

AMENDED AND RESTATED DEED RESTRICTIONS FOR

TIMBERGROVE MANOR

SECTIONS ONE AND TWO, THREE AND FOUR

Revised and Restated as of January 31, 2002

TABLE OF CONTENTS

I.	ENFORCEMENT	1
II.	DEFINITIONS	2
III.	DEED RESTRICTION COMPLIANCE COMMITTEE	3
	A. COMPOSITION	3
	B. ELECTION	4
	C. DUTIES AND LIMITATIONS	4
IV.	RESTRICTIONS	4
	A. ALLOWABLE USES AND STRUCTURES	4
	B. MINIMUM LOT SIZE	5
	C. BUILDING LINE LOCATION	5
	D. PROHIBITED ACTIVITIES	6
	E. SIGNS AND ADVERTISING	6
	F. ANIMAL RESTRICTIONS	7
	G. TEMPORARY RESIDENCES	7
	H. BOATS, TRAILERS AND RECREATIONAL VEHICLES	7
	I. CONSTRUCTION REQUIREMENTS	8
	J. RENTAL OF GARAGE APARTMENTS OR OTHER STRUCTURES	8
	K. ALLOWABLE SITTING OF HOUSE	8
	L. FRONT BUILDING RESTRICTION	8
	M. AERIAL WIRE RESTRICTION	8
	N. SETBACKS AND REQUIREMENTS	8
	O. PAINT REQUIREMENT FOR NEW CONSTRUCTION AND REMODELING	9
	P. STORAGE OF BUILDING MATERIALS DURING CONSTRUCTION	9
	Q. DISPOSAL OF REFUSE DURING CONSTRUCTION	9
	R. TRASH AND RUBBISH REQUIREMENTS	9
	S. MAINTENANCE REQUIREMENTS	9
	T. GARAGE & OUTBUILDING HEIGHT LIMITATION	10
	U. GARAGE AND OUTBUILDING USAGE RESTRICTIONS	10
V.	PLANS TO BE SUBMITTED	10
VI.	BUILDING MATERIALS AND GUIDELINES	12
	A. Roofing materials	12

B.	Siding materials	12
C.	Doors and windows.....	12
D.	Foundations	12
E.	Architectural Elements	12
F.	Fences and Masonry Walls.....	13
G.	Driveways and Paved Areas	13
H.	Porte Cocheres and Carports	13
VII.	PRESERVATION AND PLACEMENT OF TREES	13
VIII.	VARIANCES	14
A.	VARIANCE REQUESTS AND APPEALS	14
B.	EXISTING STRUCTURES AND IMPROVEMENTS	14
IX.	LIABILITY	15
X.	EXTENSION AND ALTERATION OF THESE RESTRICTIONS	15
XI.	GENERAL PROVISIONS	16
A.	SEPARABILITY AND ENFORCEMENT	16
B.	VIOLATIONS OF LAW.....	16
C.	NO REPRESENTATIONS OR WARRANTIES	16
D.	CAPTIONS FOR CONVENIENCE.....	16
E.	GOVERNING LAW	16
F.	NOTICES	17
G.	MULTIPLE COUNTERPARTS.....	17

**THE STATE OF TEXAS:
COUNTY OF HARRIS:**

This Amended and Restated Deed Restrictions for Timbergrove Manor, Sections One and Two, Three, and Four (hereafter referred to as "Restrictions") is made on the date hereinafter set forth by the undersigned owners in Timbergrove Manor, Sections One and Two, Three, and Four, respectively.

WITNESSETH:

WHEREAS, Brace and Carruth, a partnership consisting of C. R. BRACE, E. R. CARRUTH, and S. ALEX SUSHOLTZ, executed 1) certain restrictions, dated September 28, 1950 for Sections One and Two and recorded in the Office of the County Clerk of Harris County, Texas under Clerk's File No. 795857, 2) dated May 13, 1951 for Section Three and recorded in the Office of the County Clerk of Harris County, Texas under Clerk's File No. 890377, and 3) dated May 7, 1952 for Section Four which was recorded in the Office of the County Clerk of Harris County, Texas under Clerk's File No. 997056 (all three documents hereafter referred to collectively as "Original Restrictions") to place certain restrictions, covenants, conditions, stipulations and reservations on Timbergrove Manor, Sections One and Two, Three, and Four, a subdivision in Harris County, Texas as set forth on the map or plat thereof; and

