

DECLARATION OF RESTRICTIVE COVENANTS
[Pursuant to Owner Consent]

Subdivision: **MANDELL PLACE**, according to the map or plat thereof recorded in Volume 6, Page 4, and **WEST MANDELL PLACE** according to the map or plat thereof recorded in Volume 522, Page 456, all of the Map Records of Harris County, Texas (collectively, the "Plats").

Purpose: To establish such covenants, conditions and restrictions as are necessary and desirable to keep the Subdivision attractive for the use and enjoyment of residents and for the protection of property and property values. The restrictive covenants of this Declaration of Restrictive Covenants shall create restrictive covenants for the Subdivision.

Proposed Restrictive Covenants: The following restrictive covenants (the "Restrictions") shall apply only to those properties within the Subdivision for which the owners of such properties have evidenced their consent to the Restrictions by the execution of this Declaration of Restrictive Covenants. The Restrictions shall run with the land, bind and benefit each owner of property in the Subdivision which is made subject to the Restrictions, from time to time, whether or not referenced in subsequent deeds, and create a uniform plan for the Subdivision for the common benefit of the Subdivision and its owners.

Effective Date: The Restrictions shall be valid upon recording after this Declaration of Restrictive Covenants has been approved by the owners, excluding lienholders, contract purchasers, and the owners of mineral interests, of at least a majority of the square footage within all of the lots in the Subdivision, excluding (i) lots fronting West Alabama St. or Westheimer Ave., and (ii) any area dedicated or used exclusively for roadways or public purposes by utilities.

Opt-In: Owners of property within the Subdivision who do not sign this Declaration of Restrictive Covenants may, at any time, subject their property to the Restrictions by written instrument filed in the Official Public Records of Real Property of Harris County, Texas.

RESTRICTIVE COVENANTS FOR MANDELL PLACE

ARTICLE I. DEFINITIONS

0.1 "**Accessory Structure**" - a Structure whose use is ancillary to a House, including a storage building, greenhouse and gazebo, but not including a Garage.

- 0.2 **"Building Site"** - any tract used or proposed to be used for a House and to be separately owned and/or conveyed.
- 0.3 **"Effective Date"** - the date the Declaration of Restrictive Covenants is recorded in the Real Property Records.
- 0.4 **"Front Street 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 which has the shortest length. Where streets border the Lot on opposite sides, the street the house faces.
- 0.5 **"Garage"** - a structure for storage of Vehicles, normally with an overhead door, and whether or not attached or detached to a House.
- 1.6 **"Garage Apartment"** - A Structure with one or more rooms with separate kitchen and bathroom facilities, constituting a dwelling unit, located within the same Lot and under the same ownership as a particular House, and whether or not attached or detached to a Garage.
- 0.7 **"Grandfathering"** - the right of Lots, Structures and uses non-conforming with these restrictions to continue in legal existence.
- 0.8 **"Home Occupation"** - a low profile commercial activity meeting the conditions of Section 2.4.
- 0.9 **"House"** - a single family residential structure.
- 0.10 **"Interior Lot Line"** - the boundary line of a Lot, which boundary line connects a front street line and a rear lot line, but does not abut a street.
- 0.11 **"Lot"** - any numbered lot on the Plats.
- 0.12 **"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 5 feet from the structure.
- 0.13 **"Owner(s)"** - the record title owner(s) of fee simple interest in a Lot, specifically excluding lienholders, contract purchasers, and the owners of mineral interests.
- 0.14 **"Plats"** - the map or plat of Mandell Place recorded in Volume 6, Page 4 and West Mandell Place according to the map or plat thereof recorded in Volume 522, Page 456, all of the Map Records of Harris County, Texas.
- 0.15 **"Real Property Records"** - the Official Public Records of Real Property of Harris County, Texas (or successor records).
- 0.16 **"Rear Lot Line"** - the boundary line of a Lot parallel to the front street line.
- 0.17 **"Restrictions"** - the Restrictive Covenants created herein.

- 0.18 **"Side Street Line"** - the boundary line of a Lot which is adjacent to a street, but which is not the front street line.
- 0.19 **"Street"** - the publicly dedicated rights-of-way on the Plats.
- 0.20 **"Structure"** - any improvement, building or House, including an Accessory Structure, but excluding fences.
- 0.21 **"Subdivision"** – collectively, all real property located within Mandell Place and West Mandell Place according to the Plats.
- 0.22 **"Vehicle"** - any automobile, truck, van, trailer, tractor, recreational vehicle (RV), camper, boat, motorcycle or other mode of motorized transportation.

