

7a
Amend
2400
F

20140045734
02/04/2014 RP1 4380.00

AMENDED AND RESTATED RESTRICTIONS
for
PINE SHADOWS AND BAYOU GLEN

PP 888-42-888
888-24-888
TH

Table of Contents

		Page
ARTICLE 1	DEFINITIONS	2
Section 1.1.	Annual Assessment.....	2
Section 1.2.	Assessment(s).....	2
Section 1.3.	Association	2
Section 1.4.	Bayou Glen	2
Section 1.5.	Board or Board of Directors	2
Section 1.6.	Bylaws	2
Section 1.7.	Certificate of Formation	2
Section 1.8.	Easement	2
Section 1.9.	Effective Date	2
Section 1.10.	Front Building Setback Line	2
Section 1.11.	Lot(s)	2
Section 1.12.	Maintenance Fund.....	2
Section 1.13.	Member(s).....	2
Section 1.14.	Owner(s)	3
Section 1.15.	Pine Shadows	3
Section 1.16.	Plat(s).....	3
Section 1.17.	Prior Restrictions	3
Section 1.18.	Property.....	3
Section 1.19.	Residential Dwelling	3
Section 1.20.	Restrictions	3
Section 1.21.	Special Assessment	3
ARTICLE 2	MANAGEMENT AND OPERATION OF PROPERTY.....	3
Section 2.1.	Management By Association	3
Section 2.2.	Membership in Association	3
Section 2.3.	Voting of Members	4
Section 2.4.	Board Actions in Good Faith.....	4
Section 2.5.	Indemnification of Officers and Directors	4
ARTICLE 3	COVENANTS FOR MAINTENANCE ASSESSMENTS	4
Section 3.1.	Obligation for Assessments	4
Section 3.2.	Purpose of Assessments	4
Section 3.3.	Maximum Annual Assessment	5
Section 3.4.	Special Assessments	5
Section 3.5.	Quorum for Meetings.....	5
Section 3.6.	Uniform Rate of Assessment	6
Section 3.7.	Date of Commencement and Determination of Annual Assessments	6
Section 3.8.	Effect of Nonpayment of Assessments	6
ARTICLE 4	USE RESTRICTIONS	6
Section 4.1.	Single Family Residential Use	6
Section 4.2.	Nuisances	6

11-00-42-0041

Section 4.3.	Animals	7
Section 4.4.	Signs	7
Section 4.5.	Commercial Motor Vehicles, Boats, Trailers, Etc.	8
Section 4.6.	Rain Barrels and Rain Harvesting Systems	8
Section 4.7.	Solar Energy Devices	10
Section 4.8.	Storm and Energy Efficient Shingles	11
Section 4.9.	Flags	11
Section 4.10.	Religious Items	13
ARTICLE 5	ARCHITECTURAL COMMITTEE	14
Section 5.1.	Approval of Plans	14
Section 5.2.	Powers of the Architectural Committee	14
ARTICLE 6	ARCHITECTURAL RESTRICTIONS	15
Section 6.1.	Residential Dwelling Construction	15
Section 6.2.	Residential Dwelling Orientation and Building Location	15
Section 6.3.	Temporary Structures	15
Section 6.4.	Storage of Building Materials	15
Section 6.5.	Setbacks	16
Section 6.6.	Lot Maintenance	16
Section 6.7.	Antennas	16
ARTICLE 7	TREE PRESERVATION POLICY	17
Section 7.1.	Purpose	17
Section 7.2.	Objectives of the Tree Preservation Policy	17
Section 7.3.	Definitions	17
Section 7.4.	Care of Trees During Construction	20
Section 7.5.	Damaging Conditions to Avoid During Construction	20
Section 7.6.	Requirements	20
Section 7.7.	City of Houston Current Protection/Planting Requirements	23
ARTICLE 8	AMENDMENT TO RESTRICTIONS AND DURATION OF RESTRICTIONS	23
Section 8.1.	Amendment	23
Section 8.2.	Duration	23
ARTICLE 9	EASEMENTS	23
ARTICLE 10	MISCELLANEOUS	24
Section 10.1.	Severability	24
Section 10.2.	Number and Gender	24
Section 10.3.	Articles and Sections	24
Section 10.4.	Delay in Enforcement	24
Section 10.5.	Enforceability	24
Section 10.6.	Existing Conditions and Improvements	24
Section 10.7.	Compliance With the Law	24

2000-2001-0001-0001

AMENDED AND RESTATED RESTRICTIONS
for
PINE SHADOWS AND BAYOU GLEN

JLL

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF HARRIS §

RECITALS:

PINE SHADOWS

WHEREAS, I. R. C. WEST, TRUSTEE, was the owner of all that certain real property comprising Pine Shadows, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 28, Page 24 of the Map Records of Harris County, Texas, as partially replatted by plats respectively filed under Volume 31, Page 21; Film Code Nos. 538300 and 602047 of the Map Records of Harris County, Texas ("Pine Shadows");

WHEREAS, by instrument dated December 9, 1948, certain restrictions and covenants were established encumbering Pine Shadows, which were recorded in Volume 1861, Page 413 of the Deed Records of Harris County, Texas ("Pine Shadows Prior Restrictions");

WHEREAS, Section XV of the Pine Shadows Prior Restrictions provides the Restrictions may be amended by an instrument signed by a majority of the Owners of the Lots in Pine Shadows (on the basis of one [1] vote for each Lot so owned);

WHEREAS, the Pine Shadows Prior Restrictions were amended by that certain instrument entitled "Amendment" recorded in Volume 1872, Page 42 of the Deed Records of Harris County, Texas (the Pine Shadows Prior Restrictions as amended hereinafter still referred to as "Pine Shadows Prior Restrictions");

BAYOU GLEN

WHEREAS, R AND R DEVELOPMENT COMPANY, was the owner of all that certain real property comprising Bayou Glen, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 33, Page 55 of the Map Records of Harris County, Texas, as partially replatted by plat filed under Volume 346, Page 103 of the Map Records of Harris County, Texas ("Bayou Glen");

WHEREAS, by instrument dated April 27, 1950, certain restrictions and covenants were established encumbering Bayou Glen, which were recorded in Volume 2084, Page 187 of the Deed Records of Harris County, Texas ("Bayou Glen Prior Restrictions");

WHEREAS, Section XV of the Bayou Glen Prior Restrictions provides the Restrictions may be amended by an instrument signed by a majority of the Owners of the Lots in Bayou Glen (on the basis of one [1] vote for each Lot so owned);

WHEREAS, the Bayou Glen Prior Restrictions were amended by that certain instrument entitled "Restrictions" recorded in Volume 2095, Page 270 of the Deed Records of Harris

2025-01-24 10:00 AM

County, Texas (the Bayou Glen Prior Restrictions as amended hereinafter still referred to as "Bayou Glen Prior Restrictions");

ARTICLE 1 **DEFINITIONS**

As used in this instrument, the terms set forth below shall have the following meanings:

Section 1.1. Annual Assessment. The assessment made and levied by the Association against every Owner and Lot in accordance with the provisions of these Restrictions.