WHEREAS, Section 23 of each of the respective Original Restrictions provides that the Original Restrictions run with the land and are binding on all parties or persons claiming under them and are automatically extended for successive periods of ten (10) years unless a written instrument signed by a majority of the then owners of lots has been recorded, agreeing to change the covenants in whole or in part; and

WHEREAS, the undersigned are the owners of a majority of the lots in Sections One and Two, Section Three, and Section Four, respectively, of Timbergrove Manor (also referred to as the Subdivision) and the undersigned desire to amend and restate the Original Restrictions for each respective Section in their entirety;

NOW, THEREFORE, the undersigned, being a majority of the owners of lots in Sections One and Two, Section Three, and Section Four, respectively, do hereby agree that the Original Restrictions for each Section are amended and changed in their entirety to read as follows:

I. ENFORCEMENT

The authority to enforce all restrictions, covenants, conditions, stipulations and reservations contained in these Restrictions shall rest with the Deed Restriction Compliance Committee, with the assistance of the City of Houston Legal Department, Justice of the Peace Courts, and the Harris County Attorney.

II. DEFINITIONS

For the purposes of these restrictions

- A. The term "Structure" shall include, but not be limited to, any Building, Outbuilding, pool, pond, deck, patio, pergola, gazebo, carport, fence or other construction that is or may be attached to the land, whether decorative or not. The term "Structure" includes Primary Structure or Secondary Structure.
- B. The term "Secondary Structure" shall mean any pool, pond, deck, patio, pergola, gazebo, carport, fence or other construction that is or may be attached to the land, whether decorative or not.
- C. The term "Primary Structure" shall mean any Building, Outbuilding or garage.
- D. The term "Building" shall mean any Structure that stands alone and is completely enclosed, allowing access only through doors and windows, and shall specifically include residences, garages, and Outbuildings.
- E. The term "Outbuilding" shall mean a Structure independent of the house and/or garage that may be no larger than 12 feet by 12 feet. All Outbuildings shall have a concrete or other similar permanent or semi-permanent foundation, and must be maintained in the same fashion as the residence itself.
- F. The term "Elevation" shall be defined as the face(s) of the residence. From the top of the slab, up to the eaves, and from the left-most side to the right-most side, including any attached garage.
- G. The term "Property Line" shall mean the line that denotes the exterior of the lot and may include a City easement as shown on the recorded plat for the Subdivision.
- H. The term "Building Line" shall mean the boundaries within the lot upon which a Structure may be erected. The Building Lines are located within the Property Line.
- I. The term "Residential Purposes" shall be construed to exclude all commercial use with the exception of a homeowner who operates a business of a professional proprietary nature and who occupies the residence, provided that the business has no outside employees, no business signs, no exterior storage, no external activities, no nuisance, lights, sounds or odors, generates no traffic and has no parking areas beyond those parking areas customary for a single family residence.
- J. The term "Single Family" shall refer to both the type of Structure erected and the use of the lot and of the structure, and be construed to exclude,

without limitation, all multi-family dwellings (including without limitation, town homes, duplex housing, and condominiums), rooms for rent or boarding houses, nursing homes, childcare facilities (whether operated for profit or not), halfway houses, assisted living facilities, and group homes and the like.

- K. The term "Grandfather" shall mean the rights of Structures, or parts of Structures, that are non-conforming with these Deed Restrictions for Timbergrove Manor Sections 1 and 2, 3, and 4, to continue in legal existence as long as there are no changes to the Grandfathered Structure, or part in question, and the Grandfathered Structure, or part thereof, is maintained in accordance with these Deed Restrictions.

