

‘DRAFT’ OF THE ‘MAY 2009 SUMMARY’ OF THE ‘PROPOSED’ DEED RESTRICTION AMENDMENTS

The purpose of this ‘Draft’ is to provide the Homeowners of the Avalon Property Owners Association a general overview ‘Summary’ of the ‘proposed’ twenty (20) Deed Restriction Amendments that are currently being considered by the Deed Restriction Standing Committee and the APOA Board of Directors. For those who wish to study the matter in greater detail, more specific language can be found on our APOA website @ www.avalonpropertyowners.org. In an effort to obtain the pulse of our Homeowners and hopefully finalize this ‘Draft’, The Deed Restriction Standing Committee will present this ‘Draft’ to the Homeowners for an ‘informal discussion’ and a preliminary, ‘straw poll’ vote on each amendment at our upcoming Annual Meeting on May 15th, 2009.

Although this may be old news to the majority of you, in an effort to jump start our project the Deed Restriction Standing Committee opted to use the recently approved River Oaks Property Owners deed restriction amendments as a blueprint for further evaluation of the issues that either currently face APOA, or may become issues of concern in the near future. While ROPO opted to enact far more than the twenty amendments that we are currently seeking community input upon, your Deed Restriction Standing Committee feels that the following items resonate with the greatest number of APOA residents. We also feel that it is in the best interest of all APOA members to work toward the approval of the proposed Deed Restrictions so that those development practices that ROPO has banned in their neighborhood do not spill over into Avalon.

It is important to note that this ‘summary’ should not be construed, as a legal opinion and the terminology used herein to express the thoughts of the Deed Restriction Standing Committee will not mirror the language that is used in the final election ballot that is ultimately circulated for a vote. This undertaking is taking place at the sole request of a number of residents who attended the past two APOA quarterly meetings where deed restrictions amendments were on the agenda.

Item No. 1.

This intent of this item is to make certain that there is no ambiguity about the fact that Avalon was developed as a residential neighborhood. To that end, it clarifies that garage apartments and/or guest houses may not be rented or leased. The primary use of each lot and the residential dwelling on the lot is for single-family residential purposes. No business, professional, religious or commercial activity may be conducted out of the house if it is apparent by noise, odor, vehicle and/or pedestrian traffic, and the like. Primary residences may not be leased for periods of less than six months and no personal property sales are authorized within the boundaries of Avalon.

Item No. 2.

The purpose behind this amendment is to put prospective purchasers of homes in Avalon on notice that they are expected to maintain their property. If, after the effective date of these amendments, a

house is purchased in Avalon and the new owner fails to maintain their property in accordance with the requirements that are set forth in the amendment, then the board of directors can vote to have the property maintained and assess the costs to the property in question. It is important to note that this amendment does not expand upon the board's current ability to collect any assessments that may accrue against a particular piece of property, but it does give the residents a mechanism for protecting individual property values from eyesores that may occur in the future.

Item No. 3.

This item relates to fencing on each lot in Avalon. First of all, it clarifies that plans for a new and/or replacement fence must be submitted to the architectural review board just as any other new construction and/or remodeling project would. This will protect homeowners from the possibility of constructing something that is in violation of the deed restrictions. Secondly, the amendment clarifies that certain materials are not appropriate for fences located in Avalon. Barbed wire fences, plastic fence panels, etc. are not congruent with the character of the neighborhood. It also reiterates the existing limitations on fence height and location.

Item No. 4.

The addition of this language to the deed restrictions will provide clear instructions to homeowners and the architectural review committee alike. It should also add a high degree of continuity to the architectural review process as committee members change over the years. The item deals primarily with prevailing setbacks as they apply to the primary residence, garage, or other improvement located on each lot, and it will protect against the possibility of a corner lot being rotated ninety degrees for the purposes of determining setback requirements.

Item No. 5.