Section 1.2. Assessment(s). Collectively the Annual Assessment, Special Assessments, together with interest, late fees, costs, other charges provided for herein or by law, and reasonable attorney's fees incurred by the Association's enforcement of this Declaration against an Owner.

Section 1.3. Association. Property Owners Association of Pine Shadows, a Texas non-profit corporation, its successors and assigns.

Section 1.4. Bayou Glen. Bayou Glen, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 33, Page 55 of the Map Records of Harris County, Texas, as partially replatted by plat filed under Volume 346, Page 103 of the Map Records of Harris County, Texas.

Section 1.5. Board or Board of Directors. The Board of Directors of the Association as elected in accordance with the Certificate of Formation and the Bylaws.

Section 1.6. Bylaws. The Bylaws of the Association.

Section 1.7. Certificate of Formation. The Certificate of Formation of the Association.

Section 1.8. Easement. The various utility, maintenance, and other easements of record, created or referenced to in the Prior Restrictions and these Restrictions.

Section 1.9. Effective Date. The date these Restrictions are filed of record in the Official Public Records of Real Property of Harris County, Texas.

Section 1.10. Front Building Setback Line. The line in front of which no buildings or any part thereof may be placed, as further defined in Section 6.5.

Section 1.11. Lot(s). Shall mean and refer to any subdivided parcel of land designated as a Lot or Lots shown upon any recorded Plat.

Section 1.12. Maintenance Fund. Any accumulation of the Assessments collected by the Association in accordance with the provisions of these Restrictions, interest, penalties and other sums and revenues collected by the Association pursuant to the provisions of these Restrictions or by law.

Section 1.13. Member(s). All Owners of Lots.

Section 1.14. Owner(s). Any person or persons, trust, estate, partnership, firm, corporation or other entity or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

Section 1.15. Pine Shadows. Pine Shadows, a subdivision in Harris County, Texas according to the map or plat thereof recorded in Volume 28, Page 24 of the Map Records of Harris County, Texas, as partially replatted by plats respectively filed under Volume 31, Page 21; Film Code Nos. 538300 and 602047 of the Map Records of Harris County, Texas.

Section 1.16. Plat(s). The plats of the Property and any amendments or replats thereof recorded in the Map Records of Harris County, Texas.

Section 1.17. Prior Restrictions. Those certain covenants, conditions, restrictions and easements, which encumbered the Property immediately prior to the Effective Date of these Restrictions, being the Pine Shadows Prior Restrictions and Bayou Glen Prior Restrictions.

Section 1.18. Property. Pine Shadows and Bayou Glen being all of the real property under the jurisdiction of the Association, by virtue of these Restrictions and similar restrictive covenants filed of record in the Official Public Records of Real Property of Harris County, Texas subjecting such real property to the jurisdiction of the Association.

Section 1.19. Residential Dwelling. The single family residence constructed on a Lot.

Section 1.20. Restrictions. The covenants, conditions, restrictions, easements, reservations and stipulations that are applicable to and govern the improvement, use, occupancy, and conveyance of all the Lots in the Property set out in this instrument or any amendment thereto.

Section 1.21. Special Assessment. A special charge against every Owner as approved by the Members, pursuant to Article 3, Section 3.4.

ARTICLE 2 **MANAGEMENT AND OPERATION OF PROPERTY**

Section 2.1. Management By Association. The affairs of the Property shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Property as provided for in these Restrictions, the Certificate of Formation and the Bylaws. The business and affairs of the Association shall be managed by its Board of Directors, unless otherwise reserved to the Members of the Association by law, the terms of these Restrictions, the Certificate of Formation, or the Bylaws.

The Board shall be entitled to enter into such contracts and agreements concerning the Property as the Board deems reasonably necessary or appropriate to maintain and operate the Property in accordance with these Restrictions, including without limitation the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, repair, administration, courtesy patrol or other matters of mutual interest.

Section 2.2. Membership in Association. Each Owner of a Lot shall, upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the

Association until ownership of the Lot ceases for any reason at which time the membership in the Association shall also automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership. All Members must provide their current mailing address to the Association in writing, if different from that of the Residential Dwelling on the Lot owned by the Member.

Section 2.3. Voting of Members. Owners shall only be entitled to one (1) vote per individual Lot owned within the Property. When more than one (1) person holds interest in any Lot all such persons shall be Members, but such Members shall collectively be entitled to one (1) vote, which vote shall be exercised as they among themselves determine.

Section 2.4. Board Actions in Good Faith. Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual Member of the Board to any liability to the Association, its Members or any other party.

Section 2.5. Indemnification of Officers and Directors. The Association shall indemnify each officer and Director of the Association to the fullest extent allowed by the Texas Business Organizations Code, as the same may be amended from time to time. The Association must provide Directors and Officers liability insurance coverage for its Directors, Officers and Members of Committees authorized by the Association.

ARTICLE 3 **COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 3.1. Obligation for Assessments. Each Owner of any Lot is deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments;
- (b) Special Assessments; and
- (c) Any other Assessments provided for by these Restrictions or by law.

The Assessments shall be the personal obligation of the person who was the Owner of such Lot at the time the Assessments fell due. The Assessments shall also be secured by a continuing lien against the Owner's Lot in favor of the Association, but such lien may only be enforced as a secured charge against the Lot (versus the personal obligation) at the time of transfer of the Lot from the Owner to a new Owner. Any applicable statute of limitations for enforcing the Association's lien begins to run from and after the date of the transfer of title to the Lot.

