

AMENDMENT TO RESTRICTIONS

LINDALE PARK, SECTION 3

This Amendment to Restrictions (this “**Amendment**”) shall amend certain restrictive covenants applicable to Lindale Park Section 3, Harris County, Texas, as provided below:

Subdivision Affected: LINDALE PARK, Section 3, an addition in the City of Houston, Harris County, Texas, according to the map or plat thereof recorded in Volume 15, Page 53 of the Map Records of Harris County, Texas.

Restrictions Amended: Restrictions filed of record on July 18, 1980 under Clerk’s File No. G605792 of the Official Public Records of Harris County, Texas.

Procedure to Modify Restrictions: Not less than 66% of the Owners of the Lots/Building Sites in the Subdivision which are subject to the Restrictions may amend the Restrictions by written instrument recorded in the Official Public Records of Harris County, Texas, if the instrument is executed and filed prior to July 18, 2010, in order to be effective when such amendment is recorded.

Purpose of Amendment: To establish such restrictions, covenants and conditions as are necessary and desirable to keep the Subdivision attractive for the enjoyment of residents and for the protection of property and property values.

Texas Property Code: This Amendment is made pursuant to the provisions of the Restrictions, not the provisions of the Texas Property Code.

The Restrictions are hereby RATIFIED, CONFIRMED AND READOPTED as a part of this Amendment, provided that the Restrictions are amended as set forth below. Each of the undersigned Owners hereby declares and agrees with each of the other Owners of real property restricted herein that all of the Restrictions, as amended herein, shall be and are hereby imposed and shall be effective upon all of such real property as original restrictions commencing on the date this Amendment is recorded in the Official Public Records of Harris County, Texas, in the same manner and to the same extent as though the Restrictions were set out in full herein and signed by each of the undersigned Owners, subject to the provisions contained herein.

The Restrictions are amended by adding the following provisions. Except as amended hereby, all terms and conditions of the Restrictions shall remain in full force and effect. To the extent of any conflict between this Amendment and the Restrictions, this Amendment shall control.

ARTICLE 1 – Definitions

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

- 1.1 “**Association**” – Lindale Park Civic Club, a Texas nonprofit corporation, its successors and assigns.
- 1.2 “**Accessory Structure**” – a Structure whose use is ancillary to a House, including, but not limited to, a storage building, greenhouse and/or gazebo, but not including a Garage or Garage Apartment.
- 1.3 “**Board**” – the Board of Directors of the Association.
- 1.4 “**Building Site**” – any Lot or combination of portions of Lots used or proposed to be used for a single-family residential home.
- 1.5 “**Carport**” – a fully or partially open-sided structure that covers an Improved Driveway for the purpose of covered parking.
- 1.6 “**Effective Date**” – the date this Declaration is recorded in the Official Public Records of Harris County, Texas.
- 1.7 “**Family**” – any of the following: (i) an individual, (ii) 2 or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship or (iii) up to three (3) unrelated adult persons, living as a single housekeeping unit in a House or a Garage Apartment.
- 1.8 “**Front Property Line**” – for interior Lots, the boundary line of a Lot with the Street. For corner lots, the boundary line of the Lot with the Street that has the shorter length.
- 1.9 “**Garage**” – a fully enclosed structure for storage of Vehicles.
- 1.10 “**Garage Apartment**” – A Structure with one or more rooms with separate kitchen and bathroom facilities, constituting a dwelling unit, located within the same Building Site and under the same ownership as a particular House.
- 1.11 “**Grandfathering**” – the right of Lots, Structures and uses non-conforming with these Restrictions as of the Effective Date to continue in existence, until removal, destruction or demolition, subject to Article 6, below.
- 1.12 “**Home Occupation**” – a low profile commercial activity meeting the conditions of Section 2.3 below.
- 1.13 “**House**” – a single-family detached residential structure, excluding a Garage Apartment.

