

AMEND
C

E

**AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
WESTCHESTER, SECTIONS ONE (1) AND TWO (2)**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, various covenants, conditions, and restrictions were imposed upon all of the Lots in Westchester, Section One (1), by instrument duly recorded on January 24, 1967 in Volume 6338, Page 618, of the Deed Records of Harris County, Texas; and

WHEREAS, various covenants, conditions and restrictions were imposed upon all of the Lots in Westchester, Section Two (2), by instrument duly recorded on July 16, 1968, in Volume 7266, Page 71, of the Deed Records of Harris County, Texas (the instruments identified in this and the preceding paragraph being collectively the "Restrictions"); and

WHEREAS, the Restrictions were amended and replaced in their entireties by that certain instrument entitled "Declaration of Covenants, Conditions and Restrictions for Westchester Sections One (1) and Two (2)" (the "Declaration") recorded in the Official Public Records of Real Property of Harris County, Texas on December 20, 1991 under Clerk's File No. N459378; and

WHEREAS, the Declaration was amended by that certain instrument entitled "Amendments to Declaration of Covenants, Conditions and Restrictions for Westchester, Sections One (1) and Two (2)" recorded in the Official Public Records of Real Property of Harris County, Texas on February 26, 2002 under Clerk's File No. V624259; and

WHEREAS, the Declaration provides that its provisions may be amended at any time by an instrument in writing signed by the then Owners of a majority of the Lots and duly recorded in the Official Public Records of Real Property of Harris County, Texas;

NOW, THEREFORE, the undersigned, being the Owners of at least a majority of the Lots in Westchester, Sections One (1) and Two (2), hereby restate and amend the covenants, conditions and restrictions for Westchester, Sections One (1) and Two (2), to be governed by the covenants, conditions and restrictions set forth in this instrument. When effective, this instrument supersedes the Declaration. Provided that, the provisions of this instrument shall not be applicable to Reserves A, B, C and D as shown on the plat and replat of Westchester, Section Two (2), except that Lots 14, 15, 16, 17 and 18, Block 19, as shown on the plat and replat of Westchester, Section Two (2) on Chadbourne Drive shall always be maintained as a pool and tennis club with the necessary equipment and facilities associated with such club.

**ARTICLE I
Definitions**

Section 1. "Association" shall mean and refer to Westchester Owners Committee, Inc., a nonprofit corporation, its successors and assigns.

ER 033 - 47 - 0075

Section 2. "Common Area" shall mean all real property now owned or hereafter acquired by the Association for the common use and enjoyment of the Owners.

Section 3. "Lot" shall mean and refer to any numbered Lot or plot of land shown in the recorded plat or replat for the Subdivision.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Pool and Tennis Facility User" shall mean an Owner who pays an annual Pool and Tennis Facility User Fee for the privilege of using the pool and tennis courts.

Section 6. "Pool and Tennis Facility User Fee" shall mean an annual user fee paid by a Pool and Tennis Facility User in addition to an annual maintenance charge for the privilege of using the pool and tennis courts.

Section 7. "Subdivision" shall mean and refer to that certain real property known as Westchester, Section One (1) and Westchester, Section Two (2).

ARTICLE II Recorded Subdivision Plats

The recorded plat of the Subdivision dedicates for use as such, subject to the limitations as set forth therein, the streets and easements shown therein, and such recorded plats may further establish certain restrictions applicable to the Subdivision, including without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the recorded plat or replats for the Subdivision are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed or other instrument conveying said property or any part thereof, whether specifically referred to therein or not.

ARTICLE III Property Rights

Section 1. Owner's Easement of Enjoyment. Should the Association acquire Common Area, each Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a) The right of the Association to make, publish and enforce reasonable rules and regulations for the use of the Common Areas and facilities owned and operated by the Association. Any infraction of these rules and regulations may result in a suspension of the right to use the Common Areas for a period of not more than sixty (60) days or so long as the infraction continues.

b) The right of the Association to charge Pool and Tennis Facility User Fees for the privilege of using the pool and tennis courts.

c) The right of the Association to suspend the right of an Owner to use the facilities and Common Area for any period during which any annual maintenance charge against his or her Lot or any Pool and Tennis Facility User Fee remains unpaid.

d) The right of the Association to limit the number of guests of Owners using any portion of the Common Areas and any facilities located thereon.

e) The right of the Association, in accordance with its Articles of Incorporation or Bylaws, to borrow money for the purpose of acquiring, improving or expanding the Common Areas and facilities and in aid thereof to mortgage said Common Areas. The rights of any such mortgagee in said properties shall be subordinate to the right of the Owners hereunder.

f) The right, but not the obligation, of the Association to contract for exclusive service such as water, sanitary sewage, trash collection, fogging, security patrols, etc.

g) Except as provided in paragraph (h) below, Owners electing to utilize the pool and/or tennis courts must pay a Pool and Tennis Facility User Fee.

h) All Owners shall have the right to use the pool and tennis courts in conjunction with an Association sponsored community activity without the payment of a Pool and Tennis Facility User Fee.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the Lot.

