

MEMORIAL BEND
Architectural Review and Compliance Committee
Architectural Guidelines
Promulgated by the Memorial Bend Civic Association, Inc.

Article I. Introduction

Section 1.01 Purpose of the Guidelines

(a) Intent, Objectives and Goals

- (i) The intent of the Architectural Guidelines (hereinafter "**Guidelines**") is to provide a predictable and consistent approach to, but not limited to, renovations, additions, demolition and new construction in the Memorial Bend in an effort to maintain the 'character' of the neighborhood. The general character is visible but is a combination of predominately mid-century modern and ranch style homes followed by traditional brick and some contemporary homes. Our goal is to maintain, even increase the property values of residents' homes. While many arguments can be made as to how that is accomplished the committee has sought outside counsel given the unique and predominant home styles of Memorial Bend.
- (ii) The objective of the Guidelines is to achieve a high standard of visual appeal in our community for both the immediate and long-term benefit of the homeowner (hereinafter "**Owner**"). We desire residential development that through design encourages and contributes to a sense of community. It is well recognized today that curb appeal is important in creating and maintaining a home's value. In this respect, the Guidelines provide an important protection for a homeowner's investment.
- (iii) The goal of the Guidelines is to provide a detailed outline for current and potential residents and applicants for the purpose of reviewing construction plans for all new homes and modifications to existing homes in Memorial Bend and to ensure the exterior contributes to the overall value of the neighborhood.
- (iv) The Guidelines reasonably assume that projects submitted for review comply with all current federal, state and local laws, codes and regulations. The Association reasonably assumes all parties involved in execution of the Project shall comply with all federal, state and local codes and regulations.
- (v) Should a conflict occur between the Guidelines and any governing jurisdiction, the governing jurisdiction requirements shall take precedence.

(b) Applicability

- (i) The Guidelines shall apply to the Memorial Bend Subdivision:
- 1) 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.
 - 2) 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.
 - 3) 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.
 - 4) 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.
 - 5) 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.

(hereinafter "**Memorial Bend**"). The Guidelines are in addition to the "Second Superseding Declaration of Restrictive Covenants Restrictions and Conditions of Memorial Bend Subdivision Section One, Section Two, Section Three, Section Four and Section Five" filed of record in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No. U191970. (hereinafter "**Declaration**")

- (ii) The Board's approval of any variance application under these facts and circumstances shall have no precedential effect as to any other application.
- (iii) Upon recordation in the Official Public Records of Real Property of Harris County, Texas these Guidelines will supersede and replace the "Memorial Bend Architectural Guidelines Adopted 12-17-2012 Effective January 4, 2013" attached to the "Notice of Dedicatory Instruments for Memorial Bend Civic Association, Inc." recorded in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No. 20130007264.

(c) Authority

- (i) The Board shall have full power and authority to enforce the restrictions, covenants, and conditions imposed upon Memorial Bend in these Guidelines. The Board shall appoint an Architectural Review and Compliance Committee ("**Committee**") which will assist the Board in the execution of its right and duties contained in this Article.

(d) Modification of the Guidelines

- (i) Requests for revisions by residents shall be submitted to the Board which will in-turn submit to the Committee for review. The Committee shall review and report to the board within 30-45 days either acceptance as requested, acceptance with revisions denial with explanation.
- (ii) The Guidelines may be modified as required to comply with Federal, State or Local laws and codes.
- (iii) The Committee shall present the Board proposed revisions, if any, upon periodic review of the current Guidelines.
- (iv) The Board of Directors shall review; vote and either approve or disapprove with comments any proposed modifications by a simple majority of the Board.
- (v) Amended Guidelines shall be effective upon recordation in the Official Public Records of Real Property of Harris County, Texas. The amended Guidelines supersede and replace any other Guidelines previously published, or amended.
- (vi) The Guidelines will be made available to residents upon request. Moreover, the Guidelines may be made available through the Association's management company (the "Management Company") as set forth in the most recent Management Certificate as required by Section 209.004 of the Texas Property Code and filed of record in the Official Public Records of Real Property of Harris County, Texas and/or posted to the website; <http://memorialbendhouston.com/>. If requested from the Management Company there will be a charge of \$20.00.

Section 1.02 Submission and Review Process

(a) When are submissions required?

(i) Items to be submitted shall comply with (b) below:

- 1) Demolition;
- 2) Tree removal;
- 3) New Construction;
- 4) Exterior Renovation, including changes, modifications and/or additions to both the residence and other structures on a Lot as well as other changes, modifications and/or additions to a Lot (including but not limited to driveways, parking areas, play areas and other improvements);
- 5) Swimming Pools, their related mechanical systems and surrounding surfaces that affect drainage and impervious areas;

