



**First Amended and Restated  
Deed Restrictions**

**and**

**Additional Restrictions for Selected  
Lots, Tracts, and Deeded Home Sites**

**for**

**Greenwood Addition**

(Harris County, Texas)

**After recording, return to:**  
Greenwood Addition Owners  
c/o Richard Waites  
4723 Ivanhoe  
Houston, Texas 77027

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**First Amended and Restated Deed Restrictions  
and  
Additional Restrictions for Selected Lots, Tracts, and Deeded Home Sites  
for  
Greenwood Addition  
(Harris County, Texas)**

These First Amended and Restated Deed Restrictions and Additional Restrictions for Selected Lots, Tracts, and Deeded Home Sites for Greenwood Addition (hereinafter referred to together as the "First Amended Restrictions") are made effective by the Owners, being those persons whose signatures are attached hereto, representing a majority of the Owners in Greenwood Addition.

**PREAMBLE**

WHEREAS, the undersigned are a majority of the Owners of the Lots, Tracts, and Deeded Home Sites within Greenwood Addition, located in Houston, Harris County, Texas, established and restricted by various instruments cited herein below and referred to herein as the "Subdivision" or "Greenwood".

**Greenwood Addition** is an addition to the City of Houston, Harris County, Texas, as the same appears upon the Plat of said addition recorded in Volume 37, page 58, of the Map Records of Harris County filed on September 28, 1951, known as Greenwood Addition, and restricted by one or more of the following:

1. Untitled restrictions recorded on 01-31-52 under Harris County Clerk's File No. 969794 and recorded in Volume 2400, Page 56 of the Official Public Records of Real Property of Harris County, Texas (hereinafter referred to as the "Original Restrictions"); and
2. Agreed Judgment signed by all Greenwood Owners in Cause No. 1999-50664, *Dorothy Fletcher, Mary Alice Wakefield and Grace Scott v. Sundance X Properties, et al*, in the 269<sup>th</sup> District Court of Harris County, Texas, entered and filed with the District Clerk of Harris County, Texas on 01-26-2001.

WHEREAS, the Owners intend to maintain the Subdivision as a residential area. These First Amended Restrictions are executed (a) in furtherance of a common and general plan for the Subdivision; (b) to protect and enhance the quality, desirability, and attractiveness of all property within the Subdivision; (c) to submit the Subdivision to the jurisdiction of the Afton Oaks Civic Club, Inc. (hereinafter "the Association") to maintain, care for and manage the Common Areas and to perform functions for the benefit of Owners and of Lots, Tracts, and Deeded Home Sites (all hereinafter defined) within the Subdivision; (d) to define the duties, powers, and rights of the Association; (e) to define certain duties, powers, and rights of Owners of Lots, Tracts, and Deeded Home Sites within the Subdivision; and (f) to voluntarily encumber the Lots, Tracts, and Deeded Home Sites with each and every provision of these First Amended Restrictions immediately as set out herein.

WHEREAS, we the undersigned being a majority of the Owners of the Lots, Tracts, and Deeded Home Sites within the Subdivision, do hereby agree and stipulate that all of the Lots, Tracts, and Deeded Home Sites within Greenwood Addition are respectively impressed with the above referenced Original Restrictions and the Judgment, hereinafter collectively referred to as the "Restrictions", and the Lots, Tracts, and Deeded Home Sites shall be and are hereby made subject to the following restrictive covenants which shall change, modify, replace, and supersede the Restrictions, and shall apply to all of the Lots, Tracts, and Deeded Home Sites in the Subdivision. Any deed conveying a Lot, Tract, or Deeded Home Site shall be made subject to these First Amended Restrictions whether said covenants are incorporated in said deed or otherwise.

NOW THEREFORE, each and every Lot, Tract, or Deeded Home Site within the Subdivision shall hereinafter carry with it all the rights, privileges and obligations created in First Amended Restrictions as hereinafter set out in detail as of the effective date and the Additional Restrictions as of the filing of these First Amended Restrictions as to all Lots, Tracts, and Deeded Home Sites whose Owners execute these First Amended Restrictions.

## **Article 1 - Establishment of a General Plan**

**Section 1.1 General Plan and Deed Restrictions.** These First Amended Restrictions amend the Restrictions, pursuant to and in furtherance of a common and general plan for the improvement and sale of Lots, Tracts, and Deeded Home Sites within the Subdivision and for the purpose of enhancing and protecting the quality, desirability, and attractiveness of the Subdivision. Owners, for themselves, their successors, and assigns, hereby declare that the Subdivision and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, exceptions, and other provisions set forth in these First Amended Restrictions, for the duration thereof. The Lots and Deeded Home Sites and Common Areas in the Subdivision shall be subject to the jurisdiction of the Association.

**Section 1.2 Covenants and Restrictions.** The covenants, conditions, restrictions, limitations, and exceptions of these First Amended Restrictions hereby are imposed upon each Lot, Tract, and Deeded Home Site, as well as the Common Areas within the Subdivision, for the benefit of each and every other Lot, Tract, and Deeded Home Site, as well as the Common Areas within the Subdivision.

**Section 1.3 Covenants Appurtenant.** The covenants, conditions, restrictions, limitations, exceptions, and other provisions set forth in these First Amended Restrictions shall run with the land, and shall inure to the benefit of and shall be binding upon, all of the Subdivision, and each Lot, Tract, and Deeded Home Site as well as the Common Areas therein and shall be binding upon and inure to the benefit of, (a) the Subdivision; and (b) Owners and their successors and assigns, and (c) the Association and its successors, replacements, and/or assigns, and (d) all Persons having hereafter acquired, any right, title or interest in all or any portion of a Lot, Tract, or Deeded Home Site in the Subdivision and their heirs, executors, successors, and assigns.

**Section 1.4 Relation Back.** These First Amended Restrictions shall relate back to the original filing dates of each instrument described in the Plat and Original Restrictions.

**Section 1.5 Affected Lots, Tracts, and Deeded Home Sites.** These First Amended Restrictions shall affect all Lots, Tracts, and Deeded Home Sites within Greenwood. "Lots" or "Lot" when used generally shall refer to all Lots, Tracts, and Deeded Home Sites in the Subdivision restricted by one or more of the documents set out in detail in the Preamble and these First Amended Restrictions.

## **Article 2 – Definitions**

The following words and phrases when used in these First Amended Restrictions shall have the meanings hereinafter specified.

**Section 2.1 Additional Restrictions.** "Additional Restrictions" shall refer to the covenants, conditions and restrictions contained in these First Amended Restrictions which shall encumber the Selected Lots, Tracts, and Deeded Home Sites (defined below) and become effective against the Selected Lots, Tracts, and Deeded Home Sites immediately upon the recording of these First Amended Restrictions.

**Section 2.2 Architectural Committee.** "Architectural Committee" shall refer to the three (3) person committee elected by the Members of the Association (as defined below) and having the duties specified in Article 6.

**Section 2.3 Association.** "Association" shall mean Afton Oaks Club, Inc., a Texas non-profit corporation formed and existing as of the date of the recording of these First Amended Restrictions, the Members of which shall be the Owners of the Lots, Tracts, and Deeded Home Sites within the Subdivision, and which is a property owner's association, as that term is defined in §202.001(2) and §204.004 of the Texas Property Code or any successor statute.

