

**MODIFIED RESTATED AND AMENDED
DECLARATION OF
RESTRICTIONS AND COVENANTS
GOVERNING PROPERTY AND LOTS
IN
WILCHESTER WEST AND WILCHESTER WEST, SECTION TWO (2)
ADDITIONS WITHIN THE CITY OF HOUSTON, HARRIS COUNTY, TEXAS**

THE STATE OF TEXAS

KNOW ALL MEN/WOMEN BY THESE PRESENTS:

COUNTY OF HARRIS

WHEREAS, by instruments respectively dated September 22, 1965, and August 15, 1966, recorded in Volume 6140, Page 471 et seq. and Volume 6482, Page 225 et seq. of the Deed Records of Harris County, Texas, and under Harris County Clerk's File Numbers C197035 and C363080, various restrictions and covenants ("Restrictions") were imposed upon all Lots within WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2), additions within the City of Houston, Harris County, Texas, according to the maps or plats thereof respectively recorded in Volume 132, Page 40 and Volume 144, Page 74 of the Map Records of Harris County, Texas; and

WHEREAS, the Restrictions provide that all of the restrictions and covenants set forth therein shall run with the land and with each and every property Owner purchasing or owning Lots in WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2) and shall be binding on all parties and all persons claiming under them until December 31, 1985, after which time the Restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument, executed by the then Owners of a majority of the Lots in said additions is filed for record changing the restrictions in whole or in part; and

WHEREAS, the Restrictions applicable to WILCHESTER WEST were amended by that certain instrument dated March 30, 1966, recorded in Volume 6318, Page 462 et seq. of the Deed Records of Harris County, Texas, and under Harris County Clerk's File Number C285268 (the Restrictions as amended still hereinafter referred to as "Restrictions"); and

WHEREAS, the undersigned, being the Owners of at least a majority of the Lots in both WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2) desire to alter and modify the Restrictions in accordance with the restrictions and covenants set forth hereafter; and

WHEREAS, any building, improvement or other structure built prior to the effective date of this Declaration shall be deemed to be in compliance with this Declaration;

NOW THEREFORE, the undersigned, being the Owners of at least a majority of the Lots in both WILCHESTER WEST and WILCHESTER WEST SECTION, TWO {2} do hereby adopt, establish and impose upon all of the Lots in WILCHESTER WEST and WILCHESTER WEST, SECTION TWO {2}, additions within the City of Houston, Harris County, Texas, according to the maps and plats stated above, the following restrictions and covenants, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property for the benefit of present and future Owners, which restrictions and covenants shall take the place of prior Restrictions for WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2), and which shall run with the land and shall be binding upon all parties having or acquiring any

right, title or interest in any of the subject properties and shall inure to the benefit of each Owner thereof.

ARTICLE I. DEFINITIONS

1.01 "Architectoral Control Committee" or "**ACC**" shall mean and refer to the committee established pursuant to Article V of this Declaration.

1.02 "Corporation" shall mean and refer to WILCHESTER WEST FUND, INC., a Texas non-profit corporation, and its successors and assigns.

1.03 "Declaration" shall mean and refer to this "Restated and Amended Declaration of Restrictions and Covenants Governing Property and Lots in WILCHESTER WEST AND WILCHESTER WEST, SECTION TWO (2) additions within the City of Houston, Harris County, Texas."

1.04 "Lot" shall mean and refer to any numbered lot or plot of land shown in the recorded plats for WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2).

1.05 "Owner" shall mean and refer to the owner of record, whether one or persons or entities, of the fee simple title to any Lot which *is* a part of the Property, including contract sellers, but excluding those having such interest merely as security for performance of an obligation.

1.06 "Property" shall mean and refer to that real property shown in the recorded plats for WILCHESTER WEST and WILCHESTER WEST, SECTION TWO (2), excluding those areas denoted as unrestricted reserves.

ARTICLE II. WILCHESTER WEST FUND, INC.

2.01 Purpose. WILCHESTER WEST FUND, INC., a Texas corporation, shall be a non-stock, non-profit corporation, with principal purposes of: collection and expenditure of annual maintenance charges and management of the financial affairs of the Corporation; enforcement of all provisions of this Declaration; payment of an Annual Member Fee to Wilchester Club, a Texas non-profit corporation ("Wilchester Club") on behalf of all Members of the Corporation and the general and overall supervision of all the affairs and the well being of the Property, not connected with the operation of any of its utilities, nor the construction of any of its streets, utilities, residences, nor the sale of the property within the Property.