The addition of this language clarifies that the deed restrictions are binding on and for the benefit of the Association and each individual property owner, and that they may be enforced by the Association and by each owner. It authorizes the Association to recover attorneys' fees and costs associated in enforcing the restrictions, which will make it easier for the Association to enforce the restrictions. It also states that the restrictions will continue in effect until December 31, 2025, and that they will automatically renew for ten year terms thereafter.

Item No. 6.

This addition would prevent all door-to-door solicitations within Avalon, except for solicitations by Avalon residents for fundraising for charitable or non-profit organizations. This amendment is intended to improve neighborhood security and reduce the nuisance of door-to-door solicitations, while preserving the ability of Avalon residents and their children to solicit for non-profit organizations.

Item No. 7.

This amendment is intended to reduce the impact of noisy air conditioning and other mechanical equipment upon adjacent property owners, by providing that such equipment may not be located within 5 feet of the side or rear property lines. If any such equipment is placed within ten feet of the side or rear property lines, it must have noise attenuation features so that it remains within the limits set by the applicable City of Houston noise ordinance. Commercial air conditioning units are not permitted, unless the noise they generate is less than or equal to the noise from a large, residential air conditioning unit. All such equipment must be placed at ground level and must be screened from view from any street or adjacent by fencing or landscaping. No window air conditioning units are permitted in any dwelling, garage, or other building. However, any existing commercial or window air conditioning units will not have to be removed, and those which need to be replaced due to wear and tear may be replaced with a new unit of a similar size in the same location.

Item No. 8.

This amendment would prohibit any permanently installed sports goal, playhouse, tree house, trampoline, slide, or other play structure in a front or side yard if it is visible from the street, or in the backyard if it is nearer to the property line than the applicable setback. Play and sports equipment would be permitted in the front and side yards, in view from the street, so long as they are not permanently installed. One child's single seat swing or rope (excluding a tire swing), up to two benches or bench swings, or one flagpole of reasonable height would be permitted within the building setback line. Any sculpture, artwork, or fountain that is located on a lot behind the front building setback line would be permitted, whether or not it is visible from the street. If the sculpture, artwork, or fountain is located closer to the street than the building setback line, it would be permitted only if it is not visible from the street. Any permanently installed, existing structures which are located in an area prohibited by these restrictions will not need to be removed if they were in compliance with existing restrictions prior to the adoption of this amendment.

Item No. 9

This paragraph deals with re-platting of lots either:

- to combine two or more existing lots into a single lot, in which event the resulting consolidated lot is required to maintain front, side and rear setbacks around its perimeter, so that construction is permitted no closer to the street or adjoining lots than was permitted previously, or
- to subdivide an existing lot, provided that (a) no lot is created that is smaller in total size or in street frontage than the smallest lot on the same street as original plat, or (b) no existing structure on the subdivided lot is closer to the resulting property line than was permitted by the existing setbacks.

Item No. 10

This paragraph deals with the storage of vehicles, mobile homes, RVs, boats, jet skis, ATVs, trailers, etc., either on a lot or an adjacent street.

- Mobile homes, trailers, RVs, boat, jet skis, trailers, or “substantially modified” pick-up trucks or SUVs may not be stored in view from the street or grade level of an adjacent lot for more than 48 consecutive hours or for any length of time on more than 5 days in any month.
- Vehicles may only be stored on the street on a temporary basis (that is, if driven outside the Avalon Place on a daily basis) if operable and fully licensed. Storage of a vehicle that is not fully licensed, does not have fully inflated tires, is on a jack, blocks or is otherwise incapable of being legally operated on a public street is forbidden. This restriction does not apply to construction vehicles parked on the street during construction activities.
- Storage of any motorcycle, dirt bike, golf carts, etc., in a location visible from the street or an adjacent lot is prohibited.
- Commercial vehicles are prohibited except during the time that a 3rd-party service provider is in the process of providing services on the lot.
- No vehicles, motorcycles, dirt bikes, golf carts, etc., may be parked on the unpaved portion of any lot, except while being used for maintenance activities.