**Section 2.4 Board.** "Board," "Board of Directors" or "Directors" shall mean the duly elected Board of Directors of the Association, as described in the By Laws.

**Section 2.5 Bylaws.** "Bylaws" shall mean the bylaws of the Association, as amended from time to time, as provided therein and in accordance with the applicable provisions of the laws of the State of Texas or other applicable jurisdiction(s). Should there be a conflict in the provisions of the Bylaws and these First Amended Restrictions, these First Amended Restrictions shall prevail.

**Section 2.6 Common Area.** "Common Area" or "Common Areas," commonly referred to as esplanades, medians or parks, shall mean those landscaped areas or landscapable areas within the Subdivision that are not a part of any Lot, Tract, or Deeded Home Site.

**Section 2.7 Common Assessments.** "Common Assessment" or "Common Assessments" shall mean the annual Association dues levied pursuant to Article 7 hereof for managing, maintaining, operating, repairing, and insuring Common Area, and other purposes of the Association as set out in its Articles of Incorporation, Bylaws and these First Amended Restrictions.

**Section 2.8 Effective Date.** "Effective Date" shall generally mean February 1, 2012, which is the date that these First Amended Restrictions shall encumber all Lots, Tracts, and Deeded Home Sites within the Subdivision, save and except the Selected Lots, Tracts, and Deeded Home Sites (defined below) which shall be immediately encumbered by each and every provision of these First Amended Restrictions upon the recording of these First Amended Restrictions. In the event the Owner(s) of a Lot, Tract, or Deeded Home Site as of the date of recording, has not approved these First Amended Restrictions, then these First Amended Restrictions shall become effective as to those Lots, Tracts, and Deeded Home Sites February 2, 2012, unless a joinder is sooner executed.

**Section 2.9 Existing Restrictions.** "Existing Restrictions" and/or "Original Restrictions" shall mean any restrictions imposed on the Subdivision and Lots, Tracts, and Deeded Home Sites by the instruments recorded in the Official Public Records of Real Property of Harris County, Texas, including those in Volume 2400, Page 56 and any deed incorporating any of the documents set out in detail in the Preamble, as well as the Judgment of the 269<sup>th</sup> Judicial District Court of Harris County, Texas contained in Cause No. 1999-50664, *Fletcher, et al. vs. Sundance X Properties, L.L.C.*

**Section 2.10 Household Group.** "Household Group" shall mean one or more natural Persons, each related to the other by blood, marriage, or legal adoption, or a group of not more than four (4) Persons not so related, together with his, her or their domestic servants, all of whom maintain a common household in a Single Family Residence on a Lot, Tract, or Deeded Home Site within the Subdivision.

**Section 2.11 Improvement.** "Improvement" or "Improvements" shall mean a Single Family Residence and garage, either attached or detached, regardless of whether the garage contains dwelling area or living space, plus any other exterior Improvement to a Lot, Tract, or Deeded Home Site (e.g., carports, storage and other outbuildings). Improvement shall not mean porches and terraces (roofed, covered or uncovered), swimming pools, spas, hot tubs, patio covers, awnings, sidewalks, walkways, sprinkler systems, roads, driveways, parking areas, fences not protruding beyond the leading edge of the Single Family Residence, screening walls, retaining walls, stairs, decks, fixtures, poles, exterior tanks, exterior lighting and landscaping.

**Section 2.12 Lot, Tract and Deeded Home Site.** "Lot" or "Lots" when used specifically shall mean any one or more of the numbered Lots shown on the Plat for the Greenwood Addition and any re-platting thereof. "Tract" or "Tracts" when used specifically shall mean any one or more of the numbered Tracts shown on the Plat for Greenwood Addition or any re-platting thereof. A "Deeded Home Site" with a single family residence may be composed of one or more whole or partial Lots or Tracts. A "Deeded Home Site" shall be determined by the legal description of the property stated in the most current, already recorded, deed for any entire home site and for the corresponding street address filed in the Real Property Records as of the date of filing of this First Amended Restrictions, which may, by the legal description contained therein, include one or more whole or partial Lots or Tracts shown in the original dedication, platting and any – re-platting of any Lot or Tract within the Greenwood Addition and includes one single family home.

**Section 2.13 Member.** "Member" or "Members" shall refer to the Members of the Association who shall be the Owner(s) of the Lot(s) within the Subdivision. The sole criteria to become a Member of the Association is to hold title to a Lot or Deeded Home Site within the Subdivision and be bound by these First Amended Restrictions.

**Section 2.14 Non-conforming Improvement.** Any Improvement existing at the time of adoption of these First Amended Restrictions that exists on any Lot, Tract, or Deeded Home Site in the Subdivision, which does not comply with the provisions of the Original Restrictions or does not comply with the provisions of these First Amended Restrictions.

**Section 2.15 Owner.** "Owner" shall mean the Person, or if more than one, all Persons collectively, who hold fee simple title of record to a Lot or Deeded Home Site, including sellers under executory contracts of sale and excluding buyers thereunder. This definition of Owner does not include those having any interest merely as security for the performance of an obligation.

**Section 2.16 Person.** "Person" shall mean a natural person, a corporation, a partnership, or any other legal entity.

**Section 2.17 Plat.** "Plat" shall individually and collectively refer to the maps or plats in Volume 37, Page 58 of the Map Records of Harris County, Texas, and the plat of any other property that has become or may become subject to these First Amended Restrictions and any plat, partial re-plat, or amendment of any of the above described plats.

**Section 2.18 Selected Lots, Tracts, and Deeded Home Sites.** "Selected Lots, Tracts, and Deeded Home Sites" shall mean those Lots, Tracts, and Deeded Home Sites whose Owners have voluntarily encumbered their property by approving and signing these First Amended Restrictions and whose signature pages are attached hereto. These First Amended Restrictions shall become effective as to the Selected Lots, Tracts, and Deeded Home Sites immediately upon recording of these First Amended Restrictions in the Official Public Records of Real Property of Harris County Texas.

**Section 2.19 Single Family Residence.** "Single Family Residence" shall mean a free-standing dwelling house located on a Lot or Deeded Home Site, the use of which is defined in accordance with provisions of these First Amended Restrictions. In no case may a Lot or Deeded Home Site contain more than one Single Family Residence. As used herein, the term "Single Family Residence" shall not be construed to include any structure of a temporary character, trailer, camper, camper trailer, motor vehicle, recreational vehicle, tent, shack, garage, barn, mobile home, double-wide mobile home, modular home, house trailer, duplex house, garage apartment, apartment house, town home, rooming or boarding house or other outbuilding in the Subdivision, except, however, with the Board's prior written approval, temporary structures may be erected for use in connection with the repair or rebuilding of Improvements on a Lot or Deeded Home Site. The type of structures that are identified above that are not to be construed as a "Single Family Residence" are not and may not be construed as an exclusive list of the type of structures that are not a "Single Family Residence".

**Section 2.20 Subdivision.** "Subdivision" shall mean the certain real property in Houston, Harris County, Texas, described and defined above in detail in the Preamble.