III. DEED RESTRICTION COMPLIANCE COMMITTEE

A. COMPOSITION

1. The Deed Restriction Compliance Committee (hereafter called THE DRCC) shall be composed of five (5) elected members. One of the members shall be the Chairperson. The TMNA Executive Committee shall designate one of the five (5) elected members of THE DRCC to chair THE DRCC. Every attempt should be made to ensure equal representation of all areas of the Subdivision covered by these Restrictions. No member of the DRCC shall serve on the DRCC and the TMNA Executive Committee simultaneously, except that the DRCC Chairperson shall become a member of the TMNA Executive Committee as a result of having been selected as Chairperson of the DRCC.
2. Election of the initial members of THE DRCC shall take place immediately upon passage of these Restrictions. With the exception of the elections held immediately upon passage of these Restrictions, the term for each DRCC member shall begin on May 1st and last for a period of two years. The initial term for two (2) or the THE DRCC members will end on the May 1st immediately following passage of these Restrictions. The initial term for three (3) of THE DRCC members will end on the second May 1st following passage of these Restrictions. Based on the date of the initial election, if the initial term in office would be less than six (6) months, all terms of service will be extended to the successive May 1st.
3. Only individuals owning property and residing within the boundaries covered by these Restrictions shall be eligible to serve on THE DRCC.
4. If any member of THE DRCC becomes unable to serve prior to the expiration of his or her term, THE DRCC Chairperson shall appoint the vacating member's successor, except where THE DRCC chair

becomes unable to serve, in which instance the chair vacancy shall be appointed by the TMNA Executive Committee to serve the remainder of the term.

B. ELECTION

THE DRCC shall be one of the standing committees of Timbergrove Manor Neighborhood Association ("TMNA"). It shall be the responsibility of TMNA to conduct the election of members of THE DRCC.

C. DUTIES AND LIMITATIONS

1. It shall be the responsibility of THE DRCC, along with the assistance of the appropriate governmental agencies, to enforce the provisions set out herein.
2. Requests and concerns shall be submitted to THE DRCC in writing. THE DRCC will meet at least monthly to discuss requests and concerns that have been submitted. Written minutes of each meeting shall be kept, and written decisions shall be returned to persons requesting information, guidance, or other matters covered in these Restrictions. A copy of all minutes and decisions will be forwarded to the Recording Secretary of TMNA.
3. THE DRCC Chairperson shall be appointed from amongst the members of THE DRCC by the TMNA Executive Committee. It shall be the responsibility of THE DRCC Chairperson to conduct each meeting of THE DRCC. The Chairperson shall report monthly to the TMNA Executive Committee at the Executive Committee s monthly meetings, as to activities of THE DRCC during the previous month.
4. No member of THE DRCC has any authority based on their position on THE DRCC to represent Timbergrove Manor or TMNA in any capacity outside of these Restrictions, unless so authorized by TMNA.

IV. RESTRICTIONS

A. ALLOWABLE USES AND STRUCTURES

1. No Building shall be erected, altered, or placed on any lot or Plot other than one one-story or one two-story, Single Family dwelling, one garage (for up to three cars) with or without servant or guest quarters, and one Outbuilding to be used in connection with the residence.

2. All Structures must be used only for Residential Purposes. The garage and Outbuilding must be erected/installed simultaneously with or subsequent to the erection of the main dwelling and not prior thereto.
3. One-story residences shall contain not less than 800 square feet, exclusive of porches, whether open or not, and exclusive of garages.
4. The ground floor area of two-story residences shall contain not less than 750 square feet and the second floor area shall not be less than 500 square feet.

B. MINIMUM LOT SIZE

1. No Building or Structure shall be placed or erected on any building plot in the Subdivision, which plot has a width of less than sixty (60) feet at the front Building Line, and which contains an area of less than 6700 feet. The following lots as to area of this clause are excepted from this requirement, and shall be considered acceptable building sites as platted and recorded. The following lots in Section One of the Subdivision are excepted from the requirements of this Section IV, and shall be considered acceptable building sites as platted and recorded: Lot 2 Block 4, Lot 11 Block 4, Lot 2 Block 5, Lot 6 Block 5, Lot 8 Block 5, Lot 17 Block 8, Lot 7 Block 9, Lot 8 Block 9, Lot 9 Block 9, Lot 17 Block 10, Lot 18 Block 10, Lot 19 Block 10.
2. No lot shall be subdivided.

C. BUILDING LINE LOCATION

1. No Structure shall be placed or erected on any building plot in the Subdivision nearer to the front Property Line than is hereinafter set out.
 - a. BLOCK 1 - All lots are 25 feet.
 - b. BLOCK 2 – All lots except 10 and 11 are 25 feet; Lots 10 and 11 are 20 feet.
 - c. BLOCK 3 - All lots except 1, 2, 16, 17, 18, 31 and 32 are 25 feet; Lots 1, 2, 16, 17, 18, 31, and 32 are 20 feet.
 - d. BLOCK 4 - All lots except 1, 2, 12, 13, 14, 22, and 23 are 25 feet; Lots 1, 2, 12, 13, 14, 22, and 23 are 20 feet.
 - e. BLOCK 5 - All lots except 1, 6, 7, 8, 12, 13, 14, and 15 are 25 feet; Lots 1, 6, 7, 8, 12, 13, 14, and 15 are 20 feet.
 - f. BLOCK 6 - All lots except 1 through 12 and lots 21, 22, 23, and 39 are 25 feet; Lots 1 through 12 and lots 21, 22, 23 and 39 are 20 feet.