- 6) Major Landscaping Projects that include, by way of example and not limitation, removal of trees 3" caliper or greater, significant changes to site grading, installation of large rocks and boulders (i.e. greater than 24"), installation of architectural and/or decorative features visible from the street in front of the Lot; and
 - 7) Fences; other than replacement of perimeter fences that are the same type construction as the fence being replaced and that follow the property and do not extend beyond the front building line. Fence height shall not exceed eight feet (8'-0").
- (ii) Items that do not require review by the Committee, yet must still comply with local jurisdictional requirements:
- 1) Interior projects;
 - 2) Routine maintenance such as, but not limited to, painting to match the existing color; and
 - 3) Window replacement that comply with the Guidelines and are the same size and color as those they are replacing.
- (b) Submission process
- (i) Owner shall submit a completed Application including required data, drawings, etc. as outlined in the application prior to commencement of the (i) Project and (ii) Owner's application for CoH building permit.
 - (ii) Placement of improvements, alterations, modifications, construction or demolition (as applicable) shall not commence on any Lot or building site in any of the areas subject to these restrictions until after plans for such construction or demolition have been approved in writing by the Committee.
 - (iii) The Application, signed by the Owner with supporting documentation and applicable fee shall be sent to the Association's designated representative as set forth in the Association's Management Certificate as required by Section 209.004 of the Texas Property Code and filed of record in the Official Public Records of Real Property of Harris County, Texas. See Exhibit A for the Application form.
 - (iv) If the Owner has any substantial questions or requests clarifications regarding the Project, an appointment can be made, via the Board, prior to making a formal submittal, with the entire Committee or a portion of the Committee as the Committee deems appropriate, at its next regularly scheduled meeting. The Owner must present some type of drawing to illustrate the Project intent. The Committee can discuss with the Owner how the Declaration and the Guidelines may affect the Project.
 - (v) Comments by or approval by the Committee in no way supersedes the deed restrictions or requirements of the CoH or any other governmental authority having jurisdiction over

the property for approvals and permits. The Owner is responsible for complying with the procedures and Guidelines outlined herein along with all zoning and other applicable governmental laws, rules and regulations.

- (vi) The Committee will use all best efforts to issue a Notice of Approval or disapproval within 30 days of submission but the Committee reserves the rights as described in Article 1, Section 1.02,(b) (ii).
 - (vii) Deviations From Approved Plans - Any deviation from approved new construction or renovation plans must be submitted to the Committee for review in the same manner as the procedures and submission requirements outlined above prior to commencement of said changes or revisions. This shall include deletion from scope of work. The Owner shall submit changes at the earliest possible time to avoid costly delays. Changes shall be conspicuously identified by a bubble or similar means. Such deviations without notification and prior approval as outlined in Article 1, Section 1.02(b) (ii) may be subject to all or part of Article 1, Section 1.02 (e).
 - (viii) Any decision made by the Committee in relation to the Guidelines may be challenged by residents or the Owner in an appeal to the Board in writing within thirty (30) days of initial notification. The Board must hold the hearing on the appeal at either a regularly scheduled meeting or call a special meeting of the Board within thirty (30) days after the Board receives the notice of appeal, unless either side requests an extension of not more than ten (10) days or an extension of time mutually agreed to by all parties.
 - (ix) Decision of the Board may be appealed to the Members of the Association (hereinafter "**Membership**") for a final decision. Any such final appeal to the Membership must comply with the rules for calling special meetings of the Membership and also the rules of quorum as set forth in the By-Laws of the Association. All decisions made at such a special meeting shall be determined by a simple majority of the Membership entitled to vote that are present either in person or by proxy. Any costs associated with such meetings will be paid by the unsuccessful party. In the event the Membership decides in favor of the Applicant making the appeal, the costs of such meeting will be paid by the Association. Should the Membership decide in favor of the original decision, the appealing Owner or resident shall be liable for the costs of such meeting, said costs shall be the personal obligation of the unsuccessful appealing Owner or resident. Prior to calling the special meeting, the Board can require a deposit of costs for the special meeting to be deposited with the Association.
- (c) Committee Review Process
- (i) The Committee will review the Application and required plans to render a decision. The Committee will consider each Application in light of the Declaration and most recent Guidelines. This form can be found in Appendix B. A decision by the Committee is defined as:

- 1) APPROVED – allowing the commencement of construction
 - 2) CONTINGENT APPROVAL WITH CONDITIONS – allowing the commencement of the proposed construction with conditions, as long as the homeowner accepts the condition(s) in writing
 - 3) REVISE AND RESUBMIT – the applicant cannot construct or install the proposed work although only portions of the submission may be incomplete or incorrect & the Committee requires that portion be corrected and re-submitted for review
 - 4) DENIED – the applicant cannot construct or install the proposed project. A denial may also indicate the Application is incomplete and a complete resubmission of the entire project is required.
- (ii) The Committee will strive and use all best efforts to render a decision in writing within 20 calendar days for Minor projects, 30 calendar days for most projects and up to 45 calendar days for large ground-up new construction, of the submission. Any decision requires signatures of at least four members of the Committee, one of which must be the chairperson. Minor Projects, as determined by the Committee, require only two (2) signatures from the Committee, one of which shall be the chairperson.
 - (iii) The Owner should confirm that the Committee received the application.
 - (iv) At the discretion of the Committee, the Owner may be required to submit a wood form survey that includes the overhangs of the structure confirming compliance with setback requirements of these Guidelines. This submission is at the discretion of the Committee and paid for by the Owner.
 - (v) Approved applications expire after 6 months of inactivity. Approval commences three days after the final signature is obtained on the Application.
 - (vi) Unless a written approval of extension to complete the Project is submitted prior to the expiration is obtained from the Committee, the Project must be re-submitted in full, with fee, for consideration.
 - (vii) Once an approved Project has commenced, said Project must be substantially complete within six (6) months (180 calendar days) from the earliest to occur of (1) groundbreaking or (2) commencement of other similar work unless otherwise approved by the Committee.
 - (viii) Project extension requests shall be in 30-day increments must be submitted to the Committee and may require a Project Extension Fee of \$250.00 for each extension.
 - (ix) Within ten (10) business days following issuance of CoH permits and prior to commencement of work on a Project, Owner shall submit true and correct copies of CoH permits issued in connection with each Project. Permit copies shall be submitted to the Association through its Management Company.

