

DECLARATION
of
RESTATED AND AMENDED RESTRICTIONS
for
GAYWOOD
A SUBDIVISION IN HARRIS COUNTY, TEXAS

TABLE OF CONTENTS

ARTICLE		PAGE
ARTICLE I - DEFINITIONS	2
Section 1.01	Association.....	2
Section 1.02	Board of Directors	2
Section 1.03	Declaration.....	2
Section 1.04	Improvement.....	2
Section 1.05	Living Unit.....	2
Section 1.06	Lot	2
Section 1.07	Owner	2
Section 1.08	Property	2
Section 1.09	Subdivision	2
ARTICLE II – ARCHITECTURAL CONTROL	2
Section 2.01	Architectural Control Committee.....	2
Section 2.02	Approval of Plans and Specifications	3
Section 2.03	Appeals Process	3
Section 2.04	Control Over Maintenance of Improvements	4
ARTILCE III – USE RESTRICTIONS, COVENANTS, AND CONDITIONS	4
Section 3.01	Land Use and Building Type	4
Section 3.02	Living Unit Size and Elevation.....	4
Section 3.03	Construction.....	5
Section 3.04	Building Setbacks	5
Section 3.05	Minimum Lot Area and Width.....	6
Section 3.06	Easements	6
Section 3.07	Destruction of Structures	6
Section 3.08	Nuisances	6
Section 3.09	Acceptable Pets.....	6
Section 3.10	Storage and Disposal of Garbage and Trash.....	6
Section 3.11	Sewage and Burning Trash	7
Section 3.12	On Site Drilling.....	7
Section 3.13	Commercial Motor Vehicles, Boats, Trailers, Etc.....	7
Section 3.14	Working Hours	7
Section 3.15	Antennas and Satellite Dishes	7
Section 3.16	Street Numbers and Mailboxes	8
Section 3.17	Sight Lines	8
Section 3.18	Culverts, Bridges, Walkways and Drainage	8
Section 3.19	Signs.....	8
Section 3.20	Lot and Improvement Maintenance	9
Section 3.21	Infringement.....	9

ARTICLE IV – MEMBERSHIP IN ASSOCIATION AND COVENANT FOR ASSESSMENTS		9
Section 4.01	Creation of Membership in Association, Lien and Personal Obligations of Assessments.....	9
Section 4.02	Purpose of Assessments	9
Section 4.03	Determination of Rate of Annual Assessment.....	10
Section 4.04	Annual Assessment Due Date.....	10
Section 4.05	Special Assessments.....	10
Section 4.06	Notice and Quorum For Any Action Authorized Under Sections 4.03 and 4.05.....	10
Section 4.07	Effect of Non Payment of Assessments and Costs.....	10
Section 4.08	Subordination of the Assessment Lien to Mortgages.....	11
Section 4.09	Insurance	11
ARTICLE V – GENERAL PROVISIONS		11
Section 5.01	By-Laws.....	11
Section 5.02	Enforcement.....	11
Section 5.03	Severability	11
Section 5.04	Amendment.....	11
Section 5.05	Notice	12
Section 5.06	Books and Records of the Association	12
Section 5.07	Existing Violations	12
Section 5.08	Failure to Enforce Restrictions.....	12
EXECUTION AND NOTARIZATION		13

DECLARATION
of
RESTATED AND AMENDED RESTRICTIONS
for
GAYWOOD
A SUBDIVISION IN HARRIS COUNTY, TEXAS

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF HARRIS §

WHEREAS, E. Phil Gemmer and Harry E. Cagle of Harris County, Texas, were the sole owners (the “Declarants”) of GAYWOOD, a subdivision in Harris County, Texas according to the map or plat thereof recorded under Volume 48, Page 42 of the Map Records of Harris County, Texas (the “Subdivision”); and

WHEREAS, the Declarants did impose on the Subdivision all those certain covenants, conditions, restrictions and easements set forth in that certain instrument filed of record in Volume 2933, Page 695 of the Deed Records of Harris County, Texas (the “Prior Restrictions”); and

WHEREAS, Paragraph N of the Prior Restrictions provides the terms of the Prior Restrictions may be amended by an instrument signed by a majority of the then owners of the lots in Gaywood, which amendment must be filed of record; and

WHEREAS, the Prior Restrictions (as to certain lots) were duly amended by that certain instrument filed of record in Volume 3452, Page 30 of the Deed Records of Harris County, Texas (the Prior Restrictions, as amended, hereinafter still referred to as the “Prior Restrictions”).

