WHEREAS, BEN TAUB and I. G. STRAUSS were the sole owners of that certain real property known as the UNIVERSITY OAKS ADDITION, a Harris County Subdivision (the “Subdivision”), . . . and

WHEREAS, BEN TAUB and I. G. STRAUSS encumbered all of the property within the Subdivision with those covenants, conditions, and restrictions set forth in that certain instrument entitled “RESTRICTIONS” duly filed of record . . ; and

. . .

WHEREAS, the Prior Restrictions do not contain a provision for additions to or modification of the Prior Restrictions; and

WHEREAS, Texas Property Code Section 204.005 provides that a property owners’ association (as defined in the Texas Property Code, Section 204.004(a)), has the authority to approve and circulate a petition for the extension of, addition to, or modification of existing restrictions, which petition must be approved by the Owners of at least 75 percent of the real property of the Subdivision; and

WHEREAS, the University Oaks Civic Club (the “Civic Club”) is a property owners’ association whose members are all Owners of property in the Subdivision as required by the Texas Property Code, Section 204.004(a); and

WHEREAS, Texas Property Code Section 204.006 provides that existing restrictions applicable to a subdivision can be also amended by sixty (60) percent of the Owners in the Subdivision in order to modify the existing restrictions to create and operate a property owner’s association; and

WHEREAS, a Petition Committed for the Subdivision as required by Texas Property Code Sections 204.006 and 201.005 has heretofore been created; and

WHEREAS, at least seventy-five percent (75%) of the Owners in the Subdivision wish to amend the Prior Restrictions as set forth below, . . ; and

. . .

WHEREAS, the Petition has been approved by the Owners of at least 75 percent of the real property in the Subdivision by the methods allowed by the Texas Property Code, Section 204.008, which approvals are attached hereto as Exhibit A:

* Edited by Professor Marcilynn A. Burke, October 1, 2003.
NOW, THEREFORE, i) the Civic Club shall be the designated property owner’s association for the Subdivision and all Owners of property in the Subdivision shall be members of the Civic Club according to Section 204.006 of the Texas Property Code, ii) all of the Lots in the Subdivision shall be held, sold, and conveyed subject to the terms of the Petition, which Petition shall run with the Lots in the Subdivision and be binding on all parties having any right, title, or interest in the Lots covered by this Petition or any part thereof.

ARTICLE II
USE RESTRICTIONS

SECTION 2.2 SINGLE FAMILY RESIDENTIAL USE - Except for Lots 20 to 27 of Block 9 of the Subdivision, each Owner shall use a Lot and any Residential Dwelling on such Lot for single family residential purposes only. Duplex dwellings designed to accommodate no more than two families may be utilized upon, but only upon, Lots 20 to 27 of Block 9.

The term “single family residential purposes” as used herein is defined as limiting occupancy of a Residential Dwelling to a single housekeeping unit of no more than two (2) persons united by marriage or two unrelated persons living together, their dependent children and immediate relatives, and any domestic servants. Immediate relatives are herein defined as parents, grandparents, and brothers and sisters. Further, the term “single family residential purposes” as used herein explicitly prohibits the use of any Lot for a duplex apartment, for multifamily use, or for any educational, church, professional, or commercial purpose except as specified herein; provided, however, that the housekeeping unit that occupies a Residential Dwelling may rent no more than one (1) room in that dwelling or a garage apartment maintained in conjunction with that dwelling to no more than two (2) persons.

An Owner or Lessee may use his or her Residential Dwelling as a personal office for a profession or occupation provided that (a) such use is incidental to using the Lot for a Residence; (b) the general public is not invited or permitted to enter the Residence or another structure on the Lot to conduct business therein; (c) no signs advertising a profession or business are displayed; (d) persons are not employed in the Residence or on the Lot; (e) no offensive activity, noise, or odor is performed or issued;(f) the business complies in every respect with the laws of the State of Texas, the ordinances of the City of Houston, and the rules and regulations of regulatory or governmental agencies that have authority and jurisdiction over the business.

SECTION 2.3 RESTRICTION ON FURTHER SUBDIVISION - No Lot shall be subdivided, no portion less than all of a Lot shall be conveyed by any Owner without the prior written approval of the Architecture Committee.

SECTION 2.4 LOT MAINTENANCE - The Owner and/or Resident(s) of each Lot shall keep trees, shrubs, weeds, and grass thereon cut in a sanitary and attractive manner at all times and
shall not use any Lot for storing materials or equipment except for normal residential requirements or during construction or improvement thereon as herein permitted. All Lots, including vacant Lots, shall be sodded with grass of a type compatible with that of adjacent Lots or with other ground cover approved by the Architecture Committee. The accumulation of garbage, trash, or other rubbish of any kind or the burning of materials is prohibited.