Section 3.2. Purpose of Assessments. Each individual Lot in the Property is hereby subjected to an Annual Assessment for the purpose of creating a fund to be designated and known as the "Maintenance Fund", which Annual Assessment will be paid by the Owner or Owners of each Lot within the Property to the Association, in advance annual installments. The rate at which each Lot will be assessed will be determined annually and may be adjusted from year to year by the Association, as hereinafter provided as the needs for the Property may, in the judgment of the Association, require. Such Assessment will be uniform, as hereinafter provided. The Association shall use the proceeds of said Maintenance Fund for the use and benefit of the Property. The uses and benefits to be provided by the Association shall include,

42-0046

by way of clarification and not limitation, at its sole option, any and all of the following: payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions and conditions affecting the Property to which the Maintenance Fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, payment for insurance policies carried by the Association (as determined by the Board), employing patrol services, caring for vacant Lots or Residential Dwellings, garbage collection, and doing other things necessary or desirable, in the opinion of the Board, to keep the Property neat and in good order or which is considered of general benefit to the Property. It is understood that the judgment of the Board in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith. Nothing herein shall constitute a representation that any of the above will, in fact, be provided by the Association. Each person that has or who will accept a deed to a Lot or Lots agrees, by the acceptance of same, to pay such maintenance charge and assessments as herein provided. IT IS UNDERSTOOD EACH RESIDENT OF THE PROPERTY, THEIR GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN PERSONAL SAFETY AND IT IS UNDERSTOOD AND AGREED THAT IT SHALL NOT BE ONE OF THE PURPOSES OF THE ASSOCIATION TO PROVIDE SECURITY TO THE RESIDENTS OF THE PROPERTY OR THEIR GUESTS AND INVITEES. NEITHER THE ASSOCIATION, ITS BOARD, NOR ITS OFFICERS OR DIRECTORS SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY, NOR SHALL THEY BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR ALLEGED FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

Section 3.3. Maximum Annual Assessment. Commencing with the 2013 Annual Assessment, the maximum Annual Assessment shall be \$600.00 per individual Lot per year.

- (a) The Annual Assessment may be increased each year not more than five percent (5%) above the maximum Annual Assessment for the previous year without a vote of the membership.
- (b) The maximum Annual Assessment may be increased above five percent (5%) of the previous year's maximum Annual Assessment by a majority of those Members, in attendance in person or by proxy, absentee or electronic ballot, at a meeting of the Members called for such purpose.
- (c) The Board of Directors may fix the Annual Assessment in an amount not to exceed the maximum Annual Assessment permitted by this Section.

Section 3.4. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy a Special Assessment for the purpose of defraying, in whole or in-part, the cost of any use or benefit provided for herein in Section 3.2. Provided, however, any such Special Assessment must be approved by a majority of those Members, in attendance in person or by proxy, absentee or electronic ballot, at a meeting of the Members called for such purpose.

Section 3.5. Quorum for Meetings. At any meeting of the Members held to vote under Section 3.3(b) and Section 3.4, a quorum of at least twenty percent (20%) of the total votes in the Association must be present in person or by proxy, absentee or electronic ballot.

Section 3.6. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate per individual Lot.

Section 3.7. Date of Commencement and Determination of Annual Assessments. The Annual Assessments provided for herein shall commence as to all Lots upon the Effective Date of the Restrictions. The due dates shall be established by the Board of Directors. Written notice of the Annual Assessment shall be sent to every Owner subject thereto at least thirty (30) days prior to the due date.

Section 3.8. Effect of Nonpayment of Assessments. Any Assessment not paid within sixty (60) days after the due date shall bear interest from the due date at the rate of one and one-half percent (1.5%) per month and be subject to a late fee. The Association may (i) bring an action at law against the Owner obligated to pay the same, and (ii) may also enforce the Association's lien against a Lot by all measures allowed by law, if the Assessments are not paid at the time of transfer of title to the Lot.

ARTICLE 4 USE RESTRICTIONS

Section 4.1. Single Family Residential Use. All Owners shall use their Lots and the Residential Dwellings and any other buildings on their Lot, if any, for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to allow only a single family to reside in a Residential Dwelling and specifically prohibit, by way of illustration but without limitation, the use of any Lot for a duplex apartment, a garage apartment (other than for use by domestic employees or members of the single family occupying the Residential Dwelling) or any other apartment or for any multi-family use or for any business, educational, church, professional or other commercial activity of any type, including use of Lots as parking facilities or parking lots, except that an Owner may use the Residential Dwelling as a personal office for a profession or occupation, provided: (i) the public is not invited, permitted, or allowed to enter the Residential Dwelling or any structure or improvement upon such Lot and conduct business therein; (ii) no signs advertising such profession or business are permitted; (iii) no on-site employees are permitted, other than domestic employees; (iv) no visible storage or display of materials, goods, or products are permitted; (v) no offensive activity or condition, noise and/or odor are permitted; and (vi) such use in all respects complies with the laws of the State of Texas, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. For the purposes of this Section 4.1 "single family" shall be defined as (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children and grandchildren (including foster children and wards), dependent parents, dependent grandparents, and not more than two (2) (in the aggregate) dependent brothers and/or sisters; (b) no more than two (2) unrelated persons living together as a single housekeeping unit and their children and grandchildren (including foster children and wards), dependent parents, dependent grandparents, and not more than two (2) (in the aggregate) dependent brothers and/or sisters.

Section 4.2. Nuisances. No nuisance of any type shall be permitted to exist or operate upon any Lot. Construction, demolition, mowing, leaf blowing, and all other similarly noisy activities shall be permitted only from 8:00 a.m. until 6:00 p.m. Monday through Saturday. For so long as the Association pays for back door trash pickup, no trash or trash containers shall be left on curbs.

Section 4.3. Animals. No animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be maintained on a Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. No exotic animal or breed of animal that is commonly recognized to be inherently aggressive or vicious toward other animals and/or humans is permitted in the Property. Each dog must be kept either in the Residential Dwelling or other improvement on the Lot or in a yard fully enclosed by a fence. An "invisible" fence that controls dogs through underground electrical wiring is an acceptable form of maintaining a dog in the yard of a Lot. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance to the other Owners. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from any street in the Property or a neighboring Lot without the written consent of the Architectural Committee. The Board shall have the authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized house or yard pet, an exotic animal, an inherently aggressive or vicious animal, or a nuisance, or whether the number of animals or birds kept on any Lot is reasonable, and its determination shall be conclusive and binding on all parties.