The Corporation shall act through a Board of Trustees which shall manage the affairs of the Corporation and the Property as specified in this Declaration and in the Articles of Incorporation and the By-Laws of the Corporation as same may be amended.

2.02 Membership. Each record Lot Owner of each Lot within the Property shall have one (1) vote or membership in the Corporation, which vote or membership shall automatically pass with the title to the Lot. The vote of any Lot owned in common by two (2) or more persons may be cast by any one (1) of the common owners as they shall designate. The vote of any Lot owned

by a corporation or other business entity may be cast by anyone (1) representative so authorized in writing by the officers of that corporation or other business entity.

ARTICLE III. USE RESTRICTIONS

3.01 Air Conditioning Units. No window, wall, or exterior roof mounted type air conditioners shall be permitted if visible from any street.

3.02 Animals & Pets. No animals, livestock or poultry, of any kind, shall be raised, bred, or kept on any Lot, except that common household pets may be kept provided the other applicable provisions of this Declaration are not violated.

3.03 Antennas & Satellite Dishes. A roof mounted VHF and/or UHF television antenna is permitted provided: (a) it is placed on a portion of the roof of the residence which does not face a street; (b) it is securely anchored and fastened; and (c) it does not extend more than five feet (5') above the peak of the roof of the residence to which attached. Satellite dish antennas are permitted but cannot extend so as to be visible from any street or from ground elevation from any other Lot. All other antennas whether for transmission or reception are permitted only with prior written approval of the ACC.

3.04 Boats, Mobile Homes, & Trailers. No boats, mobile homes, trailers, recreational vehicles, marine craft, campers, camper rigs off of trucks, machinery or equipment, of any kind, may be parked or stored on the residential street in front of any Lot, or on any part of any Lot, unless such object: (a) is inside a garage, fence, or other enclosure approved in writing by the ACC; (b) is behind the front building line of the residence; and (c) is not more than eight feet (8') in height. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked for use in the construction, repair or maintenance of improvements on a Lot.

3.05 Building Materials On Lots. No Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. Building materials may remain on such Lot for a reasonable time, so long as the construction progresses without undue delay. Upon completion of construction, such materials shall be removed from the Lot within one (1) week.

3.06 Drainage & Septic Systems. Nothing shall be done on any Lot which may obstruct or rechannel the existing drainage flows that affect adjoining Lots without the written approval of the ACC. No septic tank, private water well or similar private sewage or water systems shall be permitted on any Lot.

3.07 Easements. Easements affecting all Lots within the Property are reserved, as shown on the official recorded plats, for the installation and maintenance of utilities and drainage facilities, and in addition to the easements shown on said plats, there is hereby designated and dedicated for public use of all public utilities, an unobstructed aerial easement five feet (5') wide from a plane twenty feet (20') above the ground, upward, located vertically contiguous to said easement as shown on said plats.

The right of entry to any easement or street for the purpose of building, maintaining, or repairing utility lines is expressly reserved and no public utility shall be liable for damage to any plant, structure or building situated on such easement or street area, because of such construction, maintenance or repair.

Title to any Lot or fractional portion thereof shall not include title to any utility lines, in, under, or on, any easement or street.

3.08 Garage Sales. No garage sale, moving sale, rummage sale or similar activity may be conducted within the Property.

3.09 Garbage Cans & Disposal of Trash. All garbage cans, mechanical equipment, woodpiles, yard equipment and other similar items shall be located or screened so as to be concealed from view of neighboring Lots. All rubbish, trash, and garbage shall be stored in containers as specified by the Corporation's then current waste contract as approved by the Board of Trustees of the Corporation and shall be regularly removed and shall not be allowed to accumulate thereon. Recycling bins are excepted on the day of collection and shall be moved so as to be concealed from view of neighboring Lots no later than the day after the day of collection.

3.10 Leases/Rentals. No Lot shall be leased/rented other than as a single family residence. No Owner may lease/rent less than an entire Lot and attendant use of the residence and improvements thereon.