ARTICLE IV Use Restrictions

Section 1. Single Family Residences. All Lots shall be used for single family residential purposes only. No Lot shall be subdivided. Not more than one (1) residential dwelling shall be constructed on a Lot within the Subdivision. No building shall be erected, altered, placed, or permitted to remain on a Lot other than one single family residential dwelling not to exceed three (3) stories in height, a private garage for not fewer than two (2) nor more than three (3) vehicles, and one (1) or more auxiliary structures permitted by this Amended and Restated Declaration. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots, or the use of said Lots for garage apartments, or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes.

Section 2. Structural Guidelines for the House. The minimum allowable area of interior living space in a residential dwelling shall be 2,000 square feet. In calculating the interior living space, the area within an attached garage (used as a garage) shall not be included, but the living area above an attached garage shall be included. For the purposes of this paragraph, the term "interior living space" is determined by measuring outside dwelling dimensions and includes everything under air conditioning but excludes steps, porches, exterior balconies, and detached garages including living space above the detached garage.

The total area of the footprints of the residential dwelling, garage, accessory buildings and any other improvement on a Lot which has a foundation, and any impermeable hardscape on the Lot, including, by way of example and not in limitation, driveways, sidewalks, pool, pool decking and patios, shall not exceed sixty-five percent (65%) of the total area of the Lot.

All new construction plans and related items must be prior approved in writing by the Architectural Control Committee prior to the commencement of construction. The height of a new residential dwelling constructed on a Lot and the maximum allowable area of interior living space must be reasonable, in conformity with community standards of the Subdivision and approved in writing by the Architectural Control Committee prior to the commencement of construction.

ER 033 - 47 - 0077

New construction plans must also include a drainage plan that demonstrates that such new construction and improvements will not cause surface water to drain onto an adjacent Lot. The drainage plan requires the prior written approval of the Architectural Control Committee.

Section 3. Construction. The front and each side exterior wall of a residential dwelling shall consist of not less than fifty-one percent (51%) brick, brick veneer, natural stone or other approved masonry material. Stucco and Hardi-plank shall not be an acceptable masonry material for the purpose of complying with this fifty-one percent (51%) requirement. Stucco and Hardi-plank may be used in addition to, but not in lieu of, brick, brick veneer, natural stone or some other approved masonry material on the front and side exterior walls; provided that, in no event shall the aggregate area of the exterior walls of a residential dwelling (front, rear and sides) consist of more than forty-nine percent (49%) stucco or Hardi-plank. The Architectural Control Committee may limit the number of masonry materials used in the construction of a residential dwelling. If the residential dwelling or garage on a Lot is remodeled, or if there is an addition to a residential dwelling or garage (as approved by the Architectural Control Committee), the addition or alteration must incorporate the same or similar exterior masonry materials that exist on the remainder of the residential dwelling or garage. In addition, the mix of materials must be substantially similar to the remainder of the residential dwelling or garage (as a percentage) so that the addition or alteration is compatible with the remainder of the residential dwelling or garage. All alterations and additions to an existing residential dwelling or garage must comply with the Architectural Guidelines and must be approved in writing by the Architectural Control Committee prior to the commencement of construction.

All doors, windows, roof areas, and dormers shall be excluded when calculating the percentages of exterior masonry. If there is a detached garage on a Lot, the detached garage shall be excluded when calculating the percentage of masonry on the exterior of the residential dwelling; however, an attached garage shall be included.

The exterior walls and materials used on the exterior of detached and attached garages and all porte cocheres must be constructed with approved materials that are compatible with the exterior materials used on the residential dwelling. All such materials must be prior approved in writing by the Architectural Control Committee; the Architectural Control Committee, in its discretion, may limit or prescribe the materials to be used as necessary for consistency and compatibility.

All foundations must comply with all local, state and national building codes and all building setback lines. A foundation façade, if any, must be congruent with the style of the surrounding homes. All foundations must be prior approved in writing by the Architectural Control Committee prior to the commencement of construction.

Section 4. Garages and Porte Cocheres.

a) Garages. Each Lot on which there exists a residential dwelling is required to have an attached or detached garage capable of housing not less than two (2) nor more than three (3) vehicles. The ground floor of a detached or attached garage may not be enclosed or converted to living area. A garage may be used as a “workshop” or for storage or in any other manner consistent with this Amended and Restated Declaration and the Architectural Guidelines. Quarters are permitted for use by bonafide servants, caregivers, family members or dependents domiciled with the Owner but only on the second floor of the garage. No garage or living area above a garage shall be used for any commercial or business or professional purpose.

If, at the time plans for a residential dwelling are submitted to the Architectural Control Committee for approval, a garage for not less than two (2) nor more than three (3) vehicles does not exist on the Lot, plans for the residential dwelling must include an attached or detached garage and an attached or detached garage for not less than two (2) nor more than three (3) vehicles must be constructed in conjunction with the construction of the residential dwelling. If a garage for not less than two (2) nor more than three (3) vehicles exists on the Lot at the time the plans for a residential dwelling are submitted to the Architectural Control Committee for approval (i.e., the garage was not razed at the time the previously existing residential dwelling was razed or is not to be razed at the time the existing residential dwelling is razed) an attached or detached garage is not required to be constructed in conjunction with the construction of the residential dwelling so long as the existing garage remains and continues to be used for housing and sheltering vehicles. For the purposes of this paragraph, an attached garage is a garage which has at least one wall (or a portion thereof) in common with the residential dwelling on the Lot.