- 1.14 “**Improved Driveway**” – a hard surfaced area connecting a street and a driveway, Garage, or other improved parking area located behind the front setback line, the surface of which is made of concrete, rock, stone or gravel, in compliance with City of Houston Building Code. Improved Driveways may include a circular drive that connects two streets or provides a circular connection with one street.
- 1.15 “**Improvement**” and/or “**Improvements**” – Any improvement, building, structure, fixture or fence, any transportable structure placed on a Lot, whether or not affixed to the land, and any addition to or modification of an existing building, structure, fixture or fence beyond normal maintenance and repair.
- 1.16 “**Interior Lot Line**” – the boundary line of a Lot, which boundary line connects a Front Property Line and a Rear Lot Line, but which does not abut a Street.
- 1.17 “**Lot**” and/or “**Lots**” – Each of the lots shown on the Plat.
- 1.18 “**Lot Grade**” – the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the Structure and a line five (5) feet from the Structure.
- 1.19 “**Non-Commercial Vehicle**” – passenger vehicle, truck, van, camper or recreational vehicle of $\frac{3}{4}$ ton capacity or less, recreational boat, motorcycle, or lawn maintenance equipment.
- 1.20 “**Owner(s)**” – the record title owner(s) of any fee simple interest in a Lot.
- 1.21 “**Plat**” – the map or plat of Lindale Park, Section 3, recorded in Volume 15, Page 53 of the Map Records of Harris County, Texas, and any replat thereof filed of record as of the Effective Date.
- 1.22 “**Rear Lot Line**” – the boundary line of a Lot parallel to the Front Property Line.
- 1.23 “**Real Property Records**” - the Official Public Records of Real Property of Harris County, Texas (or successor records).
- 1.24 “**Restrictions**” – The restrictive covenants filed of record on July 18, 1980, under Clerk’s File No. G605792 of the Official Public Records of Harris County, Texas.
- 1.25 “**Side Street Line**” – the boundary line of a Lot which is adjacent to a Street, but which is not the Front Property Line.
- 1.26 “**Street**” – a publicly dedicated right-of-way.
- 1.27 “**Structure**” – any House, Improvement, building, or Garage Apartment, including an Accessory Structure and fence.
- 1.28 “**Subdivision**” – all real property located within Lindale Park, Section 3, according to the recorded Plat thereof.

- 1.29 “**Vehicle**” – any motor vehicle, truck, van, trailer, tractor, recreational vehicle (RV), camper, boat, motorcycle or other mode of motorized transportation.

ARTICLE 2 – Use Restrictions

- 2.1 **Single Family Residential.** Article III, Section 1 of the Restrictions is hereby deleted in its entirety and replaced with the following: All Lots and Building Sites shall be used exclusively for single-family detached residential purposes, including no more than one House and one Garage Apartment. Without limiting the generality of the foregoing, duplexes, condominiums, multi-family use and/or occupancy, assisted living centers and/or facilities, group homes (other than those which are exempted herefrom by State or Federal Laws), commercial, industrial, fraternity, sorority, club, and rooming houses are prohibited. Institutional uses are prohibited, whether conducted on a for profit basis or not.
- 2.2 **No Lot Division.** No originally platted Lot may be further subdivided or reduced in size; provided, however, that a Lot or Building Site may be eliminated if it is divided between and combined with adjacent Lots. Multiple Lots may be used as a single Building Site.
- 2.3 **Home Occupation.** Notwithstanding Section 2.1 above, commercial activities which are incidental to the primary use of a Lot for residential purposes are allowed to be conducted under the following conditions:
- 2.3.1 No employees shall gather and/or conduct business on the property;
 - 2.3.2 No signs shall be visible on any property, with the exception of Non-commercial Vehicle;
 - 2.3.3 No visible storage or display of commercial products;
 - 2.3.4 All commercial activities are conducted inside a Structure, fully concealed from public view;
 - 2.3.5 No material disruption, interference, nor increase in traffic or parking;
 - 2.3.6 No sound or smell shall exist, or be caused to exist, outside the Structure; and
 - 2.3.7 Existence of the Home Occupation shall not be apparent from outside the Structure.

For the purposes of this Section, an average of five (5) vehicles per day stopping at the Lot over any five (5) day period (whether customers, business guests, or deliveries) shall be deemed to be an unacceptable increase in traffic. An average of five (5) vehicles per day parking on any Street near the Lot by persons visiting the Lot in any consecutive five (5) day period shall be deemed to be an unacceptable interference with parking.

The Home Occupation restrictions apply to all non-residential activities, whether or not for profit.