- (d) Inspections
 - (i) The Committee may perform interim inspections to insure compliance with the plans submitted to the Committee.
 - (ii) The Committee may perform a final inspection of the property in order to confirm compliance with the plans & supporting information submitted to the Committee.

- (e) Enforcement
 - (i) The Committee may, at any time, inspect a Project, Lot or Improvement and, upon discovering a violation of these Guidelines, provide a written notice of non-compliance to the Owner, including a reasonable time within which to correct the violation.
 - (ii) Upon completion of the Project or within five (5) business days following the Committee's written request, the Owner shall execute and deliver a notarized "**Certificate of Compliance**" affidavit to the Association through its Management Company. The form can be found in the Appendix as Exhibit C.
 - (iii) In the event an Owner or Project is in violation of these Guidelines, the Board may file suit against the Owner in violation.

- (f) Failure to Enforce Restrictions
 - (i) The failure of the Association, the Committee, the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, or any Resident (not an Owner), to enforce this Declaration or any portion thereof shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

- (g) Non-Liability of the Committee
 - (i) The content of the Guidelines, and any actions of the Committee or its designees, are not intended to be and should not be construed to be, an approval of the adequacy, reasonableness, safety, structural integrity, or fitness for intended use of submitted plans, materials, or construction nor ensuring compliance with building codes, zoning regulations or other governmental requirements.
 - (ii) Neither the Memorial Bend Civic Association, Inc., the Board of Directors, the Committee, nor their respective members or representatives shall be liable for damages or otherwise to anyone submitting plans to it for approval, or to any Applicant by reason of mistake in judgment, negligence or nonfeasance, arising out of any action of the Committee with respect to any submission, or for failure to follow the Guidelines.
 - (iii) The role of the Committee is directed toward review and approval of site planning, appearance, architectural vocabulary and aesthetics. Neither the Memorial Bend Civic Association, Inc., the Board of Directors, the Committee, nor their respective members or

representatives assume any responsibility with regard to design or construction, including, without limitation, the geotechnical, civil, structural, mechanical, plumbing or electrical design, and methods of construction, technical suitability of materials, or resulting erosion or damage from alteration of grading or drainage.

- (iv) Notwithstanding any approval by the Committee hereunder, owners may be required to correct erosion or other drainage conditions created by improvements approved by the Committee, as otherwise required by law. In accordance with state law, no owner may divert or impound the natural flow of surface water or permit a diversion of impounding to continue, in a manner that damages the property of another.

Section 1.03 Committee Structure

(a) Make-up of Committee

- (i) The Committee shall be composed of at least five (5) members. All five (5) districts shall be represented by at least one resident member if possible. Since this is a volunteer organization and if a district cannot provide representation, a resident from another district may fill this position with majority approval of the Board.
- (ii) The Parliamentarian shall chair the Committee.

(b) Meetings

- (i) Committee meetings shall be held monthly.
- (ii) Day, time and location of the meetings shall be determined by the Committee members.
- (i) Committee meetings are not public, but residents or applicants may request to address the Committee via the Board.

Section 1.04 Abbreviations, Terms and Definitions

(a) Terms (Definitions)

- (i) "**ADA**" means Americans with Disabilities Act
- (ii) "**BoC**" means Back of Curb, a common origination point for measurement
- (iii) "**CoH**" means City of Houston
- (iv) "**Grandfathering**" refers to existing conditions which are in compliance with prior Guidelines and the Declaration (prior to the adoption of these Guidelines) shall be considered compliant.
- (v) "**MSDS**" means Material Safety Data Sheet, listing all components contained in a given product.
- (vi) "**PCT**" refers to a Portable Chemical Toilet (aka Port-a-Potty).

- (vii) "**Substantial Completion**" means the point in time when a project is suitable for its intended use.
- (viii) "**TAS**" means the Texas Accessibility Standards
- (ix) "**Wood Form Survey**" means drawing showing the wood framing for the foundation of the home prepared by an engineer or other licensed professional.

(b) Fees

- (i) The "**Architectural Review Fee**" (hereinafter "**Fee**") is a one-time review fee in the amount of \$500.00. Additional fees may be assessed if substantial changes or revisions are made thus requiring subsequent, full reviews. The fee shall be made payable to "Memorial Bend Civic Association, Inc." and send to the Association's management company as set forth in the most recent Management Certificate as required by Section 209.004 of the Texas Property Code and filed of record in the Official Public Records of Real Property of Harris County, Texas. The Fee shall be provided with the Application or request for extension as described in Article 1, Section 1.02, (b).
- (ii) The Committee in its sole discretion may reduce the Fee in cases where the proposed project is deemed 'minor' in scope and duration. 'Minor' projects may include but are not limited to; painting, replacement of a fence, etc. (hereinafter "**Minor Projects**").
- (iii) The Committee shall have authority at the discretion of a majority of Committee members, to engage the services of an independent architect or other professional to act as a consultant. The cost of such will be borne by the Owner and a deposit of 50% will be required prior to engaging said professional. The Owner shall be informed in writing of the Committees need for outside counsel and the reason(s) why. The owner shall respond in writing to either accept the Committees decision and proceed by submitting the deposit, cancel the Project or appeal as per Article 1,
- (iv) Use of the Fee may include a survey by a third party to verify compliance with the Guidelines.
- (v) The amount of the Fee may be changed by the Board with a majority vote.