**Section 2.21 Voting Rights.** "Voting Rights" refers to the number and allocation of votes to each whole deeded home site with one single family residence regardless of whether said property is currently comprised of one or more, whole or partial Lots or Tracts and Member or Owner which may be cast at regular or special Association meetings as set out herein. Each whole Deeded Home Site with one single family residence (regardless of whether the Deeded Home Site is property is currently comprised of one or more partial or whole platted Lots or Tracts), and regardless of size, within the Subdivision shall have one vote with respect to Association business and with respect to any amendments or changes to the covenants contained herein. If a Deeded Home Site with one single family residence is owned by multiple Owners, such Owners shall determine amongst themselves how the single vote shall be cast. The Owner(s) of one Lot, Tract, or Deeded Home Site will not have more than one (1) vote as to Association business or amendment or modification of these covenants regardless of how many Lots, Tracts, or Deeded Home Sites he/she/they shall own by purchase, re-platting, or any other method of acquisition. No Owner(s) of a Lot, Tract, or Deeded Home Site may acquire more than one vote by placing a Lot, Tract, or Deeded Home Site in the name(s) of another person in order to acquire more than one (1) vote.

### **Article 3 - Term of Restrictions**

**Section 3.1 Term.** These First Amended Restrictions shall be covenants running with the land and shall be binding on all Owners, their successors and assigns affected by these First Amended Restrictions from the date filed and recorded in the Official Public Records of Real Property of Harris County, Texas, for the Selected Lots, Tracts, and Deeded Home Sites, and on the Effective Date for all other Lots, Tracts, and Deeded Home Sites, and until the same are changed or removed in accordance with the provisions hereof. The Owners of a majority (greater than 50%) of the Lots, Tracts, and Deeded Home Sites affected by these First Amended Restrictions (regardless of the square foot area of the respective Lots, Tracts, or Deeded Home Site) may, by a written instrument executed and filed of record at any time, amend or change these First Amended Restrictions in whole or in part, as to all of said property or as to any part thereof during a one year period from January 1 through December 31 every three years starting on February 1, 2012. The three year period as herein referred to will be three years thereafter. The execution of said written instrument need not all be under one cover but may be several different instruments. These First Amended Restrictions are to be perpetual except and until modified, changed or released as herein provided for. Future amendments shall have the approval of the Owners of a majority of the Deeded Home Sites. There shall be only one (1) vote per Deeded Home Site. Amendments may be made more frequently than every three years (3) with the approval of the Owners of eighty percent (77%) of the Deeded Home Sites.

### **Article 4 - Parties Entitled to Enforce**

**Section 4.1 Actions to Enforce.** The Association (or its lawful successors, replacements, or assigns) and/or any Owner of any Lot, Tract, or Deeded Home Site in the Subdivision which is subject to these First Amended Restrictions or similar restrictions hereinafter imposed, may enforce these First Amended Restrictions by the prosecution of proceedings at law or in equity against any Owner or other Persons violating, threatening or attempting to violate the same, to require the removal or abatement of any such violation or to prevent the threatened or attempted violation, by temporary or final order. Subject to notice and an opportunity to be heard as may be required by law, the violating Owner shall be responsible for paying reasonable attorneys' fees, costs, expenses, and all damages caused by any such violation.



## Article 5 – Restrictions

**Section 5.1 Residential Use.** All of the Lots, Tracts, and Deeded Home Sites within the Subdivision shall be improved with no more than one Single Family Residence per Deeded Home Site and used solely by one (1) Household Group for residential purposes only. No part of any Lot, Tract, or Deeded Home Site shall be used for any type of trade or business activities; provided, however, that an Owner of a Lot, Tract, or Deeded Home Site in the Subdivision may use his or her Single Family Residence for professional or other home occupations such as the maintenance of a personal or professional library or personal/professional work space, the keeping of personal business or professional records or accounts, or for the handling of personal business or professional records or accounts, or for the handling of personal business or professional telephone calls or correspondence, so long as there is no external evidence thereof; such as, signs advertising a business, consultation in person with clients or customers at the Lot or Deeded Home Site, other employees working at the Lot or Deeded Home Site, or significant commercial vehicular traffic. The term “Single Family” as used herein shall refer not only to the architectural design of the Single Family Residence but also to the permitted number of inhabitants as set forth herein.

Any Lot or Deeded Home Site improved with a newly constructed Single Family Residence, after the effective date of these First Amended Restrictions, shall also be improved with a private enclosed garage capable of storing at least two automobiles, which shall not exceed the height of the residence and shall comply with the set back restrictions referred to in Section 5.11 hereof. Any improvement made to any Lot or Deeded Home Site after the effective date of these First Amended Restrictions must obtain prior written approval of the plans and specification for such improvement from the Afton Oaks Architectural Control Committee (hereinafter the “Committee”).

Lots, Tracts, and Deeded Home Sites with completed Improvements and Single Family Residence may be leased in their entirety for residential purposes. No garage apartment on any Lot or Deeded Home Site may be leased as a separate dwelling unit. No Owner shall be permitted to lease for hotel or transient purposes, for which purpose this Section 5.1 is defined as a leasing period of less than thirty (30) days, except that this sentence of this provision shall not apply to an Owner who has provided temporary dwelling to occasional paying travelers or guests for more than 1 year prior to the effective date of these First Amended Restrictions. No Owner shall be permitted to lease less than the entire Lot or Deeded Home Site. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner under these First Amended Restrictions. The Owner making such lease shall not be relieved from any of such obligations and shall deliver a copy of these First Amended Restrictions to each tenant under its lease.

**Section 5.2 Sales Prohibited.** Without limiting the generality of Section 5.1, retail or wholesale sales of any kind whatsoever on Lots are specifically prohibited; provided however, each Deeded Home Site may have two (2) "garage" sales or the like per calendar year. No garage sale or the like shall exceed three (3) consecutive days.

**Section 5.3 Boarding House Prohibited.** No Single Family Residence or other Improvement may be used for the operation of a boarding or rooming house, or a residence for transients, except that this sentence of this provision shall not apply to an Owner who has provided temporary dwelling to occasional paying travelers or guests for more than 1 year prior to the effective date of these First Amended Restrictions.

**Section 5.4 Treatment Facilities Prohibited.** No Single Family Residence or other Improvement may be used for any "group home," "community home," "half-way house," rehabilitation center, treatment facility or residence for unrelated individuals who are engaging in, undertaking or participating in any group living, rehabilitation, treatment, therapy or training with respect to previous or continuing criminal activities or convictions, alcohol or drug dependency or physical or mental handicaps. It is not the intent of this provision to exclude from a Lot or Deeded Home Site any individual who is authorized to so remain by any state or federal law. If it is found that this definition is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

**Section 5.5 No Subdivision of Lots, Tracts, or Deeded Home Sites.**

No platted or deeded Lot, Tract, Single Family Residence, or Deeded Home Site in the Subdivision may be further subdivided, or re-platted with the goal of subdividing of a Lot, Tract, Single Family Residence, or Deeded Home Site, nor may any easement or other interest therein less than the whole, be conveyed by the Owner(s) of property in Greenwood Addition ("Owner") thereof. Nothing in this provision shall be deemed to prevent an Owner from (a) selling or leasing all of an entire Lot, Single Family Residence, or Deeded Home Site, or (b) transferring or selling any Lot, Tract, Single Family Residence, or Deeded Home Site to more than one Person to be held by them as tenants in common, joint tenants, or tenants by the entirety. No transfer, however, may result in the subdivision or re-platting of any property within Greenwood.