In the event of failure by the Owner or Lessee of any Lot to comply with any of these requirements, the Civic Club may send the Owner written notice by certified mail, return receipt requested, asking for compliance. If the failure continues for ten (10) days or longer after such notice has been sent, the Civic Club may, without being liable to either Owner or Lessee in trespass or otherwise, enter on the Lot and cut or collect or cause to be cut or collected the grass, shrubs, weeds, or debris that results in an unsanitary or unsightly condition and/or to remove or cause to be removed any trash or rubbish and otherwise perform whatever is necessary to return the Lot to a sanitary and attractive condition, thereafter charging the Owner or Lessee of the Lot for the reasonable cost of such work. The Owner agrees by purchase of the Lot to pay such reasonable charge within ten (10) days of its receipt.

SECTION 2.5 BUILDING MAINTENANCE - No Residential Dwelling, related structure, or Improvement on any Lot shall be permitted to fall into disrepair, and each Residential Dwelling or related structure on said Lot shall be maintained in good condition and repair at all times and properly painted or otherwise treated by the Owner of the Lot at the Owner’s sole cost and expense.

SECTION 2.6 VEHICLES - No motor home, nonmotorized vehicle, boat, trailer, recreational vehicle, camper rig off of truck, machinery, or equipment may be parked or stored on any Lot in front of the building setback line. Excepted from this restriction are passenger automobiles, vans, and pick-up trucks together with no more than one (1) ungaraged motorcycle or boat with trailer that (a) are in operating condition; (b) have current license plates and inspection stickers (except boats); and (c) do not exceed eight feet six inches (8’6”) in height, eight feet (8’) in width, or twenty-four feet (24’) in length. No parked vehicle shall obstruct or block a public walkway. No vehicle shall be parked on the lawn of a Lot at any time. No vehicle may be repaired on a Lot for longer than twenty-four (24) hours during any consecutive seven (7) days unless concealed inside a garage or other approved enclosure. This restriction shall not apply to vehicles, machinery, or equipment temporarily in use for the construction, maintenance, or modification of a structure on a Lot. Owners and Residents may seek a temporary variance from this restriction from the Board for guests, which must have the prior approval of the Board to be applicable.

SECTION 2.7 NUISANCES - No nuisance shall be allowed to exist on any Lot. No rubbish or debris of any kind shall be placed or permitted to accumulate on or adjacent to any Lot, nor shall noxious odors be permitted to arise from any Lot so as to render any portion of it unsanitary, unsightly, offensive, or detrimental to any nearby Lot or its occupants. Offensive noise shall not be permitted on any Lot except temporarily during the erection, excavation, construction, demolition, alteration, or repair of buildings or other structures between 7:00 a.m. and 8:00 p.m. or by the operation of a mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawn mower or similar device between 7:00 a.m. and 8:00 p.m. The Board is empowered to determine what other activities, if any, constitute a nuisance.
SECTION 2.8 TRASH CONTAINERS - Garbage, trash, items to be recycled shall be placed within containers of a type and style required or issued by the City of Houston or another collection service or otherwise approved by the Board. Except for recycling containers, garbage and trash containers shall be closed or sealed at all times. Trash containers shall not be maintained on a Lot so as to be visible from any street except to make them available for collection and then only on the night before and on the day of collection. All such containers must be removed from public view within twelve (12) hours after collection.

SECTION 2.9 CLOTHESLINES - Outside clotheslines shall be restricted to back yards.

SECTION 2.10 ANIMALS - No animals or birds other than a reasonable number of generally recognized house or yard pets shall be maintained on any Lot and then only when kept, bred, or raised as domestic pets and not for commercial purposes. Any structure for the housing or confinement of any animal or bird on a Lot shall be behind the building setback line. No animal or bird shall be allowed to make unreasonable noise, noise for an extended period, or otherwise become a nuisance. The Board shall have the authority to determine whether a particular animal or bird is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds on any Lot is reasonable.

SECTION 2.11 DISEASES AND INSECTS - To the extent reasonably feasible, no Owner or Resident shall allow any circumstance or condition to exist or to continue on any Lot that can or does attract, breed, or harbor infectious plant diseases or noxious insects or animals such as fire ants or rodents.

