

**GUIDELINES RELATING TO RAIN BARRELS AND RAIN HARVESTING SYSTEMS,  
SOLAR ENERGY DEVICES, STORM AND ENERGY EFFICIENT SHINGLES,  
FLAGS, AND RELIGIOUS ITEMS**

*for*  
**MEMORIAL BEND CIVIC ASSOCIATION, INC.**

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THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

I, Susan Thompson, Secretary of Memorial Bend Civic Association, Inc. (the "Association"), do hereby certify that at a meeting of the Board of Directors of the Association (the "Board") duly called and held on the 20<sup>th</sup> day of February, 2012, with at least a quorum of the Board being present and remaining throughout, and being duly authorized to transact business, the following Guidelines Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items was duly approved by a majority vote of the members of the Board in attendance:

**RECITALS:**

1. Chapter 202 of the Texas Property Code was amended to add sections relating to rain barrels and rain harvesting systems, solar energy devices, storm and energy efficient shingles, flags, and religious items.

2. The amendments relating to solar energy devices, storm and energy efficient shingles, flags and religious items became effective on June 17, 2011 and the amendments relating to rain barrels and rain harvesting systems became effective on September 1, 2011.

3. The Board of Directors of the Association desires to adopt guidelines relating to rain barrels and rain harvesting systems, solar energy devices, storm and energy efficient shingles, flags, and religious items consistent with the applicable provisions in Chapter 202 of the Texas Property Code.

**GUIDELINES:**

**Section 1.**    **Definitions.** Capitalized terms used in these Guidelines have the following meanings:

**1.1. Board** - The Board of Directors of Memorial Bend Civic Association, Inc.

**1.2. Declaration** – shall mean the following:

- Documents:
  - (1) Restrictions.
  - (2) Amendment to Restrictions.
  - (3) Superseding Declaration of Restrictive Covenants, Restrictions and Conditions of Memorial Bend Subdivision Section One, Section Two, Section Three, Section Four

and Section Five.

- (4) Second Superseding Declaration of Restrictive Covenants, Restrictions and Conditions of Memorial Bend Subdivision Section One, Section Two, Section Three, Section Four and Section Five.

- Recording Information:

- (1) Harris County Clerk's File No. B108929.
- (2) Harris County Clerk's File No. B111801.
- (3) Harris County Clerk's File No. S793124.
- (4) Harris County Clerk's File No. U191970.

- Any subsequent amendments and supplements thereof.

**1.3. Dedicatory Instrument (or dedicatory instrument)** - Each document governing the establishment, maintenance or operation of the properties within Memorial Bend, as more particularly defined in Section 202.001 of the Texas Property Code.

**1.4. Guidelines** - These Guidelines Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items for Memorial Bend Civic Association, Inc.

**1.5. Memorial Bend** – shall mean the following:

- Memorial Bend, Section One, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 49, Page 40 of the Map Records of Harris County, Texas and all amendments to or replats of said maps or plats, if any.
- Memorial Bend, Section Two, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 51, Page 66 of the Map Records of Harris County, Texas and all amendments to or replats of said maps or plats, if any.
- Memorial Bend, Section Three, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 54, Page 38 and replatted in Volume 56 and Page 14 and Volume 144, Page 62 of the Map Records of Harris County, Texas and all amendments to or replats of said maps or plats, if any.
- Memorial Bend, Section Four, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 64, Page 73 of the Map Records of Harris County, Texas and all amendments to or replats of said maps or plats, if any.
- Memorial Bend, Section Five, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 66, Page 32 of the Map Records of Harris County, Texas and all amendments to or replats of said maps or plats, if any.

**Section 2. Rain Barrels and Rain Harvesting Systems.** Section 202.007 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing rain barrels or a rain harvesting system on the property Owner's Lot. However, Section 202.007 of the Texas Property Code further provides that a property owners' association is not required to permit a rain barrel or rainwater harvesting system to be installed on a Lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners.

The following Guidelines shall be applicable to rain barrels and rain harvesting systems in Memorial Bend:

- 2.1. Board Approval.** In order to confirm the proposed rain barrel or rain harvesting device is in compliance with these Guidelines, Owners are encouraged to apply to the Board for prior approval. The Association may require an Owner to remove a rain barrel or rain harvesting device that does not comply with requirements of these Guidelines.
- 2.2. Location.** A rain barrel or rain harvesting system is not permitted on a Lot between the front of the residential dwelling on the Lot and an adjacent street.
- 2.3. Color and Display.** A rain barrel or rain harvesting system is not permitted:
  - a. unless the color of the rain barrel or rain harvesting system is consistent with the color scheme of the residential dwelling on the Owner's Lot; or
  - b. if the rain barrel or rain harvesting system displays any language or other content that is not typically displayed by the rain barrel or rain harvesting system as it is manufactured.
- 2.4. Regulations if Visible.** If a rain barrel or rain harvesting system is located on the side of the residential dwelling on the Lot or at any other location on the Lot that is visible from a street, another Lot, or a common area, the rain barrel or rain harvesting system must comply with the following regulations:
  - a. Rain Barrel:
    - (i) Size: A maximum height of forty-two (42) inches and a maximum capacity of fifty (50) gallons.
    - (ii) Type: A rain barrel that has the appearance of an authentic barrel and is either entirely round or has a flat back to fit flush against a wall. A rain barrel must have a manufactured top or cap to prevent or deter the breeding of mosquitoes.
    - (iii) Materials: Wood, metal, polyethylene or plastic resin designed to look like an authentic barrel in brown or other earthtone color.
    - (iv) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another Lot, and common area, unless otherwise approved in writing by the Board.
    - (v) Downspout: The downspout which provides water to the rain barrel must be the same color and material as the gutters on the

residential dwelling, if any. Further, the downspout must be vertical and attached to the wall against which the rain barrel is located.

- b. **Rain Harvesting System:** A rain harvesting system must collect and store the water underground. The portion of a rain harvesting system that is above-ground must appear to be a landscape or water feature. The above-ground portion of the rain harvesting system shall not extend above the surface of the ground by more than thirty-six (36) inches. The above-ground portion of the rain harvesting system must be screened with evergreen landscaping to minimize visibility from a street, another Lot, and common area, unless otherwise approved in writing by the Board.

Provided that, the regulations in this Section 2.4 shall be applicable only to the extent that they do not prohibit the economic installation of the rain barrel or rain harvesting system on the Lot and there is a reasonably sufficient area on the Lot in which to install the rain barrel or rain harvesting system.

**Section 3. Solar Energy Devices.** Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defines the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power". The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. The Section entitled "Solar Collector Systems / Solar Panels" in the "Memorial Bend Architectural Guidelines adopted 12-14-2009 Effective 01-01-2010" as a part of the "Notice of Dedicatory Instrument Memorial Bend Civic Association" recorded in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No. 20100075061 ("Architectural Guidelines") is hereby deleted and replaced with this Section 3.

The following Guidelines shall be applicable to solar energy devices in Memorial Bend:

- 3.1. Board Approval.** The installation of a solar energy device requires the prior written approval of the Board. Provided that, the Board may not withhold approval if these Guidelines are met or exceeded, unless the Board determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist.
- 3.2. Location.** A solar energy device is not permitted anywhere on a Lot except on the roof of the residential dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot.
- 3.3. Devices Mounted on a Roof.** A solar energy device mounted on the roof of the residential dwelling or other permitted structure on a Lot:

- a. shall not extend higher than or beyond the roofline;
- b. shall conform to the slope of the roof and have a top edge that is parallel to the roofline;
- c. shall have frames, support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and
- d. shall be located on the roof as designated by the Board unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the Board. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.

**3.4. Visibility.** A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio.

**3.5. Warranties.** A solar energy device shall not be installed on a Lot in a manner that voids material warranties.

**3.6. Limitations.** A solar energy device is not permitted on a Lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

**Section 4. Storm and Energy Efficient Shingles.** Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing shingles that:

- a. are designed to:
  - (i) be wind and hail resistant;
  - (ii) provide heating and cooling efficiencies greater than those provided by customary composition shingles; or
  - (iii) provide solar generation capabilities; and
- b. when installed:
  - (i) resemble the shingles used or otherwise authorized for use on property in the subdivision;
  - (ii) are more durable than and are of equal or superior quality to the shingles described below; and
  - (iii) match the aesthetics of the property surrounding the Owner's property.

**4.1. Board Approval.** In order to confirm the proposed shingles conform to the foregoing Guidelines, Owners are encouraged to apply to the Board for prior approval. The Association may require an Owner to remove shingles that do not comply with these Guidelines and Declaration.

**4.2. Regulations.** When installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in the Section of Memorial Bend where the Lot is located, as

required by the applicable sections of the Declaration to the Lot. In addition, the storm or energy efficient shingles must match the aesthetics of the Lots surrounding the Lot in question.

**Section 5. Flags.** Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein.

The following Guidelines shall be applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:

- 5.1. **Board Approval.** Above-ground flagpoles, flagpole stands and/or footings and illumination under Section 5.6 proposed to be placed in front of the front building setback line for a Lot or outside of any other recorded setbacks must be approved by the Board. In order to confirm a proposed flagpole conforms to the following standards, Owners are encouraged to apply to the Board for prior approval for all other flagpoles (freestanding or attached). The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with these Guidelines.
- 5.2. **Flag of the United States.** The flag of the United States must be displayed in accordance with applicable provisions of 4 U.S.C. Sections 5-10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.
- 5.3. **Flag of the State of Texas.** The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things, the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States, and the display of the flag outdoors.
- 5.4. **Flagpoles.**
  - a. Not more than one (1) freestanding flagpole or flagpole attached to the residential dwelling or garage (on a permanent or temporary basis) is permitted on a Lot, which may not exceed five inches (5") in diameter, without the approval of the Board.
  - b. A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.
  - c. A flagpole attached to the residential dwelling or garage shall not exceed six (6) feet in length.
  - d. A flagpole, whether freestanding or attached to the residential dwelling or garage, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the residential dwelling on the Lot on which it is located.
  - e. A flagpole shall not be located in an easement or encroach into an easement.