ARTICLE II. RESIDENTIAL CHARACTER/USE RESTRICTIONS

- 1.1 Single Family Residential. All Lots and Building Sites shall be used exclusively for single family residential purposes. Both the use of a Lot or Building Site and the Structures placed on a Lot shall be single family. Multi-family residential, condominiums, assisted living centers, group homes, commercial, industrial, fraternity, sorority, club, and rooming houses are prohibited. Institutional uses are prohibited, whether conducted on a for profit basis or not. Notwithstanding the foregoing, the Restrictions do not preclude or prohibit the erection, construction and maintenance of one (1) single family Garage Apartment on any Lot or Building Site. Any such Garage Apartment, however, must comply with the other restrictions set forth in this Declaration. Title to a Garage, Garage Apartment, or unit within any dwelling shall not be conveyed separately from (a) the Lot upon which it is located or (b) any other units and/or Structures located on the same Lot as such Garage, Garage Apartment, or unit.
- 1.2 No Lot Division. No Lot may be further subdivided or reduced in size. A Lot or Building Site may be eliminated if it is divided between adjacent Lots. Multiple Lots may be used as a single Building Site.
- 1.3 Renting. No Structure other than a House, excepting a single Garage Apartment, may be rented separately; provided, however, that an Owner may permit a person not related by blood or adoption to the Owner to reside in a portion of a House so long as such person is providing caregiver or nanny services to the Owner in exchange for monetary or non-monetary compensation.
- 1.4 Home Occupation. Low profile commercial activities are allowed under the following conditions:
 - 1.4.1 No employees.

- 1.4.2 No signs advertising or drawing attention to the commercial activities being conducted inside the Structure.
- 1.4.3 No visible storage or display of commercial products.
- 1.4.4 All commercial activities are conducted inside a Structure.
- 1.4.5 No material disruption, interference or increase in traffic or parking.
- 1.4.6 No sound or smell is created outside the Structure.
- 1.4.7 Existence of the Home Occupation is not apparent from outside the Structure. An average of ten (10) vehicles per day stopping at the Lot over any (5) day period (whether customers, business guests or deliveries) shall be deemed to be an unacceptable increase in traffic. An average of (5) vehicles per day parking on any street near the Lot by persons visiting the Lot in any consecutive (5) day period shall be deemed to be an unacceptable interference with parking.

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

ARTICLE III. DIMENSIONS AND SETBACKS

- 3.1 Number of Structures; Orientation of Structures. More than one (1) House, one (1) Garage, one (1) Garage Apartment and one (1) Accessory Structure are prohibited. All Houses shall be oriented to face a Street which runs east and west.
- 3.2 Height.
 - 3.2.1 A House exceeding thirty-seven (37) feet in height is prohibited.
 - 3.2.2 A Garage exceeding thirty-seven (37) feet in height is prohibited.
 - 3.2.3 An Accessory Structure or other Structure exceeding thirty-seven (37) feet in height is prohibited.
 - 3.2.4 Height shall be determined from Grade.
- 3.3 Setbacks. No Structure may exist within the following setbacks:
 - 3.3.1 Twenty-five (25) feet from the Front Street Line, except those erected on Blocks Seven (7) and Eight (8) of Mandell Place, on which Lots all Structures shall be at least twenty (20) feet from the Front Street Line.
 - 3.3.2 Ten (10) feet from the Side Street Line.

3.3.3 Three (3) feet from an Interior Lot Line.

3.3.4 Three (3) feet from Rear Lot Line.

3.4 Garages/Garage Apartments/Accessory Structures. Garages, Garage Apartments and Accessory Structures shall not be located closer than (a) three (3) feet from an Interior Lot Line, and (b) seventy-five (75) feet from the Front Street Line.

3.5 Non-typical Lots. Portions of two (2) or more Lots with common ownership used as a Building Site as of the Effective Date and portions of a Lot with separate ownership used as separate building site as of the Effective Date shall be considered as one (1) Lot for the purposes of these Restrictions. The setbacks required by Section 3.3 shall apply to the exterior boundaries of each Building Site without regard to internal Lot Lines.

ARTICLE IV. TERM, RENEWAL AND MODIFICATION

4.1 Term. The Restrictions are binding for forty (40) years from the Effective Date.

4.2 Termination. The Restrictions may be terminated by a document executed and acknowledged by the Owners of at least a seventy-five (75%) of the square footage within all of the Lots in the Subdivision which are then subject to the Restrictions, excluding any area dedicated or used exclusively for roadways or public purposes by utilities, and recorded in the Real Property Records. The termination shall be effective when filed in the Real Property Records.

