

Westridge Civic Association

Deed Restriction Enforcement Processes

May 2005

Westridge Civic Association

Deed Restriction Complaint Resolution Process

April 20, 2004

1. A resident of the neighborhood files a complaint.
2. The Committee responds with required actions by the resident in order to prove the complaint.
3. The Committee reviews the complaint and sends a series of letters.
 - a. 30 day letter is a nice letter that includes the specific infraction, required response and 30 days to correct the infraction.
 - b. 45 day letter reminds them that they have not been heard from or that there has been no action on the committee's first letter. It includes the possible fines, actions etc that can be taken against them,
 - c. 60 day letter reminds them that the committee has acted in good faith and now must pursue other actions.
4. The committee then proceeds with the possible actions it has at its disposal.

How to file a complaint:

The complaint process is an interactive process. The Enforcement Committee will rely on the complainant to gather evidence and assist with keeping up with the time frames as outlined above and reporting on improvements or lack of progress. We are using the City of Houston forms for our process in the event that we have to pursue infractions at the City level. This will allow us to take the already gathered information directly to the city.

1. Fill out the City of Houston Complaint Form
2. Provided any evidence using the City of Houston Activity Log
3. Deliver the form with any gathered evidence to an enforcement committee member, or a Board Member.

How to resolve a complaint filed against you

1. Above all, communicate with the contact information on the letter that you receive from the committee member
2. Rectify the infraction or develop a timetable for complying
3. Communicate with committee that you have resolved the infraction.

SAMPLE LETTER

Westridge Civic Association Notification of Violation of Deed Restrictions

Date

Name

Address

The Westridge Civic Association is charged with enforcement of deed restrictions for our neighborhood. Since Houston has no zoning, this is our only means of assuring our neighborhood is pleasant and comfortable for all.

We have received a complaint that your property at 3318 Cloverdale _____, after reviewing the evidence it appears that you are in violation of the Deed Restrictions entitled Restrictions Westridge Subdivision Houston, Texas recorded Vol. 1978 page 323 Deed Records for Harris County, Texas

Please refer to the following deed restrictions.

(List of Violated Deed Restrictions)

The Civic Association will provide you with 30 days to rectify this situation. We ask that you rectify this violation or contact us at _____ with plan that includes target dates for bringing the property into compliance. If no action has been taken at the end of this period, the Civic Association will pursue the appropriate legal actions.

Please refer to Houston Code Article XV. Deed Restriction Compliance, Sec.10-552 Compliance; Enforcement Penalties. Section a provides for penalties of up to \$1000 per day of noncompliance with deed restrictions.

Thanks,

John Doe
Enforcement Committee
Westridge Civic Association



CITY OF HOUSTON
DEED RESTRICTION COMPLAINT FORM

ABOUT THE VIOLATION

Date: _____ Council District: _____
Type of violation/activity: Business _____ Setback _____ Other _____
Address of violation: _____ Zip: _____
Violator and/or Property Owner's Name: _____
Description of Violation/Activity: _____

ABOUT THE SUBDIVISION

Subdivision: _____ Section: _____
Name of civic club/homeowner's association: _____

ABOUT THE CONTACT PERSON/ENTITY

Name of Contact Person: _____ Phone Number: _____
Address: _____ Zip: _____

NOTE

We cannot pursue complaints without sufficient documentation and witnesses. We rely on contact person/entity to keep us informed of the status of the alleged violation(s). Please attach available photographs and other documentation pertaining to the deed restriction violation. Please sign below. Thank you.

Signature of Contact Person/Representative

MAIL TO: City of Houston Legal Department
Neighborhood Protection Division
Deed Restriction Enforcement Team
P.O. Box 1562
Houston, Texas 77251-1562

PLEASE MAKE COPIES OF THIS FORM BEFORE COMPLETING

VISIT OUR WEBSITE AT

<http://www.ci.houston.tx.us/department/legal/deed.htm>

OR CALL 713/437-6769

ADDRESS OR VIOLATION: _____

1) Please write legibly:

2) If you provide photographs, please write your name, the date, and the address of the property depicted in the photograph on the back of each photograph.