For purposes of this provision, any currently platted Lot, Tract, Single Family Residence, or Deeded Home Site that is recognized in the current and already filed deed as occupying two (2) or more adjoining Lots or Tracts or partial Lots or Tracts with common ownership and that in the aggregate are greater than one platted Lot or Tract, such as a platted or Deeded Home Site, shall be considered as one (1) Lot, Tract, Single Family Residence, and Deeded Home Site for the purposes of this provision.

**Section 5.6 Building Materials.** Subject to prior written approval of the Committee, the exterior walls of new Single Family Residences constructed after the effective date of these First Amended Restrictions shall be composed of eighty percent (80%) brick, brick veneer, stone, stone veneer, stucco or other masonry type of construction, not to be construed as including concrete block, common clay tile or fiber reinforced cement boards. Said eighty percent (80%) shall be based upon the total outside wall square footage less the square footage contained in windows and doors therein. The garage required hereunder, if detached, need not have the same composition of the outer walls as the Single Family Residence but same shall be built in harmony with the residence and with a high grade of materials. The required garage, if attached, shall be built in conformity with the exterior surface of the new Single Family Residence.

No asbestos siding shall be used to cover any portion of any building in the Subdivision.

Subject to prior written approval of the Committee, roofing materials shall be of high-grade materials with a warranty period of 25 years or more, and no roof shall be of a built up bitumen and gravel or membrane type. Roofs for Single Family Residences and garages shall have a minimum pitch of four (4) inches to twelve (12) inches. If the entire roof, including the roof of the Single Family Residence and garage, is replaced or added, the proposed shingle must be of an acceptable type and quality and have a color that is harmonious with the existing dwelling and neighborhood. Flat or corrugated metal roofing for patio covers and carports is not permitted.

Subject to prior written approval of the Committee, exterior colors of Single Family Residences, garages and outbuildings shall be a color traditionally used on exteriors of such residential buildings and other Improvements in the Subdivision.

Subject to prior written approval of the Committee, for any remodeling or renovation of an existing Single Family Residence that was constructed prior to March 1, 1996, the exterior walls, excluding glass, shall be at least fifty-one (51 %) brick, brick veneer, stone, stone veneer, concrete, stucco or other masonry type of construction, but with it being understood that this other type of masonry construction does not include asbestos shingles or other similar fire proof boarding. No Single Family Residence shall have a roof of a built-up bitumen and gravel or membrane type. A detached garage (whether or not including living quarters) need not have the outer walls to comply with the masonry type construction herein provided for, but the provision with reference to the roof shall apply to the roofs on the garages. Roof pitch for additions shall match that of the existing structure as far as possible.

**Section 5.7 Construction.** Construction activities shall be conducted in a manner so as to avoid inconvenience or a nuisance to neighboring Owners. Workers shall be directed to park on or in front of the work site that does not block access to any Subdivision streets. Workers shall not be permitted to play radios or other audio equipment at a volume that unreasonably disturbs any surrounding residents. Work sites shall be separated from adjacent Deeded Home Site by a temporary construction fence, if there is no current fencing. Any new construction or exterior Improvement must be commenced promptly after Plan (as defined hereinbelow) approval (i.e., within 60 days) and completed within twelve (12) months from commencement. No building materials may be stored on a street. Construction debris must be regularly removed, including regular/periodic emptying of any dumpster or trash skip, and the construction site maintained in a neat and orderly manner.

Reasonable precautions shall be implemented to prevent construction activities from adversely affecting the health of trees both on the Lot or Deeded Home Site under construction and on adjacent Lots or Deeded Home Sites. Builders shall install and maintain temporary fencing around the drip line of trees on the work site. Any port-a-can shall be located as far from the front of the property as possible while enabling the port-a-can to be regularly serviced. The port-a-can shall be screened from view with a wooden fence. Builders shall install a flush toilet as soon as plumbing is connected and remove the port-a-can. Builders shall install erosion control measures and provide for drainage of rainwater from the Lot or Deeded Home Site to the street to prevent/mitigate water runoff to other Deeded Home Sites. Construction activity shall be limited to hours between 7:00 AM and 8:00 PM. If there is a conflict between this Section 5.7 and any public ordinance, rule or regulation; the most restrictive will control.

Owners are responsible for assuring that their contractors and subcontractors comply with the provisions of this Section.

**Section 5.8 Animals.** No barnyard animals or livestock shall be kept on any Lot or Deeded Home Site of the Subdivision, but this shall not prohibit the keeping of dogs, cats or other usual and common household pets. Any personal pet(s) kept by an Owner on a Lot or Deeded Home Site must be done in conformity with any applicable ordinances enacted by the City of Houston.

**Section 5.9 Trailers and Temporary Residences.** No trailer, recreational vehicle, mobile home or manufactured homes containing sleeping or kitchen facilities or other similar vehicles and temporary or movable structures shall be moved onto any Lot or Deeded Home Site or Common Area for use at any time as a residence either temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

**Section 5.10 Building Design and Standards.** The floor area of a one story Single Family Residence, exclusive of porches, garages and servants' quarters, shall contain not less than 1,500 square feet and shall not exceed twenty-eight feet (28') from the grade to ridge height. The floor area of a two story Single Family Residence, exclusive of porches, garages and servants' quarters, shall contain not less than 2,000 square feet and shall not exceed thirty-eight feet (38') from grade to ridge height. Any Single Family Residence with Cape Cod architecture or other one and one-half story architecture shall be classed as two stories. The highest point of any Single Family Residence may not exceed the ridge height by more than three (3) feet.

Plans, which shall include complete construction plans and specifications, including, but not limited to, plot plan showing the location of the improvement(s) on the Lot or Deeded Home Site, the site plan, floor plans, roofline, exterior elevations, brick color, and paint color (hereinafter referred to as "Plans"), shall be submitted to the Committee as provided for in Article 6, specifically Sections 6.2 and 6.3, prior to the commencement of construction or alteration of any Improvement.

In addition to conforming to the other restrictions contained herein, Plans shall provide for area drainage from the Lot or Deeded Home Site being improved to the street and storm sewer system so that other Deeded Home Sites are not affected by water run-off/flooding. Plans shall provide that no exterior heating, ventilating and air conditioning compressor units, swimming pool equipment or other mechanical equipment to be installed or replaced shall be situated nearer to any side or rear property line than three (3) feet, and must be located at ground level and screened from view from any street or adjacent Lot or Deeded Home Site.

**Section 5.11 Set Back Restrictions.** No Improvement, carport, fence or any type of building shall be located nearer to the front line, and on corner Lots or Deeded Home Sites not nearer to the side street line, than the building set back lines as shown on the Plat, original plat or map in which the Lot or Deeded Home Site sits. Unless a lesser distance is designated on an original map, plat, the Plat or any modifications of these First Amended Restrictions or amendments thereto, no Single Family Residence may be located less than twenty-five (25) feet from the front Lot line, ten (10) feet from any inside Lot line, ten (10) feet from the rear Lot line in the case of a one story dwelling and not nearer than twenty (20) feet from the rear Lot line in the case of a two story dwelling, except that said line restrictions shall not apply to a detached garage or other building, regardless of whether it contains dwelling area or living space. The Committee provided for herein may require the detached garage or other building to be set to the rear of the Single Family Residence. The exterior rear wall of any two story garage located nearer than twenty (20) feet from the rear Lot line must be solid, and may not contain any windows or doors of any kind, unless such two (2) story garage is on a Lot or Deeded Home Site which does not back up, either wholly or partially, to any other single family residential Lot or Deeded Home Site. This provision shall also pertain to a single story garage that is modified or expanded to a two (2) story structure. A "detached garage" may be connected to the Single Family Residence by a covered open-air walkway. A garage sharing a common wall with a Single Family Residence or an enclosed or air conditioned/heated access to the Single Family Residence is not a detached garage.