- g. BLOCK 7 - All lots are 25 feet.
- h. BLOCK 8 - All lots are 25 feet.
- i. BLOCK 9 – All lots except 5, 6, and 7 are 25 feet; Lots 5, 6, and 7 are 20 feet.
- j. BLOCK 10 - All lots are 25 feet.
- k. BLOCK 11 - All lots are 25 feet.
- l. BLOCK 12 - All lots are 25 feet.
- m. BLOCK 13 - All lots are 25 feet; the side Building Line on lot 30 on Glen Oaks Road is 10 feet. The north side Building Line on lot 1 is 15 feet.
- n. BLOCK 14 - All lots are 25 feet except where lots 14, 15, and 16 abut Turnpike Road, the Building Line is 20 feet. The north side Building Line of lots 1 and 31 is 15 feet.
- o. BLOCK 15 - All lots are 25 feet except where lots 12, 13, and 14 abut Turnpike Road, the front Building Line is 20 feet. The north side Building Line of lots 1 and 26 is 15 feet.
- p. BLOCK 16 - All lots are 25 feet except where lot 10 abuts Turnpike Road, the Building Line is 20 feet. The north side Building Line of lot 1 is 15 feet.
- q. BLOCK 17 - All lots are 25 feet except lots 5, 6, 7, 8, and 9. Lots 5, 6, 7, 8, and 9 are 20 feet. The portion of lot 10 abutting Glen Oaks Road is 20 feet.

- 2. No Structure, with the exception of fences, shall be built nearer than five (5) feet to any interior side Property Line. Fences may be constructed on the Property Line.
- 3. All new construction must be built behind all Building Lines. If any new construction shall extend beyond the front face of the residence located on either side of the construction, placement of the new construction shall be evaluated as to the harmony and conformity to the existing Structures.

D. PROHIBITED ACTIVITIES

- 1. No illegal, noxious or offensive activity of any character shall be carried on or permitted on any lot or plot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Subdivision.
- 2. No liquor, beer, spirituous, vinous, or malt or medicated bitters capable of producing intoxication shall ever be sold, or offered for sale, on any lot or plot in the Subdivision, or any part thereof, nor shall said premises or any part thereof be used for illegal or immoral purposes.

E. SIGNS AND ADVERTISING

- 1. No signs, bill boards, posters or advertising devices of any character shall be displayed to the public view on any residential lot, except:

- a. One sign of not more than nine (9) square feet in area, advertising the property for sale, or rent, or for a garage sale;
 - b. Political signs not more than nine (9) square feet in area indicating support or opposition to a candidate or issue, provided that such signs may only be erected for a temporary period commencing thirty (30) days prior to the date of the election to which the sign pertains, and ending five (5) days after such election; or
 - c. Holiday decorations and special occasion signs may be erected for a temporary period of time not to exceed forty (45) days prior to the holiday and thirty (30) days after the holiday.
2. THE DRCC, or any individual authorized to act on its behalf, shall have the right to remove any such sign, advertisement, billboard, poster, advertising device, or decoration which is placed on any lot forward of the front Building Line in violation of these Restrictions, and in so doing shall not be subject to any liability for trespass or other tort in connection with or arising out of such removal.

F. ANIMAL RESTRICTIONS

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot or plot. Household pets may be kept and maintained in accordance with City of Houston ordinances.

G. TEMPORARY RESIDENCES

No trailer, manufactured home, basement, tent, shack, garage, barn or other Outbuilding of any character shall be placed or erected on any lot or plot at any time to be used as a temporary or permanent residence, nor shall any residence of a temporary character be permitted.