3) Please provide as much detail as possible. 4) Use as many boxes as necessary for each date you observe activity.

DATE	LICENSE PLATE # (if applicable)	MAKE, MODEL & COLOR (if applicable)	ACTIVITY OBSERVED (include time of day if possible)	PHOTOS (Yes or No)
7/14/09 EXAMPLE	LFT 54Z XJY678	1999 Ford Pickup Toyota	Man in this truck brought lawnmower for repair at 1:30 p.m. parked in front yard with "for sale" sign in window	Yes (✓) No

CONTACT PERSON: _____

PHONE: _____

CONTACT PERSON'S ADDRESS: _____

the city for the destruction of each vehicle within a specified time and require that the vehicles be kept and disposed of in such a manner that they may not be reconstructed or made operable.

(d) The neighborhood protection official shall ensure that notice of the identification of each junked vehicle or part of a junked vehicle removed under this article is given to the Texas Department of Highways and Public Transportation not later than the fifth day following the removal of the vehicle as required under section 683.074 of the Texas Transportation Code. (Ord. No. 91-1303, § 2, 9-11-91; Ord. No. 93-514, § 26, 5-5-93; Ord. No. 93-1570, § 2(c), 12-8-93; Ord. No. 94-674, § 40, 7-6-94; Ord. No. 98-613, § 46, 8-5-98)

Secs. 10-535—10-540. Reserved.

ARTICLE XIV. ABATEMENT OF UNAUTHORIZED VISUAL BLIGHT*

Sec. 10-541. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning:

Owner means the record owner of the lot or parcel or other person specifically authorized in writing by the record owner to authorize the placement of any painting, scratching, writing or inscription upon the owner's property.

Unauthorized means without the consent of the owner or without authority of law, regulation or ordinance. Unless the owner proves otherwise, lack of consent will be presumed under circumstances tending to show (i) the absence of evidence of specific authorization of the visual blight by the owner, (ii) that the visual blight is incon-

*Editor's note—Ord. No. 94-1163, § 2, adopted Nov. 2, 1994, added provisions designated as art. XIV, §§ 10-541—10-546. Since there already existed an art. XIV, former articles XIV and XV have been renumbered as articles XV and XVI, at the discretion of the editor.

sistent with the design and use of the subject property, or (iii) that the person causing the visual blight was unknown to the owner.

Visual blight means any unauthorized graffiti or any other unauthorized form of painting, scratching, writing or inscription, including without limitation, initials, slogans or drawings, regardless of the content or nature of the material that has been applied to any wall, building, fence, sign, or other structure or surface and is visible from any public property or right-of-way or is visible from the private property of another person.

(Ord. No. 94-1163, § 2, 11-2-94)

Sec. 10-542. Declaration; notice.

Visual blight is declared to be a public nuisance. Whenever the existence of visual blight on any lot or parcel of real estate situated within the city shall come to the knowledge of the neighborhood protection official, the neighborhood protection official shall forthwith cause a written notice identifying the visual blight and directing its removal to be sent to the owner of the property. The notice shall be sent in the manner provided for notices under article XI of this chapter; provided that the time allowed in the notice for abatement of the nuisance shall not be less than 30 days, and such notice shall further state that the owner is entitled to request a hearing to be held in the manner described in section 10-543 of this Code.

(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 47, 8-5-98)

Sec. 10-543. Hearing.