For purposes of these First Amended Restrictions, eaves, steps, unroofed porches and roof overhangs shall not be considered in the above measurements; however, no portion of any building on one Lot or Deeded Home Site may encroach on another Lot or Deeded Home Site. For purposes of these First Amended Restrictions, a "Perimeter Lot" is a Lot or Deeded Home Site that is contiguous to property not within the Subdivision (i.e., a "non-Greenwood property"). Improvements to be constructed on a Perimeter Lot may deviate from the Set Back Restrictions with respect to the location of a proposed Improvement along the property line that abuts non-Greenwood property. No deviation of any set back along the property line between a Perimeter Lot and non-Greenwood property shall constitute a waiver of the set back applicable to any other property line on the Perimeter Lot or any other Lot in the Subdivision.

**Section 5.12 Street or Right of Way Obstructions.** No fence, wall or shrub plant which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot or Deeded Home Site within the triangular area formed by the street property lines and a line connecting them at points 25 feet (25') from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot or Deeded Home Site within 10 feet (10') from the intersection of a street property line with the edge of the driveway or pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 5.13 Displaying of Signs.** No commercial signs, messages, banners or other written or graphic material (excluding "For Sale" or "For Lease" signs not more than five (5) feet square) shall be displayed on any Lot or Deeded Home Site or Improvement. Nothing herein shall be construed to preclude flagpoles, security service warning signs, non-commercial flags, periodic garage sale signs, temporary signs celebrating an event, bunting or other items of a decorative or patriotic nature from being displayed on any Lot or Deeded Home Site or Improvement.

**Section 5.14 Drilling and Mining.** No oil drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted upon or in any Lot or Deeded Home Site, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Deeded Home Site. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or Deeded Home Site. This section shall also preclude development of any subsurface substance including but not limited to water.

**Section 5.15 Dumping and Trash Disposal.** No Lot or Deeded Home Site or Common Area shall be used or maintained as a dumping ground for rubbish or junk. Trash, garbage or other waste shall not be kept except in sanitary containers and building and landscaping materials shall be kept out of sight from any street or adjacent Lot or Deeded Home Site. Incinerators are strictly prohibited. All equipment for the storage or disposal of trash, garbage or other waste shall be kept in a clean and sanitary condition and maintained outside the view from the street (except on those days for scheduled removal).

**Section 5.16 Lot or Deeded Home Site Maintenance.** Grass, weeds and vegetation on each Lot or Deeded Home Site shall be kept mowed, edged and/or trimmed at regular intervals and swimming pools/spas shall be maintained, so as to maintain the same in a neat and attractive manner. Lot or Deeded Home Site maintenance – including lawn mowing, leaf blowing, weed eating, edging, etc. – shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m. If there is a conflict between this Section 5.16 and any public ordinance, rule or regulation, the most restrictive will control.

Owners are responsible for assuring that their service providers comply with the provisions of this Section.

**Section 5.17 Easements.** An easement for utility installations and maintenance thereof and ingress and egress of the grantor and all others authorized to make such installations and maintain the same is reserved over the property covered by said easements as shown by the recorded Plat of such property and the easements affecting said Deeded Home Sites are reserved as shown on said recorded Plat in accordance therewith, whether such easement is over the rear property line or over the side property line. Said utility easements are for all utilities now or hereafter to be installed in said locations according to custom and usage from time to time. The utilities may be placed under the streets as designated on said Plat as said street may be used for utilities as well as for traffic and other street purposes.

**Section 5.18 Supplemental Deed Specific Restrictions.** The Owner(s) of any Lot, Tract, or Deeded Home Sites in the Subdivision may make additional restrictions in any deed to any particular Lot, Tract, or Deeded Home Site prior to the time of the sale and passing of title; provided, however, said additional restrictions may not conflict with, delete from, subtract from or lessen the provisions of these First Amended Restrictions.

**Section 5.19 Restriction Violation Remedies.** Violation of any restriction, condition or covenant affecting any Lot or Deeded Home Site as provided for herein shall give the Association the right, without the obligation, subject to notice and an opportunity to be heard as may be required by law, to any remedies provided for herein, or as provided by law, and shall be cumulative of and in addition to all other remedies which the Association may have, and not in lieu thereof and shall be in addition to the remedies of the other property Owners affected by these First Amended Restrictions.

**Section 5.20 Storage of Vehicles.** No boats, trailers, campers, recreational vehicles of any kind, camper tops or rigs off the truck, boat rigging, jet ski and trailer or disabled or non-operating vehicles of any type shall be parked or stored permanently or semi-permanently on any public street, sidewalk, right-of-way, or front or side yard area within view of any street or other Lot or Deeded Home Site in the Subdivision. Operative boats and recreational vehicles may only be semi-permanently stored on driveways. Permanent or semi-permanent storage of vehicles or items described in this Section 5.20, including the permanent storage of boats and recreational vehicles, must be reasonably screened from public view. Reasonably screened shall mean stored within the garage or behind a fence or security gate which does not protrude beyond the front leading edge of the Single Family Residence. If there is a conflict between this Section 5.20 and any public ordinance, rule or regulation, the most restrictive will control.

For the purposes of these First Amended Restrictions, the word "semi-permanently" shall be defined as remaining on the Lot or Deeded Home Site for a period of less than seven (7) days during any given calendar month. "Permanently" shall be defined as remaining on the Lot or Deeded Home Site for a period in excess of seven (7) days during any given calendar month.

A vehicle or boat will be presumed disabled or non-operative if it does not have a current Texas inspection sticker or registration and tags placed on the vehicle or trailer as designated by the State of Texas, or if a tire or tires are flat or missing.

**Section 5.21 Fences, Walls and Hedges.** No fence or wall shall be constructed past the front leading edge of a Single Family Residence. No fence or wall shall be constructed with materials not traditionally used for fences, walls or gates. Cinder blocks and similar masonry may be used for fences and walls, but a finish material must be applied to conceal their existence. Chain link type fencing is expressly prohibited. All fences installed or replaced after the recording of these First Amended Restrictions are subject to prior written Committee approval.

No hedge or massed planting that would interfere with the view of street traffic / cross traffic shall be allowed on any Lot or Deeded Home Site.

**Section 5.22 Nuisance.** Nothing shall be done or placed upon any Lot or Deeded Home Site or property within the Subdivision that is or may become a nuisance or cause an unreasonable embarrassment, disturbance or annoyance to others.

**Section 5.23 Maintenance of Improvements.** All Improvements or other structures placed on a Lot or Deeded Home Site that are visible from another Lot or Deeded Home Site in the Subdivision, from Common Area, or from the street shall be maintained in a neat and attractive manner. Neat and attractive shall mean: 1.) maintaining all painted surfaces such that bare or raw surfaces do not become exposed and 2.) repairing damage caused by storm, fire, insects, flood, moisture or mildew with permanent building materials matching the current materials and paint on the Improvement or structure. All such repairs shall be completed within six (6) months of notification from the Association.