4.3 Extension. The Restrictions shall automatically renew for successive terms of ten (10) years each, unless a document executed and acknowledged by the Owners of at least a seventy-five (75%) of the square footage within all of the Lots in the Subdivision which are then subject to the Restrictions, excluding any area dedicated or used exclusively for roadways or public purposes by utilities, is recorded in the Real Property Records to preclude the extension. Such document shall be effective to prevent the extension of the term but shall not reduce the term of the Restrictions.

4.4 Amendment. The Restrictions may be amended but not terminated, by a document executed and acknowledged by the Owners of at least sixty (60%) of the square footage within all of the Lots in the Subdivision which are then subject to the Restrictions, excluding any area dedicated or used exclusively for roadways or public purposes by utilities, and recorded in the Real Property Records. The amendment shall be effective when filed in the Real Property Records.

4.5 Existing Violations Grandfathered. A Lot, Building Site, building, structure, improvement or use of a Lot or Building Site that lawfully exists as of the Effective Date, but does not conform to the Restrictions, is considered “nonconforming” and may continue as long as it remains lawful; provided, however, that (a) all restrictions stated herein shall apply to any remodeling and/or additions to a nonconforming improvement and to any new improvements erected on the same Lot/Building Site, and (b) a nonconforming Lot/Building Site shall not

be further subdivided. A nonconformity loses its allowable (grandfathered) status at such time as the Lot, building, structure, improvement or use of a Lot comes into compliance with the Restrictions and thereafter, the nonconformity may not resume. Nonconformities shall not include any Lot, Building Site, building, structure, improvement or use of a Lot which violated any applicable laws, ordinances, or regulations on the effective date of this Declaration. In the event that a nonconforming improvement is damaged or destroyed by fire or other casualty not intentionally caused by the Owner or the Owner's agent, the permitted nonconforming structure may be restored.

ARTICLE V. GENERAL PROVISIONS

- 5.1 Attorneys' Fees. The Owners shall recover all attorneys' fees and court costs incurred in enforcing any provision of the Restrictions.
- 5.2 Binding Affect. The Restrictions are binding upon and are to the benefit of the Owners and their heirs, executors, representatives, successors and assigns, where permitted.
- 5.3 Choice of Law. The Restrictions are subject to and governed by the laws of the State of Texas.
- 5.4 Construction. The Restrictions shall be liberally construed to achieve the intent of the Owners. Any rule of legal construction to strictly construe restrictive covenants or to construe restrictive covenants in favor of the free use of land is inapplicable.
- 5.5 Effective Date. The Restrictions are effective upon recording in the Real Property Records after this Declaration has been approved by the Owners of at least a majority of the square footage within all of the Lots in the Subdivision, excluding (i) lots fronting West Alabama St. or Westheimer Ave., and (ii) any area dedicated or used exclusively for roadways or public purposes by utilities.
- 5.6 Mortgagees. No violation of the Restrictions shall invalidate the lien of any mortgagee made in good faith and for value.
- 5.7 Multiple Signature Pages. The Declaration of Restrictive Covenants contains multiple signature pages and will be executed in multiple originals without all signatures on any one original. Separate signature pages may be attached to the copy of the Restrictions recorded in order to eliminate unnecessary costs of filing multiple copies of the Restrictions.
- 5.8 Non-Waiver. No waiver, express or implied, of any violation of the Restrictions shall preclude the subsequent enforcement of the Restrictions as to that or similar violations. No Owner has the authority to waive, modify or terminate any provision of the Restrictions.
- 5.9 Severability. The invalidity, abandonment or waiver of any one of the Restrictions shall not affect or impair any other of the Restrictions and any invalid, abandoned or waived Restriction shall be judicially reformed to be valid, enforceable and effectuate the intentions of the Owners.

- 5.10 Time. Time is of the essence in the compliance with obligations in the Restrictions. A deadline falling on a Saturday, Sunday or holiday recognized by the State of Texas is extended to the next following weekday which is not a holiday.
- 5.11 Existing Restrictions. The Owners acknowledge that some of the Lots made subject to the Restrictions may also subject to such restrictive covenants appearing in deeds from the original developer of the Subdivision, Guardian Trust Company, to the original purchasers of lots in the Subdivision (See e.g., General Warranty Deed dated March 24, 1924, and recorded in Volume 578, Page 85 of the Deed Records of Harris County, Texas)(the "Original Restrictions"). To the extent of any conflict between the Original Restrictions and the Restrictions, the more restrictive provision shall control.

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