3.11 Nuisances and Unsightly or Unkempt Conditions. No noxious or offensive activity or condition of any sort shall be permitted to exist nor shall be done on any Lot which may become an annoyance or a nuisance to the neighborhood. The Board of Trustees of the Corporation shall determine what constitutes an annoyance or nuisance to the neighborhood. without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, of a noxious or offensive sound level, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his/her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that causes such Lot to be in an unclean or untidy condition, or that is obnoxious to the eye. No hobbies or activities which cause disorderly, unsightly, or unkempt conditions shall be performed within the Property. No substance, thing, or material shall be kept upon any Lot that emits dangerous, foul or obnoxious odors, or that causes noise or other conditions that disturb the peace, quiet, safety, comfort, or serenity of the Owners of the surrounding Lots. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Property.

Grass and weeds shall be kept mowed to prevent unsightly appearances. Dead, diseased, or damaged trees which might create a hazard to property or persons on the Lot on which located or any adjacent Lots shall be promptly removed or repaired.

3.12 Oil and Mineral Operations. No drilling, development operations, refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil wells, tanks,

tunnels, mineral excavation or shafts be permitted on any Lot. No derrick or other structure designed for the drilling of oil or natural gas shall be permitted on any Lot.

3.13 Parking & Prohibited Vehicles. No vehicle of any kind may be parked or stored on any part of any Lot, easement or right-of-way unless such vehicle is concealed from public view inside a garage or other 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; and (c) which do not exceed seven feet (7') in height, or eight feet (8') in width, or twenty feet (20') in length are excepted herefrom. No vehicle shall be parked on the grass or lawn of a Lot. No vehicle may be repaired, assembled, disassembled or otherwise worked upon on a Lot in excess of twenty-four (24) hours during any consecutive seven (7) day period, unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure.

3.14 Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed in front of the back line of any residence located on any Lot and shall not extend more than eight feet (8') in height, unless approved in writing by the ACC.

3.15 Pools. No above-ground swimming pools shall be erected, constructed or installed on any Lot. This does not include decks, spas and hot tubs, and/or children's plastic pools of less than ten feet (10') in diameter.

3.16 Repair of Buildings. No residential dwelling or other building or structure upon any Lot shall be permitted to fall into disrepair, and each such residential dwelling, building, or structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner at the Owner's sole cost and expense. The determination that a residential dwelling or other building or structure has fallen into disrepair and requires repairs and/or maintenance by the Owner and the specification of the period of time that the Owner has to effectuate such repairs and/or maintenance shall be made by the Board of Trustees.

3.17 Signs. No sign of any kind shall be displayed to public view on any residential Lot, except a sign(s) of not more than five (5) square feet area, which is used to: (a) advertise the property 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; or (d) promote a political candidate, party or issue for a two (2) week period starting no earlier than two {2 weeks prior to the date of the election or referendum.

3.18 Street Lighting. Street lighting shall by individual gaslights located near the center of the street side of the front lawn of each Lot; in addition, each corner Lot shall also have an individual gaslight located near the street side of its side lawn. Such street lights shall be kept burning during all hours of darkness by the Owner of each Lot.

3.19 Traffic Sight Areas. No fence, wall, hedge, tree, shrub planting or any other thing or device higher than two feet (2') above the ground which obstructs the view of cross traffic shall be allowed on any corner Lot.

3.20 Walls or Fences. No fences or walls shall be erected or maintained in front of the front building line, or side building line in the case of a corner Lot, of the residence on any Lot. No side or rear fences or walls shall be more than eight feet (8'), unless approved in writing by the ACC. Owners of Lots backing or siding on Memorial Drive shall not construct or otherwise

erect fences or walls on that portion of said Lots backing or siding Memorial Drive, in excess of the height of the then existing wall. Chain link fencing is prohibited, unless approved in writing by the ACC.

ARTICLE IV. RESIDENTIAL USE AND ARCHITECTURAL RESTRICTIONS

4.01 Single Family Residential Use. All Lots within the Property shall be and are hereby designated to be used for single family residential use only, except that an Owner may use his/her residence as a personal office for a profession or occupation, provided: (a) the general public is not invited, permitted, or allowed to enter any structure or dwelling upon such Lot and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise and/or odor are permitted as covered in Section 3.11; and (e) such use in all respects complies with the laws of the State of Texas, the ordinances of the City of Houston, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters.