**Section 5.24 Preservation of Mature Trees.** It is the objective of the Owners to preserve trees within the Subdivision.

No tree with a caliper of six (6) inches or more (measured 12 inches above grade) may be removed from a Lot or Deeded Home Site without the prior approval of the Board of Directors (or Architectural Committee for trees associated with construction on a Lot or Deeded Home Site), except for a tree that is dead or so diseased or infested with insects that it cannot be salvaged (as determined by a tree surgeon or other professional).

A replacement tree(s) shall be planted within thirty (30) days of any tree removal unless such longer period of time is approved by the Board of Directors or Architectural Committee. Said replacement tree shall be a "hardwood tree" commonly recognized as being hardwood including, by example but not limited to species of elm, oak and maple.

## **Article 6 - Architectural Committee**

**Section 6.1 Architectural Committee.** The Association shall have an Architectural Committee (herein the "Committee") which shall consist of three (3) Committee Members and one (1) alternate Member who shall be natural persons, and who shall be elected by the membership for a term of one (1) year in the same manner as the Board as provided for in the Bylaws. A vacancy on the Architectural Committee shall first be filled with the alternate and successive vacancies shall be filled by a special election called by the Board in accordance with the Bylaws. The Board may nominate a candidate to fill the vacancy but the Members shall have the right to nominate other candidates from the floor in accordance with the Bylaws. The term "Committee" as used herein below in this Article shall mean or refer to the Architectural Committee. The Committee shall have the authority from time to time to make, amend and rescind such reasonable rules and regulations as may be necessary to clarify the provisions of this Article 6 and aid in the administration of this Article 6, provided that such rules and regulations are consistent with the rights and duties established by these First Amended Restrictions and are uniformly applicable to all Deeded Home Sites in the Subdivision.

A member of the Committee may be removed by the vote of a majority of Members entitled to vote, who are present at any annual meeting or special meeting called for that purpose at which a quorum is present. In the event a member of the Committee is so removed, their replacement can be elected at the same meeting.

**Section 6.2 Committee Review.** The Committee's review and approval shall be limited to:

- A.** Height restrictions regarding Improvements;
- B.** Single Family Residence minimum square footage requirements;
- C.** Minimum Building Materials requirements for Improvements;
- D.** Adherence to building setback lines; and
- E.** Carports and garages as to compliance with set back lines and other restrictions stated herein.

Notwithstanding the foregoing, Committee review and approval shall not be required for A) addition to; B.) placement of; or C) alteration of any Improvement which does not:

- 1) Increase the living area of Single Family Residence (for this purpose living area is defined to be fully enclosed spaces suitable for air conditioning, heating and human occupation);
- 2) Decrease the exterior surface building material of an Improvement to a level below that required in these First Amended Restrictions;
- 3) Reduce the square footage of the Single Family Residence below that required in these First Amended Restrictions; or
- 4) Cause any portion of Improvements (including carports and garages) on the Lot or Deeded Home Site to violate the minimum setback lines.

Any Owner may, at their sole option, submit such plans for any Improvement (in the same manner as hereinafter set forth) for Committee approval in order to avoid having to obtain an "at risk" building permit from the City of Houston. Provided that, if an Owner elects to seek such non-mandatory Committee approval and completes the Improvement in compliance with the plans approved by the Committee, then the Association and/or any Owner shall be deemed to have waived its rights to claim that the completed Improvement is in violation of these First Amended Restrictions.

**Section 6.3 Seeking Architectural Committee Approval.** When seeking Committee approval, building plans, specifications and plot plans showing the location of such building must be submitted for review. The Committee will be reviewing only for compliance with those design features stated in Section 6.2 above.

Nothing herein may be construed to require a Member to submit plans drawn by an Architect or other such professional. It is specifically stipulated that each Member submitting plans is solely responsible for their adequacy. Nothing herein may or should be construed as approval of builders, building materials, structural components or the adequacy of a design to fulfill the function desired by the Member submitting the plans. It shall always be the responsibility of each Member to insure that approved plans are complied with since Committee approval does not waive the Association's or an Owner's right to enforce these First Amended Restrictions should a project not be built in accordance with the approved plans.

**Section 6.4 Committee Approval.** Any plans submitted to the Committee must be approved in writing by at least two of the members of the Committee prior to obtaining required permits and/or the commencement of construction. The Committee at any time may provide such rules and regulations as it sees fit as to the Committee's meetings and as to when, and how, and under what circumstances the Committee will undertake joint consideration and examination of submitted plans or other actions. The delivery of proposed plans may be made to the agent, if applicable, or any member of the Committee and the same shall be deemed to be submission to the full Committee. For the purpose of this Section 6.4, delivery shall be deemed to have been made when the submission is deposited in the United States Mail, Registered, Return Receipt Requested, postage prepaid or when the submission is hand delivered to one of the persons permitted to accept delivery and a receipt is issued for the submission. In the event that said Committee fails to approve or disapprove such plans within thirty (30) days after said plans, plot plan and specifications have been submitted to it, or in the event that no suit or other action permitted by these First Amended Restrictions to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion of such building or alteration, Architectural Committee approval will not be required and this covenant will be deemed to have been fully complied with.



**Section 6.5 Variances.** Recognizing that some situations may exist, occur or justify the granting of a variance under Section 6.2 of these First Amended Restrictions, excluding front set back lines as to the location of the Single Family Residence, the Board, upon recommendation by the Committee, may grant a variance to these First Amended Restrictions for the following reasons:

- A. To avoid costly and protracted litigation which, in the opinion of the Board or retained legal counsel, does not justify such cost or time, or that the probability of prevailing in such a suit is below normal risk; or
- B. Special hardship conditions such as topography, natural obstructions or other relevant considerations.

Economic hardship shall not be a sole justification for granting a variance.

**Section 6.6 No Transfer or Assignment of Responsibilities.** None of the members of the Committee shall be entitled to any compensation for services performed pursuant to this covenant. The duties of the duly elected members of the Committee shall not be delegated, designated or otherwise transferred to any person or persons not duly elected by the Owners to such Committee.

**Section 6.7 Non-Liability for Committee Action.** Neither the Association, its Board, the Committee or the members thereof shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an Improvement or modification to an Improvement on a Lot or Deeded Home Site be deemed approval of the Improvement or modification of the Improvement from the standpoint of safety, whether structural or otherwise, or conformance to building codes or other governmental laws or regulations.

**Section 6.8 Design Guidelines.** Upon receiving approval in writing by Members holding at least fifty-one percent (51 %) of the aggregate votes of the Deeded Home Sites in the Subdivision, which includes those areas described in Section 8.11 hereof which have adopted these First Amended Restrictions, the Association may adopt and approve Design Guidelines which expand the duties and responsibilities of the Committee and outlines minimum acceptable construction standards for the Subdivision. If Design Guidelines are approved and they impose requirements that are more stringent than the provisions of these First Amended Restrictions, the provisions of the Design Guidelines shall control.