An attached or detached garage on a Lot must meet design and location standards the Architectural Control Committee may reasonably require. A garage which is separated from the residential dwelling but connected to the residential dwelling by a covered walkway or open breezeway, is considered to be a detached garage, not an attached garage.

b) Porte Cocheres. For the purposes of this paragraph a porte cochere is a covered but otherwise open shelter for a vehicle which extends from, and is an integral part of the residential dwelling from the standpoint of both appearance and construction. A porte cochere must comply with this Amended and Restated Declaration and the Architectural Guidelines, including, without limitation, all setback requirements set forth in Section 5 of this Article. A porte cochere at the front of a building (i.e., with a circular driveway) is expressly prohibited. The style and design of a porte cochere must be in harmony with the existing residential dwelling and garage. The height of a porte cochere is limited to sixteen (16) feet above the top of the slab. A second story living area above a porte cochere is prohibited. Carports on Lots are prohibited.

Section 5. Building Setbacks. No structure, building or residential dwelling shall be located nearer to the front Lot line or nearer to the side street Lot line than the building setback shown on the applicable plat. No structure, building or residential dwelling shall encroach onto any easement shown on the plat. No structure, building or residential dwelling shall be located nearer than ten (10) feet from any side Lot line adjacent to a street, or nearer than five (5) feet from the rear Lot line, or nearer than five (5) feet from any interior side Lot line, except a garage or porte cochere, which may be located no nearer than three (3) feet from any interior side Lot line but then only if the garage or porte cochere is located at the rear of the residential dwelling, meaning no nearer to the closest part of the front wall of the residential dwelling than twenty (20) feet.

Section 6. Prohibition of Offensive Activities. No activity, whether for profit or not, shall be conducted or permitted on any Lot which is not related to single family residential purpose. No noxious or offensive activity or condition of any sort shall be permitted to exist nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the neighborhood.

Section 7. Temporary Structures. No structure of a temporary character, whether a trailer, tent, shack, garage, barn or other outbuilding shall be erected or maintained on any Lot for any period of time or for any purpose other than one (1) lawn storage building and one (1) children's playhouse, neither of which shall exceed the height of eight (8) feet at the maximum height of the structure from ground level. Both shall correspond to the style and architecture of the dwelling on the Lot and which, along with any other structure, will be permitted only in the backyard of such Lot and no closer than three (3) feet of any

inside lot line. No structure on a Lot shall be used as a residence other than the residential dwelling on the Lot and as provided in Sections 1 and 2 of this Article.

Section 8. Plot size. No residential dwelling shall be erected or placed on a Lot having an area of less than seven thousand (7,000) square feet or a width of less than sixty (60) feet at the front building setback line, except in the case of any Lot shown on the recorded plat of said Subdivision which may have a lesser minimum square foot area or a lesser minimum width at the front building setback line.

Section 9. Storage of Automobiles, Boats, Trailers, Recreational Vehicles and Other Vehicles. No boat trailers, boats, travel trailers, inoperative automobiles, campers or vehicles of any kind are to be stored in the public street right-of-way or on driveways. Storage of such items and vehicles must be screened from public view in a garage or some other type of enclosure approved in writing by the Architectural Control Committee unless the vehicle or item is parked, kept and stored in accordance with the provisions of the remainder of this section set forth below.

Notwithstanding the above provisions, the following vehicles may be parked on the driveway of a Lot or in the street in front of a Lot, provided that such vehicle is operable, displays a current license plate and inspection sticker, does not display any type of commercial logo or advertising and is in day to day use off of the premises, to wit: automobiles, pickup trucks, pickup trucks with attached bed campers, passenger vans (the term "passenger vans" specifically excludes motor homes and recreational vehicles) of no more than two (2) tons and motorcycles. Boats, campers and recreational vehicles may be parked on the driveway of a Lot or in the street in front of a Lot for the purpose of cleaning and/or repair for a period not to exceed forty-eight (48) hours in any consecutive seven (7) day period unless the Board of Trustees of the Association consents to a longer period in writing.

Section 10. Mineral Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structures designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 11. Alcoholic Beverages and Illegal Use of Lot. No spirituous, vinous, or malt liquors or medicated bitters capable of producing intoxication, shall ever be sold or offered for sale on any site in the Subdivision, nor shall said premises or any part thereof be used for vicious, illegal or immoral purposes, nor for any purpose in violation of the laws of the State of Texas, or of the United States, or of police, health, sanitary, building or fire codes, regulation or instruction relating to or affecting the use, occupancy or possession of any of the said sites.

Section 12. Animal Husbandry. No animals, livestock or poultry of any kind shall be bred or kept on any Lot except that dogs, cats or other common household pets may be kept provided that they are not kept, bred or maintained for commercial purposes. If common household pets are kept, they must be confined to a fenced backyard (such fence shall encompass the entire back yard) or within the house. When away from the Lot a pet must be on a leash at all times. It is the pet owner's responsibility to keep the Lot clean and free of pet debris. Notwithstanding the foregoing, no animals may be kept on a Lot which result in an annoyance or are obnoxious to the residents of the adjacent Lots.