Section 1.05

(a) Use of Land

- (i) No building including all heated/cooled spaces, impermeable, paved areas and garage, shall have a footprint covering more than 70% of the buildable area (the "**Permissible Coverage**") of the lot as calculated from the area within the building setbacks (see **Exhibit A**) as identified on the survey. For building setbacks, see the recorded plat. Furthermore, no portion of the structure shall encroach upon or within the setback areas described in these Guidelines, the Declaration or plat of Memorial Bend.

- (ii) Although Swimming Pools themselves generally are not considered when calculating the Permissible Coverage, paving, sidewalks, coping, architectural features and other elements supporting or adjacent to a swimming pool (the "**Pool Features**") may affect the Permissible Coverage. In other words, the Committee may consider the Pool Features when evaluating an Owner's compliance with the Permissible Coverage.
- (b) Easements
 - (i) Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded Subdivision plats.
 - (ii) Aerial Easements are not allowed.
- (c) Access to Property
 - (i) Access to or egress from any property may not be blocked or denied at anytime.
- (d) Fences
 - (i) Type, material, height shall not conflict with the Declaration. Fence height shall not exceed 8'-0".
- (e) Grandfathering
 - (i) Any improvements on the Property which are/were Grandfathered, but are demolished shall no longer be considered Grandfathered and new improvements must be compliant with these Guidelines in force at the time of review.

Article II. Guidelines

Section 2.01 Construction

- (a) Interior Projects
 - (i) Interior renovation projects are not subject to review by the Committee. The Applicant shall obtain all necessary approvals and permits as required by federal, state and local jurisdictions.
- (b) Exterior Projects
 - (i) Projects may be considered Major or Minor and must be submitted for review by the Committee as prescribed in Article 1, Section 1.02.
 - (ii) All projects must comply with the Declarations.
- (c) General Construction and Materials
 - (i) All residences, garages and other permanent structures shall be built on concrete slabs.

- (ii) Residences shall be constructed with at least fifty-one percent (51%) brick, stone, stone tile, (cultured or natural) or stucco. Synthetic stucco is not considered an approved masonry substitute.
 - 1) Special consideration can be given provided the new structure is in the mid-century or ranch style which is prevalent throughout the neighborhood.
 - (iii) Other exterior construction materials may be used only with the prior written approval of the Committee. Each material is to be complimented by details appropriate to the style of the house.
 - (iv) In determining such percentages of masonry, roof areas and detached garages shall be excluded, but attached garages, porches, and other structures constituting part of the residence shall be included. A garage, which is separated from the residence by at least ten feet (10.) but connected to the residence by a covered walkway, is not considered attached.
 - (v) All doors and windows are to be included as non-masonry in determining the exterior construction percentage, except windows less than fifty percent (50%) in height of the vertical height of the wall containing the window.
 - 1) Special consideration can be given provided the new structure is in the mid-century or ranch style which is prevalent throughout the neighborhood. .
 - (vi) Color selections should be in character with the surrounding homes.
 - (vii) Unfinished exterior wood materials are not permitted.
 - 1) Special consideration can be given provided the new structure is in the mid-century or ranch style which is prevalent throughout the neighborhood.
 - (viii) All stucco must be painted or integrally colored.
 - (ix) For all new construction and exterior remodeling projects, the Owner shall provide a dedicated area for 'out-of-sight' storage of garbage and recycling bins. These receptacles shall be visible from public right-of-ways.
- (d) Building Height
- (i) The intent is to prevent second story development or addition of structures from overwhelming adjacent houses or be out of character with the neighborhood. The goal is to allow existing homes to maintain privacy currently enjoyed by existing and predominant single story homes. One method may include pushing the taller portions of a new house, or addition, away from the perimeter of the lot. The intent is for such development to not be so large as to encroach on neighboring homes.
 - (ii) The top of slab shall be no higher than 12" above highest point of the surrounding undisturbed soil within the buildable area.

(e) Buildable Area

(i) Side yard setback:

- a) 0-5ft from property line: building construction not permitted to extend beyond the set-back, this includes overhangs (aerial easement rights are not allowed).
- b) 5-15ft from property line: average height shall not exceed 20ft including all roofing and dormer ridges, but excluding chimneys. The requirement is not applicable at side yard setbacks facing Beltway 8. Maximum height behind 5ft side yard setback facing Beltway 8 is 32ft.
- c) Behind 15ft setback: height shall not exceed 32ft.

(ii) Front yard setback:

- a) 0-25ft from property line (or in front of the building setback reflected on the Plat) - building construction not permitted.
- b) Up to 15ft behind the front building setback line, average height shall not exceed 20ft including all roofing and dormer ridges, but excluding chimneys.
- c) Behind 15ft setback height shall not exceed 32ft.

(iii) Back yard setback:

- a) 0-10ft from property line - building construction not permitted
- b) 10-20ft from property line - average height shall not exceed 20ft including all roofing and dormer ridges, but excluding chimneys.
- c) Behind 20ft setback height shall not exceed 32ft.