SECTION 2.12 SIGNS - No signs of any kind shall be displayed to public view on any Lot except signs of not more than five (5) square feet used to (a) advertise a Property for sale or lease; (b) indicate security services; (c) identify a builder or contractor while construction or other work is on-going; (d) promote a political candidate, party, or issue beginning no earlier than sixty (60) days before the date of the applicable election or referendum; or (e) announce a garage sale beginning no sooner than three (3) days prior to the day of such sale. The term “signs” as used herein includes letters of any size intended to publicize an activity or group, a business or occupation, a political party, or a fraternity or sorority. Except for those that indicate a security service, signs must be removed within forty-eight (48) hours after their use no longer pertains.

SECTION 2.13 SIGHT DISTANCE AT INTERSECTIONS - No fence, wall, hedge, or shrub shall be placed at elevations between two feet (2’) and six feet (6’) above the roadways and within twenty-five feet (25’) on any corner Lot that would obstruct the view of the intersection by approaching drivers of vehicles, bicyclists, and others. The same Restrictions shall apply on any Lot within ten feet (10’) from the intersection of a street property line with the edge of a driveway. No tree shall be permitted within twenty-five feet (25’) of any intersection unless its foliage line is below two feet (2’) or above six feet (6’) so as to avoid any obstruction of sight by persons approaching the intersection.
ARTICLE III

TYPES OF CONSTRUCTION AND MATERIALS

SECTION 3.1 TEMPORARY STRUCTURES - Except during construction of a Residential Dwelling or appurtenant building on a Lot, no structure of a temporary nature, including but not limited to a trailer or mobile home with or without wheels and whether or not attached to a foundation or modular frame, nor any prefabricated home, shack, barn, or other temporary structure shall be placed on any Lot. No Residential Dwelling, garage, or other structure shall be moved onto a Lot from another location. Greenhouses, workrooms, tool sheds, and other structures that have been approved in advance by the Architecture Committee pursuant to Article 5.6 herein are excepted from the terms of this section.

SECTION 3.2 CARPORTS AND GARAGES - A carport shall not be constructed on any Lot without the written consent of the Architecture Committee. A porte cochére may be constructed on a Lot upon approval by the Architecture Committee. All garages shall have doors of neat appearance in working condition.

SECTION 3.3 ROOFS - All roofs shall be approved by the Architecture Committee. Solar panels shall require the prior written approval of that committee.

SECTION 3.4 ANTENNAS AND SATELLITE DISHES - No antenna or satellite dish that rises more than twelve (12) feet above the roof line of a residence is permitted on any Lot unless approved in writing by the Architecture Committee. No antenna or satellite dish shall be erected or placed on any Lot unless such installation complies with the following conditions: (a) An antenna or satellite dish shall not be placed or permitted to remain on any utility easement, other easement, or right-of-way on any Lot; (b) No commercial sign, slogan, logo, banner, or other printing or illustration shall be attached to an antenna or satellite dish; and (c) An antenna or satellite dish shall not be permitted to cause any distortion or interference with any other electronic device in the Subdivision.

SECTION 3.5 FLAGPOLES - No flagpoles shall be permanently erected on any Lot without the prior approval of the Architecture Committee.

SECTION 3.6 WALLS AND FENCES - No walls or fences shall be erected in front of the building setback line. Walls or fences shall not exceed eight feet (8’) in height. Cyclone or chain link fencing is acceptable only in back or side yards.

SECTION 3.7 MAILBOXES - Mailboxes shall be attached to the Residence or other structure (e.g., a garage apartment) or shall consist of door or building slots.

SECTION 3.8 STORAGE OF BUILDING MATERIALS - Building materials shall not be placed or stored on any Lot earlier than thirty (30) days before the beginning of construction, modification, repair, or other work on a Residential Dwelling or other structure on the Lot. All such materials located on a Lot shall be within the property line. After construction, modification, repair, or other work has begun, it shall be performed diligently to the end that it be
completed within nine (9) months. Exceptions to the provisions of this section may be granted by the Architecture Committee on submission and approval of documentation that demonstrates justifiable reason for an exception.

ARTICLE IV

LOT SIZE AND SIZE AND LOCATION OF RESIDENCES

SECTION 4.1 LOT AREA AND WIDTH - No Residential Dwelling shall be erected on any Lot that has a width of less than sixty (60) feet at the building setback line, nor shall any dwelling be erected or placed on any Lot that has an area of less than six thousand (6000) square feet.

SECTION 4.2 SIZE OF RESIDENCES - The ground floor area of any new Residential Dwelling, excluding an open porch or attached garage, shall be not less than two thousand and five hundred (2500) square feet for a one-story dwelling and not less than one thousand and two hundred (1200) square feet for a two-story dwelling. No Residential Dwelling shall exceed two stories and an enclosed attic.