**PRIOR TO ACQUIRING ANY INTEREST IN A LOT, TRACT, OR DEEDED HOME SITE, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE AND OWNER SHOULD CONTACT THE BOARD AND OR CHECK THE HARRIS COUNTY REAL PROPERTY RECORDS TO OBTAIN AND REVIEW THE MOST RECENT DESIGN GUIDELINES, IF ANY, WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION AND USE OF THE LOT, TRACT, OR DEEDED HOME SITE.**

**NO DESIGN GUIDELINES SHALL BE APPROVED FOR THE SUBDIVISION UNLESS APPROVED IN WRITING BY MEMBERS HOLDING AT LEAST FIFTY-ONE PERCENT (51%) OF THE AGGREGATE VOTES OF THE DEEDED HOME SITES IN THE SUBDIVISION WHICH INCLUDES THOSE AREAS DESCRIBED IN SECTION 8.13 HEREOF WHICH HAVE ADOPTED THESE FIRST AMENDED RESTRICTIONS. AFTER THE DESIGN GUIDELINES ARE ADOPTED IN ACCORDANCE WITH THIS SECTION 6.8, THEY MAY BE RESCINDED IN WRITING BY MEMBERS HOLDING AT LEAST FIFTY-ONE PERCENT (51%) OF THE AGGREGATE VOTES OF THE DEEDED HOME SITES IN THE SUBDIVISION WHICH INCLUDES THOSE AREAS DESCRIBED IN SECTION 8.13 HEREOF WHICH HAVE ADOPTED SUCH DESIGN GUIDELINES. THE SIGNATURES OF THE MEMBERS WHO APPROVE THE ADOPTION OR RESCINDING OF THE DESIGN GUIDELINES NEED NOT BE NOTARIZED BUT SAME MUST BE RECORDED IN THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS AND ACCOMPANIED BY A SIGNED AND NOTARIZED CERTIFICATE FROM AN AUTHORIZED OFFICER OF THE ASSOCIATION.**

### **Article 7 - Common Assessments and Budget**

**Section 7.1 Payment of Common Assessments.** Each Owner, by acceptance of a deed for any Lot or Deeded Home Site in the Subdivision, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association an annual Common Assessment, hereinafter sometimes referred to as Assessment, such Assessment to be established as hereinafter provided and administered by the Bylaws. No Owner is, or shall be, exempt from such obligation without being specifically granted a written waiver from the Board, subject to the provisions hereinafter provided in Section 7.4. Subject to the provisions of Section 7.4, any Assessment not paid within thirty (30) days after the due date shall bear interest from the date due until paid at the rate of ten percent (10%) per annum, and the Owner shall be responsible for paying the reasonable attorneys' fees, costs and expenses that are incurred as a result of their failure to pay the Assessment.

**Section 7.2 Establishment of Assessment.** At least forty-five (45) days prior to January 1, 2006, and at least forty-five (45) days prior to each succeeding January 1, the Board shall provide written notice to each Member of the proposed budget and proposed Assessment for the following fiscal year. Included in such notice shall be the meeting date and time to discuss, amend or approve the proposed budget and Assessments. For the fiscal year effective with the date of these First Amended Restrictions, the rate shall be uniform with Section One of Afton Oaks. Each proposed budget shall set forth, in sufficient detail for review, the amount that the Board feels is required for the proper operation, management, and maintenance of the Subdivision, including 15% allowance for contingencies. Failure or delay of the Board to prepare any annual budget or to deliver copies of notices of the new Common Assessments to each Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay Common Assessments whenever said Common Assessments are determined. In the event of any delay or failure to establish any annual budget, each Owner shall continue to pay the Common Assessment as provided for in these First Amended Restrictions at the rate established for the previous fiscal year until a new budget is established or approved; however, if the previous fiscal year's Common Assessment level contained any extra charges, beyond what was budgeted for that year, i.e., repair or capital improvements to Common Areas, litigation expense to enforce these First Amended Restrictions, or expenses to defend or settle a lawsuit against the Association, then such extra charges shall be deducted before setting the new Common Assessment level. The Assessment shall be fixed at a uniform rate for all Deeded Home Sites.

**Section 7.3 Adoption of a Budget and Assessment Level.** For any budget and Assessment providing for an increase of more than five percent (5%) from the previous fiscal year to become effective, a quorum of Members must be present at the meeting, as provided for in Section 7.2 above, and a majority of those Members present at the meeting must approve both the budget and the Assessment. Proposed Budgets not providing for an increase in the Assessment of more than five percent (5%) shall be deemed approved without a vote of the membership.

**Section 7.4 Hardship Exemption.** Any Owner who is a full time resident of the Subdivision may make written application to the Board for a hardship exemption and relief from paying all or a portion of the annual Common Assessment. Each applicant shall supply reasonably full particulars to allow the Board to make a decision on the exemption request. The Board at its sole discretion may grant a full waiver, partial waiver or deny the request in its entirety. Each waiver and partial waiver that is granted may not extend beyond the end of the then current fiscal year. Any application for renewal of a waiver or partial waiver shall be made in writing to the Board at the Association's address prior to October 15th of year proceeding the year for which the renewal of the waiver or partial waiver is requested. Any exemption shall constitute a valid lien for the amount not paid on the property, but such lien shall not accrue interest in the manner described elsewhere in these First Amended Restrictions. Any misrepresentation by an Owner receiving a full or partial exemption pursuant to this Section 7.4 shall be cause for the Board to terminate such exemption after mailing notice outlining the facts and circumstances of such termination to the Owner. Notwithstanding the waiver of interest heretofore set out, any termination arising from an Owner's misrepresentation shall subject all amount(s) due to the Association to accrue interest from the date such amount(s) were originally due until the date such amount(s) are paid.

**Section 7.5 Remedies to Enforce Assessments.** Each Assessment levied hereunder shall also be a separate, distinct, and personal debt and obligation of the Owner or Member against whom the same is assessed. In the event of a default in payment of any Assessment or installment thereof, the Board, in addition to any other remedies provided under these First Amended Restrictions or by law or in equity, may enforce such obligation on behalf of the Association by lawsuit, by filing of a lien affidavit as hereinafter provided, or by any other means provided by these First Amended Restrictions, or by all of the above.

**Section 7.6 Notice of Lien.** In addition to the right of the Board to enforce Assessments in the manners described herein, the Board may elect to file an affidavit claiming of lien against the Lot or Deeded Home Site of the delinquent Owner or Member by recording a notice (a "Notice of Lien Affidavit") setting forth:

- A. the amount of the claim of delinquency;
- B. the interest that has accrued and the costs of collection, expenses and attorneys' fees that have been incurred;
- C. the legal description and street address of the Lot or Deeded Home Site against which the lien is claimed; and
- D. the name of the Owner thereof.

Such Notice of Lien Affidavit shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien Affidavit have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien Affidavit upon payment by the Owner of a reasonable fee as fixed by the Board to cover the preparation and recordation of the release of such Notice of Lien Affidavit.

**Section 7.7 Lien.** The lien referred to in Section 7.6 herein does not presently exist on Deeded Home Sites on which there is presently a homestead maintained on the date of recording of these First Amended Restrictions. However, the lien shall attach to the Lot or Deeded Home Site and become effective upon resale of a Lot or Deeded Home Site, or when a Lot or Deeded Home Site is no longer a homestead.

**Section 7.8 Non-judicial Foreclosure.** Nothing in these First Amended Restrictions shall allow, provide for or permit foreclosure by non-judicial means.

