

COVENANTS, CONDITIONS AND RESTRICTIONS
SUNDOWN GLEN, SECTION TWO (2)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS DECLARATION made on this day by GEORGE WIMPEY OF TEXAS, INC., a Texas corporation, acting herein by and through its duly authorized officers, hereinafter referred to as "Declarant":

W I T N E S S E T H:

WHEREAS, Declarant is the owner of all of that certain 46.369 acre tract of land situated in Harris County, Texas, which has been platted and subdivided in SUNDOWN GLEN, SECTION TWO (2), according to the plat recorded in Volume 328, Page 64, Map Records of Harris County, Texas; and

NOW, THEREFORE, Declarant hereby declares that all of the Lots in SUNDOWN GLEN, SECTION TWO (2), subdivision shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall constitute covenants running with the said real property, shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof and does hereby amend and restate the Declaration of Covenants, Conditions

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to: (a) that certain real property first hereinabove described, and (b) such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of property designated hereon as "Reserves" or "Common Area", if any and building sites for the construction on one single family residence structure resulting from consolidation or resubdivisions pursuant hereto.

Section 5. "Common Area" shall mean all real property together with the improvements thereon owned by the Association for the common use and benefit of the Owners.

Section 6. "Declarant" shall mean and refer to not only GEORGE WIMPEY OF TEXAS, INC., but also to such of its successors or assigns (whether immediate or remote), as successor developer

Lot other than one single-family residential dwelling not to exceed two and one-half (2-1/2) stories in height, which may have a private garage or carport for not more than three (3) cars and bona fide servants' quarters which structures shall not exceed the main dwelling in height and which structure may be occupied only by a member of the family occupying the main residence on the building site or by domestic servants employed on the premises and no room(s) in the dwelling and no space in any other structure shall be let or rented. This shall not preclude the main residential structure from being leased or rented in its entirety as a single residence to one family or person.

Section 2. Architectural Control. No buildings or improvements of any character shall be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved in writing by the Architectural Control Committee, or its duly authorized representative, as to compliance with these restrictions, quality of material, harmony of external design with existing and proposed structures and as to location with

for any act or omission in performing or purporting to perform the functions delegated hereunder. In the event the Committee fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. Declarant hereby retains its rights to assign the duties, powers, and responsibilities of the Architectural Control Committee to SUNDOWN GLEN COMMUNITY ASSOCIATION, INC., when one hundred percent (100%) of all Lots in SUNDOWN GLEN, SECTION TWO (2), and all subsequent sections of SUNDOWN are occupied by residents, and the term "Architectural Control Committee" herein shall include the Association, as such assignee. The approval or lack of disapproval by the Architectural Control Committee shall not be deemed to constitute any warranty or representation by such Committee including, without limitation, any warranty relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Any thing contained in this Paragraph 2 or elsewhere in this Declaration to the contrary notwithstanding the Architectural Control Committee, and its duly authorized representative, is hereby authorized and

The Architectural Control Committee may require the submission to it of such documents and items (including as examples, but without limitation, written request for and description of the variances requested, plans, specifications, lot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved out building), and signed by a majority of the then members of the Architectural Control Committee (or by the committee's duly authorized

the discretion of the Architectural Control Committee, or if it shall have succeeded to the authority of the Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Declaration.

Section 3. Minimum Square Footage Within Improvements. The living area on the ground floor of the main residential structure (exclusive of porches and garages) shall be not less than Eight Hundred (800) square feet.

Section 4. Location of the Improvements Upon the Lot.

A. "Standard Placement" No building or other improvements shall be located on any Lot nearer to the front Lot line or nearer to the street sideline than the minimum building setback line shown on the recorded plat. No building shall be located on any lot nearer than ten (10) feet to any side street line. Subject to Paragraph B of this Section, no building shall be located nearer than six (6) feet to any interior Lot line, except that a garage or other permitted accessory building located sixty (60) feet or more from the front Lot line may be located within three (3) feet of an interior Lot line. This distance shall be measured (to the nearest foot) along the front setback line shown on the recorded plat. For the purposes of this covenant or

street. To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot shall not be less than six (6) feet from the dwelling or appurtenant structure on any contiguous Lot(s). No windows, doors or other openings may be placed in the wall built on or parallel to the zero setback line unless the wall is a minimum of three (3) feet from the zero setback line except that the walls on the zero setback line may have openings if such wall faces unto a reserve or easement.