H. BOATS, TRAILERS AND RECREATIONAL VEHICLES

No boat trailer, boat, travel trailer, mobile home, recreational vehicle, inoperative vehicle, camper, or similar vehicle or device shall be kept in front of the front Building Line, as designated on the recorded plat of the Subdivision wherein the said property lies, in excess of seventy-two (72) consecutive hours during any thirty (30) day period in such a manner that it is visible from a public street. Any boat trailer, boat, travel trailer, mobile home, recreational vehicle, inoperative vehicle, camper, or similar vehicle or device that is kept on a lot for more than seventy-two (72) hours during any thirty (30) day period must be kept behind the front Building Line of the lot. No boat trailer, boat, travel trailer, mobile home, recreational vehicle, camper, or vehicle of any kind (operative or not), shall be parked on any unpaved portion of a lot.

Furthermore, no commercial vehicles may be parked on the street or in the driveway or in any location visible from the street, unless such vehicle is in use by a contractor servicing a particular location for a specific occurrence. A commercial vehicle is defined as any vehicle with a gross vehicle weight of 14,000 pounds, or that is capable of towing 14,000 pounds.

I. CONSTRUCTION REQUIREMENTS

No Building, with the exception of Outbuildings, shall be moved onto any lot or plot. All Buildings, with the exception of Outbuildings, must be erected on the lot.

J. RENTAL OF GARAGE APARTMENTS OR OTHER STRUCTURES

No garage apartment. Outbuilding, guest quarters or otherwise for rental purposes shall be permitted on any lot or plot. No garages or Outbuildings shall be rented, and shall be used only by the occupants of the main dwelling, their servants or guests.

K. ALLOWABLE SITTING OF HOUSE

All improvements shall be constructed on the lot or plot so as to front the street upon which such lot faces; however, where corner lots are of equal or nearly equal dimensions on two streets, or if a lot is irregularly shaped, THE DRCC reserves the right to designate the direction in which such improvements shall face, and such decision shall be made with the thought in mind of the best general appearance to that immediate Section.

L. FRONT BUILDING RESTRICTION

No hedge (unless kept at a minimum height as to not obstruct the face of the house), fence, wall, gazebo, nor any pergola or other architectural element for ornamental purposes shall be erected or maintained on any part of any lot or plot forward of the front of the residence of said lot or plot.

M. AERIAL WIRE RESTRICTION

No radio aerial wires, short wave radio antennae, C Band satellite dishes, or satellite dishes in excess of 24 inches in diameter shall be erected on any portion of any lot or plot, in any manner visible from the street. Satellite dishes less than 24 inches in diameter may be erected and must be maintained in a manner consistent with the house.

N. SETBACKS AND REQUIREMENTS

No Structure of any kind, with the exception of fences, shall be erected on any lot or plot nearer than five (5) feet to either interior side Property Line, nor nearer than the easement on the rear or side Property Line of said lot. Such Structures shall be kept within the Building Lines of said lot. Any servant or guest quarters attached to the main residence must be in the rear of the main residence.

O. PAINT REQUIREMENT FOR NEW CONSTRUCTION AND REMODELING

No Building of any kind or character (excluding brick, stone or other building material for which paint would be an inappropriate surface treatment) shall be erected on any lot or plot unless same at the time of construction shall receive at least two coats of paint on the exterior.

P. STORAGE OF BUILDING MATERIALS DURING CONSTRUCTION

No building material of any kind or character shall be placed or stored upon any lot or plot until the owner is ready to commence improvements, and then such material shall be placed within the Property Lines of the lot or parcel of land upon which the improvements are to be erected, and shall not be placed in the street or between the street and Property Line.

Q. DISPOSAL OF REFUSE DURING CONSTRUCTION

No stumps, trees, underbrush, or any refuse of any kind, nor scrap material from the improvements being erected on any lot or plot shall be placed on any adjoining lots, streets, or easements. All such material, if not disposed of immediately, must remain on the property on which construction work is in progress, and at the completion of such improvements, such materials must be immediately removed from the property.

R. TRASH AND RUBBISH REQUIREMENTS

No part of any lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

S. MAINTENANCE REQUIREMENTS

The owner of property in the Subdivision shall be required to keep the grass and weeds cut and sidewalks edged on the particular lot(s) owned by each, and shall not permit the accumulation of trash, rubbish, or other unsightly obstacles on the lot(s), the easements, or in any alley, or in the street abutting the same. The area between the street and the Property Line, including the curb, the street gutter, and the sidewalk, shall at all times be kept clean and free of unsightly obstacles with the exception of designated trash collection times in accordance with City Ordinances. All Structures are required to be kept in a manner consistent with good maintenance, including, but not limited to roofs, windows, awnings, shutters, paint, siding, driveways, fences, and swimming pools.