NOW, THEREFORE, the owners listed in Exhibit “A”, attached hereto and incorporated herein being at least a majority of the owners of lots in the Subdivision all wishing to restate and amend the Prior Restrictions, do hereby adopt, establish and impose upon all of the lots in the Subdivision the following restrictions and covenants, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the lots in the Subdivision for the benefit of present and future owners and which restrictions and covenants shall: (i) take the place of the Prior Restrictions, (ii) run with the land and be binding upon all parties having or acquiring any right, title or interest in any of the lots in the Subdivision and; (iii) inure to the benefit of each owner thereof.

ARTICLE I **DEFINITIONS**

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

SECTION 1.01 “Association” shall mean and refer to the Gaywood Civic Club, a non-profit corporation created under the laws of the State of Texas, its successors and assigns. Membership in the Association shall be regulated according to the Articles of Incorporation, Bylaws, and other governing documents of the Association.

SECTION 1.02 “Board of Directors” shall consist of the individuals duly elected to serve as Directors of the Association in accordance with the Bylaws of the Association.

SECTION 1.03 “Declaration” shall mean and refer to this “Declaration of Restated and Amended Restrictions for Gaywood, a Subdivision in Harris County Texas Subdivision”.

SECTION 1.04 “Improvement” shall mean and refer to any structure, dwelling, building, fence, wall, attachment, driveway, sidewalk, swimming pool, tennis court, basketball goal or other improvement constructed or to be constructed on any Lot.

SECTION 1.05 “Living Unit” shall mean and refer to the main residential structure on any Lot in the Subdivision.

SECTION 1.06 “Lot” shall mean and refer to any numbered Lot or plot of land as shown on the recorded Subdivision plat.

SECTION 1.07 “Owner” shall mean and refer to the record owner, whether one or more persons or entities of fee simple title to the surface estate of a Lot, which is part of the Subdivision.

SECTION 1.08 “Property” shall mean and refer to that certain real property (land and Improvements) as may be brought within the jurisdiction of the Association.

SECTION 1.09 “Subdivision” shall mean and refer to Gaywood, a subdivision in Harris County, Texas according to the map or plat thereof filed in Volume 48, Page 42 of the Map Records of Harris County, Texas.

ARTICLE II **ARCHITECTURAL CONTROL**

SECTION 2.01 **ARCHITECTURAL CONTROL COMMITTEE (“ACC”)**. The Board of Directors shall have full power and authority to enforce the restrictions, covenants, and conditions imposed upon the Subdivision in this Article II. The Board of Directors shall appoint an ACC to assist the Board of Directors in the execution of its right and duties contained in this Article II. The ACC shall consist of not less than three (3) persons who are Owners of separate Lots. No

member of the ACC may execute or vote upon any of the ACC's duties if that person has a direct or indirect pecuniary interest in the particular Lot over which the ACC is required to make any determination under this Declaration. In the event any member of the ACC dies, resigns, or becomes ineligible to act, the Board of Directors shall appoint a successor to replace the member who has died, resigned, or become ineligible. Any member of the ACC may be removed by the Board of Directors with or without cause, and the Board of Directors may appoint a new successor to replace the removed member.

SECTION 2.02 **APPROVAL OF PLANS AND SPECIFICATIONS.** No exterior Improvement shall be commenced, erected, placed, altered or demolished, nor existing trees removed on any Lot until the final construction plans, specifications, elevations and plot plan showing (i) the nature, kind, color, shape, height, materials, and location of the Improvement, and (ii) the locations, sizes and types of trees to be removed and any replacements have been submitted in writing to the ACC and approved in writing by the ACC. The prohibition against the removal of existing trees without the approval of the ACC shall not apply to diseased or damaged trees. Applications to the ACC must be hand-delivered to a member of the ACC or mailed via certified mail, return receipt requested to a member of the ACC. The proposed construction will be reviewed (i) for conformity and harmony of external design and color with existing Improvements in the Subdivision, (ii) as to the location of the Improvement with respect to topography and finished ground elevation, and (iii) compliance with any Architectural Guidelines. Architectural Guidelines may be developed by the Board and the ACC and will be effective upon the approval of a majority of those Members entitled to vote, present in person or by proxy, at a meeting of the Members of the Association duly called for such purpose. In the event the ACC fails to approve or disapprove such plans and specifications within thirty (30) days following submission to it, approval will be deemed to have been granted. Any decision of the ACC shall be final and conclusive, except as otherwise provided in Section 2.03. Construction plans will be automatically disapproved if all Association dues and Assessments are not current. Construction shall not begin until ACC approval and City of Houston building permits have been received.