- 2.4 **Temporary Buildings.** Mobile homes, manufactured houses, and temporary buildings are prohibited. Moveable storage structures are allowed behind the House in the rear yard of a Lot, provided they do not exceed eight feet (8') in height, do not exceed 100 square feet in floor space, are located at least five (5) feet from all Lot lines, and are not used for living space.

ARTICLE 3 – Dimensions and Setbacks

- 3.1 **Number of Structures.** No more than one (1) House, one (1) Garage, one (1) Garage Apartment, and two (2) Accessory Structures are permitted on any Lot or Building Site.

3.2 **Height.**

3.2.1 A House exceeding thirty-six (36) feet in height is prohibited, except for a fireplace chimney, which may be higher as required by applicable building codes.

3.2.2 A detached Garage, including a Garage Apartment, exceeding thirty-two (32) feet in height is prohibited.

3.2.3 Height shall be determined from Lot Grade, and shall be measured to the highest part of the roof or other structural element.

3.2.4 A fence exceeding eight (8) feet in height in rear or side setbacks is prohibited. A fence exceeding four (4) feet in height in front yards is prohibited.

- 3.3 **Setbacks.** No Structure, except a fence, may exist within the following setbacks:

3.3.1 Twenty (20) feet from the Front Property Line or as noted on the recorded Plat, whichever is greater.

3.3.2 Ten (10) feet from the Side Street Line.

3.3.3 Five (5) feet from an Interior Lot Line, except a detached Garage may be three (3) feet from an Interior Lot Line where no easement exists.

3.3.4 Five (5) feet from a Rear Lot Line, except a detached Garage may be three (3) feet from a Rear Lot Line where no easement exists.

- 3.4 **Permitted Protrusions in the Setbacks.** The following are permitted protrusions into setback areas:

3.4.1 Roof overhangs, bay windows, architectural features each not exceeding two (2) feet located anywhere inside a setback;

3.4.2 Air conditioning compressors, into interior side setbacks only;

3.4.3 Basketball goals;

- 3.4.4 Decks, porches, or patios are allowed in side and rear setbacks without limit. In front setbacks, decks, porches, or patios shall be no closer than twenty (20) feet from Front Property Line;
 - 3.4.5 Window air conditioners, in interior side or rear setbacks only;
 - 3.4.6 Chimneys, not exceeding two (2) feet in depth and eight (8) feet in width; and
 - 3.4.7 Portable play yard equipment, in interior side or rear setbacks only.
- 3.5 **Garages.** Carports, porte-cocheres or Garages are permitted but not required.
- 3.6 **Minimum Building Site.** The minimum size for a Building Site is five thousand three hundred (5,300) square feet, with fifty (50) feet minimum width at the Front Street Line.

ARTICLE 4 – Term, Renewal, and Amendment

- 4.1 **Term.** The provisions of the Restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the Effective Date, and shall automatically renew for successive ten (10) year periods, unless amended in accordance with the terms and provisions of Section 4.2 below.
- 4.2 **Amendment.** The provisions of the Restrictions may be further amended at any time by an instrument in writing signed and acknowledged by the Secretary of the Association certifying that Owners bound by this Declaration and holding at least sixty-six percent (66%) of the total number of votes of the membership of the Association have voted in favor of such amendment, setting forth the amendments, and duly recorded in the Real Property Records.

ARTICLE 5 – Grandfather Provisions

- 5.1 **Grandfathering.** Any Lot, Building Site, Structure, Improvement or use of a Lot or Building Site in violation of this Amendment shall be considered “nonconforming.” Nonconforming Lots, Building Sites, Structures, Improvements or uses of a Lot or Building Site shall not however include any Lot, Building Site, Structure, Improvement or use of a Lot or Building Site which violated the Restrictions as they existed prior to the Effective Date. Nonconformities are grandfathered and may continue in existence following the adoption of this Amendment. Nonconformities may be maintained, repaired, or cosmetically remodeled, but may not be structurally enhanced, expanded, or reconstructed after a casualty loss where more than fifty percent (50%) of the nonconformity is destroyed. A nonconformity loses its allowable (grandfathered) status at such time as the Lot, Building Site, Structure, Improvement or use of a Lot or Building Site comes into compliance with the provisions of the Restrictions and thereafter, the nonconformity may not resume.