Section 4.4. Signs. No sign of any kind shall be displayed to public view on any residential Lot other than the following:

(a) **Security Signs.** A small security sign or window stickers depicting the security company utilized by the Owner;

(b) **Political Signs.** Ground mounted signs, which promote or advertise a political candidate or ballot item for an election ("Political Signs"), provided the following criteria are met:

- (i) no Political Sign may be placed on an Owner's Lot prior to the ninetieth (90th) day before the date of the election to which the sign relates, or remain on an Owner's Lot subsequent to the tenth (10th) day after the election date;
- (ii) no more than one (1) Political Sign is allowed per political candidate or ballot item; and
- (iii) no Political Sign may: contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; include the painting of architectural surfaces; threaten the public health or safety; be larger than four feet by six feet; violate a law; contain language, graphics, or any display that would be offensive to the ordinary person; or be accompanied by music, other sounds, streamers, or is otherwise distracting to motorists.

(c) **School Spirit and Athletic Signs.** Signs containing information about one (1) or more children residing in the residence and the school they attend or athletic teams on which they are members shall be permitted so long as the sign is not more than six (6) square feet. Only one (1) sign per child under the age of eighteen (18) residing in the Residential Dwelling is allowed. School spirit signs of a temporary nature shall be governed by Specialty Signs.

(d) Specialty Signs. Special event signs or banners, such as signs announcing birthday, births or short term school spirit signs, may be displayed for a temporary period of time not to exceed seven (7) days prior to the event and three (3) days after the event.

In the event of default on the part of any Owner or occupant of any Lot in complying with the terms of this Section, the Association may, without liability to the Owner or occupant, in trespass or otherwise remove or cause to be removed and destroyed any signs in violation of this Section.

Section 4.5. Commercial Motor Vehicles, Boats, Trailers, Etc. No motor vehicle or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, oversized hunting vehicles (i.e. larger than allowed below), machinery or equipment of any kind may be parked or stored on any part of any Lot, Easement or right-of-way, for a period exceeding three (3) consecutive days in any seven (7) consecutive day period (but then only in the street or on the driveway on a Lot), unless such vehicle or object is inside a garage or enclosure or otherwise completely concealed from public view, as approved by the Committee. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed seven feet (7') in height, or eight feet (8') in width, or twenty-four feet (24') in length; provided, however, in the case of a handicap vehicle the height may not exceed eight feet (8') unless otherwise allowed by law; and (e) have no commercial advertising located thereon may be parked in the street, driveway or garage on a Lot. No vehicle may be repaired on a Lot in excess of forty-eight (48) consecutive hours, unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure. This Section 4.5 shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a Residential Dwelling or other improvement on a Lot. Owners or occupants of Lots may seek a temporary variance from this restriction for their guests; however, any such request for a variance must receive the prior approval of the Board.

Section 4.6. 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 provisions shall be applicable to rain barrels and rain harvesting systems in the Property:

- (a) Architectural Committee Approval. In order to confirm the proposed rain barrel or rain harvesting device is in compliance with these Restrictions, Owners are encouraged to apply to the Architectural Committee for prior approval. The Association may require an Owner to remove a rain barrel or rain harvesting device that does not comply with requirements of these Restrictions.
- (b) 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.
- (c) Color and Display. A rain barrel or rain harvesting system is not permitted:

- (i) 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
 - (ii) 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.
- (d) 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 common area, the rain barrel or rain harvesting system must comply with the following regulations:

(i) Rain Barrel:

- (1) Size: A maximum height of forty-two (42) inches and a maximum capacity of fifty (50) gallons.
- (2) 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.
- (3) Materials: Wood, metal, polyethylene or plastic resin designed to look like an authentic barrel in brown or other earthtone color.
- (4) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another Lot, and common area, unless otherwise approved in writing by the Architectural Committee.
- (5) 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.

- (ii) 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 common area, unless otherwise approved in writing by the Architectural Committee.

Provided that, the regulations in this Section 4.6 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.

1500-24-0503
FF

Section 4.7. 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 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 provisions shall be applicable to solar energy devices in Property:

- (a) Architectural Committee Approval. The installation of a solar energy device requires the prior written approval of the Architectural Committee Approval. Provided that, the Architectural Committee Approval may not withhold approval if these Restrictions are met or exceeded, unless the Architectural Committee Approval 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.
- (b) 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.
- (c) Devices Mounted on a Roof. A solar energy device mounted on the roof of the Residential Dwelling or other permitted structure on a Lot:
 - (i) shall not extend higher than or beyond the roofline;
 - (ii) shall conform to the slope of the roof and have a top edge that is parallel to the roofline;
 - (iii) shall have frames, support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and
 - (iv) shall be located on the roof as designated by the Architectural Committee 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 Architectural Committee. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.
- (d) 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.

HP 092-42-0052

- (e) Warranties. A solar energy device shall not be installed on a Lot in a manner that voids material warranties.
- (f) 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 4.8. 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 are designed to:

- be wind and hail resistant; provide heating and cooling efficiencies greater than those provided by customary composition shingles; or provide solar generation capabilities; and
- when installed: resemble the shingles used or otherwise authorized for use on Lot in the Property; are more durable than and are of equal or superior quality to the shingles described below; and match the aesthetics of the property surrounding the Owner's Lot.
 - (a) Architectural Committee Approval. In order to confirm the proposed shingles conform to the foregoing Restrictions, Owners are encouraged to apply to the Architectural Committee for prior approval. The Association may require an Owner to remove shingles that do not comply with these Restrictions.
 - (b) Appearance. 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 Property as set forth above. In addition, the storm or energy efficient shingles must match the aesthetics of the Lots surrounding the Lot in question.

Section 4.9. Flags. 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, restricts, or has the effect of prohibiting or restricting a 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.

- (a) The following provisions shall be applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:
 - (i) Architectural Committee Approval. Above-ground flagpoles, flagpole stands and/or footings and illumination proposed to be placed in front of the Front Building Setback Line for a Lot or outside of any other recorded setbacks must be approved by the Architectural Committee. In order to confirm a proposed flagpole conforms to the following standards, Owners are encouraged to apply to the Architectural Committee for prior approval for all other flagpoles (freestanding or attached). The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with these Restrictions.

- (ii) Flag of the United States. The flag of the United States must be displayed in Architectural Committee in accordance with applicable provisions of 4 U.S.C. 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.
- (iii) 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.

(b) Flagpoles.

- (i) 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.
- (ii) A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.
- (iii) A flagpole attached to the Residential Dwelling or garage shall not exceed six (6) feet in length.
- (iv) 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.
- (v) A flagpole shall not be located in an Easement or encroach into an Easement.
- (vi) Without the prior approval of the Architectural Committee, 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.
- (vii) A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.
- (viii) An Owner is prohibited from locating a flagpole on Property owned or maintained by the Association.
- (ix) A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.
- (x) If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the Architectural Committee may require the installation of landscaping to screen the stand and/or footing from view.

