

DEED RESTRICTIONS CHECKLIST

SUBDIVISION: _____
 ORIGINAL PLAT RECORDED AT: _____
 RE-PLATS (IF ANY) RECORDED AT: _____
 RESTRICTIONS RECORDED AT: _____
 AMENDMENTS TO RESTRICTIONS (IF ANY) RECORDED AT: _____

Q: Do my restrictions...	YES	NO	Things to consider...	Questions/Concerns
have an expiration date?	<p style="text-align: center;">_____</p> <p style="text-align: center;">When do they expire?</p> <p style="text-align: center;">_____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➢ If your restrictions do not expressly state when they expire, they are effective until otherwise terminated by the lot owners. Many restrictions provide for an initial term, then automatic renewals (usually for 10 year terms). ➢ If your restrictions have <u>already</u> expired, refer to the Tex. Property Code Ch. 201 procedure chart to see how you can create new restrictions. ➢ If your restrictions expire soon, check to see if there is a procedure for extending the term, or consider using Tex. Property Code Chapters 201 or 204. 	
have a procedure to extend the term?	<p style="text-align: center;">_____</p> <p style="text-align: center;">Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➢ If your restrictions do not provide a procedure to extend the term, you may use the amendment procedures in your restrictions or Tex. Property Code Chapters 201 or 204 to do so. 	
regulate use?	<p style="text-align: center;">_____</p> <p style="text-align: center;">Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➢ If your restrictions do not already regulate use (e.g., single family residential), consider amending them to do so. The City of Houston will enforce use restrictions at no cost to you! 	
regulate lot size?	<p style="text-align: center;">_____</p> <p style="text-align: center;">Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➢ If your restrictions do not already regulate lot size (e.g., no structure may be built on any lot smaller than 5,000 sq. ft.), consider amending them to do so. This is another type of restriction the City will enforce! ➢ If your neighborhood is located inside the Beltway 8 loop, refer to the Prevailing Lot Size procedure chart for a great way to establish this type of restriction block-by-block. 	
regulate setback lines?	<p style="text-align: center;">_____</p> <p style="text-align: center;">Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➢ If your restrictions do not already regulate setbacks (e.g., no structure may be built closer than 10 ft. from any adjoining property line), consider amending them to do so. This is another type of restriction the City will enforce! ➢ If your neighborhood is located inside the Beltway 8 loop, refer to the Special Minimum Building Line procedure chart for a great way to establish this type of restriction block-by-block. 	

Q: Do my restrictions...	YES	NO	Things to consider...	Questions/Concerns
regulate the size, type or number of structures per lot?	____ Section ____	____	<ul style="list-style-type: none"> ➢ If your restrictions do not already regulate size, type, or number of structures per lot, consider amending them to do so. These are more types of restriction the City will enforce! 	
regulate the direction a structure must face?	____ Section ____	____	<ul style="list-style-type: none"> ➢ If your restrictions do not already regulate orientation (e.g., all homes must face north or south), consider amending them to do so. This is another type of restriction the City will enforce! 	
create a property owner's association ("POA")?	____ Section ____	____	<ul style="list-style-type: none"> ➢ If your restrictions do not provide for a POA, refer to Tex. Property Code Ch. 204 procedure chart for a way to create one (or use the amendment procedures in your restrictions if they are more favorable). Once you have created a POA, you may then use the Ch. 204 petition process to amend your restrictions. 	
have a procedure to modify the restrictions?	____ Section ____	____	<ul style="list-style-type: none"> ➢ If your restrictions do not contain a procedure for modification, consider using Tex. Property Code Ch. 204 to do so. You will have to create a POA first, but amendments under Ch. 204 are binding on all lot owners! Tex. Property Code Ch. 201 is available to some areas without POAs, but is cumbersome and not all owners are necessarily bound. ➢ If your restrictions do allow for modification, read carefully to make sure you are not in a "Freeze-out" Period. Some restrictions limit modifications and extensions to specified time periods (e.g., 6 months prior to an automatic renewal date). 	
have performance standards for development?	____ Section ____	____	<ul style="list-style-type: none"> ➢ Height limit, open space, construction materials, pervious area, etc., are all examples of additional performance standards (but not enforced by the City); typically non-discretionary limitations on development. 	
create an architectural control committee ("ACC")?	____ Section ____	____	<ul style="list-style-type: none"> ➢ An ACC is an appointed/elected panel which exercises discretionary authority to ensure compliance of new construction and remodeling of existing structures with the restrictions and to ensure consistency of architectural design. ➢ Modifying restrictions to add an ACC where none has existed before can be a difficult and divisive task, unless the ACC has significantly limited discretion. Consider limiting ACC discretion to ensuring that stated performance standards have been satisfied. 	

Q: Do my restrictions...	YES	NO	Things to consider...	Questions/Concerns
have a variance procedure for unusual circumstances?	<p style="text-align: center;">_____</p> <p>Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➤ If your restrictions do not have a variance procedure, consider adding one. This will give your restrictions the flexibility to deal with unusual circumstances of specific property where unusual hardship would occur from strict compliance. ➤ Unforeseen changes in use, construction techniques and technological advances make variance procedures practical for any subdivision. 	
have mandatory assessments?	<p style="text-align: center;">_____</p> <p>Section _____</p>	<p style="text-align: center;">_____</p>	<ul style="list-style-type: none"> ➤ A POA needs funding to be effective. Exceptions may be provided for the elderly. Assessments may be fixed, relate to value (HCAD) or be set by a POA (usually with specific limits for annual increases) ➤ Where concerns are raised about liens, consider making the liens only judicially enforceable and add safeguards for the elderly. In some cases the best course is to eliminate any lien but retain a legally enforceable assessment. 	

OTHER HELPFUL DEED RESTRICTION RESOURCES

- ◆ **City of Houston Deed Restriction Hotline** – 832-393-6333.
- ◆ **City of Houston General Information on Deed Restrictions** - <http://www.houstontx.gov/legal/deed.html>.
- ◆ **City of Houston Deed Restriction Pro Bono Program** - Provides free legal assistance to qualifying neighborhoods. To qualify, a subdivision must meet all of the following criteria:
 - 1) Average home value is less than the City average;
 - 2) Subdivision does not have mandatory assessment fees; and
 - 3) At least 51% of the properties are occupied by homeowners.
 For more information, visit the City of Houston’s website at www.houstontx.gov/planning or call 713.837.7701.
- ◆ To view **deed restriction articles written by Reid Wilson**, visit the Wilson, Cribbs & Goren, P.C. website at www.wcglaw.net.
- ◆ **Resources for homeowners’ associations** can be found on the Community Associations Institute website at www.caionline.org.
- ◆ **Get a copy of your deed restrictions.** Copies of deed restrictions for your subdivision are available for a nominal fee from the County Clerk of the county in which you reside. Harris County residents should contact: Harris County Clerk, 201 Caroline, 3rd Floor, Houston, Texas 77002.