(f) Garages

- (i) Exterior walls and roofs of garages, carports and porte-cocheres (hereinafter "**Garage**"), on a residence, shall be constructed of the same material which is used on the exterior walls and roof of the residence. Each house must have and maintain two (2) car bays which may be side-by-side or tandem (one car in front of the other).
- (ii) Garage, carport or porte-cochere design should utilize varied setbacks and massing. The intent is to minimize and diminish the visual impact or importance of the Garage. For Garages with openings that face the street, the Committee may require an increase in the garage setback to visually diminish the importance of the garage to the front facade of the house.
- (iii) Features, such as window, may also be required to be included or deleted to continue the character of the house across the entire elevation. All Garage doors must be maintained and operational.
- (iv) No metal Garages allowed.

- (g) Roofs
 - (i) Roof pitches and overhangs may vary as dictated by the architectural style of the house.
 - (ii) All roof vents and stacks are to be at back of house, where possible.
 - (iii) Downspouts shall not direct the flow of water onto adjacent properties.
 - (iv) The top of the roof shall comply with Article II, Section 2.01, (d).
- (h) Chimneys
 - (i) If any, shall be integrated with the building architecture and proportional thereto.
- (i) Awnings
 - (i) Are not allowed to be visible from any public right-of-way.
 - (ii) Are discouraged, but allowed on the non-publically visible portions of the house.
- (j) Windows and Doors
 - (i) Careful attention should be given to the proportion, form, consistency of detailing, and surround treatment around all door and window openings. Glass should be clear. Tinted glass may be appropriate in special cases. No reflective glass or reflective tinting is permitted. Low-E glass is permitted. Painting of glass is not permitted except in the case of true spandrel glass applications. Interior window treatments must compliment the exterior of the house. No sheets, blankets, papers, foils, films or similar treatments are allowed.
 - (ii) Shutters, windows and doors may be painted or stained in colors that complement the siding and masonry used on the house.
- (k) Entry Portichere's
 - (i) Shall comply with Article II, Section 2.01,(d)
 - (ii) Roofed entry porticos with detached columns shall be tied back to the main facade of the structure.
- (l) Dormers
 - (i) Dormers should be functional or appear as such. Interior window treatment shall be incorporated in nonfunctional dormers so that the unfinished attic space is not visible.
- (m) Demolition of Structures
 - (i) Any building, structure or improvement partially or totally damaged or destroyed by fire, storm, deterioration, or by any other means shall be repaired or completely demolished within one hundred twenty (120) days from date of loss, and the Lot restored to an orderly and attractive condition.

- (ii) Should additional time be necessary to achieve the above, extended time periods for repairs may be requested by the Owner, for review and approval by the Committee.
- (iii) For demolition in advance of new construction, the Owner shall submit a request for approval to the Committee including information concerning preservation of trees ("**Tree Survey**" by a third-party surveyor). The Committee may require (1) that the Owner retain trees and other landscaping until a new construction application is approved by the Committee and (2) installation by Owner of interim landscaping until the new, approved construction is commenced pursuant to an approved tree plan.
- (iv) Owners are encouraged to undertake a plan of salvage and recycling in connection with each demolition.
 - 1) In order to reduce landfill waste as a result of demolition, the Owner should allow for deconstruction of the house. This benefits the neighborhood; over-taxed landfills and the Owner as tipping fees are reduced. There may even be tax incentives.
 - a) The Owner may contact a deconstruction appraiser to examine tax benefits. The Association does not endorse individual appraisers and recommends an internet search of "deconstruction appraisers Houston".
 - b) A good resource regarding deconstruction is from HARC (Houston Advanced Research Center).
- (n) Driveways
 - (i) Material(s)
 - 1) Each driveway must be concrete or other masonry type product and must be approved by the Committee. Glazing or other finishing material for driveways is subject to review by the Committee. Colors shall be earth tones; shades of bright colors, other than standard gray concrete, are not allowed.
 - (ii) Size and Width
 - 1) Extensions, widening, or rerouting of existing driveways shall be subject to review and approval of the Committee before any work is undertaken. New driveways and driveway extensions shall be no wider than necessary to reasonably accommodate two (2) non-commercial, passenger vehicles, not to exceed twenty-two (22') feet in total width.
 - (iii) Configurations
 - 1) Standard driveway configuration consists of a straight path from the public street to a Garage, porte-cocheres or similar parking location.
 - 2) Garage entry's can be and are encouraged to be, perpendicular to the roadway in an effort to minimize entries.