SECTION 2.03 **APPEALS PROCESS.** Any decision made by the ACC in relation to this Article II may be challenged by an appeal to the Board of Directors of the Association in writing within thirty (30) days of initial notification. The Board of Directors must hold the hearing on the appeal at either a special or regular meeting of the Board within thirty (30) days after the Board receives the notice of appeal, unless either side requests an extension of not more than ten (10) days or the time is extended by the agreement of the parties. The decision of the Board of Directors may also be appealed to the Members of the Association for a final decision. Any such final appeal to the Members must comply with the rules for calling special meetings of the Membership and also the rules of quorum as set forth in the By-Laws of the Association. All decisions made at such a special meeting shall be determined by a simple majority of the Members entitled to vote that are present either in person or by proxy. Any costs associated with such meetings will be paid by the unsuccessful party. In the event the Members decide in favor of the individual making the appeal, the costs of such meeting will be paid by the Association. Should the Members decide in favor of the original decision, the appealing Owner shall be liable for the costs of such meeting, which costs shall be the personal obligation of the unsuccessful appealing Owner and be secured by the assessment lien in Section 4.01 of this Declaration.

SECTION 2.04 CONTROL OVER MAINTENANCE OF IMPROVEMENTS.

If in the opinion of the ACC, the exterior of any Living Unit, or other Improvements are in need of repair or maintenance, the ACC shall notify the Owner thereof in writing of the need of such repairs or maintenance. If such repairs or maintenance are not accomplished (or appeal to the Board of Directors is not made as provided in Section 2.03) within sixty (60) days of said notice, then the Board of Directors may proceed to have such repairs or maintenance work done for the account of and payment by the Owner, and the Owner shall pay upon demand to the Board of Directors the cost of such repairs or maintenance work, which costs shall be the personal obligation of the unsuccessful appealing Owner and be secured by the assessment lien in Section 4.01 of this Declaration. An Owner may request and the Board may approve an extension of the time within which to make the repairs required under this Section 2.04.

ARTICLE III
USE RESTRICTIONS, COVENANTS, AND CONDITIONS

SECTION 3.01 LAND USE AND BUILDING TYPE. No structure shall be erected, altered, placed or permitted to remain on any Lot other than (a) one single family dwelling, (b) one attached or detached private garage for not less than two (2) nor more than three (3) cars and (c) any other accessory building approved by the ACC. Each Owner shall use his or her Lot and the Living Unit on his or her Lot, if any, for single family residential purposes only. As used herein, the term “single family residential purposes” shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his or her residence as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the Living Unit or any structure or Improvement upon such Lot and conduct business therein; (b) the profession or occupation is not advertised to the public as being operated out of the Living Unit; (c) no signs advertising such profession or business are permitted on the Lot; (d) no on-site employees are permitted; (e) the profession or occupation does not have any more deliveries or attract more vehicles to the Living Unit than would be usual and customary to such Living Unit; (f) no offensive activity or condition, noise and/or odor are permitted; and (g) such use in all respects complies with the laws of the State of Texas, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. The term “single family residential purposes” shall also be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents, their dependent grandparents, and their domestic servants; (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, their dependent grandparents, and their domestic servants; and (c) in no event, shall any single family residence be occupied by more persons than the product of the total number of bedrooms contained in the single family residence as originally constructed or approved by the Association multiplied by two and one half (2.5).

SECTION 3.02 LIVING UNIT SIZE AND ELEVATION. The ground floor area of the main Living Unit, exclusive of open porches and garages, shall not be less than 1,800 square feet. The total area of the main Living Unit, exclusive of open porches and garages, shall not

exceed 5,500 square feet. For the purpose of this Section 3.02, living space above or contiguous with a detached garage shall be counted in the calculation of the maximum 5,500 square footage, but not in the 1,800 square feet minimum. Garage width may not exceed thirty-four feet (34'), and total garage area may not exceed 750 square feet. No Living Unit in excess of two-stories may be constructed on any Lot and no Living Unit may exceed thirty-eight feet (38') in height as measured from the average grade level of the Lot at the Living Unit's foundation to the highest point of any roof, exclusive of any chimney. No detached garage shall exceed twenty-eight feet (28') in height as measured from the average grade level of the Lot at the Living Unit's foundation to the highest point of any roof, exclusive of any chimney.