(c) Flags.

- 500-24-055
11
- (i) 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.
 - (ii) Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any given time.
 - (iii) 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.
 - (iv) 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.
 - (v) A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.
 - (vi) 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 tree, or be displayed in a window of the Residential Dwelling or other structure on a Lot.
- (d) **Illumination.** Illumination of a flag is permitted but the lighting must be in-ground and have a maximum of 150 watts, unless otherwise approved by the Architectural Committee. 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 Property 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.
- (e) **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 4.10. 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 an 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. Section 202.001(4) of the Texas Property Code defines "restrictive covenant" to mean any covenant, condition, or restriction contained in a dedicatory instrument. The following provisions shall be applicable to the display of religious items in Property:

- (a) **Architectural Committee Approval.** Any alteration to the entry door or door frame must first be approved by the Architectural Committee.

- (b) **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 door frame.
- (c) **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.
- (d) **Content.** A religious item shall not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.
- (f) **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.
- (g) **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 Board.
- (h) **Other.** Notwithstanding the above provisions: (i) the Architectural Committee 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.

ARTICLE 5

ARCHITECTURAL COMMITTEE

Section 5.1. Approval of Plans. The members of the Architectural Committee shall be the members of the Board of Directors as elected from time-to-time or the Board's appointees. No Residential Dwelling, building, improvement or other structure shall be erected, placed or altered on any Lot until the construction plans and specifications showing the orientation, height, location, building materials and color of the proposed structure or improvement have been approved in writing as to compliance with the building line setbacks, location and height restrictions contained in these Restrictions. All bridges or culverts on Lots must also be approved by the Architectural Committee as to design, capacity and width. A copy of the construction plans and specifications and a plot plan, together with such information as the Architectural Committee may be deemed pertinent, shall be submitted to the Architectural Committee, or its designated representative prior to the commencement of construction or alterations. A user friendly approval process has been implemented for routine repainting and reroofing of an existing Residential Dwelling. Colors and/or plans must be submitted to the Architectural Committee to request approval. An approval will be provided to you by the Architectural Committee.

Section 5.2. Powers of the Architectural Committee. The Architectural Committee shall have full power and authority to reject any plans and specifications that do not comply with the restrictions imposed by these Restrictions or any architectural guidelines. The Architectural Committee may authorize variances from compliance with the provisions of these Restrictions when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when

PP 09042-0000

unique circumstances dictate. All granted variances shall be in writing and include: (i) a description of the applicable restrictions to which the variance is granted; (ii) a list of conditions imposed on the granted variance; and (iii) a list of specific reasons for granting the variance. No variance so granted shall stop the Architectural Committee from denying a variance in other circumstances. The Architectural Committee from time-to-time may adopt and amend architectural guidelines, which provide an outline of minimum acceptable standards for proposed construction and improvements.

ARTICLE 6 **ARCHITECTURAL RESTRICTIONS**

Section 6.1. Residential Dwelling Construction. Residential Dwellings must be no more than two (2) stories in height, however, Residential Dwellings and other structures on a Lot may not exceed thirty eight feet (38') in height as measured from the grade level of the Lot, at the Residential Dwelling's foundation, to the highest point of any roof, exclusive of any chimney.

Section 6.2. Residential Dwelling Orientation and Building Location. The Residential Dwelling on a Lot must face the street applicable to the Lot by virtue of the street address assigned to the Lot. The street a Residential Dwelling currently faces cannot be changed for new construction, unless approved in writing by the Board. No Lot shall have less than 12,000 square feet in area, or front width of less than 90 feet and no Residential Dwelling may be erected on Property having an area or frontage less than said minimum requirements. The exterior building and roofing materials and the color(s) of paint or color impregnation proposed to be used on the exterior of a Residential Dwelling or any other improvement must be approved. Building or roofing materials must be compatible with the predominant types of building materials used on Residential Dwellings and improvements in the Property. Colors must be those traditionally used on Residential Dwellings in the Property. White roofing materials are prohibited.

Section 6.3. Temporary Structures. No structures of a temporary character, trailers (with or without wheels and whether or not attached to a foundation), mobile homes (with or without wheels and whether or not attached to a foundation), modular or prefabricated homes, other than a permanent Residential Dwelling to be built thereon, no tents shall be placed on any Lot, either temporarily or permanently. No Residential Dwelling, garage or other structure appurtenant thereto, shall be moved upon any Lot from another location. Provided, however, garden sheds and other outbuildings that are not visible from any street may be placed on a Lot. Garden sheds and other outbuildings that are visible from any street must be approved in writing by the Board prior to being placed on a Lot. Provided, further, during the construction, modification, repair or other work on a Residential Dwelling or other structure on a Lot, a portable toilet may be moved onto a Lot, if the portable toilet is (i) not visible from the street, or (ii) located behind a temporary six foot (6') privacy fence.

Section 6.4. Storage of Building Materials. Building materials shall not be placed or stored on any Lot earlier than thirty (30) days before the commencement of construction, modification, repair, or other work on a Residential Dwelling or other structure on a Lot. All such materials shall be located within the property lines of the Lot. After the commencement of construction, modification, repair or other work on a Residential Dwelling or other structure, the work shall be performed diligently so that it is completed within sixteen (16) months and building materials shall be stored out of sight on the Lot. Extensions to the time provisions of this

Section may be granted by the Board of Directors on submission and approval of documentation that demonstrates justifiable reason for an extension.

Section 6.5. Setbacks. No Residential Dwelling or outbuilding shall be located nearer to the front Lot line or nearer to the side street line than the building setback lines as shown on the recorded Plat. No Residential Dwelling or outbuilding shall be located nearer than ten feet (10') to any side property line. The side line restrictions shall not be applied to a detached garage, which detached garage may be five feet (5') from the side Lot lines, except on Lots 3 and 4 in Block 1, Lots 15 and 16 in Block 2, Lots 27 and 28 in Block 3 and Lot 39 in Block 4 of Bayou Glen, on which Lots the detached garages shall not be nearer than ten (10) feet from the side Lot line. No hedge, fence or other structure over four feet six inches (4'6") in height shall be erected, installed or maintained on any Lot nearer to the front property line than the front line of the Residential Dwelling thereon, except by written consent of the Architectural Committee. If a garage or servants' house is made an integral part of the Residential Dwelling, or is connected thereto, in a manner approved by the Architectural Committee upon submission of the plans and specifications, the setback distances from front and side lines of Lot will automatically become identical with those stipulated for the Residential Dwelling itself.