Reserves "A", "B", "C", "D", and "E" of WILCHESTER WEST are hereby designated to be unrestricted tracts to be used for any purpose. Reserve F of WILCHESTER WEST may be used for any lawful purpose including, but not limited to, office buildings for professional offices or other high-class commercial use including banks and savings and loan companies, provided, however, that no portion of said Reserve F shall ever be used for any of the following purposes: veterinary hospital, abattoir, slaughter house, manufacturing plant, junk yard or automotive service station or other purpose which is notoriously known in advance to create or emit dangerous, foul or obnoxious odors, vapors or noises which could constitute a public nuisance to the surrounding area.

4.02 Residence and Garage. No building shall be erected, altered, placed, or permitted to remain on any Lot for use as a residence other than one (1) detached single family dwelling, together with an operable garage with a capacity of a least two (2) cars. This restriction shall not prevent the inclusion of servants quarters in connection with an operable garage, for the use of bona-fide servants domiciled with an Owner or tenant.

Residences may be one (1) story, but shall not exceed two (2) stories in height. The ground floor area of the main structure of a one (1) story residence, exclusive of porches, garages, semi-finished storage rooms, and servants quarters, shall contain not less than two thousand (2,000) square feet. The ground floor area of the main structure of one and one-half (1 1/2) or two (2) story residences, exclusive of porches, garages, semi-finished storage rooms, and servants quarters, shall contain not less than thirteen hundred (1,300) square feet. The total finished area of one and one-half (1 1/2) and two (2) story residences shall not be less than two thousand three hundred (2,300) square feet.

4.03 Type Of Construction. All residences constructed on Lots shall be constructed on concrete slabs. Exterior walls of residences shall be constructed with at least fifty-one percent (51%) masonry or brick veneer. In computing this percentage, wall masonry below the sill line of windows, or below the midpoint of the wall, shall be considered twenty-five percent (25%) masonry. Door or window openings shall be considered to be built of the material which encloses them. If a garage is attached or semi-attached to a residence, the perimeter of the

residence shall be computed as if the garage did not exist. Roofs of residences and garages shall have a minimum pitch of four inches (4") to twelve inches (12") except for a roof covering some small area such as a small covered patio, or a small dormer.

Walls and roofs of garages, carports, and porte-cocheres, on the end of a residence, shall be constructed of the same material which is used on the walls and roofs of the residence, except that in the event that the proportion of brick and masonry on the walls of the residence below the bottom of the eave fascia trim board is a minimum of eighty-five per cent (85%), then the walls of the garage or carport may be constructed of cedar shakes; board and batten, vertical V-joint boards, or horizontal square edge lapped siding. Driveways shall be constructed with a minimum width of nine feet (9'), with one inch (1") expansion joints not more than twenty feet (20') apart, with one joint at the back of the street curb. The street curb shall be broken in such a manner that the driveway may be at least four inches (4") thick at its end toward the street paving, and this extreme end shall be poured against a horizontal form board to reduce the unsightly appearance of a raveling driveway. Walks from the street curb to the residence shall have a minimum width of four feet (4').

4.04 Location of Residence and Garage. No residence shall be placed or maintained on any Lot nearer to the street than the front or side street building set-back lines shown on the recorded plats. No residence shall be placed or maintained nearer to an interior side Lot line than three feet (3'). For the purpose of these restrictions, eaves, steps, unroofed porches, and roof overhangs, shall not be considered in this measurement; however, no portion of any building on one building site may encroach on another building site. No residence shall be placed or maintained on a Lot or building site, with a frontage of less than the smallest Lot shown on the recorded plats but a Lot shown on the recorded plats may be added to a portion of an adjoining Lot to create a building site.

No garage shall be placed or maintained on any Lot or building site nearer than two feet (2') to the side Lot or building site line, or nearer to a side street than the minimum building set-back line. No garage shall be placed or maintained on any side or rear easement. No garage on any Lot or building site shall be placed or maintained which faces the street, unless the front of the garage is at least thirty-five feet (35') back of the front of the house, except by special written permission from the ACC. When located thus, the garage may be attached or detached. No porte-cochere on the end of a residence shall be placed or maintained nearer to a street than the minimum building set-back line. No porte-cochere shall be placed or maintained in any lot or building site which does not have an operable double garage. For the purpose of these restrictions, carports shall be considered as garages and shall meet all the requirements for garages, including location, materials, and construction; provided, however, all Lots upon which a residence has been constructed must also have an operable garage capable of housing two (2) or more vehicles.