Section 13. Signs. No signs of any kind shall be displayed on a Lot to the public view except:

- (a) one (1) sign not more than five (5) square feet advertising the property for sale or rent;
- (b) one (1) "Yard of the Month" sign provided by the Association;

ER 033 - 47 - 0080

- (c) one (1) home improvement sign during the period of construction or remodeling, and
- (d) Political signs advertising a political candidate or ballot item for an election (a “Political Sign”) subject to the following:
- (1) no Political Sign is permitted earlier than the 90th day before the date of the election to which the sign relates, and each Political Sign must be removed in its entirety by the 10th day after the election date;
 - (2) not more than one Political Sign for each candidate or ballot item may be displayed on a Lot;
 - (3) each Political Sign must be ground-mounted;
 - (4) no Political Sign may
 - (a) contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping or nonstandard decorative component;
 - (b) 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;
 - (c) include the painting of architectural surfaces;
 - (d) threaten the public health or safety;
 - (e) be larger than four feet by six feet;
 - (f) violate a law;
 - (g) contain language, graphics or any display that would be offensive to the ordinary person; or
 - (h) be accompanied by music or other sounds or by streamers or be otherwise distracting to motorists;
 - (5) the Architectural Control Committee or Association may remove the Political Sign displayed in violation of this section, and may dispose of same as debris without liability for trespass, conversion or otherwise;
 - (6) the Association’s Board of Trustees is specifically authorized to amend this section to the extent permitted or required to conform this Section to the provisions of Section 202.009 of the Texas Property Code, as amended and/or as subsequently construed or applied by a court of competent jurisdiction, any such amendment to be effective from and after the date of filing of same in the Official Public Records of Real Property of Harris County, Texas.
 - (7) Political Signs are not permitted on Common Areas.

Section 14. Lot and Building Maintenance. The Owners or occupants of each Lot shall at all times maintain all buildings and improvements in an attractive manner, keep all weeds and grass cut and trees and shrubs trimmed in a sanitary, healthful and attractive manner, and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The Owner of a Lot on which there is a tree that overhangs a public street is required to trim the tree as necessary to at all times maintain a clearance of at least ten (10) feet above the surface of the street. All fences, if any, which have been erected on any Lot, shall be maintained in good repair by Owner and Owner shall promptly repair or replace the same in the event of total or partial destruction or disrepair. The drying of clothes in full public view is prohibited

and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view shall screen the drying of clothes or trash storage piles from public view. No Lot shall be used or maintained as a dumping ground for trash, garbage or other waste materials. Trash, garbage or other waste materials are not permitted in the street or street gutters and shall be kept in sanitary containers with sanitary covers or lids. Containers for the storage of trash, garbage, or other waste materials must be stored out of public view. Building materials to be used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained therein for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot out of public view. In the event of violation by the Owner or occupant of any Lot of any covenant, condition or restriction imposed upon the Owner or Lot in this Article III and the continuance of such violation after ten (10) days written notice by the Association to the Owner or occupant, or in the event the Owner or occupant has not proceeded with due diligence to complete the appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to repair, maintain or restore the Lot, the exterior of the residential dwelling, the fence and any other improvements located thereon. The Association, at its option, without liability to the Owner or occupant for trespass or otherwise; may enter onto said Lot and/or improvement and cut the weeds and grass, edge the lawn around the curb, cause to be removed garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions. The Association will render a statement of charge to the Owner or occupant of such Lot for the reasonable cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot to pay such statement immediately upon receipt. Failure to pay shall result in a continuing lien upon the Lot and shall be the personal obligation of the Owner or occupant. To collect such fees, the Association may file a lawsuit for the collection of the fees and all other costs associated therewith including the attorney's fees incurred in collecting the debt. Such charges, costs and attorney's fees shall be the personal obligation of the Owner or occupant.

Section 15. Walls and Fences. No fence, wall, hedge or pergola or other attached structure shall be erected, grown or maintained forward of the front building line of said Lot; provided however, that a fence or hedge not exceeding thirty (30) inches in height may be located forward of the front building lines if the same does not extend from one side property line to the other side property line, and further provided that prior written approval is secured from the Architectural Control Committee as herein provided. No fence, wall or hedge shall be more than seven (7) feet high. There shall be no chain link or wire mesh fence allowed on any Lot in view to the public.

Section 16. Satellite Dishes and Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for receiving television, radio, satellite or other signals of any kind shall be placed, allowed or maintained on any lot or residential dwelling if visible from any street, Common Area or other Lot unless it is not possible to receive an adequate signal from a location that is not visible from a street, Common Area or another Lot. In the event that an adequate signal can only be received from a location that is visible from a street, Common Area or another Lot, the visible location of the antenna must be approved by the Architectural Control Committee prior to installation. The Architectural Control Committee may require an antenna to be screened in whatever manner is deemed appropriate so long as the screening does not substantially interfere with reception. No satellite dish antenna which is larger than one (1) meter in diameter is permitted under any circumstances. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind apparatus shall be placed, allowed or maintained on any lot or residential dwelling. The provisions of this paragraph are intended to be consistent with the Telecommunications Act of 1996 (the "Act") and FCC regulations promulgated under the Act, as same presently exist or may hereafter be amended; the provisions of this paragraph shall be construed to be as restrictive as possible without violating the provisions of the Act or applicable FCC regulations.