T. GARAGE & OUTBUILDING HEIGHT LIMITATION

The height of the garage, Secondary Structure, and/or Outbuilding shall never exceed the height of the residence.

U. GARAGE AND OUTBUILDING USAGE RESTRICTIONS

Garages, servant and guest quarters, and Outbuildings may only be used for Residential Purposes.

V. PLANS TO BE SUBMITTED

- A. Construction of any Structure or improvement, or alteration to the exterior of any Structure or improvement, excluding general upkeep, shall not commence on any lot or building site in the Subdivision prior to plans for such construction having been submitted by the property owner in writing to, and approved in writing by, THE DRCC.

Plans submitted to THE DRCC for Primary Structures shall include a detailed description and drawing of the foundation, floor plan, all Elevations, finished grade elevations, all exterior building materials, and a plot plan showing location of all proposed Structures and Buildings, with dimensions, and trees, with notations of any trees to be removed. Plans submitted to the DRCC for Secondary Structures shall include a description and drawing of the Structure, including dimensions, materials, location on the property relative to Building Lines, and trees, with notations of any trees to be removed.

THE DRCC shall approve any proposed improvement of a Primary Structure upon determining that such improvement will comply with the provisions of these Restrictions; that the improvement will conform to the appearance of the surrounding areas of the Subdivision as a whole, and that the appearance of the proposed improvement will be in harmony with the surrounding areas of the Subdivision, including location with respect to topography and finished grade elevation. The DRCC shall approve any proposed improvement of a Secondary Structure upon determining that such improvement is being constructed in compliance with these Restrictions, and is located within the Building Lines, or Property Lines, as appropriate, as set forth in Section IV, C. Approval of any proposed improvement shall not be unreasonably withheld.

Any errors in or omissions from the plans and specifications or the site plan submitted to THE DRCC shall be the responsibility of the owner of the lot to which the improvements relate, and TMNA and THE DRCC shall not be responsible for errors in or omissions from any such plans and specifications or site plan. The property owner is, nevertheless, required to comply with these Restrictions and all applicable local, state and federal rules and regulations.

All submissions to THE DRCC must be sent via a method which confirms receipt by THE DRCC. THE DRCC may require submission of additional plans, specifications, or other information before approving or disapproving the plans. In the event that approval or disapproval has not been given within thirty (30) calendar days from the date the plans and all materials required by THE DRCC are submitted, then the plans will be deemed approved, unless THE DRCC notifies the owner in writing that the time for approval or disapproval has been extended (such extension not to exceed fifteen (15) calendar days), and gives the reasons for the extension.

- B. After approval of any proposed improvement, the proposed improvement shall be accomplished as promptly and diligently as possible, and in strict conformity with the description of the proposed improvement in the materials submitted to THE DRCC. Failure to complete the proposed improvement within nine (9) months after the date of approval, or such other period of time (or extension of time) as shall have been designated in writing by THE DRCC, or failure to complete the improvement in strict conformity with the description and materials furnished to THE DRCC, shall operate automatically to revoke the approval by THE DRCC of the proposed improvement. No improvement shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished, all construction materials and debris have been cleaned up and removed from the site, and all rooms in the improvement, Building, or Structure (other than attics) have been finished.
- C. If, as a result of inspections or otherwise, THE DRCC finds that any improvement has been constructed or undertaken without obtaining the approval of THE DRCC, or has been completed other than in strict conformity with the description and materials furnished by the owner to THE DRCC, or has not been completed within the required time period after the date of approval by THE DRCC, THE DRCC shall notify the owner in writing of the noncompliance ("Notice of Noncompliance"). The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the owner to take such action as may be necessary to remedy or remove the noncompliance within the period of time set forth therein.

If THE DRCC finds that a noncompliance continues to exist after such time within which the owner was to remedy the noncompliance as set forth in the Notice of Noncompliance, TMNA may, at its option, record a Notice of Noncompliance against the lot on which the noncompliance exists with the Harris County Deed Records and with the City of Houston Planning/Permitting Department.

At such time as the property owner provides evidence of the Noncompliance having been resolved, THE DRCC will promptly act to have any recorded notices nullified.