4.05 Structures Other Than Residence and Garage. Except for the residence and garage specified above, no structure of a permanent or temporary character, whether a trailer, tent, shack, garage, barn or other building shall be erected or maintained on any Lot for any period of time or for any purpose without the prior written approval of the ACC. Provided, however, (a) one (1) children's playhouse or playground equipment as defined in Section 3.14, which shall not extend more than eight feet (8') in height, unless approved in writing by the ACC, and/or (b) one (1) lawn storage building are permitted so long as they (i) are not forward of the

rear building line of the residence; (ii) are not closer than three feet (3') from the rear or side Lot fences; and c) conform to the provisions of Article V.

ARTICLE V. ARCHITECTURAL CONTROL COMMITTEE

5.01 Membership. The ACC shall be composed of members of the Board of Trustees of such number, composition, and voting requirements as agreed by a majority of the Board members. In the event of death or resignation of any person serving on the ACC, the Board of Trustees shall designate a successor who shall have all of the authority and power of his/her predecessor. Until such successor member of the ACC shall have been appointed, the remaining member or members shall have full authority to exercise the powers of the ACC.

The ACC may employ one (1) or more architects, engineers, attorneys or other consultants, as approved by the Board of Trustees, to advise and assist the ACC in carrying out its duties hereunder, and the Corporation shall pay such consultant(s) for their services rendered to the ACC. Members of the ACC shall not be entitled to any compensation for services performed pursuant to this covenant.

5.02 Approval of Building Plans. No building, structure, or other improvement, whether permanent or temporary, shall be commenced, constructed, erected, placed, modified, altered or improved on any Lot until the construction plans and specifications including a plot plan showing the location of the proposed building, structure, modification, alteration, or other improvement has been approved in writing by the ACC as to: the harmony of the exterior design and color with existing structures; the location with respect to the topography and finished ground elevation; and as to compliance with any minimum architectural guidelines adopted by the ACC. A copy of the construction plans and specifications and a plot plan, together with such information as may be deemed pertinent, shall be submitted to the ACC or its designated consultant(s) prior to commencement of construction.

Approval by the ACC shall be final and shall not be revoked or rescinded thereafter. In the event of disapproval by the ACC, the construction plans and specifications may be resubmitted to the Board of Trustees for review at the next regularly scheduled meeting of the Trustees. An affirmative vote at such meeting by a majority of the Board of Trustees shall be required for approval. The decision of the Board of Trustees shall be final and conclusive.

In the event that the construction plans and specifications are submitted to the ACC and the ACC fails to either approve or disapprove such plans and specifications in writing within thirty (30) days from the time of submission, then such plans and specifications shall be deemed to have been approved and the requirements of this Article shall be deemed to have been fully complied with.

5.03 Minimum Construction Guidelines. The ACC may, from time to time, promulgate, modify and delete such reasonable architectural guidelines as it shall deem appropriate to govern its areas of responsibility. Such authority shall include, but shall not be limited to, the right to specify: (a) specific procedural guidelines for submission of requests for, and plans, specifications and other information necessary to obtain ACC approval; and (b) in general, all minimum requirements reasonably deemed necessary to maximize compliance with provisions of this Declaration and ACC review criteria.

5.04 No waiver of Future Approvals. Approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

5.05 Variances. The ACC may authorize variances from compliance with any of its guidelines and procedures or from these restrictions relating to buildings, structures and improvements when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance: (a) shall be effective unless in writing; or (b) shall stop the ACC from denying a variance in other circumstances.

5.06 No Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ACC shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Corporation, the Board of Trustees, any committee, or member of the ACC shall be held liable (a) for any injury, damages, or loss arising out of the manner or quality of approved construction or (b) for any action or failure to act in connection with any approval or disapproval of any request for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance or nonfeasance.

5.07 Grandfather Clause. Any building, improvement or other structure built prior to the effective date of this Declaration shall be deemed to be *in* compliance with this Declaration.