The side wall of the dwelling or appurtenant structure built on the zero setback line shall be constructed using permanent low-maintenance material consisting of masonry with brick-face exterior or similar material as approved by the Architectural Control Committee. The Owner of any adjacent Lot shall not attach anything to a side wall or fence located upon the zero setback line; nor shall the Owner of any adjacent Lot alter in any manner, i.e. structure, color, material or otherwise, a side wall or fence located upon the zero setback line without the (i) written approval of the Architectural Control Committee and (ii) written consent of the adjoining Lot Owners.

C. "Zero Lot Line - Attached". Upon prior written approval

needs to be accomplished shall prepare a written description and cost of the work to be accomplished to the Architectural Control Committee. The Architectural Control Committee shall rule on the need for accomplishing the work and shall set the time frame to accomplish the work if the work is required. Their ruling shall be binding upon both owners. In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvement situated thereon in a manner satisfactory to the Board of Directors of the Association after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, within sixty (60) days of the written notification to said owner, through the Association's agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Each wall and roof which is built as a part of the original construction of the zero Lot line attached building upon the Properties and placed on the dividing line between the Lots shall constitute a common wall and roof, and, to the extent not inconsistent with the provisions of this Article, the general

owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. In addition, for attached zero Lot line buildings, the total exterior of both properties must be completely restored to their original condition before the destruction that resulted from fire or other casualty. Weatherproofing. Notwithstanding any other provisions of this Article, an owner who, by his negligence or willful act, causes the common wall or roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Section shall be appurtenant to the land and shall pass to such owner's successors in title. Arbitration. In the event of any dispute arising concerning a common wall or roof, or under the provisions of this Section, the Architectural Control Committee, as set forth under Article IV herein, shall have full and complete authority in handling said dispute and the decision of the Architectural Control Committee shall be final. The decision of the Architectural Control Committee must be rendered on or before sixty (60) days following written notification to the

Section 5. A. Composite Building Site. Any Owner of one or adjoining Lots (or portions thereof) may consolidate such Lots or portions into one single-family residence building site, with the privilege of placing or constructing improvements on such site, in which case setback lines shall be measured from the resulting side property lines rather than from the Lot lines shown on the recorded plat and such site shall be considered a "Lot" for all purposes hereof. Any such proposed composite building site(s) must be approved by the Architectural Control Committee.

B. Resubdivision of Lots. No Lot shall be resubdivided, nor shall any building be erected or placed on any such resubdivided Lot, unless each building site ("Lot") resulting from such resubdivision shall have a minimum width of not less than forty (40) feet at the front building line; provided, however, that nothing contained herein shall be construed to prohibit the resubdivision of any Lot or Lots within the Properties by the Owner thereof prior to construction of residence(s) thereon if such resubdivision results in each resubdivided Lot or building site having the minimum Lot width aforesaid. Any such resubdivision must be approved by the

damage done by either of them or their assigns, their agents, employees or servants to shrubbery, trees, flowers or improvements of the owner located on the land within or affected by said easements.