- 3) Circular driveways (e.g. two or more points of ingress and egress at the street) are only allowed on main thoroughfares (Memorial Drive and Beltway 8 frontage roads) for safety reasons.
 - a) Circular driveway not on main thoroughfares shall not be grandfathered for new construction.
 - 4) Driveway configurations not previously addressed in these Guidelines must be reviewed and receive approval from the Committee prior to execution.
- (iv) Accessories
- 1) Driveway reflectors or markers are not permitted unless otherwise approved by the Committee. An example of an exception is Memorial Drive which has a drainage ditch in lieu of curbs and gutters.
- (o) Corner Lots
- (i) Designs should take into consideration that the house will be viewed from more than one street.
 - (ii) Garages should be located so that the entrance is not at the front of the house.
- (p) Mechanical Equipment
- (i) All mechanical equipment must be visually screened from the streets. Screening methods may include fencing, walls, evergreen shrubs or similar architectural or landscaping treatment. Swimming pool mechanical equipment shall be designed, located and installed in a manner so as to minimize operational noise audible from adjacent Lots.
- (q) Freestanding Structures
- (i) Care should be given to planning of free standing structures to compliment the architectural style of the home. Free standing structures shall include gazebos, arbors, garden sheds, storage/accessory buildings, play equipment and houses, or similar structures including all other structures not previously itemized. Structures that are not visible from public right-of-ways but may be visible by neighboring homes must comply with these Guidelines.
 - (ii) Paint and stain finishes shall be coordinated with and compliment those of the house. Roof material shall match or complement that of the house.
 - (iii) Unless approved by the Committee, overall height shall not exceed ten (10) feet. Gazebos and trellis/arbors shall not exceed 144 square feet in size. Larger sizes may be considered by the Committee depending upon the yard area and proposed location. Free standing structures shall be located in the side or rear yards only; maintain a five (5) foot setback from all common property lines on interior lots.
 - (iv) A storage/accessory building shall be no more than 10 feet wide, 12 feet deep and 10 feet high at the peak of the roof. Metal, plastic, or vinyl storage/accessory buildings are not

allowed unless placed so as not to be visible from any common area, street, public right-of-way or the 1st floor of neighboring homes.

- (r) Outdoor fireplaces and barbeque pits
 - (i) Permanent outdoor fireplaces and barbecue pits shall not be visible from the street or any public right-of-way. The Committee recommends they be of approved exterior materials that compliment the house. Fireplaces, fire pits, chiminea's or similar elements may not be located closer than fifteen (15) feet to any property line and shall not encroach onto any easement or alter the surface drainage. These structures should be in scale with and integrated into the design of the house structure, deck and/or landscape areas and shall be sited in consideration of neighboring properties. Chimneys shall not be placed directly under trees canopies. The maximum height, excluding chimneys, shall not exceed six (6) feet. Height of the chimney shall be as required for proper operation and code compliance.
- (s) Freestanding Ornamentation
 - (i) Sculptures
 - 1) Not allowed on private property if visible from any public right-of-way or the 1st floor of neighboring homes.
 - a) Exceptions may include small commonly accepted items such as benches, small children playing, animals or the like. Quantities shall be limited.
- (t) Ornamentation
 - (i) No ornamentation beyond widely accepted construction details shall be added to any structure. This includes, but not limited to gargoyles or similar elements.
- (u) Mailboxes
 - (i) USPS Mail is delivered by foot and therefore mailboxes must not be at the street.
 - (ii) May be attached to the house or fence near the house.
 - (iii) Freestanding mailboxes are allowed only when installed three feet or less from the structure of the house (edge of slab).
 - (iv) Must be scaled and aesthetically appropriate for the house.
 - (v) Color and finish of mailboxes must complement the style and finishes of the house.
- (v) Exterior Lighting
 - (i) The intent is to limit and contain artificial light to be within the property from which it emanates and eliminate light onto neighbor's property and limit general light pollution.
 - (ii) Purpose(s) of exterior lighting are safety, security, decoration and identification.

- (iii) Energy efficiency and maintenance should be a consideration, but is not regulated by the Committee.
 - (iv) Light in excess of 10 foot-candles may not shine beyond the property line. This is to avoid interfering with the vision of drivers or pedestrians and shining in neighboring yards or homes. Motion sensor lights are permitted but shall not be activated by a pedestrian walking in a public right of way (e.g.; sidewalk) or vehicles driving down the public streets.
 - (v) Light fixtures and standards should be chosen to blend into and enhance the area they are illuminating.
 - (vi) Exterior lighting shall be shielded and installed so that the source of the light is not readily visible from neighboring property and no light is directed onto neighboring property or into a public right-of-way.
 - (vii) All lights shall be in shades of white. Colored lights are not permitted with the exception of seasonal lighting. Seasonal lighting includes; New Year, Independence Day (4th of July), Halloween, Thanksgiving and Christmas and other recognized religious holidays shall be permitted for a period not to exceed 30 days per recognized event.
- (w) Sidewalks
- (i) Street sidewalks must be finished per the governing CoH requirements and consistent throughout. The existing sidewalk along street frontage is to remain until flatwork begins.
 - (ii) New sidewalks constructed under requirements that differ from existing sidewalks shall be integrated with existing sidewalks. An example would be existing 4'-0" wide sidewalks and new 5'-0" wide sidewalks. The new sidewalk shall taper down at 45 deg. angles to integrate with the existing sidewalk. The surface of the new sidewalk must also align with the surface of the existing sidewalk so as to provide a consistent surface. Should the existing sidewalk not be level, the new sidewalk, shall be level and code compliant and taper to be integrated with the existing sidewalk while meeting all jurisdictional requirements.
 - (iii) Corner lots shall provide ADA/TAS compliant ramps.

