

**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
HIGHLANDS GLEN**

**ROANOKE, TEXAS
(DENTON COUNTY)**

Declarant

D. R. Horton - Texas, Ltd.

~ **12 KEY NOTES ABOUT HOMEBUYING** ~
IN HIGHLANDS GLEN
BEFORE BUILD-OUT & SELL-OUT

Our common goal ~ a subdivision of completed homes in the hands of owners who control the destiny of their HOA.

1. **Mandatory Membership.** From the date this Declaration is recorded, the land described in Appendix A will be subject to this Declaration, which establishes a mandatory membership association. Current and future owners of the land will automatically be members of the property owners association.
2. **Restricted Environment.** A homeowner in Highlands Glen cannot do "anything he wants" with his yard and the outside of his home. Even the color of his fence stain must conform to certain requirements.
3. **Declarant's Role.** Declarant's active role with Highlands Glen is not forever - it ends when the last homebuyer purchases the last home on the last lot in the community. Until then, Declarant reserves many significant rights to oversee the complete build-out and sell-out of homes in the development. Separately, Declarant reserves rights to control the owners association for the maximum length of time permitted by Texas law.
4. **Gates.** Although Highlands Glen is being developed as a "gated" community, gates may not be installed or closed during build-out and sell-out of new homes.
5. **Private Streets.** The streets within Highlands Glen are private streets that are owned by the homeowners association. By owning a home, you agree to pay your share of the cost of maintaining the private streets.
6. **Retaining Walls.** Most lots on the outer rim of Highlands Glen are supported by retaining walls that are part of the lot. Individual homeowners, not the owners association, are responsible for upkeep of retaining walls.
7. **Change is Possible.** During the time that Highlands Glen is being built-out and sold-out, the initial concept plan for Highlands Glen may be modified to respond to perceived or actual changes and opportunities in the marketplace. *Declarant is not required to provide a proposed feature of Highlands Glen that is not in place on the date of an owner's decision to buy a home in Highlands Glen.*
8. **Declaration Concepts.** This form of declaration employs some concepts and terms that are not traditional ~ primarily in Appendixes B and C. Why? To do a better job of communicating the elements of land development and home building that must be respected - even protected - to create successful neighborhoods and governing associations that contribute to the economy and well-being of our cities, State, and nation.
9. **Separation of Powers.** The for-profit business of creating and marketing the Property is distinct from the non-profit operation of the Association for the benefit of homeowners and residents. Although homeowners will, in time, control the governance and destiny of Highlands Glen, homeowners do not have a voice, role, or influence on any aspect of how the Property is created, constructed, built-out, and sold-out by Declarant and Builders. The Association's Architectural Review Committee regulates existing homes and has no authority over new homes.
10. **Marketing Advantage.** Declarant and Builders have rights and opportunities for marketing new homes that are not available to individual homeowners who desire to market their homes for resale.
11. **Organization of Declaration.** To make this Declaration more readable for the generations of homeowners that will own homes in Highlands Glen after the community is built-out and sold-out, its main body does not preface every provision with a statement of Declarant's reserved rights. Instead, most of Declarant's rights and reservations are compiled in Appendix B and Appendix C of this Declaration, which are in every way superior to and controlling over the main body of this Declaration.
12. **Speaking of Appendixes . . .** (or "appendices" if you prefer). Until Highlands Glen is built-out and sold-out, the appendixes of this Declaration are the most important parts of all the Governing Documents.
 - APPENDIX A is perpetual.
 - APPENDIXES B & C control through Build-Out & Sell-Out.
 - APPENDIX D is perpetual.

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TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 - <u>DEFINITIONS</u>	1
1.1. DEFINED TERMS	1
1.2. DEVELOPMENT TERMS	3
ARTICLE 2 - <u>SUBJECT TO DOCUMENTS</u>	3
2.1. SUBJECT TO DOCUMENTS OF RECORD	3
2.2. COVENANTS IN PLAT	3
2.3. OWNER AGREES TO BE BOUND	4
ARTICLE 3 - <u>PROPERTY FEATURES</u>	4
3.1. LIMITED DISCLOSURES	4
3.2. ENTRY GATES	4
3.3. FILL DIRT DISCLOSURE	4
3.4. VENTILATED FOUNDATIONS	4
3.5. METHANE GAS DISCLOSURE	5
3.6. RETAINING WALL NOTICE FOR LOTS 1-35, BLOCK B	5
3.7. VICINITY DISCLOSURE	5
3.8. LAND USE	6
3.9. ENVIRONMENTAL CONDITIONS	6
3.10. STREETS WITHIN PROPERTY	6
ARTICLE 4 - <u>PROPERTY EASEMENTS AND RIGHTS</u>	6
4.1. PEDESTRIAN ACCESS ACROSS LOTS 31 & 32, BLOCK B	6
4.2. SURFACE WATER EASEMENT	7
4.3. EASEMENT FOR DRAINAGE FEATURES	7
4.4. EASEMENT FOR ENTRY & SCREENING FEATURES	7
4.5. EASEMENT FOR STREET MAINTENANCE & FIXTURES	7
4.6. EASEMENT FROM NORTHWEST ISD	7
4.7. OWNER'S EASEMENT OF ENJOYMENT	8
4.8. OWNER'S INGRESS/EGRESS EASEMENT	8
4.9. OWNER'S RIGHT TO BUILD	8
4.10. RIGHTS OF CITY	8
4.11. ASSOCIATION'S ACCESS EASEMENT	8
4.12. UTILITY EASEMENT	9
4.13. NOTICE OF LIMITATION ON LIABILITY	9
4.14. SECURITY	9
4.15. MINERAL INTERESTS	9
ARTICLE 5 - <u>COMMON PROPERTY</u>	10
5.1. OWNERSHIP	10
5.2. USE	10
5.3. CHANGE OF USE	10

Appendix B and Appendix C have priority over the main body of this Declaration.