The owner of a lot or parcel subject to abatement under this article may request a hearing by notifying the neighborhood protection official within ten days following the date the city mails the required notice. The hearing shall be conducted by a hearing official designated by the director of planning and development for the purpose of determining whether the conditions constitute a public nuisance under the provisions of this article. Unless notice is waived by the owner, the owner shall be provided written notice of the time and place of the hearing at least ten days prior thereto. At the hearing, the owner and the neigh-

neighborhood protection official may present any evidence relevant to the proceedings, in accordance with reasonable rules adopted by the director of planning and development and subject to approval by the city attorney. If the hearing official finds that conditions constituting a nuisance hereunder exist, the hearing official shall issue an order so stating.

(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 47, 8-5-98; Ord. No. 02-528, § 14i., 6-19-02)

Sec. 10-544. Abatement by the city; expenses and liens.

If the owner fails to timely abate the visual blight or request a hearing, or if it is determined at a hearing that the condition of the property constitutes a nuisance under this article, then the city shall be authorized to carry out the abatement thereof and to assess its expenses and place a lien in the same manner as provided in article XI of this chapter.

(Ord. No. 94-1163, § 2, 11-2-94)

Sec. 10-545. Hardships.

(a) An owner who demonstrates to the neighborhood protection official that his structure has been subjected to visual blight shall be provided sufficient paint materials to cover the visual blight on the blighted structure on the property. The materials will typically be from donated sources or bulk purchases and the paint may not match the existing background surface color. The owner shall have ten days following receipt of the paint materials to abate the visual blight.

(b) In addition to the relief authorized in subsection (a), if the owner demonstrates that none of the family members residing in a homestead that is the subject of a visual blight notice is able to apply the paint because of age, physical disabilities, dependent care obligations or other limitations beyond their reasonable control, then the neighborhood protection official shall cause the visual blight to be abated without cost to the owner, and no lien shall be placed on the homestead property. The operation of this subsection (b) is limited to any single family residential property that is occupied as a homestead by a "very low income family" as defined in 24 Code of Federal Regulations Section 813.102 as computed for the city for purposes of Section 8 of the United States Housing Act of 1937.

(c) Without regard to the eligibility standards described in subsections (a) and (b) above, if an owner demonstrates that (i) the property for which the owner has been given notice of visual blight hereunder has been the subject of at least two prior visual blight incidents (evidenced by either notices provided pursuant to this article or bona fide police reports) during the preceding 180 days,

and (ii) the owner complied with the requirements of this article by abating the prior visual blight within 30 days of the date of the applicable notice or police report, then the neighborhood protection official shall cause the visual blight to be abated without cost to the owner, and no lien shall be placed on the property.

(d) Each notice given under section 10-542 of this Code shall advise of the availability of the relief under this section. Applications for relief under this section shall be submitted to the neighborhood protection official in such form and with such proofs of ownership, income, disabilities, repeat occurrences and related factors as may be required to determine whether the applicant is entitled to assistance within ten days following the date the city mails the notices under section 10-542 of this Code. If the neighborhood protection official is unable to concur that the applicant is entitled to assistance, then the issue shall be scheduled for a hearing under section 10-543 of this Code, and the hearing official shall make the determination.

(Ord. No. 94-1163, § 2, 11-2-94; Ord. No. 98-613, § 48, 8-5-98)

Sec. 10-546. Landlord/tenant.

The terms of this article shall not be construed to alter the terms of any lease or other agreement between any landlord and any tenant or others relating to property that is the subject of this article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article by any person. It is the intent of this article to identify the parties the city will hold responsible for compliance with and violations of this article, rather than to determine the rights and liabilities of persons under agreements to which the city is not a party.

(Ord. No. 94-1163, § 2, 11-2-94)

Secs. 10-547—10-550. Reserved.

**ARTICLE XV. DEED RESTRICTION
COMPLIANCE***

Sec. 10-551. Definitions.

As used in this article the following words or phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building permit means a permit issued by the city under the provisions of the Construction Code.

City attorney means the city attorney or any assistant city attorney.

Commercial building means any building other than a single family residence.