VI. BUILDING MATERIALS AND GUIDELINES

The following lists of building materials are examples of and guidelines for exterior building materials for new residential construction and remodeling in the Subdivision. The purpose of these lists of building materials and guidelines is to keep the Subdivision in conformity and harmony, and to preserve overall property values. This section is provided to assist the property owner in residential design and to assist THE DRCC in its review of plans for the construction of a new residence, or remodeling of an existing residence.

A. Roofing materials

Architectural asphalt shingles and standing seam metal roofing are acceptable materials.

B. Siding materials

1. Cedar shakes, wood siding, and fiber cement siding (sizes 2", 4", 8", 10", & 12" heights) are acceptable materials.
2. Stucco is an acceptable material, but must include finishing details.
3. Brick and stone are acceptable materials.

C. Doors and windows

1. Wood, steel and aluminum doors are acceptable.
2. Wood and aluminum windows are acceptable.

D. Foundations

All foundations must meet all local, state, and national building codes, must be within all Building Lines, and the resulting foundation facade must be congruent with the style of surrounding homes.

E. Architectural Elements

1. All rooflines, including carports, porte cocheres, Outbuildings, and garages shall conform to the primary residence. Minimum roof slope shall be 5/12 pitch on all new construction.
2. New houses or existing houses shall have front Elevations that have windows and door openings. Front windows and doors shall not be concealed by fences, shrubs or other structures of any type.
3. On new construction or remodels, garages may not be wider than 50% of the front Elevation of the house.

F. Fences and Masonry Walls

1. No fence shall be constructed forward of the front corner of any new or existing house or garage.
2. Cedar, red wood, fiber cement material, treated wood, wrought iron, heavy gauge chain link and heavy gauge plastic are acceptable materials for new fences.
3. Fences shall be no taller than 8'-0".
4. Masonry walls may only be constructed on the back Property Line of lots that back up to Durham. In no event shall such masonry wall exceed 10' in height.

G. Driveways and Paved Areas

1. Driveways must be paved.
2. A driveway may not go over the Property Line, unless it is a joint driveway with the adjacent lot.
3. Concrete, brick pavers, stone pavers and pressed concrete are acceptable materials.
4. Driveway and other paved areas should not exceed 30% of the total area in front of the Primary Structure.

H. Porte Cocheres and Carports

1. All porte cocheres and carports (hereafter referred to as "Carports") are to be built behind the Building Lines.
2. Acceptable building materials are as outlined in Section VI, paragraphs A and B, and should be complementary to the residence.

VII. PRESERVATION AND PLACEMENT OF TREES

If a lot or a portion thereof is cleared for construction or remodeling purposes, resulting in the removal of all trees, the owner is required to plant no fewer than two (2) trees on the lot. The trees must have a life expectancy of at least 20 years and, when planted, the trunk must be at least 5 ½ inches in circumference (1 ¾ inches in diameter), when measured 12 inches above the ground.

VIII. VARIANCES

A. VARIANCE REQUESTS AND APPEALS

THE DRCC may authorize variances from these Restrictions relating to trees, Buildings, Structures, Outbuildings, Elevations, or improvements when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall; (i) be effective unless requested and approved in writing, or (ii) prevent THE DRCC's denying a variance in other circumstances.

In order to request a variance, a property owner must request such variance, in writing, to THE DRCC. Such request shall be directed to the DRCC and shall be sent via a method which confirms receipt by THE DRCC. The request for variance shall succinctly state the variance requested, why it is requested, and the unique circumstances necessitating the variance. THE DRCC shall approve or disapprove the request for variance within thirty (30) days of receipt of the request. In the event THE DRCC fails to submit a grant or denial of the request for variance, the request shall be deemed to have been denied.

Any property owner who requests a variance as prescribed by these Restrictions, and said requested variance is denied, either expressly or by expiration of time, shall have the right to appeal the denial of said variance request within fourteen (14) calendar days of either the date of the written denial of THE DRCC, or the thirtieth (30th) day after THE DRCC's receipt of the request for variance, whichever comes earlier. The property owner shall submit the appeal of the variance request to the TMNA Executive Committee. Within fourteen (14) days of the receipt of the appeal from the property owner, the TMNA Executive Committee shall review the request and notify the property owner of its decision to uphold the decision of THE DRCC or to overturn the decision of THE DRCC by granting the variance.

No property owner shall be allowed a variance request to change the use of the lot as stated in these Restrictions, Article IV.