SECTION 3.03 **CONSTRUCTION.** All Improvements shall be new construction. No temporary structure, trailer, mobile home, tent, shack, garage, barn or outbuilding shall be used as a residence, either temporarily or permanently. The exterior construction of any Living Unit shall be at least fifty-one percent (51%) brick, stone, or other approved masonry. Pure stucco consisting of 100% portland cement is considered an approved masonry substitute. Other exterior construction materials may be used only with the prior written approval of the ACC. In determining such percentages of masonry, roof areas and detached garages shall be excluded, but attached garages, porches, and other structures constituting part of the Living Unit shall be included. A garage, which is separated from the Living Unit by at least ten feet (10') but connected to the Living Unit by a covered walkway is not considered as being attached. All doors and windows are to be included as non-masonry in determining the exterior construction percentage, except windows less than fifty percent (50%) in height of the vertical height of the wall containing the window.

SECTION 3.04 **BUILDING SETBACKS.** No structure, building, or Living Unit shall be located nearer to the front Lot line or nearer to the side Lot line than the minimum building setback lines shown on the Subdivision plat or encroach on any easement shown on the plat. No structure, building, or Living Unit shall be located nearer than thirty-five (35) feet from the front Lot line or nearer than ten (10) feet from any side street line. Provided, however, as set forth in the Prior Restrictions, the minimum building setback lines for Lots One (1), Two (2), Thirteen (13), Fourteen (14), and Fifteen (15) in Block One (1) and Lots Eight (8), Nine (9), Ten (10), Eleven (11), and Twelve (12) in Block Eight (8) shall be twenty-five feet (25') from the front Lot line. No Living Unit or other Improvement (excluding fences separating Lot boundaries) shall be located nearer than seven and one half feet (7½') to any interior Lot line, except that a three feet (3') minimum side yard shall be permissible for a one-story detached garage or other permitted one-story detached accessory building located sixty-five feet (65') or more from the front Lot line. For the purpose of this Section 3.04 setbacks lines, eaves, steps, and open porches, which do not exceed four and one half feet (4½') past the front or side setback line shall not be considered as part of a building; however, no part of any structure (excluding fences separating Lot boundaries) may ever be closer than three feet (3') to any interior side Lot line. No Living Unit or any part thereof shall be located on any interior Lot nearer than five feet (5') to the rear Lot line. Detached garages or other approved accessories buildings cannot be attached to the Living Unit unless all minimum set backs for a Living Unit are met. For the purposes of these restrictions, (except for a Lot consolidated with a corner Lot) Living Units shall face the front of the Lot coinciding with the Lot line having the smallest or shortest dimension abutting a street. A Living Unit constructed on a consolidated Lot (as provided in Section 3.05), which consolidated Lot consists of a corner Lot, shall face the street designated as the front of the consolidated Lot by the ACC. Each Living Unit will face the front of the Lot, and each garage will be provided with driveway access from the front of the Lot only,

except that garages on corner Lots may have driveway access from the side street if this exception is specifically approved in advance and in writing by the ACC.

SECTION 3.05 **MINIMUM LOT AREA AND WIDTH.** No Lots shall be subdivided in any fashion. Two adjoining Lots may be consolidated into one building site only with the prior written approval of the ACC and subject to the Restrictions in Sections 3.01, 3.02, 3.03 and 3.04. If more than one Lot is used as one building site, the restrictions set out herein shall not apply to the common property line of such Lots. No more than two Lots can be combined to create a building site.

SECTION 3.06 **EASEMENTS.** Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded Subdivision plat.

SECTION 3.07 **DESTRUCTION OF STRUCTURES.** Any building, structure, Improvement, or Living Unit partially or totally damaged or destroyed by fire, storm, deterioration, or by any other means shall be repaired or completely demolished within one hundred and twenty (120) days, and the Lot restored to an orderly and attractive condition. Should additional time be necessary, extended time periods may be requested by the Owner, for approval by the ACC.