ARTICLE VI. ANNUAL MAINTENANCE CHARGES AND SPECIAL ASSESSME

6.01 Annual Maintenance Charges. Each Lot within the Property shall be subjected to and obligated to pay an annual maintenance charge which shall be the personal obligation of the Owner of the Lot at the time the charge falls due. The annual maintenance charge, together with any interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien on the property. Such lien shall also mean and refer to that certain "vendor's lien" specified in Paragraph 26 of the Restrictions; provided, however, the provisions regarding the continuing lien contained in this Declaration shall control in the event of any inconsistencies with provisions for the vendor's lien in the Restrictions.

Purpose. Annual maintenance charges shall be used to promote the health, safety, welfare and common benefit of the residents in the Property. Purposes for which funds from such charges may be used shall include, but not be limited to, (a) garbage and rubbish pick-up; (b) recycling; (c) police and/or security services; (d) accounting and bookkeeping charges and expenses, including such audits as the Board of Trustees deems advisable; (e) insurance; (f) maintenance of vacant lots; (g) fogging for insect control; (h) enforcement of these restrictions and covenants; (i) paying an Annual Member Fee to the Wilchester Club on behalf of all Members of the Corporation; and (j) other things necessary or desirable, in the opinion of the Corporation, to maintain or improve the Property or which is considered of benefit to the Owners and/or residents of the Property, including establishment and management of a maintenance fund

reserve for expenses specified herein. Use of funds from annual maintenance charges for any of these and other purposes is permissive and not mandatory and the judgment of the Corporation in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith. Provided, however, the payment of the Annual Member Fee to the Wilchester Club is mandatory by virtue of the agreement between the Wilchester Club and the Corporation. In consideration of the payment of the Annual Member Fee to the Wilchester Club, every member of the Corporation is also a member of the Wilchester Club.

Determination of Rate. The rate at which each Lot shall be subjected will be determined annually, and may be adjusted from year-to-year, by the Board of Trustees as the needs of the Property and the Corporation require, in the judgment of the Board of Trustees. To determine such needs, the Board of Trustees shall prepare an operating budget covering the estimated costs and expenses to operate the Corporation during the coming year and, once prepared, shall calculate an annual maintenance charge per Lot, subject to the following:

The annual maintenance charge for calendar year 2001 shall be four hundred seventy dollars and no cents (\$470.00) per Lot per year, representing three hundred ten dollars (\$310.00) for the 2000 annual maintenance charge, plus an additional one hundred sixty dollars (\$160.00). From and after calendar year 2001, the annual maintenance charge may be increased by the Board of Trustees each year by not more than ten percent (10%) above the annual maintenance charge for the previous year without the affirmative vote of a majority of the Owners represented in person or by proxy at a duly called meeting of the membership.

Due Date. Annual maintenance charges shall be due and payable to the Corporation, bi-annually, in advance, one-half (1/2) on the first day (1st) of each January and one-half (1/2) on the first day (1st) of each July.

6.02 Special Assessments. In addition to the annual maintenance charge authorized herein, the Corporation may levy special assessments from time to time provided the assessments receive the affirmative vote of a majority of the Owners represented in person or by proxy at a duly called special meeting of the membership. By virtue of this Petition and in lieu of a special meeting of the membership, a special assessment in the amount of one hundred sixty dollars and no cents (\$160.00) is hereby approved, which special assessment (despite anything to the contrary under "Due Date" below) shall be due and payable thirty (30) days after the effective date of this Petition. Approved special assessments, together with any interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien on the property.

Purpose. Special assessments shall be used exclusively to defray, in whole or in part, any expenses not anticipated by the operating budget then in effect, or to replace part or all of the maintenance fund reserve.

Due Date. Special assessments shall be due and payable to the Corporation on the date(s) specified by the Board of Trustees.

6.03 Enforcement of Charges and Special Assessment. Any annual maintenance charge or approved special assessment which is not paid within thirty (30) days of its specified due date shall be deemed delinquent, and without notice, shall bear interest at the rate of the lesser of twelve percent (12%) per annum, or the maximum rate allowed by Texas law, from the date originally due until paid. The collection of such charges and/or assessments and other sums due

hereunder may be enforced by suit for a money judgment and/or foreclosure of the continuing lien and in the event of such suit, the expense incurred in collecting the delinquent amount(s), including interest, costs and reasonable attorney fees shall be chargeable to and be the personal obligation of the defaulting Owner.