SECTION 4.3 LOCATION OF RESIDENCES - No building shall be located on any Lot nearer to the front Lot line nor nearer to the side Lot line than the building setback line shown on the recorded Plat. In no case shall a Residence or other structure be located on a Lot nearer than twenty-five (25) feet from the front Lot line on North MacGregor Drive, nearer than twenty feet (20’) to the front Lot line on all other Lots, nor five feet (5’) feet from a side Lot line, except that a garage or other structure which is seventy-five feet (75’) or more from the front Lot line may be a minimum of three feet (3’) from a side Lot line. Eaves, steps, and unroofed terraces shall not be considered part of a building; provided, that this exception shall not be construed to allow any portion of construction on a Lot to encroach on another Lot.

...
Members shall retain full authority to exercise the powers of the committee. Members of the committee shall be entitled to reimbursement for reasonable expenses incurred in performing their duties, subject to approval by the Board.

SECTION 5.2 APPROVAL OF BUILDING PLANS - No Improvement to the exterior of a Residential Dwelling or other structure on any Lot, or no new construction, shall begin until the plans and specifications and a plot plan detailing the Improvement have been approved in writing by the Architecture Committee. A copy of the plans and specifications, a plot plan, and other documents as considered appropriate shall be submitted to the Architecture Committee or to a designated representative chosen by the Architecture Committee before construction begins. Any interior modifications to a Residential Dwelling shall be consistent with the requirement in these Restrictions for single family use.

SECTION 5.3 ARCHITECTURE COMMITTEE APPROVAL PROCEDURES - In the event that the committee neither approves nor disapproves submitted plans and specifications pursuant to any section of this document within thirty (30) days after their receipt by the committee, approval shall no longer be required and the requirements of this section shall be considered complied with; provided, that such absence of approval or disapproval of the submitted plans and specifications by the committee within thirty (30) days shall not prevent the enforcement of any other provision in these Restrictions.

. . .

SECTION 5.5 MINIMUM CONSTRUCTION STANDARDS - All construction standards shall comply with City of Houston building codes and any further guidelines specified by the Architecture Committee. The Board may issue additional architectural guidelines and modify such guidelines as the needs of the Subdivision change.

SECTION 5.6 VARIANCES - The Architecture Committee may authorize variances from compliance with its standards or procedures or from the Restrictions stated herein relating to buildings and Improvements when unique circumstances of topography, natural obstructions, special situations, or aesthetic or environmental considerations pertain. No variance shall be effective until issued in writing, and no variance shall prevent the committee from later denying a variance in other cases.

SECTION 5.7 NO LIABILITY - The review and approval of plans and specifications pursuant to this article is intended only to ensure compliance with residential use and aesthetic considerations. Accordingly, the Architecture Committee shall not bear any responsibility for ensuring the structural integrity or soundness of construction or modifications nor for ensuring compliance with building codes and other applicable requirements. . . .
ARTICLE VI

MANAGEMENT AND OPERATION OF THE SUBDIVISION

SECTION 6.1 MANAGEMENT BY CIVIC CLUB - The affairs of the Subdivision shall be administered by the Civic Club. . . . The Civic Club shall be empowered to enter into contracts and agreements deemed necessary and appropriate by the Board for managing and maintaining the Subdivision in accordance with these Restrictions, including the right to grant utility and other easements for uses the Board deems appropriate and the right to make agreements with adjoining property owners and governmental, private sector, or other civic entities regarding trash collection, maintenance, repairs, traffic, recreational facilities and activities, and other matters of mutual interest.

. . .

SECTION 6.4 DISPUTES - In addition to its powers conferred in accordance with the provisions of these Restrictions or by law, the Board shall be empowered to create procedures for resolving disputes between Owners and the Board or between Owners and the Civic Club, including the appointment of committees to consider and recommend steps for their resolution.

SECTION 6.5 BOARD ACTIONS IN GOOD FAITH - Any action, inaction, or omission of action by the Board undertaken or chosen not to be taken in good faith, as determined by majority vote of the Civic Club in accordance with the By-Laws, shall be indemnified by the Civic Club as necessary.

ARTICLE VII

ANNUAL MAINTENANCE FEE AND SPECIAL ASSESSMENTS

SECTION 7.1 CREATION AND PURPOSES OF MAINTENANCE FEE AND SPECIAL ASSESSMENTS - Every Lot in the Subdivision is subject to the payment of an Annual Maintenance Fee and any Special Assessments, which shall be the obligation of the Owner of the Lot when the fee or assessment falls due. All fees or Assessments shall be paid by the Owner by the due date(s) set by the Board. The annual fee shall be used for providing a courtesy patrol, social and community activities sponsored or approved by the Civic Club, insect control, a monthly newsletter, and legal and other services and activities deemed required or desired by the Board.