ARTICLE 6 – General Provisions

- 6.1 **Attorneys' Fees.** The Association and/or Owners shall recover all reasonable attorneys' fees and court costs incurred in enforcing any provisions of the Restrictions.
- 6.2 **Binding Effect.** The Restrictions are binding upon and are to the benefit of the Owners and their heirs, executors, representatives, successors, and assigns, where permitted.
- 6.3 **Mortgagees.** No violation of the Restrictions shall invalidate nor adversely affect the lien of any mortgagee made in good faith and for value.
- 6.4 **Multiple Signature Pages.** This Amendment contains multiple signature pages and will be executed in multiple originals without all signatures on any one original. Separate signatures pages may be attached as an exhibit to the copy of this Amendment recorded in order to eliminate unnecessary costs of filing multiple copies of this Amendment. All signature pages need not be recorded and a statement that the requisite approvals have been received signed by an officer of the Association is prima facie evidence of that fact.
- 6.5 **Non-waiver.** No waiver, express or implied, of any violation of any provision of the Restrictions shall preclude the subsequent enforcement of such provision as to that or similar violations. No member of the Board or Owner has the authority to waive, modify, or terminate any provision of the Restrictions.
- 6.6 **Severability.** The invalidity, abandonment or waiver of any one of the provisions of the Restrictions shall not affect or impair the other provisions of the Restrictions which shall remain in full force and effect. Any invalid, abandoned, or waived provision of the Restrictions shall be judicially reformed to be valid, enforceable, and to effectuate the intentions of the Owners.

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LINDALE PARK CIVIC CLUB, A TEXAS NONPROFIT CORPORATION, CERTIFIES THAT THIS AMENDMENT HAS BEEN APPROVED IN ACCORDANCE WITH THE RESTRICTIONS FOR THE PURPOSES OF AMENDING THE RESTRICTIONS AND EXECUTES THIS AMENDMENT TO FACILITATE ITS RECORDING IN THE OFFICIAL PUBLIC RECORDS OF HARRIS COUNTY, TEXAS.

Executed the _____ day of _____, 2010.

By: _____
Wayne H. Fowkes, President
Lindale Park Civic Club

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on _____, 2010, by Wayne H. Fowkes, President of Lindale Park Civic Club, a Texas nonprofit corporation, on behalf of said corporation and in the capacity therein stated.

Notary Public, State of Texas

ATTEST: _____
_____, Secretary
Lindale Park Civic Club

**AFTER RECORDING
PLEASE RETURN TO:**

Wilson, Cribbs & Goren, P.C.
Attn: Mr. Anthony L. Marré
2500 Fannin St.
Houston, Texas 77002

SIGNATURE PAGE
AMENDMENT TO RESTRICTIONS

The undersigned certify that they hold record title to the real property described below, located in LINDALE PARK, Section 3 according to the map or plat thereof recorded in Volume 15 Page 53 of the Map Records of Harris County, Texas (the "**Subdivision**").

LEGAL DESCRIPTION AND STREET ADDRESS OF THE PROPERTY:

_____, Lindale Park, Section 3.

_____, Houston, Texas, 77009.

The undersigned has received, read, and understands the attached Amendment to Restrictions (the "**Amendment**") and executes this document as evidenced by their signature(s) below of our **acceptance, approval and readoption** of the Restrictions, as amended by the Amendment.

The undersigned acknowledges that the Amendment contains restrictive covenants applicable to property within the Subdivision. The restrictive covenants specifically provide, among other things, for residential character limitations, use restrictions, restrictions on improvements, setbacks, provisions for management and operation of the Subdivision, a forty year term for the restrictions, provisions for automatic renewal and modification of the restrictions, transition procedures (including grandfathering of existing conditions which shall become non-conforming under said restrictions) and other general provisions.

The Association is authorized to record a copy of the Amendment with an acknowledgement by an officer of the Association to the effect that the undersigned has approved said Amendment, whether or not this signature page is attached as an exhibit thereto.

This Signature Page must be received by Tuesday, July 13, 2010 at the address below to ensure that the Amendment can be recorded prior to 5:00 PM Friday, July 16, 2010.

Signature:

Printed Name: _____

Signature:

Printed Name: _____

Please return by July 13, 2010 to:
Lindale Park Civic Club
218 Joyce Street
Houston, Texas 77009