Section 2.02 Site & Landscaping

- (a) Plantings
 - (i) The front yard, including street and each side yard shall be sodden with live plant material. Synthetic lawn materials are not allowed where visible from public right-of-ways. Corner lots with the flanking yard from the curb to the house for the full depth of the lot is also to be sodden. Landscape materials such as flowerbeds are allowed.
- (b) Retaining Walls

- (i) The Intent is to have exposed surface of retaining walls shall be faced with masonry product of the same type and style as used on the structure or blend with that which is used on the residence.
 - (ii) Retaining walls shall be limited to eighteen inches (18") in height. A series of walls in terraces may be required to comply with the height restriction. Taller retaining walls may be allowed if justified and approved by the Committee. Retaining walls shall not alter or impair the surface drainage of the adjacent properties. Treated wood walls are permitted with Committee approval. Railroad ties are not permitted as retaining walls nor are any materials containing materials considered hazardous. Non-masonry materials must be submitted with MSDS sheets for review by the Committee.
- (c) Landscape Structures
- (i) Landscape structures beyond the front build line shall be limited in height to eighteen (18") inches.
 - (ii) Landscape benches, fountains or other yard accessories and structures including bird baths, if visible from any public right-of-way, shall blend with the natural environment.
- (d) Tree Preservation
- (i) Preservation of trees within Memorial Bend is a priority of the Committee and must be reasonably assured. It is widely recognized that all trees, especially mature trees are some of the most valuable amenities in our community and they positively affect property values. Therefore, Owners are required to use best efforts in preserving trees. Owners shall remove fallen, dead or trees that pose a danger to the health safety or welfare of residents.
 - (ii) Trees that are three (3") caliper inches or greater, fallen or dead trees shall be identified on the applications via a tree survey generated by a registered or licensed surveyor. Trees less the three (3") caliper inches may be removed at the discretion of the Owner.
 - (iii) The Committee may require the Owner to provide evidence to the Committee from a professional arborist which substantiates a request to remove a tree that is three (3") caliper inches or greater.
 - (iv) Lots must have a minimum of one tree per 1,000 square feet of total land area.
 - (v) Any lot with total land area increment of 500 or greater shall be rounded up. (e.g.; a total lot size of 8,490 sf will require eight trees; a total lot size of 8, 510 sf will require nine trees).

50% of new trees shall be a minimum of 4" caliper inches. 50% of new trees shall be a minimum of 6" caliper inches. If an odd number of new trees are required, the greater number shall be 6

- (vi) "caliper. The Committee, in its sole discretion, may approve a tree plan that includes reasonable substitutions such as:

- (a) two (2) 4" caliper trees for each 6" caliper requirement to a maximum of (3) three new 6" caliper trees;
 - (b) three (3) Lob-Lolly Pine trees to fulfill each 6" caliper requirement to a maximum of of three (3) new 6" trees.
- (vii) The Committee reserves the right to require the Owner to plant a total caliper inches of new trees that equals the total caliper inches of trees being removed. Hardwood trees are required for the required number of new trees, but varying types of trees proposed may be submitted to the Committee for review. Consideration will be given to the type(s) of trees proposed, the growth rate, suitability for the area and the total required caliper inches.
- (viii) Massing of the structure should respond to the conditions of the site and existing trees to avoid excessive trimming of a tree which may cause the tree stress and thus endanger the viability of the tree.
- (ix) Tree protection during construction. Owner(s) shall ensure the tree protection measures are implemented before commencement of construction and maintained thereafter pursuant to Section 2.03(k).

Section 2.03 Construction Rules

- (a) Applicability (Applications)
 - (i) These rules shall apply to all Owners and Builders (any reference herein to an Owner shall also apply to the Owner’s builder and subcontractors).
 - (ii) Applications for demolition must be submitted to the Committee for review as described in Article 1, Section 1.02(b) and receive approval prior to execution of work.
- (b) Contractor signage.
 - (i) Signage shall be installed at each job site during the entire period of construction (demolition through substantial completion). Signage should be removed promptly upon substantial completion of the project.
 - (ii) Shall be easily read, in English and provide the identity and contact information (name and phone number) for the general contractor. If no general contractor, the identity and contract information of the specific contractor or entity conducting or supervising the work and the Owner (collectively the “**Project Information**”).
 - (iii) The Owner shall deliver the Project Information and any updates to that Information with the Association’s designated representative (as set forth in the Association’s Management Certificate as required by Section 209.004 of the Texas Property Code and filed of record in the Official Public Records of Real Property of Harris County, Texas) during all periods of construction.
- (c) Hours of Construction and Noise

- (i) All construction activities and deliveries of material must be conducted between 8:00 AM to 7:00 PM Monday through Friday and from 9:00 AM to 6:00 PM on Saturdays and Sundays.
 - (ii) No loud radios or distracting noises shall be permitted during construction.
 - (iii) Construction shall be substantially completed within 12 months of commencement.
- (d) Rubbish and Debris
- (i) In order to maintain a neat and orderly appearance at all times in Memorial Bend, the Owner shall adhere to all requirements consistently and on a daily basis.
 - (ii) All domestic refuse such as food scraps, packaging, cups, plates, napkins, etc. which exist at anytime on the job site must be contained, controlled and disposed of in a timely manner to eliminate unsanitary conditions which might attract animals or escape the property via wind, water or other means.
 - (iii) All lightweight material or construction debris that may blow away such as roofing paper, insulation bags, foam sheathing, polyethylene, etc. must be secured.
 - (iv) Dumpster(s):
 - 1) Must be emptied and the debris hauled away on an as-needed basis and before it is crests the top of the container.
 - 2) Must be placed on a firm surface such as concrete or wood so as not to sink into the ground even during or after heavy rainfall.
 - 3) Shall be at least five feet (5') from a front sidewalk or ten feet (10') from BoC to avoid impeding pedestrian foot traffic on public right-of-ways.
 - 4) Shall be perpendicular to the street.
 - 5) May not be located in the street.
 - (v) No burning or burial of construction debris or vegetation is allowed.
- (e) Material Storage
- (i) Construction materials shall be kept in a secure and safe manner and wholly contained on the Owner's lot.
 - (ii) The Owner is responsible for securing all construction material. Just in time delivery of materials will reduce the likelihood materials being stolen or vandalized and reduces the overall crime in the Neighborhood.
- (f) Fencing
- (i) Temporary Construction Fencing. For all new construction projects and major exterior renovations (as specified by the Committee), Owner shall utilize temporary construction fencing at least six (6) feet high to control access to the Project, control debris and ensure the PCT is not