The Assessments together with any interest, costs, and reasonable attorney fees shall also be a charge on the land and shall be a Lien on each Lot owned by an Owner who agrees to these Restrictions or who purchases a Lot after the effective date of these Restrictions.

SECTION 7.2 ANNUAL MAINTENANCE FEE - The amount of the Annual Maintenance Fee shall be determined by the Board. The amount of the Fee may not be increased by more than five percent (5%) above the previous year’s Fee without the affirmative vote of a majority of
Civic Club Members entitled to cast a vote who are present, or by proxy, at a duly called meeting of the Civic Club.

SECTION 7.3 SPECIAL ASSESSMENTS - In addition to the Annual Maintenance Fee as authorized herein, the Civic Club may levy Special Assessments as needed for any expenses not anticipated by the normal operating budget. Special Assessments must receive the affirmative vote of a majority of Civic Club Members entitled to cast a vote who are present, or by proxy, at a duly called meeting of the Civic Club.

SECTION 7.4 ENFORCEMENT OF ANNUAL FEE AND SPECIAL ASSESSMENT PAYMENTS - The Annual Maintenance Fee and any special assessment shall be due and payable on or before the date(s) set by the Board. Annual fees and Special Assessments not paid and received by the Civic Club by the due date shall be deemed delinquent, and the Board shall have the option of imposing a late fee. The collection of maintenance fees and Special Assessments due hereunder may be enforced by a suit for judgment in a court of law. In the event of a suit, the expense incurred in collecting a delinquent amount, including interest, court costs, and attorney’s fees, shall be chargeable to and a personal obligation of the delinquent Owner.

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ARTICLE IX

REBUILDING IN THE EVENT OF FIRE OR CASUALTY

SECTION 9.1 REBUILDING - In the event of fire or other casualty causing damage or destruction to a Residential Dwelling or a related structure, the Owner of the damaged or destroyed dwelling or structure shall contract within three (3) months after the fire or casualty to repair or reconstruct the said dwelling or structure to comply with either the original plans or new plans submitted to and approved by the Architecture Committee. The Owner shall promptly begin repairing or reconstructing the said dwelling or other structure in order that it does not remain in a partly finished condition longer than reasonably necessary. Alternatively, a damaged or destroyed Residential Dwelling or related structure may be razed and the Lot restored as nearly as possible to its original condition within four (4) months of damage or destruction, after which the Owner may at his or her option convey the Lot without a Residential Dwelling or related structure. The time periods set forth herein may be extended with the written consent of the Architecture Committee.
ARTICLE X

DURATION AND AMENDMENT OF RESTRICTIONS AND GRANDFATHER CLAUSE

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SECTION 10.3 GRANDFATHER CLAUSE - Any building or appurtenant structure or any Improvement to such building or structure built or placed prior to the effective date of these Restrictions that was in compliance with the prior deed restrictions shall be deemed to be in compliance with these Restrictions.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1 APPLICABILITY AND ENFORCEABILITY - These Restrictions shall run with the Subdivision and shall be binding upon and enforceable by the Civic Club and by each Owner of a Lot in the Subdivision or any portion thereof including any and all heirs, legal representatives, successors, and assigns. Should legal action to prevent or correct a violation of these Restrictions be initiated against an Owner or a Resident of a Lot by the Civic Club or by another Owner, the Civic Club or other Owner shall be entitled to recover reasonable attorney’s fees and related costs from the Owner or Resident of the Lot in violation.

Legal action shall be taken only as a last resort upon failure to prevent or resolve the violation following written notice(s) to the violator from the Civic Club or from the other Owner and, if desired by the violator, an opportunity to present and discuss the issue at a regularly scheduled or specially called meeting of the Civic Club.

SECTION 11.2 DELAY IN ENFORCEMENT - Delay in enforcing the provisions of these Restrictions with respect to any breach or violation thereof shall not impair, damage, or waive the right of a party entitled to enforce them to obtain relief against or recovery for the continuation or the repetition of the named breach or violation or for any similar breach or violation at any later time.

....

SECTION 11.4 REMEDIES - In the event that any person, group, or other entity violates or attempts to violate any provision of these Restrictions, the Civic Club and each Owner or Resident of a Lot within the Subdivision may initiate and prosecute any proceeding at law or in equity to abate or enjoin such violation or attempted violation. ....