Further, as to Lots and the Common Area adjoining lots with improvements situated on the zero setback line shall be subject to a three (3) foot access easement for the construction, repair and maintenance of improvements are located upon any adjacent Lot where said improvements are located on the "zero setback line" of the adjacent Lot. The zero setback line owner must replace any fencing, landscaping or other items on the adjoining Lot that he may disturb during such construction, repair or maintenance. Additionally, this easement, when used, must be left clean and unobstructed unless the easement is actively being utilized and any items removed must be replaced. Except in the event of an emergency, the zero setback line owner must notify the Owner of the adjacent Lot of his intent to do any construction or maintenance upon the zero setback line wall at least twenty-four (24) hours before any work is started, with the hours that such access easement may be utilized being restricted to between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and 9:00

any Lot at any time as a residence. Portable buildings used for accessory or storage purposes shall be limited to not more than eight (8) feet in height and one hundred twenty (120) square feet of floor space and shall be subject to approval of the Architectural Control Committee. Temporary structures may be used as building offices and for related purposes during the construction period. Such structures shall be inconspicuous and sightly and shall be removed immediately after completion of construction and shall be subject to approval of the Architectural Control Committee.

Section 9. Storage of Automobiles, Boats, Trailers and

Other Vehicles. No boat trailers, boats, travel trailers, inoperative automobiles, campers, or vehicles of any kind shall be parked or stored in the public street right-of-way or forward of the front building line. Storage of such items and vehicles must be screened from public view, either within the garage or behind a fence which encloses the rear of the Lot.

No commercial trucks, vans or trailers shall be parked on driveways or in streets within the Properties for periods of time exceeding twelve (12) hours, nor more than twenty-four (24) hours in any calendar week.

parallel to the side street. No side or rear fence, wall or hedge shall be more than six (6) feet in height. No chain link fence type construction will be permitted on any Lot. Any wall, fence or hedge erected on a Lot by Declarant or its assigns, shall pass ownership with title to the Lot and it shall be owner's responsibility to maintain said wall, fence or hedge thereafter.

Section 13. Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the surface of the streets within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points twenty-five (25) feet from the junction of the street curb lines shall be placed, planted or permitted to remain on any corner Lots.

Section 14. Lot Maintenance. The Owner or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of material and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of

the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof.

Section 15. Visual Screening on Lots. The drying of clothes in public view is prohibited, and the Owner or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to the public shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view. Similarly, all yard equipment, woodpiles or storage piles shall be kept screened by a service yard or other similar facility so as to conceal them from view of neighboring Lots, streets or other property.

Section 16. Signs, Advertisements, Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be placed, maintained or displayed to the public view on any Lot except one sign for each building site, of not more than five (5) square feet, advertising the property for sale or rent. Declarant, or its assigns, and/or the Association shall have the right to remove any such sign, advertisement, billboard or structure which is placed on said Lots, and in doing so shall

any builder acting with Declarant's permission under this sentence shall be operative and in effect only during the construction and initial sales period within the area composed of SUNDOWN GLEN.

Section 17. Roofing Material. The roof of any building (including any garage or servant's quarters) shall be constructed or covered with (1) wood shingles or (2) asphalt or composition type shingles comparable in color to wood shingles. The decision of such comparison shall rest exclusively with the Architectural Control Committee. Any other type of roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.

Section 18. Maximum Height of Antenna. No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, houses or buildings. Television antenna must be located to the rear of the roof ridge line, gable or center line of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than

regulations respecting construction and/or specifications, if any.

Section 20. Underground Electric Service. An underground electric distribution system will be installed in that part of SUNDOWN GLEN, SECTION TWO (2), designated Underground Residential Subdivision, which underground service area shall embrace all Lots in SUNDOWN GLEN, SECTION TWO (2). The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirement of local governing authorities and the National Electrical Code) the underground service cable and appurtenance from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition the Owner of each such Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with then current standards and specifications of the

applicable) upon Developer's representation that the Underground Residential Subdivision is being developed for single-family dwellings and/or townhouses of the usual and customary type, constructed upon the premises, designed to be permanently located upon the Lot where originally constructed and built for sale to bona fide purchasers (such category of dwelling and/or townhouses expressly excludes, mobile homes). Therefore, should the plans of Lot Owners in the Underground Residential Subdivision be changed so that dwellings of a different type will be permitted in such Subdivision, the company shall not be obligated to provide electric service to a Lot where a dwelling of a different type is located unless (a) Developer has paid to the company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to service such Subdivision, or (b) the Owner of such Lot, or the applicant for service, shall pay to the electric company the sum of (1) \$1.75 per front Lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such Lot, plus (2) the cost of reprogramming and adding any electric facilities

Class A. Class A members shall be all Owners with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Holders of future interests not entitled to present possession shall not be considered as Owners for the purposes of voting hereunder.