Recorded restriction means a restriction that is contained or incorporated by reference in any properly recorded plan, plat, replat or other instrument affecting a subdivision or that portion of a subdivision located inside the boundaries of the city.

Restricted subdivision means a subdivision of land or that portion of a subdivision within the city limits that is subject to recorded restrictions.

Restriction means a limitation that:

- (1) Affects the use to which real property may be put;
- (2) Fixes the distance that a structure must be set back from property lines, street lines, or lot lines; or
- (3) Affects the size of a lot or the size, type and number of structures that may be built on the lot;

however, restrictions do not include provisions that restrict the sale, rental, or use of property on the basis of race, color, religion, sex, or national origin and do not include any restrictions that by their express provision have terminated.

Restriction suit means a lawsuit filed in a court of competent jurisdiction to enjoin or abate the violation of a recorded restriction.

(Ord. No. 94-1154, § 2, 10-26-94; Ord. No. 02-399, § 42, 5-15-02)

*Note--See the editor's note to art. XIV.

Sec. 10-552. Compliance; enforcement; penalties.

(a) An owner or owner's representative with control over the property that is subject to a recorded restriction who, after notice of the provisions of this article, fails to comply with any recorded restriction shall be deemed to civilly violate this article and shall be subject to civil penalties of not more than \$1,000.00 per day for violation of this article. Each day of noncompliance shall constitute a separate violation.

(b) It shall be unlawful to use any property or construct or continue to construct any building or structure on any property, that is the subject matter of an affidavit required by this Code as a condition for the issuance of any city permit if (1) the activity that is the subject of the affidavit is a violation of one or more recorded restrictions and (2) the person who signed the affidavit swore that the activity did not violate any recorded restriction.

(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-553. Action by city attorney.

(a) The city attorney is authorized to file or become a party to a restriction suit; provided, however, that after a careful investigation of the facts and of the law, or of either, if in the opinion of the city attorney no legal cause of action could be alleged and proved, then in such event, the city shall not file or become a party to a suit. The city attorney is further authorized, as part of a restriction suit, to seek to compel the repair or demolition of any structure or portion thereof that is in violation of this article to the extent of noncompliance.

(b) The city attorney is authorized to file suit in a court of competent jurisdiction to seek civil penalties for the violation of subsection (a) of section 10-552 of the Code as authorized by subchapter B of chapter 54 of the Texas Local Government Code, as amended.

(c) The city attorney is authorized to establish guidelines for any activity or category of activity that the city attorney, in his best legal judgment, believes is the appropriate subject for an action to abate or enjoin pursuant to this article.

(d) All authority granted to the city attorney under this section shall be exercised uniformly on behalf of and against all citizens and property in the city.

(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-554. Limitations.

(a) The city attorney shall have no authority to file a restriction suit or intervene in a pending restriction suit on behalf of the city upon the complaint or request of a person who:

- (1) Is a defendant in a currently pending restriction suit filed by the city attorney;
- (2) Is a defendant in a restriction suit in which the city attorney has intervened on behalf of the city to enforce the recorded restrictions;
- (3) Has applied for a building permit for a commercial building in a restricted subdivision located in the city that has recorded restrictions the terms of which prohibit or exclude the construction or repair of commercial buildings in such subdivision; or
- (4) Has filed suit to invalidate or otherwise void any portion of the recorded restrictions of a subdivision that requires the property owned by the complainant to be used for residential purposes only.

(b) The building official shall have no authority to refuse or revoke a building permit for a commercial building located in a restricted subdivision located in the city on the grounds that the construction or repair of such commercial building is prohibited or excluded by the recorded restrictions upon the complaint or request of a person who:

- (1) Is a defendant in a currently pending restriction suit filed by the city attorney;
- (2) Is a defendant in a restriction suit in which the city attorney has intervened on behalf of the city to enforce the recorded restrictions;
- (3) Has applied for a building permit for a commercial building in a restricted subdivision that has recorded restrictions that

prohibit or exclude the construction or repair of commercial buildings in the subdivision; or

- (4) Has filed suit to invalidate or otherwise void any portion of the recorded restrictions of the subdivision that requires the property owned by the person to be used for residential purposes only.