Section 17. Roofing Materials. The roof of a residential dwelling, garage or other building or structure on a Lot must be constructed with asphalt or composition shingles or other materials approved in writing by the Architectural Control Committee as to type, quality, grade and color prior to the commencement of construction.

Section 18. Easements. Easements for installation and maintenance of utility and drainage facilities are reserved as shown on the recorded plat.

ARTICLE V

Architectural Control Committee

Section 1. General. There is hereby established an Architectural Control Committee (herein referred to as the "ACC"). The Board of Trustees shall act as the ACC unless the Board of Trustees decides to delegate the duties of the ACC and appoints persons to serve on the ACC. The act of a majority of the members of the ACC shall constitute the act of the ACC.

Section 2. Committee Membership. Unless the Board of Trustees acts as the ACC, the ACC shall consist of not less than three (3) or more than five (5) members, each of whom must be an Owner and a resident in the Subdivision. At least one member of the ACC shall also be a member of Association's Board of Trustees. At any time, the Board of Trustees shall have the authority to remove the members of the ACC, to define the powers and duties of the ACC, and to assume the functions of the ACC. No person who serves on the ACC shall be entitled to compensation for any services performed. Members of the ACC may be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board of Trustees.

Section 3. Authority of ACC for Architectural Guidelines. If approved by the Board of Trustees, the ACC shall have the authority to prepare and adopt "Architectural Guidelines" setting forth minimum construction standards, including but not limited to exterior materials, colors and finishes, roofing standards, foundation and other structural requirements, and any other procedural, aesthetic, environmental and/or architectural standards, requirements, limitations, policies and procedures, regardless of the nomenclature or manner of designation. Subject to the approval of the Board of Trustees by formal vote, the ACC may, from time to time, adopt, modify and supplement the Architectural Guidelines to maintain and enhance community standards of the Subdivision.

Section 4. Manner and Effect of Adoption of Architectural Guidelines.

a) No Architectural Guidelines or amendment or supplement to the Architectural Guidelines shall become effective until it has been approved by the Board of Trustees by formal vote. Upon approval, the Architectural Guidelines or amendment or supplement to the Architectural Guidelines shall be recorded in the Official Public Records of Real Property of Harris County, Texas. No prior notice to any Owner need be given as to the adoption of Architectural Guidelines or the approval of an amendment or supplement to the Architectural Guidelines. Owners shall be notified after the approval of any Architectural Guidelines or amendment or supplement to the Architectural Guidelines by the formal notice set forth in the first edition of The Rap published after formal approval by the Board of Trustees and by posting the amendment on the Association's website. Provided that, the failure to notify Owners of the approval of Architectural Guidelines or an amendment or supplement to the Architectural Guidelines shall not invalidate recorded Architectural Guidelines or any recorded amendment or supplement to the Architectural Guidelines.

b) Architectural Guidelines shall be enforceable in the same manner and to the same extent as this Amended and Restated Declaration, provided: (1) Architectural Guidelines shall not be deemed to waive, modify, or repeal any of the provisions of this Amended and Restated Declaration; and (2) Architectural Guidelines shall not be effective retroactively. All repairs, modifications or maintenance performed subsequent to the adoption of Architectural Guidelines shall be performed in such a manner as to bring the modification, so far as practicable, in compliance with all then applicable Architectural Guidelines.

Section 5. Submission and Approval of Plans and Actions of ACC. No exterior improvement, addition or modification shall be commenced, erected, placed, altered or demolished nor existing trees removed on any Lot until the final construction plans, specifications, elevations and plot plan showing (1) the nature, kind, color, shape, height, materials, and location of the improvement, and (2) the locations, sizes and types of trees to be removed and any replacements thereof, have been submitted in writing to the ACC and approved in writing by the ACC. The proposed improvement, addition or modification will be reviewed by the ACC for (i) conformity and harmony of external design and color with existing improvements in the Subdivision, (ii) location of the improvement with respect to setbacks, topography and finished grade elevation, and (iii) compliance with Architectural Guidelines and this Amended and Restated Declaration. Construction shall not commence until the ACC has approved the proposed improvement in writing and all necessary City of Houston building permits have been issued and received by the Lot Owner. In the case of new home construction, an existing residential dwelling or garage shall not be razed until plans for the new residential dwelling to be constructed have been submitted and approved by the ACC and the Owner has received all required City of Houston building permits.

One set of plans and specifications must be submitted for approval pursuant to applicable Architectural Guidelines unless a greater number of sets of plans is required by Architectural Guidelines. The ACC may require the submission of such construction plans, drawings, descriptions, samples, and specifications, together with such other documents as it deems appropriate, in such form and detail as it may elect in its discretion. The ACC shall have complete authority, subject to the provisions of this Amended and Restated Declaration, to approve construction of any improvement or color change on any Lot.