Section 6.6. Lot Maintenance. No trash, manure, garbage, putrescible matter, or debris of any kind shall be dumped or permitted to accumulate on any Lot. The Owner of each Lot shall maintain the Lot, including front and back lawns, trees, hedges, flower beds, and plantings and all improvements thereon in a neat and attractive manner. Owners shall also maintain drainage ditches adjacent to their Lots in a neat, attractive and functional manner. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any other regarding Lot maintenance, and the continuance of such default after fifteen (15) days written notice thereof, the Association or its agent, without liability to the Owner or occupants in trespass or otherwise, has the right (but not the obligation) to enter upon said Lot or cause to be cut, such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or to do any other thing necessary to secure compliance with this Section 6.6 as to Lot maintenance (but excluding the right to maintain any improvements), so as to place said Lot in a neat and attractive condition, and may render a statement or charge to the Owner or occupant of such Lot for the cost of such work. The Board of Directors of the Association shall have the right and authority to determine whether an Owner is maintaining (i) the Owner's Lot in a neat, attractive manner and the drainage ditches to his Lot in a neat, attractive and functional manner.

Section 6.7. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any Lot, which are visible from any street, or another Lot, unless it is impossible to receive an acceptable quality signal from any other location. In that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal is possible. The Architectural Committee may require painting or screening of the receiving device, which painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) dish antennas designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, which are larger than one (1) meter in diameter; (ii) antennas larger than one meter designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; or (iii) masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted, placed, allowed or maintained upon any Lot, which transmit

television, radio, satellite or other signals of any kind. This Section is intended to be in compliance with the Telecommunications Act of 1996 ("Act") as may be amended from time to time; this Section shall be interpreted to be as restrictive as possible, while not violating the Act.

ARTICLE 7 **TREE PRESERVATION POLICY**

Section 7.1. Purpose. The availability of large Lots and the desirable close-in location of the Property has resulted in much larger Residential Dwellings replacing the original Residential Dwellings, often covering a majority of the buildable area. In some cases, beautiful trees are being removed without making any effort to preserve them. Since much of the new Residential Dwelling construction is being generated by speculative builders, tree decisions typically are not being made by the person who will occupy the new Residential Dwelling. This tree policy has been incorporated into the Declaration to address the challenge of preserving the invaluable tree resources.

Section 7.2. Objectives of the Tree Preservation Policy. THIS POLICY ONLY APPLIES TO NEW RESIDENTIAL DWELLING CONSTRUCTION, MAJOR REMODELING, (AS HEREIN DEFINED), OR THE REMOVAL OF TREES WHEN AN EXISTING RESIDENTIAL DWELLING IS RAZED. THE POLICY COVERS TREES IN THE FRONT SETBACK AREA OF NON-CORNER LOTS AND THE FRONT AND STREET-SIDE SETBACK AREAS OF CORNER LOTS. THE OBJECTIVES OF THE TREE PRESERVATION POLICY ARE TO:

- (a) Protect trees during new Residential Dwelling construction, Major Remodeling (as herein defined), or when an existing Residential Dwelling is razed;
- (b) Enforce tree preservation and planting requirements that will preserve and sustain the existence of mature shade trees growing throughout the Property;
- (c) Be realistic without making compliance overly burdensome to the builder/Owner;
- (d) Preserve mature trees that currently exist in the front setback areas and Right of Way ("ROW") of interior Lots plus the side setback areas and ROW on corner lots; and
- (e) Educate Owners about the Protection/Planting Requirements enforced by the City of Houston ("COH") governing trees located in the ROW in an effort to prevent trees from being illegally removed. This Tree Preservation Policy is intended to augment, not replace the COH Protection/Planting Requirements.

Section 7.3. Definitions. The following words and terms shall have the listed meanings, unless the context clearly indicates otherwise.

- (a) **Building Footprint** - The foundation area of the Residential Dwelling or other building complying with all applicable setbacks.
- (b) **Caliper** - The diameter of a tree trunk measured six inches (6") above grade. Caliper is a measurement commonly used on young trees of transplantable size.

- (c) **Critical Root Zone ("CRZ")** - The area of soil which extends radially from the trunk of a tree to the branch dripline, containing the majority of feeder roots required to sustain the life of the tree.
- (d) **Construction** -
- (i) demolition of an existing Residential Dwelling and subsequent construction of a new Residential Dwelling and/or improvement;
 - (ii) construction of new Residential Dwelling on a vacant Lot;
 - (iii) Major Remodeling, as herein defined; and
 - (iv) expansion of the driveway area in the front setback areas and ROW of interior lots plus the street-side setback areas and ROW on corner lots.
- (e) **Diameter** - The diameter of a tree trunk measured four and one-half feet (4 1/2) above grade. Diameter is the measurement commonly used for trees considered too large to transplant.
- (f) **Large Lots** - Lots with a front width of more than sixty-five feet (65').
- (g) **Major Remodeling** - Any construction which increases the Building Footprint of the existing Residential Dwelling by 20% or more.
- (h) **New or Replacement Tree** -
- (i) For Small Lots, any tree with a Caliper of at least four inches (4") and a minimum height of twelve feet (12') tall and listed on the Small Trees Planting List.
 - (ii) For Large Lots, any tree with a Caliper of at least six inches (6") and a minimum of fifteen feet (15') tall listed on the Large Trees Planting List.
- (j) **Professional** - One who has a degree in landscape architecture, forestry, horticulture, or related field with a minimum of five (5) years experience.
- (k) **Protected Tree** - All trees located in the front setback area of an interior Lot and the front and side setback area of a corner Lot, excluding hackberry, cottonwoods, and Chinese tallow trees, with a trunk or trunks fifteen inches (15") in diameter and larger measured four and one-half feet (4 1/2) feet above grade. If the trunk of a tree straddles the property line, the tree is deemed to be located in the area where the predominance of the trunk is situated. Trees in the ROW are protected by the COH tree ordinance referenced herein. The Association shall be the final authority over any disputes determining tree location.
- (l) **Right of Way or ROW** - The unpaved area between the street and the property line on each Lot. (The typical area platted for streets is sixty feet (60') wide, and after deducting the actual paved street area, the width of the

remaining unpaved grass area on each side of the street is approximately sixteen feet (16') measured from the back of the street curb to the property line. A tree within the ROW is protected under the COH Tree Ordinance. Refer to the COH Current Protection/Planting Requirements in Section 7.7.

