherwise determine, at no time may any Owner lease his or her Lot if, as a result thereof, more than a total of three (3) Lots within the Subdivision would then be leased, it being understood that any lease executed in violation of this clause (d) shall be null and void.**

(e) **Copy of Lease.** To facilitate the Board's enforcement of the provisions of this Section 7.13, within three days of the execution of any lease of a Lot, a true and correct copy of such lease shall be delivered to the Secretary of the Association.

(f) **Subleases.** For the avoidance of doubt, the term "lease" as used in this Declaration includes a sublease as well.

In setting his name hereunto, the undersigned, Joe Henkel, President of the Association, is executing this Amendment as attorney-in-fact for, and on behalf of, the Approving Owners.

Signed: Joe Henkel

**CERTIFICATION AND ATTESTATION**

I, Joe Henkel, am the duly elected, qualified and acting President of Bayou Island Park Homeowners Association, Inc., a Texas non-profit corporation, and in such capacity I hereby certify and attest that the foregoing document has been approved by all of the members of the Board of Directors of the Association and by the votes of the requisite number of Owners, twenty-three (23), which is more than sixty-seven percent (67%) of the total number (32) of Lots for voting purposes within the Association, and that such document now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

In witness whereof, I have hereunto set my hand, this 5<sup>th</sup> day of February, 2022.

Joe Henkel  
Joe Henkel, President

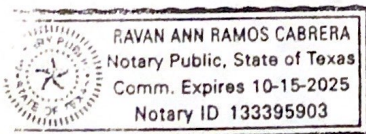
RECORDER'S MEMORANDUM:  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

State of Texas §

County of Harris §

Before me the undersigned authority did personally appear Joe Henkel, and after being duly sworn declared that he is the person who signed the foregoing document as President, and that his statements hereinabove are true.

In witness whereof, I have hereunto set my hand and seal this 5<sup>th</sup> day of February 2022.



[Signature]  
Notary Public, State of Texas

FILED FOR RECORD

8:00:00 AM

Friday, February 11, 2022

*Leneshia Hudspeth*

COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas

Friday, February 11, 2022



*Leneshia Hudspeth*

COUNTY CLERK  
HARRIS COUNTY, TEXAS