SECTION 3.08 **NUISANCES.** No nuisance shall be erected or placed upon any Lot. No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Lot shall be used for any illegal purposes, or for any purpose in violation of any state or federal law, or of any police, health, sanitary, building or fire code, regulation or instruction relating to or affecting the use, occupancy or possession of any Lot. No activity that might reasonably be considered to reduce the marketability of any Lot or the desirability of the Subdivision, as a residential neighborhood shall be carried upon any Lot. The Board of Directors of the Association is hereby authorized to determine what constitutes a violation of this restriction.

SECTION 3.09 **ACCEPTABLE PETS.** No pets, animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other house-type pets, totaling no more than five (5) may be kept on a Lot provided they are not kept, bred, or maintained for any commercial purposes. Provided, however, there shall be no limitation on (i) fish or reptiles of a type customarily kept within normal home aquariums, (ii) birds kept inside cages inside a Living Unit, or (iii) small mammals (e.g., gerbils, ferrets, etc.) kept inside cages inside the Living Unit, unless these allowed household pets ever constitute a nuisance or annoyance to the surrounding residents in which case the allowed household pets must be removed from the Lot. All animals kept outside the Living Unit must be properly tagged for identification and penned in an approved enclosure. No animal may be chained or leashed outside an enclosure, unless being walked on a leash. Whenever an animal is removed from its enclosure, it must be in the possession of its Owner or the Owner's agent. In no event shall the total number of animals exceed that permitted by City of Houston ordinance.

SECTION 3.10 **STORAGE AND DISPOSAL OF GARBAGE AND TRASH.** No Lot shall be used or maintained as a dumping ground for rubbish. No garbage, trash, rubbish, manure, waste, debris, or materials of any kind shall be kept or allowed to remain on any Lot except in sanitary refuse containers with tight fitting lids in an area adequately screened by planting or

fencing so as not to be visible from streets or other Lots and shall be removed from each Lot at least weekly. Trash intended for curbside pickup may be moved to the street up to two days before regularly scheduled trash service. Roll off containers, which are used in construction demolition must be removed within 60 days of arrival. A small compost pile or container may be kept, provided it does not attract rodents or vermin and is in an area adequately screened so as not to be visible from streets or other Lots. No poisonous or hazardous products may be kept on any Lot, except a small amount of paint, gasoline for lawn equipment, and other household or lawn maintenance products.

SECTION 3.11 **SEWAGE AND BURNING TRASH.** No privy, cesspool, or septic tank shall be placed or maintained on any Lot. No trash, garbage or waste burning shall be permitted on any Lot.

SECTION 3.12 **ON SITE DRILLING.** No oil or natural gas drilling, oil or natural gas development activities, or oil refining, quarrying, or mining operations or any kind, or oil, natural gas or water wells, tanks, tunnels, minerals, excavations or shafts, or derricks or other structures for use in boring for oil, natural gas, minerals or water shall be placed, erected maintained or permitted on any Lot.

SECTION 3.13 **COMMERCIAL MOTOR VEHICLES, BOATS, TRAILERS, ETC.** No motor vehicle or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement or right-of-way, for a period of forty-eight hours (48) hours during a seventy-two hour period, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the ACC. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed six feet six inches (6'6") in height, or eight feet (8') in width, or twenty-four feet (24') in length; and (e) have no commercial advertising located thereon, may be parked in the street or driveway on a Lot. No vehicle may be repaired on a Lot in excess of forty-eight (48) consecutive hours, unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure. This Section 3.03 shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a Living Unit or other Improvement on a Lot. Owners or occupants of Lots may seek a temporary variance from this restriction for their guests; however, any such request for a variance must receive the prior approval of the Board of Directors of the Association.

SECTION 3.14 **WORKING HOURS.** Except in an emergency or when other unusual circumstances exist, outside work or noisy interior construction work shall be limited to the time period between 7:00 a.m. and 8:00 p.m.