- (m) **Setback Areas** - The setback areas applicable to a Lot. For non-corner Lots, the "Setback Area" (for purposes of this Tree Preservation Policy only) shall mean the front Setback Area facing the street and for corner Lots, the "Setback Area(s)" shall mean the front and street-side Setback Area.
- (n) **Signage** - An eleven by eight and one-half inch (11" x 8 1/2") sign posted on each Tree Protection Fence containing the following wording written in both English and Spanish:

TREE PROTECTION FENCING
DO NOT REMOVE

CERCASPARA PROTECCION de ARBOLES
FAVOR DE NO REMOVER

- (o) **Small Lots** - Lots with a front width of sixty-five feet (65') or less.
- (p) **Tree Fund** - A fund ("Fund") established to hold mitigation payments. All sums collected shall be designated to be used to plant new trees or to maintain established trees located in common areas.
- (q) **Tree Protection Fence** - A barrier constructed using the specifications attached hereto encompassing the CRZ to prevent damage to the CRZ resulting from materials storage, vehicle traffic, etc.
- (r) **Tree Survey and Disposition Plan** -
 - (i) A site plan drawn to scale prepared by a Professional identifying all Protected Trees and CRZs on the Lot and ROW, including any Protected Trees on any adjoining Lot and ROW which have more than 30% of their CRZ on the subject Lot. A caption for each Protected Tree should indicate whether the tree will be protected or removed. The required Tree Protection Fence referenced below must be shown on the site plan for each Protected Tree to remain on the Lot. The site plan also should show where each Replacement Tree will be planted.
 - (ii) To remove any Protected Tree identified on the site plan for the Lot in the front Setback Area of interior Lots plus the side Setback Area on a corner Lot during construction or remodeling and for a period of one (1) year after completion thereof, a written request must be submitted, which shall include the reason why the tree has to be removed. For any tree to be removed, the location, species, and size of the Replacement Tree must be shown on the Plan.
 - (iii) A copy of the permit from the COH Parks and Recreation Department ("Parks Department") authorizing the removal of any Protected Tree in the ROW.

HP 099-42-0001

Section 7.4. Care of Trees During Construction. Construction activities on a Lot containing mature trees can be life threatening if certain protective measures are not implemented and enforced, beginning with design of the new structure. Construction activities may cause irreparable damage to limbs and trunks as well as to soils and roots, which often can be the most damaging to the long-term health of a tree.

Section 7.5. Damaging Conditions to Avoid During Construction. The aim of this Tree Preservation Policy is to mitigate damage to Protected Trees by eliminating or reducing the impact of the following:

- compaction of soil within CRZs by equipment, vehicles, foot traffic, and materials storage.
- suffocation of roots by adding select fill or soil with high clay content and/or adding prepared bedding soil, topsoil, or other growing medium in excess of three inches (3") to areas within the CRZ.
- damage to trunk and limbs resulting from, but not limited to, contact with equipment and/or vehicles.
- contamination by poisoning from solvents, fuel, and other injurious materials being poured on or near the CRZ.
- modification of soil pH within the CRZ by depositing concrete, powdered lime, or other materials used to stabilize or dehydrate soils.
- damage to roots measuring one inch (1") in diameter and larger within the CRZ.
- scorching of foliage, twigs, and limbs by direct contact with hot exhaust from equipment or vehicles.
- prevention of damage to tree or branches resulting from improper pruning or trimming, such as striping interior growth – e.g. no Lion Tailing.

Section 7.6. Requirements.

- (a) **This Section 7.6 is applicable only to new Residential Dwelling construction and major remodeling of Residential Dwellings when an existing Residential Dwelling is razed.**
- (b) Owner must protect and preserve Protected Trees located in the Setback Area and ROW that appear to be in good condition, all of which are subject to the Tree Preservation Policy and the COH Tree Ordinance referenced herein. Each Lot is subject to a minimum number of trees as provided for herein.
- (c) Owner must submit a Tree Survey and Disposition Plan to the Association for review and approval prior to demolition of an existing Residential Dwelling. In the case of a vacant Lot, the Tree Survey and Disposition Plan must be

RP 093-42-0062

submitted as part of construction plans before any Construction commences on a Lot.

- (d) Owner must observe the following tree requirements:
- (i) Each Small Lot and ROW combined must have a minimum of two (2) Small Trees in the front setback area and/or ROW. A corner Lot shall have a minimum of three (3) small trees from Ex. "A" to the Declaration attached hereto and incorporated herein for all purposes ("Ex. A") in the front and side setback areas and/or ROW. Existing or replacement trees will qualify and must be on either the small trees or large trees from Ex. A ("Small Trees" and "Large Trees"). Up to two (2) of the required trees may be within the ROW in either instance, and
 - (ii) Each Large Lot and ROW combined must have a minimum of two (2) Large Trees in the front setback area and/or ROW. A corner Lot shall have a minimum of three (3) Large Trees in the front and side setback areas and ROW. Existing or replacement trees will qualify and must be Large Trees. Up to two (2) of the required trees may be within the ROW in either instance.
- (e) Owner will be allowed to remove a Protected Tree that is diseased or growing within fifteen feet (15') of a proposed house foundation, but constructing a circular drive is not deemed to be justification for removing a Protected Tree. It is not necessary to replace a Protected Tree that is approved to be removed if the Owner complies with the minimum number of trees in the front setback area and ROW or in the side setback area and ROW of corner Lots specified herein.
- (f) Chinese tallow, cottonwoods, and hackberry trees are not Protected Trees and may be removed from a Lot once the Tree Survey and Disposition Plan is approved.
- (g) Removal of Protected Trees -
- (i) It is a violation of this Tree Preservation Policy for any person to remove a Protected Tree without first obtaining a Tree Removal Permit ("Permit") from the Association. The Owner of the Lot is subject to a mitigation fee in an amount equal to \$1,000 per Diameter inch of trunk multiplied by the Diameter inches of the Protected Tree removed if the removal occurs without obtaining a Permit.
 - (ii) It is a violation of the COH Ordinance for any person to remove a Protected Tree located within the ROW without receiving authority to do so by obtaining a permit from the COH Parks Department. The permit must be submitted to the Association before any tree work is performed. Reference is made to the COH Protection Planting Requirements for rules and regulations governing trees located within the ROW.