(Ord. No. 94-1154, § 2, 10-26-94)

Sec. 10-555. Building permits.

The city attorney shall advise the building official whenever, in the city attorney's opinion, building work is being done under a building permit that is void. Upon that advice the building official shall order the building work stopped. The city attorney and the building official, acting in good faith and for the city in the discharge of their duties under this section, shall not thereby render themselves liable personally and they are hereby relieved of all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of their duties.

(Ord. No. 94-1154, § 2, 10-26-94)

Secs. 10-556—10-600. Reserved.

ARTICLE XVI. ADOPT-A-LOT PROGRAM

Sec. 10-601. Definitions.

As used in this article, the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning:

Department means the department of planning and development or its successor.

Director means the director of the department or any other person who is specifically designated in writing by the director to perform any function under this article on behalf of the director of the department.

Program means the adopt-a-lot program, as established under this article.

(Ord. No. 99-1380, § 2, 12-21-99; Ord. No. 02-528, § 14j., 6-19-02)

Sec. 10-602. Powers and duties of the director.

(a) The director has responsibility for the enforcement of this article, as more particularly provided herein.

(b) The director shall promulgate written applications for volunteer organizations and community groups to participate in the program. The director shall determine the criteria required for an organization or a group and its members to be authorized to participate in the program in accordance with those criteria established in sections 10-603 and 10-604 of this Code. The director shall reject an application if the applicant does not meet all of the established criteria for participation in the program.

(c) The director upon approval of the applications of civic organizations and community groups shall authorize the members of such organizations and groups to act as volunteer independent contractors for the purpose of abating violations of article XI of this chapter relating to weeds, brush, rubbish, and other objectionable, unsightly, and insanitary matter located on abandoned or vacant private property within the city, after prior notification to the property owner by the director.

(d) The director shall provide the following services:

- (1) Determine the lots to be adopted in the area served by each organization or group;
- (2) Perform the initial abatement on the selected properties;
- (3) Provide safety training regarding the use of the tools and equipment to the organization or group;
- (4) Provide limited accident and disability insurance to the organization or group to cover the program participants;
- (5) Provide limited types of city tools and equipment for use by each organization or group;
- (6) Document the work performed by each organization or group; and

- (7) Provide such other assistance as the director may determine is required or necessary.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-603. Duties of the volunteer civic organizations and groups.

(a) Each volunteer civic organization or group shall agree to be responsible for the general maintenance, storage, and security of the city's equipment.

(b) Each volunteer civic organization or group shall agree to participate in the program for a minimum of two years.

(c) Each volunteer civic organization or group shall demonstrate the ability to carry out its duties under the program, including:

- (1) Community support;
- (2) Adequate number of volunteers; and
- (3) Technical ability of volunteers to operate equipment.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-604. Duties of the members of the volunteer civic organizations and groups.

(a) The members of each volunteer civic organization or group shall agree to hold the city harmless and release the city from any and all liability with respect to the program and their participation in the program in excess of the insurance coverage under section 10-602 (d)(4) of this article.

(b) The members of each volunteer civic organization or group shall agree to abide by all applicable laws and regulations and all terms, conditions, and guidelines imposed by the director.

(c) The members of each volunteer civic organization or group shall agree to be responsible for supervising and carrying out the details of the work they perform.

(Ord. No. 99-1380, § 2, 12-21-99)

Sec. 10-605. Contract.

The director shall promulgate a written contract in a form approved by the city attorney to be executed by the members to evidence the provisions of sections 10-603 and 10-604 of this Code. (Ord. No. 99-1380, § 2, 12-21-99)

Secs. 10-606—10-1000. Reserved.