Item No. 11

This paragraph deals with construction activities on a lot:

- Construction offices/trailers are prohibited without the prior approval of the Board as to size, color and location. Signs are prohibited on construction offices/trailers.
- Construction offices/trailers must be removed within 30 days following substantial completion of construction.
- One port-a-potty is permitted on a construction site. The port-a-potty must be located as far back from the front property line as is feasible while enabling it to be serviced, and must be screened. The port-a-potty may not be moved onto the site more than 7 days before commencement of construction, and must be removed within 30 days after substantial completion.
- A dumpster is required to be maintained on site during construction, located in the least obtrusive place on the lot that enables it be emptied, and the dumpster must be used for collection of all trash and construction debris and must be regularly emptied.

Item No. 12

This paragraph required Board of Director approval of the color of building and roofing materials and exterior paint used on any structure.

- The Board has the right to disapprove of proposed building or roofing materials if the Board deems them to be inconsistent with the predominant types of materials used on existing structures in Avalon Place.
- The Board has the right to disapprove of proposed color of exterior paint or building or roofing material if (a) the color is not compatible with the colors of exterior paint or building or roofing material in Avalon Place, or (b) two or more of the proposed colors are not compatible with each other.

- Exterior colors are to be generally limited to earth tones, forest tones and white.
- Incompatible colors include purple, fuchsia, canary yellow, magenta, orange, goldenrod, fire engine red, chartreuse and not pink.
- White roofing material is not permitted if visible from adjacent street(s).
- If the Board determines that any existing exterior material or color does not meet these standards, the owner is not required to bring the structure into compliance unless/until the owner elects to repair/replace/repaint the non-compliant material or color, at which time an approved compatible material/paint color must be used.

Item No. 13.

This Item gives the Board the authority, after the effective date of the amendments, to approve the architectural style of new residential dwellings, garages and/or appurtenant improvements so that they will be compatible with the predominant architectural styles in the subdivision. The item also contains a "green space" provision requiring that the total footprints of the residential dwelling, garage, outbuilding and other improvements including driveways and walkways, shall not exceed between 100% and 110% (depending upon lot size) of the total building area within the lot. It also requires that any garage, carport or similar structure built on a lot be detached and set back from the front property line, that plans for new walkways and driveways be submitted to the Board for approval, and restricts the height of any structure built on a lot (excluding chimneys and vent stacks) to 36-feet above street-curb level.

Item No.14.

This item requires that with respect to any new construction plans, the lot owners identify all trees with a caliper of 6 inches or more to be removed from the lot, and gives the Board discretion to require replacement trees for any that are destroyed or removed during construction.

Item No.15.

This item is a noise control provision. It restricts outside construction work on weekdays from 7:30 a.m. to dusk, on Saturdays from 9:00 a.m. until 6:00 p.m., and prohibits any outside construction on Sundays that might cause excessive noise. This item further restricts lawn maintenance hours performed by the owner or occupant of a lot to between the hours of 8:00 a.m. and dusk, and such maintenance performed by third-party contractors to between 8:00 a.m. and 5:00 p.m. on weekdays, and between 9:00 a.m. and 1:00 p.m. on Saturdays.

Item No. 16.

This item requires that no garbage or trash, nor garbage or trash containers, shall be maintained on a lot so as to be visible from any other lot except on trash collection

days, and then only for the shortest time reasonably necessary to effect collection.

Item No. 17.

This item is a piece of housekeeping that is required of APOA to be able to implement written architectural guidelines.

Item No. 18.

After these amendments become effective this item would prevent an APOA property owner from installing any type of antenna that is visible from a street that is adjacent to the lot. Existing antennas are grandfathered under this provision.

Item No. 19.

This item insures that every APOA member is entitled to request non-binding arbitration for the purpose of mediating an alleged violation of the Deed Restrictions or a request for a variance from the Restrictions.

Item No. 20.

This item simply states that the APOA Deed Restrictions cannot be amended or terminated without the written approval of a minimum of seventy-five percent (75%) of the Lots in APOA. In the event that more than one party owns a lot, only one signature is required to amend or terminate any and/or all of the Deed Restrictions.

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