- (iii) If a Protected Tree has an incurable, life threatening disease, it may be removed, but evidence that the tree is diseased must be submitted to the Association prior to its removal. After evidence is submitted, the Association will issue a Permit to remove the diseased tree.
- (h) Owner's rights if a Protected Tree unreasonably prevents full use of Lot:
- (i) In the unlikely event a Protected Tree prevents full use of the property other than for conditions stipulated herein qualifying for approved removal, the Protected Tree may be removed upon obtaining approval from the Association. Owner must show a compelling reason to remove a Protected Tree and must be able to demonstrate that all reasonable options have been exhausted; provided however, in no event shall an Owner be required to reduce or modify the size or location of the permissible building area on the Lot. If the Protected Tree is approved to be removed, the Lot must be in compliance with the minimum number of trees required herein. However, a new tree required to fulfill the requirement for the minimum number of trees shall not be required to be planted nearer than thirty feet (30') to another Large Tree.
- (ii) In the unusual circumstance where it is not practical or feasible to plant replacement trees in the front setback area and ROW and/or the side Setback Area and ROW of a corner Lot, a mitigation payment must be made to the Tree Fund in an amount equal to \$500 per Diameter inch of trunk multiplied by the diameter inches of the Protected Tree to be removed. For example, the mitigation payment for a thirty inch (30") tree would be \$15,000. ($500 \times 30 = \$15,000$). The Association shall be the final authority to determine whether planting a replacement tree is practical or feasible.
- (iii) A permit must be obtained from the Parks Department to remove a tree located in the ROW. The permit must be submitted to the Association as provided for herein. The COH Protection/Planting Requirements are referenced below.
- (i) A one (1) year replacement guarantee is required for all Replacement Trees that are planted. If a newly-planted tree dies within a one (1) year period from the earlier of planting the tree or Owner's occupancy, the dead tree must be replaced by Owner with a tree from the applicable Small or Large Tree Planting List. Only one replacement is required. There is no penalty if a mature tree dies.
- (j) No fee will be charged for review and approval of the Tree Survey and Disposition Plan.
- (k) If the Association determines that any Protected Tree has been removed without obtaining an applicable Permit, notwithstanding the prior approval of plans for the construction of the improvement, construction on the Lot shall cease immediately upon request of the Association and shall not resume

until Owner complies with all provisions of the Tree Preservation Policy and/or COH Tree Ordinance.

- (l) Care of Protected Trees during construction is a requirement and will be subject to the provisions of the Builder's Deposit Agreement.

Section 7.7. City of Houston Current Protection/Planting Requirements. A tree within the street ROW is protected by Ordinance, which is enforced by the Parks Department.

Trees covered by the ordinance include trees on the COH's Street Tree List that have a Caliper of more than one and one-half inch (1 1/2"). A permit from the Parks Department is required for the removal of any listed tree in the ROW.

For all other species not included on the COH Street Tree List, a permit is required for removal of any tree with a Diameter of more than twenty inches (20"). The COH Street Tree List is attached hereto for reference.

Additional information regarding the COH tree requirements:

The COH Ordinance requires one (1) new tree to be planted on single family Lots of less than 5,000 square feet and two (2) trees for Lots of more than 5,000 square feet.

Information about the COH Current Protection Planting Requirements is provided for reference purposes only. For the most up-to-date and complete information, refer to the Parks Department.

ARTICLE 8 AMENDMENT TO RESTRICTIONS AND DURATION OF RESTRICTIONS

Section 8.1. Amendment. The terms of these Restrictions may be amended at any time by an instrument approved by the Owners of a majority of the Lots in the Property exercising one (1) vote per Lot. In the event that there are multiple Owners of a Lot, the written approval of an amendment to these Restrictions may be reflected by the signature of a single Co-Owner of the Lot.

Section 8.2. Duration. These Restrictions shall remain in full force and effect until December 31, 2025, and shall be extended automatically for successive ten (10) year periods thereafter; provided however, that these Restrictions may be amended at any time, as set forth in Section 8.1.

ARTICLE 9 EASEMENTS

There are dedicated and reserved permanent and unobstructed Easements, as shown on the recorded Plats across certain designated portions of each Lot upon, under and through which to construct and maintain sanitary sewer, telephone, electrical light and gas services, and other public utilities, which said Easements shall be a burden and charge against the Lots by whomsoever owned. There is also dedicated and reserved an unobstructed aerial Easement for

utilities five feet (5') wide from a plane twenty feet (20') above the ground upward located over all Easements herein described and all Easements shown on said Plats. All prior Easements contained on Plats or in the Prior Restrictions are hereby retained and incorporated by reference.

ARTICLE 10 **MISCELLANEOUS**

Section 10.1. Severability. In the event of the invalidity or partial invalidity or partial unenforceability of any provision in these Restrictions, the remainder of these Restrictions shall remain in full force and effect. In the event of the invalidity or partial invalidity or partial unenforceability of the Restrictions against any Lot or portion of the Property, the Restrictions shall remain in full force and effect against the remainder of the Lots and Property.

Section 10.2. Number and Gender. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 10.3. Articles and Sections. Article and Section headings in these Restrictions are for convenience of reference and shall not affect the construction or interpretation of these Restrictions. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of these Restrictions.

Section 10.4. Delay in Enforcement. No delay in enforcing the provisions of these Restrictions with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

Section 10.5. Enforceability. These Restrictions shall run with the Lots in the Property and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner of a Lot in the Property, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce these Restrictions is initiated against an Owner or occupant of a Lot by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorney's fees from the Owner or occupant of a Lot who violated these Restrictions.

Section 10.6. Existing Conditions and Improvements. If there exists on the Effective Date of these Restrictions, any improvement which is not in violation of the Prior Restrictions, such improvement shall be deemed to be in compliance with these Restrictions.

Section 10.7. Compliance With the Law. All of the provisions of these Restrictions are intended to be in compliance with all applicable statutes, ordinances and laws. Should any particular section of these Restrictions ever be in conflict with any applicable law, to the extent possible, that particular section shall be interpreted to be as restrictive as possible while not being in conflict with the applicable law.

IN WITNESS WHEREOF, a majority of the Owners of the Lots in both Pine Shadows and Bayou Glen (on the basis of one [1] vote for each Lot so owned) as evidenced by the Consents

attached hereto and incorporated herein as Exhibit "A" have approved these Restrictions to be effective upon their filing of record in the Official Public Records of Real Property of Harris County, Texas.

[The remainder of this page was intentionally left blank.]

236781

Return To:
Roberts, Markel, Weinberg^W
Butler, Hadley PC
8901 Gaylord, Ste 100
Houston TX 77024

PP 090-42-8867