SECTION 3.15 **ANTENNAS AND SATELLITE DISHES.** No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any Lot, which are visible from any street or another Lot, unless it is impossible to receive an acceptable quality signal from any other location. In that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal is possible. The Board of Directors may require painting

or screening of the receiving device, which painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes, which are larger than one (1) meter in diameter; (ii) broadcast antenna masts, which exceed the height of the center ridge of the roofline; or (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. Unless otherwise permitted by law negating the provisions of restrictive covenants to the contrary, no exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted, placed, allowed or maintained upon any Lot, which transmit television, radio, satellite or other signals of any kind. This section is intended to be in compliance with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time; this section shall be interpreted to be as restrictive as possible, while not violating the Act. The Board of Directors may promulgate guidelines, which further define, restrict or elaborate on the placement and screening of receiving devices and masts, provided such guidelines are in compliance with the Telecommunications Act.

SECTION 3.16 **STREET NUMBERS AND MAILBOXES.** House numbers, mailboxes, and name identification shall be harmonious with the overall character and aesthetics of the neighborhood. Each Lot shall have its street address marked in a manner that is legible from the street and in compliance with City of Houston ordinances.

SECTION 3.17 **SIGHT LINES.** No object, fence, wall, tree, hedge or planting shall be placed on any Lot in such a manner as to obstruct sight lines for vehicular traffic.

SECTION 3.18 **CULVERTS, BRIDGES, WALKWAYS AND DRAINAGE.** All exposed culverts for driveways, bridges, and walkways shall be enclosed by a headwall. Headwalls shall be constructed of concrete or masonry and extend fully to the ground surrounding the entire culvert end. No Improvements shall be placed or permitted to remain or other activity undertaken which may damage or interfere with established slope ratios, create erosion or slippage problems, or which may change the direction or flow of water. The slope controlled areas of each Lot and all Improvements in them shall be maintained by the Owner of the Lot (except for those Improvements for which a utility company is responsible) in such a manner as to comply with this Section so as not to cause harm or interference with the natural surface drainage of any adjoining Lots. Drainage structures under private driveways shall have a net drainage opening of sufficient size and in compliance with all governmental regulations, if any. Owners may use drainage ditches as a part of their yard, but the drainage ditch may not be obstructed in any way and must be maintained by the Owner.

SECTION 3.19 **SIGNS.** No sign of any kind shall be displayed to public view on any residential Lot, except one sign from each of the following categories, which shall not be more than six (6) square feet area used to: (a) advertise the Lot for sale or lease; (b) indicate traffic control or security services; (c) identify the builder or contractor while construction is in progress on such Lot; (d) promote a political candidate, party or issue for a thirty (30) day period starting no earlier than thirty (30) days prior to the date of the election or referendum and which must be removed no later than the day after the date of the election or referendum; or (e) local school spirit signs approved by the ACC. The Association shall also have the right to erect identifying signs at each entrance to the Subdivision.

SECTION 3.20 **LOT AND IMPROVEMENT MAINTENANCE.** The Owner of each Lot shall maintain the Lot, including trees, hedges, and plantings and all Improvements thereon in a neat, orderly, and attractive condition. Front and back lawns shall be mowed on a regular basis. Furthermore, the drying of clothes in public view from the street is prohibited. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any other, and the continuance of such default after ten (10) days written notice thereof, the Association or its agent, without liability to the Owner or occupants in trespass or otherwise, has the right (but not the obligation) to enter upon said Lot or cause to be cut, such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or to do any other thing necessary to secure compliance with this Section 3.20, so as to place said Lot and Improvements in a neat, orderly and attractive condition, and may render a statement or charge to the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof, which costs shall be the personal obligation of the Owner and be secured by the assessment lien in Section 4.01 of this Declaration.

SECTION 3.21 **INFRINGEMENT.** An Owner shall do no act or any work that will impair the structural soundness or integrity of another Lot or Improvement thereon, or impair any easement, or allow any condition to exist which will adversely affect other Lots, Improvements thereon, or their Owners.

ARTICLE IV
MEMBERSHIP IN ASSOCIATION AND
COVENANT FOR ASSESSMENTS

SECTION 4.01 **CREATION OF MEMBERSHIP IN ASSOCIATION, LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS.** The Owners of each Lot in the Subdivision shall be Members of the Association and each Lot shall be entitled to two votes in the Association. Each Lot in the Subdivision shall also be subject to annual assessments or charges and special assessments. Each Owner of any Lot is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges which shall be payable as hereinafter set forth, and (b) special assessments to be established and collected as hereinafter provided. Each such assessment, together with any penalties, interest, court costs and reasonable legal fees shall be the personal obligation of the person, persons or entity who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by such successors. Additionally, each Lot is hereby encumbered with an assessment lien securing the annual assessment and the special assessments, as well as all other costs or amounts owed the Association by the Owners of the Lot and interest, penalties, collection costs, court costs, and reasonable legal fees.