Upon the submission of plans and specifications for a proposed improvement on a Lot, the Owner is required to submit to the ACC the mailing address of the Owner to which all communications from the ACC are to be sent. If the Owner fails to submit a mailing address, the Owner's mailing address shall be deemed to be the address of the Lot for which the plans and specifications are submitted. Upon the receipt of plans and specifications for a proposed improvement on a lot, the ACC shall promptly forward to the Owner a written acknowledgment of the receipt of the plans and specifications. The ACC, in its sole discretion, may elect to use email as a means of receiving plans and specifications along with the request for approval and as its means for responding to the Owner.

Upon the receipt of plans and specifications for a proposed building or structure to be constructed on a Lot or a modification of or alteration to the exterior of a building or structure on a Lot, the ACC shall determine whether the information submitted is complete or whether additional information is needed. If additional information is not requested, the ACC shall respond, in writing, to a complete application for approval within thirty (30) days of the date of the ACC's written acknowledgement of the receipt of the plans and specifications. In the event the ACC fails to respond to such application within thirty (30) days of that date, the application will be deemed to be disapproved. If the ACC requests additional information or materials from an applicant in writing within thirty (30) days of the date of its written acknowledgement of the receipt of the plans and specifications, the applicant's plans and specifications shall be deemed to be disapproved on the date of the written request for additional information, whether so stated in the written communication or not, and a new thirty (30) day period for review shall not

commence until the date of the ACC's written acknowledgement of the receipt of the requested information or materials.

Exceptions to requirements of ACC approval are landscaping (landscaping defined as "living plants, trees, shrubs, flowers, etc. and the utilization of non-living material necessary for growth; i.e., bark, mulch., etc."), landscape timbers, rock or brick borders without mortar and which are less than two (2) feet in height, and the replacement of an existing wooden fence with a fence of the same or similar type of wood and is the same height as the fence being replaced.

The ACC may authorize variances from compliance with any of the architectural provisions in this Amended and Restated Declaration and the Architectural Guidelines (but not any provisions relating to use) when circumstances such as topography, natural obstructions, hardship, environment or other relevant considerations provide, in the reasonable, good faith judgment of the ACC, an appropriate basis for a variance. A variance shall not be effective unless it is in writing, the reason(s) for its issuance are stated, and the written document is executed by a majority of the members then serving on the ACC or two (2) members of the ACC, whichever is greater.

Section 6. Right of Appeal. In the event that plans and specifications for a proposed improvement or modification are disapproved by the ACC, the Owner of the Lot shall have a right to appeal the decision of the ACC to the Board of Trustees; provided that, a written notice of appeal must be submitted to the Board of Trustees within thirty (30) days of the date of the ACC's disapproval, together with a complete set of the plans and specifications for the proposed improvement or modification. The Board of Trustees shall have the authority to approve or disapprove the plans and specifications for the proposed improvement or modification and its decision shall be final. The Board of Trustees shall attempt to make a decision on the appeal at the Board meeting next following the date on which the notice of appeal is received; however, the Board of Trustees shall not be obligated to act on the appeal within any specified period of time and there shall be no deemed approval of plans and specifications resulting from the Board's failure to act. During the pendency of the appeal, the decision of the ACC shall remain in effect.

Section 7. Commencement and Completion of Construction Upon Plan Approval. The approval of plans and specifications for a proposed improvement or modification of an existing improvement shall be effective for a period of twelve (12) months from the date set forth in the written approval submitted by the ACC. If construction of the improvement or modification has not commenced, as defined in this section, within twelve (12) months of the date of approval, the approval shall be deemed to be automatically revoked by the ACC and no construction shall be commenced without first resubmitting plans and specifications for the proposed improvement or modification to the ACC in accordance with this Amended and Restated Declaration and receiving its written approval.

Once construction of an approved improvement or modification is commenced, construction must be diligently pursued to completion, to the end that a project does not exist in a partly completed condition for any unreasonable period of time. The ACC shall have the authority to determine, in its reasonable, good faith judgment, whether construction of an approved improvement or modification is being diligently pursued (considering such things as the complexity of the project, delays caused by weather, permitting issues, and the like). Construction of an approved improvement or modification must be substantially completed within twelve (12) months of the date construction commences, unless the ACC agrees in writing to extend the period to achieve substantial completion based upon factors not under the control of the Owner of the Lot on which the construction work is being performed.

As used herein, construction of an approved improvement or modification is deemed to commence on the earlier of the date that any construction materials or equipment are placed on the Lot or

any clearing of trees or shrubs or the removal of any existing improvement in connection with the approved improvement or modification occurs. As used herein, construction of an approved improvement or modification is deemed to be substantially completed on the earlier of the date a certificate of occupancy or similar certificate is issued by the City of Houston or the date the improvement or modification is capable of being used for its intended purpose.

Section 8. Term. Members of the ACC appointed by the Board of Trustees shall serve at the discretion of the Board of Trustees.