B. EXISTING STRUCTURES AND IMPROVEMENTS

Any improvement or Structure existing on any lot in the Subdivision on the date of filing these Restrictions, that was constructed or altered not in conformance with the restrictions in effect for such lot at the time of any such construction or alteration, and is not in conformance with these Restrictions, shall not be deemed to be in violation of these Restrictions. Any such Grandfathered improvement or Structure, however, must be maintained in conformance with these Restrictions. In addition, any such Grandfathered improvement or Structure shall not be enlarged, expanded or extended. This section shall apply to all Structures, Buildings, Outbuildings, Elevations, or improvements in violation of these Restrictions that exist on the date these Restrictions are recorded in the Harris County Deed Records.

This section shall not apply to any Structure, Building, Outbuilding, Elevation, or improvement that was expressly disapproved by THE DRCC, unless such disapproval is the subject of a variance being actively requested by the lot owner(s) through the process provided in these Restrictions.

This section applies only to nonconforming Structures, Buildings, Outbuildings, and Elevations, and does not extend to any nonconforming usage or any nonconforming maintenance of property. It is not the intention of this section to Grandfather any nonconforming usage or maintenance of property.

IX. LIABILITY

Review and approval of any application is made on the basis of aesthetic considerations only and THE DRCC and the TMNA Executive Committee shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. THE DRCC AND TMNA SHALL NOT BE HELD LIABLE FOR (i) ANY INJURY, DAMAGES, OR LOSS ARISING OUT OF THE MANNER OR QUALITY OF APPROVED CONSTRUCTION. OR (ii) ANY ACTION OR FAILURE TO ACT IN CONNECTION WITH ANY APPROVAL OR DISAPPROVAL OF ANY REQUEST FOR APPROVAL OR REQUEST FOR VARIANCE, INCLUDING WITHOUT LIMITATION, MISTAKES IN JUDGMENT, NEGLIGENCE, MALFEASANCE OR NONFEASANCE.

THE HOMEOWNER, REGARDLESS OF ANY CURRENT OR FUTURE WORDING IN THIS DOCUMENT, IS EXPECTED TO ENSURE THAT ANY BUILDING OR REMODELING IS IN COMPLIANCE WITH ALL BUILDING CODES CURRENTLY IN EFFECT.

X. EXTENSION AND ALTERATION OF THESE RESTRICTIONS

These covenants and restrictions are to run with the land and shall be binding on all the parties and all persons claiming under them until December 31, 2010, at which time the covenants shall be automatically extended for successive periods of ten (10) years. These Restrictions may be amended at any time by an instrument executed by the owners, of a majority (50% + 1) of lots in the Subdivision having agreed to change these Restrictions in whole or in part, said document being filed for record in the Real Property Records of Harris County, Texas.

XI. GENERAL PROVISIONS

A. SEPARABILITY AND ENFORCEMENT

The invalidity of any covenant herein (whether by judgment, court order, or otherwise) shall in no way affect any of the other provisions, and they shall remain in full force and effect. If any of the parties hereto, or any of their heirs or assigns, or any owner of any interest in the above described property shall at any time violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any person or persons owning any other lot or plot in said subdivision, or for THE DRCC or TMNA or any member thereof, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other dues for such violations, including reasonable attorney's fees and expenses and other sums allowed under Texas law. Lack of enforcement of any Section of these Restrictions does not in any way void or negate these covenants and Restrictions.

B. VIOLATIONS OF LAW

Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any Lot hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

C. NO REPRESENTATIONS OR WARRANTIES

No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by TMNA or its agents, employees or committees in connection with any portion of the Properties, or any Improvement thereon. its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

D. CAPTIONS FOR CONVENIENCE

The titles, headings, captions, articles and section numbers used in these Restrictions are intended solely for convenience of reference and shall not be considered in construing any of the provisions of these Restrictions. Unless the context otherwise requires, references herein to Articles and Sections are to articles and sections of these Restrictions.

E. GOVERNING LAW

These Restrictions shall be construed and governed under the laws of the State of Texas.

F. NOTICES

Any notice required to be sent to any Owner under the provisions of these Restrictions shall be deemed to have been properly sent when mailed postage pre-paid, to the last known address of the person who appears as Owner on the records of TMNA at the time of such mailing.

G. MULTIPLE COUNTERPARTS

These Restrictions may be executed in one or more counterparts which taken together shall constitute one instrument without the necessity of each party executing the same counterpart.