- f. A freestanding flagpole shall not be located nearer to a property line of the Lot than the applicable setbacks as either shown on the recorded plat or as set forth in the Declaration. Provided, however, on a case-by-case basis (depending on the size and configuration of the Lot) a freestanding flagpole may be located in front of the front building setback line for a Lot, if approved by the Board.
- g. A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.
- h. An Owner is prohibited from locating a flagpole on property owned or maintained by the Association.
- i. A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.
- j. If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the Board may require the installation of landscaping to screen the stand and/or footing from view.

**5.5. Flags.**

- a. Only the three (3) types of flags addressed in this Section shall be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall-mounted flagpole as otherwise provided in architectural guidelines adopted by the Association or as otherwise permitted by the Association.
- b. Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any given time.
- c. The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the residential dwelling or garage shall be three (3) feet by five (5) feet.
- d. The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.
- e. A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.
- f. A flag must be displayed on a flagpole. A flag shall not be attached to the wall of the residential dwelling or other structure on a Lot or a fence, or be displayed in a window of the residential dwelling or other structure on a Lot.

**5.6. Illumination.** Illumination of a flag is permitted but the lighting must be in-ground and have a maximum of 150 watts, unless otherwise provided by the Board. High intensity lighting such as mercury vapor, high pressure sodium, or metal halide is not permitted. The lighting is required to be compatible with exterior lighting within the subdivision and appropriate for a residential neighborhood. Lighting used to illuminate a flag shall be positioned in a manner so that the lighting is not directed toward an adjacent Lot or a street adjacent to the Lot and does not otherwise unreasonably affect an adjacent Lot.

**5.7. Noise.** An external halyard on a flagpole is required to be securely affixed to the flagpole so that it is not moved by the wind and thereby permitted to clang against the flagpole.

**Section 6. Religious Items.** Section 202.018 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying or affixing on the entry to the Owner's or resident's dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief, except as otherwise provided therein. Section 202.001(4) of the Texas Property Code defines "restrictive covenant" to mean any covenant, condition, or restriction contained in a dedicatory instrument.

The following Guidelines shall be applicable to the display of religious items in Memorial Bend:

- 6.1. **Board Approval.** As authorized by the Declaration and, therefore, allowed by Section 202.018(c) of the Texas Property Code any alteration to the entry door or door frame must first be approved by the Board.
- 6.2. **Location.** Except as otherwise provided in this Section, a religious item is not permitted anywhere on a Lot except on the entry door or door frame of the residential dwelling. A religious item shall not extend past the outer edge of the door frame.
- 6.3. **Size.** The religious item(s), individually or in combination with each other religious item displayed or affixed on the entry door or door frame, shall not have a total size of greater than twenty-five (25) square inches.
- 6.4. **Content.** A religious item shall not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.
- 6.5. **Limitation.** A religious item shall not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.
- 6.6. **Color of Entry Door and Door Frame.** An Owner or resident is not permitted to use a color for an entry door or door frame of the Owner's or resident's residential dwelling or change the color of an entry door or door frame that is not authorized by the Board.
- 6.7. **Other.** Notwithstanding the above provisions: (i) the Board shall have the authority to allow a religious statue, such as by way of example and not in limitation, a statue of St. Francis of Assisi or other religious item in a landscape bed or other portion of a Lot, and (ii) these Guidelines shall not prohibit or apply to temporary seasonal decorations related to religious holidays.

In the event any provision in these Guidelines conflicts or is inconsistent with a provision in the Declaration or Architectural Guidelines, the provision in these Guidelines shall control.

I hereby certify that I am the duly elected, qualified and acting Secretary of the Association and that the foregoing Guidelines Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items was approved by a majority vote of the Board of Directors as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.



TO CERTIFY which witness my hand this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**MEMORIAL BEND CIVIC ASSOCIATION, INC.**

By: \_\_\_\_\_  
Susan Thompson, Secretary

THE STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned notary public, on this \_\_\_ day of \_\_\_\_\_, 2012 personally appeared Susan Thompson, Secretary of Memorial Bend Civic Association, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and in the capacity therein expressed.

\_\_\_\_\_  
Notary Public in and for the State of Texas

Return to:  
Butler | Hailey  
8901 Gaylord, Suite 100  
Houston, Texas 77024  
210720