Section 9. Non-waiver of the ACC's Rights. Approval by the ACC of plans, specifications, or drawings for a proposed improvement on a Lot shall not be deemed to constitute a waiver of the right of the ACC to disapprove plans, specifications, or drawings for a similar proposed improvement on another Lot.

Section 10. Existing Residential Dwellings and Other Improvements. Any residential dwelling, garage or other improvement existing on any Lot on the date of filing of this Amended and Restated Declaration that was lawfully constructed or altered in conformance with the restrictions in effect for such Lot at the time of any such construction or alteration, but is not in conformance with this Amended and Restated Restrictions, shall not be deemed to be in violation of this Amended and Restated Restrictions; provided, however, that any such residential dwelling, garage, or other improvements must be maintained in conformance with this Amended and Restated Declaration. In addition, any such residential dwelling, garage, or other improvement shall not be enlarged, expanded, or extended except in accordance with this Amended and Restated Declaration.

Section 11. Liability Disclaimer. The approval of proposed plans for any improvement by the ACC shall not be deemed to constitute any warranty or representation by the ACC including, without limitation, any warranty or representation as to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. The review and approval or disapproval of an application pursuant to this Article V shall be based upon compliance with this Amended and Restated Declaration and the Architectural Guidelines. The ACC shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board of Trustees, any committee, nor any member of the ACC shall be held liable: (a) for any injury, damages, or loss arising out of the manner or quality of approved construction or (b) for 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.

Section 12. Noncompliance by Owner. Each Owner is charged with the responsibility of seeking and obtaining the written approval of the ACC for a proposed improvement or modification and constructing an improvement or modification in strict accordance with the plans and specifications submitted to and approved by the ACC. If the ACC determines that an improvement or modification on a Lot has been constructed or undertaken without obtaining the prior written approval of the ACC, or has been completed other than in strict conformity with the plans and specifications submitted by the Owner or the Owner's agent and approved by the ACC, or has not been completed within the required time period after approval by the ACC, the Board of Trustees (if the non-conformance is deemed to be material) may notify the Owner in writing of the noncompliance (the "Notice of Noncompliance"). The Notice of Noncompliance shall specify the particulars of the noncompliance and notify the Owner of the action that must be taken to remedy the noncompliance. The action that must be taken by the Owner to remedy the noncompliance may include, as deemed appropriate by the Board of Trustees and without limitation, (a) the cessation of all construction work pending the submission of plans and specifications to the ACC and the approval of the plans and specifications by the ACC, (b) the immediate removal of the

unauthorized improvement or modification or portion thereof, at the sole cost and expense of the Owner, and the restoration of the Lot and all improvements on the Lot to its/their former condition, and/or (c) the alteration of the improvement or modification to remedy the non-conformance.

ARTICLE VI
Association Membership

Section 1. Membership. Every person or entity who is an Owner of any of the Lots in the Subdivision which are subject to the annual maintenance charge shall be a member of the Association. The foregoing does not include persons or entity who held an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have one class of membership. A member shall be entitled to one vote for each Lot in which they hold the interest in the Subdivision. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. No half votes shall be allowed.

Section 3. Non-Profit Corporation. The Association is a nonprofit corporation and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. Bylaws. The Association may make whatever rules or Bylaws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of Records. The members of the Association shall have the right to inspect the books, records and Bylaws of the Association upon reasonable written request during normal business hours.

ARTICLE VII
Maintenance Charges

Section 1. Westchester Owners Committee Inc. Maintenance Fund. Each Lot in the Subdivision is hereby subjected to an annual maintenance charge, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association this annual maintenance charge. The annual maintenance charge, together with interest, late charges, costs, and reasonable attorneys' fees shall constitute a continuing lien upon the Lot against which each such annual maintenance charge is made and shall be the personal obligation of the Owner at the time such annual maintenance charge became due. The annual maintenance charge is due and payable in advance.

Section 2. Purpose of Maintenance Fund. The annual maintenance charges levied by the Association shall be used exclusively to promote the health and welfare of all members of the Association, as reasonably determined by the Board of Trustees, and the residents in the Subdivision and for the improvement and maintenance of any Common Areas. The purposes for which such annual maintenance charges may be used by the Association are described in the Association's Bylaws. The judgment of the Board of Trustees in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

ER 033 - 47 - 0087

Section 3. Rate of and the Amount of the Annual Maintenance Charge. The rate at which each Lot shall be assessed its annual maintenance charge shall be uniform and shall be determined annually. The annual maintenance charge may be adjusted from year to year by the Board of Trustees as the needs of the Subdivision may, in the judgment of the Board of Trustees, require. The Association may levy and collect special assessments in addition to the annual maintenance charge if such special assessment is approved by the vote of a majority of the Lot Owners.

Section 4. Increases in the Annual Maintenance Charge; Due Dates. The maximum annual maintenance charge for each Lot shall not be increased in any one year by more than five percent (5%) of the maximum allowable annual maintenance charge for the previous year or by an amount based upon the applicable increase in the Consumer Price Index ("CPI"), whichever is greater. The applicable increase in the CPI shall be based upon the percentage increase in the CPI - All Urban Consumers - Houston, Texas, during the one (1) year period ending August 31st preceding the assessment year. Written notice of the annual maintenance charge shall be mailed or delivered to each Lot Owner at least thirty (30) days in advance of the due date. An annual maintenance charge shall be due and payable on or before January 1 of the year for which the annual maintenance charge is assessed. Payment of an annual maintenance charge which is not received by the Association on or before January 31 of the year for which it is due shall be deemed to be delinquent.