**Section 7.9 No Effect of Violation on Rights of First Mortgagees.** No violation by an Owner of the provisions of these First Amended Restrictions or any amendment of these First Amended Restrictions shall affect the lien of any first mortgagee presently or in the future placed of record or otherwise affect the rights of such first mortgagee under any such mortgage or holder of any such lien or beneficiary of such Mortgage ("First Mortgagee"); and any such mortgage or lien may be enforced in accordance with its terms, subject, nevertheless, to the provisions contained in these First Amended Restrictions.

**Section 7.10 Priority of Mortgagee Over Assessments.** The liens described in these First Amended Restrictions and the superior title herein reserved shall be subordinate to the liens of any First Mortgagee. Each First Mortgagee who obtains title to a Lot or Deeded Home Site pursuant to the remedies provided for in the mortgage or by judicial foreclosure shall take title to the Lot or Deeded Home Site free and clear of any claims for unpaid Assessments or charges against such Lot or Deeded Home Site that accrued before the time such first mortgagee acquired title to such Lot or Deeded Home Site. No such sale or transfer shall relieve such first mortgagee acquiring title to a Lot or Deeded Home Site from liability for any Assessment thereafter becoming due or from the lien thereof or from compliance with these First Amended Restrictions. Any other mortgage, sale or transfer of a Lot or Deeded Home Site shall not affect the Association's lien for Assessments.

## **Article 8 - General Provisions**

**Section 8.1 Invalidation.** Invalidation of any term or provision of these First Amended Restrictions by judgment of any court or otherwise shall in no way affect any other provision, which shall remain in full force and effect, except as to any terms and provisions which are invalidated.

**Section 8.2 Grammar.** The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, other entities or Individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

**Section 8.3 Headings.** The headings to sections of these First Amended Restrictions are for convenience only and shall not be used to construe, interpret or limit the meaning of any terms or provisions hereof.

**Section 8.4 Application of Restrictions.** The terms and provisions of these First Amended Restrictions shall apply to, be binding upon, and inure to the benefit of the Association, all Owners of Lots, Tracts, or Deeded Home Sites or any other property in the Subdivision, and their successors and assigns, and all occupants of any Single Family Residence or other Improvement in the Subdivision.

**Section 8.5 Existing Non-conforming Improvements.**

**A.** Non-conforming Improvements in existence more than six (6) months prior to the time of filing these First Amended Restrictions in the Official Public Records of Real Property of Harris County, Texas shall be permitted to continue, excluding those Non-conforming Improvements that are currently under litigation or where the Board has served notice of a non-conformance to the Owner. Such Non-conforming Improvements shall not, however, constitute a waiver of these First Amended Restrictions. The existing non-conformance shall not be a basis for a waiver with regard to any other Deeded Home Sites or other Non-conforming Improvements in the Subdivision.

**B.** In the event any replacement, alteration, reconstruction, remodeling or rebuilding of any Non-conforming Improvement is undertaken after the recording hereof, such replacement, alteration, reconstruction, remodeling or rebuilding shall thereafter comply completely with the terms of these First Amended Restrictions. However, any Non-conforming Improvement which is destroyed or damaged by fire, storm or other act of God, may be rebuilt with the same design and materials existing immediately before such destruction or damage, subject to obtaining the necessary permits from the City of Houston.

**Section 8.6 Notice of Sale.** In the event an Owner sells his Lot or Deeded Home Site, the acquiring Owner shall give to the Association, in writing, the names of the new Owner of the Lot or Deeded Home Site. Until such notice is furnished, the Association shall not be held responsible for incorrect notices and all notices provided by the Association to the address of the last known Owner shall be deemed to have been properly delivered.

**Section 8.7 Limitation of Liability.** Neither the Association, the Board, the Committee, any member of a duly constituted committee of the Association and/or the Board, or any officer, agent, or employee of any of the same acting within the course and scope of their respective duties shall be liable to any person(s) for any reason(s) or for any failure to act if the action(s) or failure to act was in good faith and without malice.

**Section 8.8 Signatories.** The undersigned are all Owners of Lots, Tracts, and Deeded Home Sites in the Subdivision. By their signature hereon, the undersigned represent that they own the Lot or Deeded Home Site described next to their name and that they are executing these First Amended Restrictions in consideration of the mutual benefits to be derived by their property and the other property in the Subdivision.

**Section 8.9 Multiple Counterparts.** These First Amended Restrictions may be executed in multiple counterparts. It shall not be required that all Owners sign the same counterpart. Each Owner agrees to be bound by these First Amended Restrictions when the Original Restrictions are amended. After all such counterparts have been executed, the undersigned singularly and collectively, authorize the Board of the Association to remove all pages containing signatures from the various counterparts and attach such signature pages to one complete copy of these First Amended Restrictions for the purpose of recording the same in the Official Public Records of Real Property of Harris County, Texas.

**Section 8.10 Notices.** Any statement, notice, or other communication provided or permitted to be given hereby shall be in writing and shall be deemed sufficiently given or rendered if hand delivered, or delivered or deposited in the United States Mail, addressed to the Owner's Lot or Deeded Home Site, or at such other address as such Owner shall designate from time to time by written notice.

**Section 8.11 Approval.** Upon obtaining the signatures of at least a majority of the Owners in Greenwood in accordance with the Original Restrictions, these First Amended Restrictions shall be deemed approved and shall be effective upon filing in the Real Property Records of Harris County, Texas.

In the event any court, by final judicial order, finds that these First Amended Restrictions shall be deemed to have not been properly approved or that they should be removed, cancelled, or set aside for any reason whatsoever, then, in that event, the Original Restrictions shall continue to apply to Greenwood along with any amendments thereto.

**Section 8.12 Management of the Association.** The Association shall be managed by the Board in accordance with the Articles of Incorporation and Bylaws, which may be amended from time to time in accordance with the provisions set forth in such instruments or, in the absence of such provisions, in accordance with the applicable statutory provisions for the State of Texas.

**Section 8.13 Judicial Review.** Any act or thing done by any Director, Officer, or Committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the procedures set forth in these First Amended Restrictions, Articles of Incorporation, the laws of the State of Texas, and/or the By-laws, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing done shall not be a breach of duty on the part of the Director, Officer, Committee member, or members of other committees of the Board if they have been done within the exercise of their discretion and judgment.

The Business Judgment Rule means that a court shall not substitute its judgment for that of the Director, Officer or Committee member. A court shall not re-examine the quality of the decisions made by the Director, Officer, or Committee member by determining the reasonableness of the decision as long as the decision is made in good faith in what the Director, Officer, or Committee member believes to be the best interest of the corporation.

**Section 8.14 Security.** NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, NOR BOARD MEMBERS (COLLECTIVELY "THE ASSOCIATION") SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE SUBDIVISION. NEITHER SHALL THE ASSOCIATION BE RESPONSIBLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT OR DEEDED HOME SITE, ACKNOWLEDGE THAT THE ASSOCIATION DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT OR DEEDED HOME SITE ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION IS NOT AN INSURER AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF DWELLINGS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION HAS MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE SUBDIVISION.

The undersigned have executed these First Amended Restrictions as of the dates indicated to be effective upon the date it is filed in the Official Public Records of Real Property of Harris County, Texas.

**FOR PURPOSES OF JOINDER AND CONSENT:  
AFTON OAKS CIVIC CLUB**

By:

Print Name:

Print Title:

Date:

**SIGNATURE PAGES FOLLOW**