SECTION 4.02 **PURPOSE OF ASSESSMENTS.** The annual and special assessments levied by the Association shall be used to benefit all residents of said Subdivision and promote the property value of each Lot. Such uses and benefits to be provided by the Association may include, but are not limited to the following: collecting and disposing of garbage and refuse; mosquito control; courtesy patrol; caring of vacant Lots; maintenance of entrance ways and similar facilities serving the Property; costs of enforcing the restrictions, covenants and conditions provided for herein; business or other administrative costs of the Association; and doing any other thing or

things necessary or desirable which the Board of Directors of the Association deem appropriate to keep the Property neat and presentable. EACH RESIDENT OF THE SUBDIVISION, THEIR GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN PERSONAL SAFETY. IT SHALL NOT BE ONE OF THE PURPOSES OF THE ASSOCIATION TO PROVIDE SECURITY TO THE RESIDENTS OF THE SUBDIVISION OR THEIR GUESTS AND INVITEES. NEITHER THE ASSOCIATION, ITS BOARD, NOR ITS OFFICERS OR DIRECTORS SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE SUBDIVISION, NOR SHALL THEY BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR ALLEGED FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

SECTION 4.03 **DETERMINATION OF RATE OF ANNUAL ASSESSMENT.**

The rate of the annual assessment will be determined annually and may be adjusted from year to year by the Board of Directors, as the needs of the Association require, in the judgment of the Board of Directors. To determine such needs, the Board of Directors shall prepare an operating budget covering the estimated costs and expenses to operate the Association during the coming year. The annual assessment may not be increased by the Board of Directors more than five percent (5%) above the annual assessment for the previous year without the affirmative vote of two thirds ($\frac{2}{3}$ rds) of Owners who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 4.04 **ANNUAL ASSESSMENT DUE DATE.**

The annual assessment shall be billed to each Owner on an annual basis and payment is due quarterly: one-fourth payable on January 1; one-fourth payable on April 1; one-fourth payable on July 1; and one-fourth payable on October 1 of each year. This constitutes notice to each Owner of the due date when each quarterly payment is to be made. The Association shall, upon demand and for a reasonable charge, furnish a certificate setting forth whether the assessments on a specified Lot have been paid.

SECTION 4.05 **SPECIAL ASSESSMENTS.**

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only. Any such special assessment must have the approval of two-thirds ($\frac{2}{3}$ rds) of the Members of the Association present in person or by proxy at a meeting of the Members of the Association duly called for such purpose.

SECTION 4.06 **NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.03 AND 4.05:**

Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.03 or 4.05 shall be sent to all Members of the Association no less than fifteen (15) days nor more than fifty (50) days in advance of such meeting. At any such meeting called, the presence of Members of the Association, their proxies representing fifty one percent (51%) of the votes entitled to be cast, shall constitute a quorum.

SECTION 4.07 **EFFECT OF NON PAYMENT OF ASSESSMENTS AND COSTS.**

Any annual assessment, special assessment or cost charged to an Owner's assessment account not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the assessment lien created in this Article IV against the Lot, or take whatever other legal action is necessary to protect the rights of the Association and/or the remaining Owners. No Owner may waive or otherwise escape liability for

the assessments provided for herein by abandonment of his or her Lot. The Association shall further have the power to suspend the voting rights of any member who has not paid all sums due to the Association by the due date.

SECTION 4.08 **SUBORDINATION OF THE ASSESSMENT LIEN TO MORTGAGES.** The assessment lien created in this Article IV shall be subordinate to the lien of any first mortgage or deed of trust and any other liens filed prior to the date this Declaration is filed in the Official Public Records of Real Property of Harris County, Texas. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer, however, of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

SECTION 4.09 **INSURANCE.** The Board of Directors of the Association may obtain comprehensive public liability insurance and directors and officers liability insurance in such limits, as they deem desirable and customary for the effective operation of the Association. All costs, charges, and premiums for the insurance shall be a common expense of all Owners and be a part of the maintenance assessment.