Class B. The Class B member(s) shall be Declarant or its successors or assigns and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) when the total votes outstanding in the Class

A membership equal the total votes outstanding in the

Class B membership including duly annexed areas.

(2) on January 1, 1990.

ARTICLE IV.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, in the case of each Lot owned within the

assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. Appropriate recitations in the deed conveying each Lot will evidence the retention of a vendor's lien by Declarant for the purpose of securing payment of said charge assigned to the SUNDOWN GLEN COMMUNITY ASSOCIATION, INC., without recourse on Declarant in any manner for the repayment of said charge and indebtedness.

Section 2. Purpose of Assessments. The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties.

Section 3. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Eighty Dollars (\$180.00) per Lot.

(a) From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year by an amount equal to not more than ten percent (10%) above the

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be mailed (by U.S. first class mail) to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present at any such meeting, the meeting shall be adjourned but another meeting may

subject to the annual assessment determined by the Board of Directors in accordance with the provisions of Sections 3 and 7 hereof. Improved Lots in SUNDOWN GLEN, SECTION TWO (2), which are not occupied by a resident and which are owned by Declarant, a builder, or a building company, shall be assessed at the rate of one-half (1/2) of the annual assessment above. The rate of assessment for an individual Lot, within a calendar year, can change as the character of ownership and the status of occupancy by a resident changes, and the applicable assessment for such Lot shall be prorated according to the rate required during each type of ownership.

Section 7. Date of Commencement of Annual Assessments; Due

Dates. The annual assessments provided for herein shall commence as to all Lots in SUNDOWN GLEN, SECTION TWO (2), on the first day of _____, 19____. The annual assessment shall be adjusted according to the number of months remaining in the then current calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. The payment dates

may bring action at law against the Owner personally obligated to pay the assessment, or foreclose the lien against the Lot involved. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage existing at any time upon the particular Lot involved. Sale or transfer of any Lot shall not affect the assessment lien. However, the date or transfer of any Lot pursuant to mortgage foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment 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, but such lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

ARTICLE V.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner,

Section 3. Owner's Easement of Enjoyment. Every Owner

shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if any.

(b) The right of the Association to suspend the voting rights and right to use of any recreational facility by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for each infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds

(2/3) of each class of the members agreeing to such

thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by those Owners owning not less than seventy-five percent (75%) of the Lots within SUNDOWN GLEN, SECTION TWO (2), and thereafter by an instrument signed by those Owners owning not less than sixty percent (60%) of the lots within SUNDOWN GLEN, SECTION TWO (2). No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed of record in the Official Public Records of Real Property of Harris County, Texas.

Section 6. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of membership; however, upon submission to and approval by the Federal Housing Administration and/or the Veterans Administration of additional stage(s) or section(s) of SUNDOWN GLEN such stage(s) or section(s) will be annexed either (i) by the Board of Directors of the Association without such approval by the membership or (ii) unilaterally by Declarant by the filing of a Declaration of Covenants, Conditions

Incorporation, By-Laws of the Association, and Restrictive Covenants shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

Section 9. Interpretation. If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

Section 10. Omissions. If any punctuation, word, clause, sentence or provision necessary to give meaning, validity or effect to any other word, clause, sentence or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

EXECUTED this the _____ day of _____, 1984.

GEORGE WIMPEY OF TEXAS, INC.

ATTEST:

By: _____
(Name)
(Capacity)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

 This instrument was acknowledged before me on the _____ day
of _____, 1984 by _____ who
is the _____ of _____ on
behalf of said _____.

Notary Public in and for
The State of T e x a s

Federal Housing Administration
By: _____

Veterans Administration
By: _____