6.04 Primary Lien. In order to encourage the granting of first mortgages on property in the Property, before the Corporation may proceed to enforce its prior lien, granted and reserved under these restrictions and covenants, upon any property upon which there is outstanding a valid first mortgage lien, it shall be necessary that a sixty (60) day notice be sent to the nearest office of such first mortgage lien holder by certified mail of such intent, which notice may be a statement of the charges and/or assessments delinquent, together with the notation "Final sixty (60) day notification to proceed to collect maintenance fund and/or special assessment lien." Upon request by any first lien mortgage holder, or proposed holder, the Corporation shall furnish, for the mortgage holder's file, an executed form relating the provisions of this Article VI to the applicable individual Lot.

ARTICLE VII. INDEMNIFICATION AND INSURANCE

7.01 Indemnification of Officers and Trustees. The Corporation shall indemnify each officer and Trustee of the Corporation to the fullest extent permitted by Article 1396-2.22A of the Revised Civil Statutes of the State of Texas, as the same may be amended from time to time.

7.02 Insurance. The Board of Trustees shall have the authority to determine whether or not to obtain insurance for the Corporation and, if insurance is obtained, the amounts thereof.

ARTICLE VIII. GENERAL PROVISIONS

8.01 Term. These restrictions and covenants shall run with the land and shall be binding upon all parties and all persons claiming under them until December 31, 2002, after which time, said restrictions shall be automatically extended for successive periods of ten (10) years each unless at any time an instrument, executed by the then Owners of a majority of the Lots within the Property, has been filed for record agreeing to change these restrictions in whole or in part.

8.02 Enforcement. If any Owner or tenant shall violate or attempt to violate any of the restrictions and covenants herein, it shall be lawful for the Corporation or any Lot Owner to prosecute any proceedings, at law or in equity, against the violator or attempted violator and to either prevent him/her or them from the violation, or to recover damages or other dues for such violation. Failure by the Corporation or any Owner to enforce any covenant, condition or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Violation of any restrictions and covenants set forth herein shall give the Corporation the right of entry to remove or abate such violation without committing a trespass, tort, or otherwise, and to charge the expense back to the Lot of the violator, plus fifty per cent (50%) for overhead and supervision, plus interest at the rate of the lesser of twelve percent (12%) per annum, or the maximum rate allowed by Texas law, from the date originally due until paid. This charge will constitute a lien retained against such property with the same force and effect as the lien for

annual maintenance charges and for special assessments contained in Article VI of this Declaration.

It shall be required that at least five (5) of the seven (7) Trustees of the Corporation approve the enforcement of any covenant, condition or restriction herein before any permitted action is taken.

8.03 Severability. The invalidity, abandonment or waiver of anyone of these restrictions and covenants shall in no way effect or impair the other restrictions and covenants which shall remain in full force and effect.

8.04 Effective Date. This Declaration shall become effective upon recording.

IN WITNESS WHEREOF, the undersigned, representing the Owners of at least a majority of the Lots within both Wilchester West and Wilchester West, section Two (2), for the purpose of acknowledging their consent and approval to the amendment of the Restrictions and the contents of this Declaration have executed this instrument to effective upon the date of filing in the Official public Records of Real Property of Harris County, Texas.

Please Note: The signatures, all duly notarized, of all approving homeowners have been excluded from this copy furnished for your files, due to the numerous pages involved. You may view the entire document at the office of Wilchester West Fund, Inc.'s agent of record, Butler, Ewalt & Hailey, Attorneys At Law, 5718 Westheimer, Suite 1600, Houston, Texas 77057-5794, Telephone 713/7804135.

This is a transcribed copy by Forbes Alcott based on the *Restated and Amended Declaration of Restrictions and Covenants Governing Property and Lots in Wilchester West and Wilchester West, Section Two (2) Additions within the City of Houston, Harris County, Texas* (filed on February 18, 1993, file number 120-42-2257) and the *Petition Modifying Restated and Amended Declaration of Restrictions and Covenants Governing Property and Lots in Wilchester West and Wilchester West Section Two (2) Additions within the City of Houston, Harris County, Texas* (filed April 6, 2000, file 531-62-1150).