visible from the street, among other functions. Owner shall remove Temporary Construction Fencing shall be removed upon substantial completion of the Project.

(ii) Silt Fencing. Silt fencing for erosion and sedimentation control shall be installed, as may be directed by the Committee and at a minimum in compliance with all local, state and Federal regulations such as, but not limited to the National Pollution Discharge Elimination Systems regulations from the Clean Water Act and requirements as established by City of Houston Code of Ordinances. By way of example, but not limited to, silt fencing shall be fully supported and extend a minimum of 6" below grade and maintained at all times. Sand bags or similar means for filtration shall be placed on either side of storm water inlets.

(g) Parking

- (i) All vehicles must be parked so as not to impede traffic or damage vegetation in neighboring lawns. Except for temporary loading or unloading, vehicles shall be parked so that their tires contact only paved areas (e.g. no yard or easement parking permitted). No construction vehicle (trucks, vans, cars, trailers, construction equipment, etc.) may be left parked on any street within Memorial Bend overnight. Construction vehicles may be left on home sites overnight only if additional use of the vehicle will be made within the following three (3) days.
- (ii) All vehicles must comply with CoH ordinances including, but not limited to parking a vehicle so that it faces the direction of traffic (no vehicle may park facing on-coming traffic).

(h) Miscellaneous Best Practices

- (i) Concrete providers and contractors shall not clean their equipment outside the individual building location or allow excess material to wash down CoH storm sewers.
- (ii) Contractors shall conduct themselves in a professional manner and respect the fact there are neighbors in close proximity.
- (iii) Careless disposition of flammable materials is strictly prohibited.

(i) Portable Chemical Toilets

- (i) An enclosed, regularly serviced Portable Chemical Toilet (hereinafter "**PCT**") must be provided at each Project during construction.
- (ii) The PCT shall be located in as inconspicuous a location as possible.
- (iii) The PCT shall be utilized until fully functioning, inspected and jurisdictional approval facilities are available in the house.
- (iv) Each PCT shall be fully enclosed by a secondary structure so as to be blocked from view from the street. By way of example, a typical method for enclosing a PCT would be a 7'-0" cedar fence enclosure. Multiple construction sites may share a single PCT as long as the

sites are within reasonable walking distance to one another. A construction fence meeting the requirements of Section 2.03(f) shall satisfy this subsection as it relates to enclosure of a PCT.

- (v) If not already removed, the PCT shall be removed from the site no later than Substantial Completion.

(j) Property Damage

- (i) The Owner shall be responsible for all damages to any local improvements, personal or public property, and utilities or similar.
- (ii) Damage must be repaired immediately by the Owners or their designated contractor.
- (iii) Should the damage not be repaired in a timely or satisfactory manner as notified in writing from the Committee, the Committee may authorize the repairs and the cost of those repairs will be the responsibility of the Owner.
- (iv) Should any telephone, cable TV, electrical, gas, water or similar utility or service lines which serves any property other than the Project, be damaged, cut, or in any way compromised by work being performed on the Project, the owner shall:
 - 1) Report the matter within thirty (30) minutes to the respective utility company.
 - 2) Report the matter within two (2) hours to the Management Company.
 - 3) Bear any and all costs incurred in connection with repairing such damage.

(k) Tree Protection. Owner shall be responsible for compliance with all the following:

- (i) Mark trees to be saved with surveyor's flagging or ribbon so as to clearly distinguish them from trees to be removed pursuant to approved tree plan;
- (ii) Construct barricades made of wood or wire fencing around trees to establish a tree protection zone. Tree barricades shall be ideally located a minimum of one (1) foot from the tree for each one-inch diameter of tree trunk or otherwise as approved in the tree plan;
- (iii) Place tree protection signs on the barricade in English and Spanish;
- (iv) Designate one corridor for site access, preferably where the driveway will be located. Limit construction equipment access, material storage, equipment operation, chemical or cement rinsing to non-tree areas.

Section 2.04 Compliance Guidelines regarding Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items

The "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." attached to the Supplemental Notice of Dedicatory Instruments was recorded in the Official Public Records of Real Property of Harris County, Texas under County Clerk's File No.

20120147679 ("**Chapter 202 Guidelines**") filed to be in compliance with Chapter 202 of the Texas Property Code are still in effect. Please refer to the Chapter 202 Guidelines regarding these items.

Article III. Appendices

- (a) Forms
 - (i) Exhibit A: Application for Architectural Review & Approval for Memorial Bend (includes the Affidavit of Owner)
 - (ii) Exhibit B: Memorial Bend Committee Review Notification Form
 - (iii) Exhibit C: Certificate of Compliance