Section 5. Commencement of Annual Maintenance Fee. Beginning on January 1, 2012, the maximum allowable annual maintenance charge shall be \$565.00 per Lot.

Section 6. Effect of Non-Payment, of Annual Maintenance Charges. Any annual maintenance charge or portion thereof that becomes delinquent shall bear interest from such date at the rate of ten (10 %) percent per annum. Additionally, the Board of Trustees may but shall not be required to assess a late charge not to exceed ten (10 %) percent of the annual maintenance charge for that year. The Association may foreclose its lien against the Lot, or take other, action to collect the annual maintenance charge as it may deem necessary and prudent. Each Owner, by his acceptance of a deed hereby, expressly vests in the Association or its agents, the right and power to bring all reasonably and necessary actions for the collection of such annual maintenance charges, interest, late charges, costs and attorney's fees and to enforce its lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property. No Owner may waive or otherwise escape liability for the annual maintenance charge, and other charges provided herein by nonuse of the facilities or services provided by the Association or by abandonment of his or her Lot.

Section 7. Subordination . In order to encourage the granting of first mortgage liens on property within the Subdivision, before the Association may proceed to enforce its lien upon any Lot on which there is an outstanding, valid and. subsisting first mortgage lien, said the Association shall give the Lot Owner and holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage holder by prepaid U. S. Certified Mail, Return Receipt Requested, to contain a statement of the delinquent annual maintenance charges upon which the proposed action is based. Upon request of any such first mortgage lien holder said the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. The Association shall, in any event, have the power to subordinate its lien to any other lien where deemed in the best interest of the Lot Owners in the Subdivision. The judgment of the Board of Trustees on the subordination of its lien shall be final and conclusive as long as such judgment is exercised in good faith. The sale or transfer of any Lot shall not-affect the lien securing the annual maintenance charges provided for herein In the event the lien is subordinated to any other lien by instrument duly executed by the Association then no subsequent foreclosure of the superior lien shall relieve the mortgagor from personal liability for any charges accrued

up to the date of such foreclosure sale nor release such Lot from the lien securing payment of such subsequent annual maintenance charges.

ARTICLE VIII
General Provisions

Section 1. Term. The provisions of this Amended and Restated Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty (20) years from the effective date of this Amended and Restated Declaration after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots is recorded agreeing to change or terminate this Amended and Restated Declaration in whole or in part. This Amended and Restated Declaration may be amended at any time by an instrument signed by a majority of the Lot Owners. Any amendment must be recorded in the Official Public Records of Real Property of Harris County, Texas.

Section 2. Enforcement. Upon any violation or attempt to violate any of the provisions contained herein, it shall be lawful for the Association or any Lot Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such provisions either to prevent any such Lot Owner or Owners from doing so or to recover damages for such violations. The Association or Lot Owner who successfully prosecutes an action at law or in equity shall be entitled to recover from the person or persons in violation of these provisions all costs, fees and expenses, including attorney's fees, incurred by the Association and/or Lot Owner in compelling compliance with these Restrictions. Failure by the Association or any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. The invalidity, abandonment or waiver of any one of these covenants, reservations, easements or restrictions shall in no way affect or impair any other covenant, reservation, easement and restriction which shall remain in full force and effect.

Section 4. Effective Date. The provisions of this Amended and Restated Declaration shall become effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

203229

ER 033 - 47 - 0089

CERTIFICATE

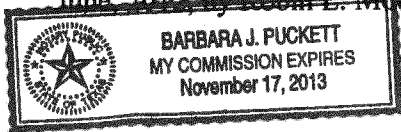
THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared, ROBIN L. MOTLEY, known to me to be the person whose name is subscribed below, who, upon oath, did depose and state as follows:

- 1. My name is Robin L. Motley. I am the President of Westchester Owners Committee, Inc. ("the Association"). I am over the age of twenty-one (21) years, I have never been convicted of a crime and I am fully competent to make this affidavit. 10R
- 2. I certify that the attached Amended and Restated the Declaration of Covenants, Conditions and Restrictions for Westchester, Sections One (1) and Two (2) was approved by a majority of the Lots in Westchester, Sections One (1) and Two (2). The written consents are on file with the Association records and available for inspection upon written request. 2EE
- 3. This certification is based upon the ownership records of the Association and the certificate of a committee, which tabulated the number of consents.

Robin L. Motley
Robin Motely

Subscribed, acknowledged, and sworn to and before me on the 11 day of June, 2012, by Robin L. Motley.



Seal Showing Name and Commission Expiration

Barbara J. Puckett
Notary Public in and for the State of Texas

ER 033 - 47 - 0090

20120264552
Pages 17
06/15/2012 08:09:08 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees 76.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

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



Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

ER 033 - 47 - 0091