ARTICLE V **GENERAL PROVISIONS**

SECTION 5.01 **BY-LAWS.** The Association may make whatever rules and By-Laws it shall deem desirable to govern the Association and its Members, provided, however, any conflict between such By-Laws and the provisions of this Declaration shall be controlled by the provisions of this Declaration.

SECTION 5.02 **ENFORCEMENT.** The Association, through its Board of Directors, or any Owner shall have the right to enforce, by a proceeding at law or in equity, these restrictions, conditions, covenants, reservations, assessments, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 5.03 **SEVERABILITY.** Invalidation of any one of these covenants, restrictions, or conditions by judgment or court order shall in no way affect any other provisions, which remains in full force and effect.

SECTION 5.04 **AMENDMENT.** The covenants, restrictions, and conditions of this Declaration shall be binding upon all Owners and Lots and all persons claiming thereunder for a period of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by not less than the Owners of fifty-one percent (51%) of the Lots. No amendment shall be effective until it is recorded.

SECTION 5.05 **NOTICE.** Any notice required to be sent to any Owner under the provision of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

SECTION 5.06 **BOOKS AND RECORDS OF THE ASSOCIATION.** Upon written request stating the purposes thereof, any Member of the Association or his or her duly appointed representative, shall be entitled to make a reasonable examination of the books and records of the Association at any reasonable time and for a proper purpose reasonably related to their interest as a member, at the office of the Association or at such other place as the Board of Directors shall prescribe. No Member shall remove any books and records from the possession of the Association for any reason, but a Member may request copies of books and records stating the specific books and records desired and a proper purpose for the request, provided such Member shall pay all reasonable cost of providing the requested copies prior to obtaining same. Notwithstanding the foregoing, no Member shall be entitled to examine and the Association shall have a privilege to refuse the disclosure of any confidential communications regarding (i) any communications by and between past or current legal counsel to the Association and the Board of Directors of the Association, or any agent, employee, representative or committee of either, (ii) any confidential communications as determined by the Board of Directors deemed to be in the best interests of the Association kept confidential, including without limitation, protection of the privacy rights of individual Members, competitive bids until a final bid is accepted, and matters where an obvious conflict of interest exists between a Member and the Association and disclosure would detrimentally affect the interest of the Association; and (iii) any communication privileged under the Texas Rules of Civil or Criminal Procedure, the Texas Rules of Civil or Criminal Evidence, and any other statute or law of the State of Texas.

SECTION 5.07 **EXISTING VIOLATIONS.** If there exists on the date this Declaration is filed of record any Living Unit, building, Improvement, or other structure which is not in violation of the Prior Restrictions, such Living Unit, building, Improvement, or other structure shall be deemed to be in compliance with this Declaration by all parties having the right hereunder to compel compliance. Provided, however, should any Living Unit, building, Improvement, or other structure or any part thereof that would, but for this exception, constitute a violation of this Declaration be destroyed or otherwise removed after the date this Declaration is filed of record, then any replacement thereof must be constructed in compliance with the terms of this Declaration. Any existing Living Unit, building, Improvement or other structure that has been declared to be in violation of the Prior Restrictions by the Association that has not been brought into compliance, shall be deemed to still be in violation of this Declaration.

SECTION 5.08 **FAILURE TO ENFORCE RESTRICTIONS.** The failure of the Association, ACC, the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, or any Resident (not an Owner), to enforce this Declaration or any portion thereof shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

IN WITNESS WHEREOF, the Owners of Lots listed in Exhibit "A", representing at least the majority of the Owners of Lots in the Subdivision consent to and approve this "Declaration of

Restated and Amended Restrictions for Gaywood, a Subdivision in Harris County, Texas” to take effect on the date this instrument is filed of record in the Official Public Records of Real Property of Harris County, Texas. The Association joins in the execution of this instrument to evidence its consent and approval of same.

DATED this 23^d day of April, 2002.

Attest:

GAYWOOD CIVIC CLUB

By: *Stephen J. Gross*
STEPHEN J. GROSS Secretary

By: *James D. Petrucci*
James D. Petrucci, President

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, a notary public, on this day personally appeared James D. Petrucci, President of Gaywood Civic Club known to me to be the person whose name is subscribed to the foregoing instrument and, being by me first duly sworn and declared that he/she executed same in the capacity and consideration therein expressed. Given under my hand and seal of office this 23^d day of April, 2002.

Michelle Stratton
NOTARY PUBLIC – STATE OF TEXAS



71829