5.4. CONVEYANCE BY OR TO ASSOCIATION 10

5.5. ACCEPTANCE 10

5.6. COMPONENTS 10

5.7. LIMITED COMMON AREA 11

5.8. PERSONAL RESPONSIBILITY 11

ARTICLE 6 - ARCHITECTURAL COVENANTS & USE RESTRICTIONS FOR IMPROVED LOTS 12

6.1. GENERAL PROVISIONS 12

6.2. OWNER'S DUTY 12

6.3. SPECIFICATION SOURCES 12

6.4. ARCHITECTURAL REVIEW COMMITTEE 12

6.5. ARC APPROVAL REQUIRED 13

6.6. APPLICATION FOR APPROVAL 13

6.7. TIME LIMITS 14

6.8. CO-ADJACENT LOT 14

6.9. VARIANCE 15

6.10. ASSOCIATION'S RIGHT TO PROMULGATE RULES 15

6.11. SUBJECTIVE STANDARDS 15

6.12. LIMITS TO OWNER'S RIGHTS 15

6.13. LIMITED ROLE OF DECLARANT 16

ARTICLE 7 - ASSOCIATION OPERATIONS 16

7.1. MANDATORY MEMBERSHIP 16

7.2. THE ASSOCIATION 16

7.3. BOARD 17

7.4. MEMBERS & VOTING 17

7.5. HEAD COUNTS 17

7.6. DECISION-MAKING 17

7.7. MANAGER 17

7.8. ARRANGEMENTS WITH OTHER ASSOCIATIONS 17

7.9. COMMUNICATIONS 18

7.10. BOOKS & RECORDS 18

7.11. INDEMNIFICATION 18

7.12. INSURANCE 18

7.13. OBLIGATIONS OF OWNERS 19

ARTICLE 8 - COVENANT FOR ASSESSMENTS 19

8.1. GENERAL 19

8.2. PERSONAL OBLIGATION 20

8.3. USES OF ASSESSMENTS 20

8.4. ANNUAL BUDGET 21

8.5. SURPLUS & SHORTFALL 21

8.6. BETTERMENTS 21

8.7. OWNERS' CONTROL FOR ASSESSMENT INCREASES 22

8.8. TYPES OF ASSESSMENTS 22

8.9. BASIS & RATE OF ASSESSMENTS 23

8.10. DUE DATE 23

8.11. DECLARANT EXEMPTION 23

8.12. ASSOCIATION'S RIGHT TO BORROW MONEY 23

8.13. LIMITATIONS OF INTEREST 23

8.14. EFFECT OF NONPAYMENT OF ASSESSMENTS 23

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 9 - RESERVE FUNDS 24

 9.1. GENERAL 24

 9.2. REPAIR & REPLACEMENT RESERVES 24

 9.3. OPERATIONS RESERVES 25

 9.4. DISCRETIONARY RESERVES 25

 9.5. DECLARANT EXEMPTION 25

ARTICLE 10 - ASSESSMENT LIEN 25

 10.1. CREATION & PERFECTION OF LIEN 25

 10.2. LIEN SUPERIOR TO HOMESTEAD 25

 10.3. OTHER SUPERIORITIES 26

 10.4. EFFECT OF MORTGAGEE'S FORECLOSURE 26

 10.5. NOTICE AND RELEASE OF NOTICE 26

 10.6. POWER OF SALE 26

 10.7. FORECLOSURE OF LIEN 26

ARTICLE 11 - ENFORCING THE DOCUMENTS 26

 11.1. RIGHT TO ENFORCE 26

 11.2. BOARD DISCRETION 27

 11.3. CONSISTENCY BY CIRCUMSTANCE 27

 11.4. SECOND CHANCE 27

 11.5. COSTS OF ENFORCEMENT 27

 11.6. NOTICE AND HEARING 27

 11.7. REMEDIES 27

ARTICLE 12 - MAINTENANCE AND REPAIR OBLIGATIONS 28

 12.1. ASSOCIATION MAINTAINS 28

 12.2. OWNER RESPONSIBILITY 28

 12.3. OWNER'S DEFAULT IN MAINTENANCE 29

 12.4. FENCES BETWEEN LOTS 29

ARTICLE 13 - MORTGAGEE PROTECTION 30

 13.1. FIRST MORTGAGEE RIGHTS 30

 13.2. CONSENTS OF MORTGAGEES 31

ARTICLE 14 - AMENDMENTS 31

 14.1. AMENDMENT BY OR AFFECTING DECLARANT 31

 14.2. AMENDMENT BY BOARD 31

 14.3. AMENDMENT BY MEMBERS 31

 14.4. EFFECTIVE 32

 14.5. ANNEXATION 32

 14.6. APPENDIXES 32

 14.7. ORDINANCE COMPLIANCE 32

 14.8. MERGER 32

 14.9. TERMINATION 32

 14.10. CONDEMNATION 32

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 15 - INDEMNIFICATION & RELEASE AGAINST SELF-INTEREST 32

 15.1. CONSIDERATION 32

 15.2. INDEMNITY FOR ASSOCIATION OPERATIONS 32

 15.3. RELEASE FOR INJURY OR LOSS 33

 15.4. INTENT TO RELEASE FROM NEGLIGENCE 33

 15.5. AGAINST SELF-INTEREST OF OWNER OR OCCUPANT 33

ARTICLE 16 - DISPUTE RESOLUTION 33

 16.1. INTRODUCTION & DEFINITIONS 33

 16.2. MANDATORY PROCEDURES 34

 16.3. NOTICE 34

 16.4. NEGOTIATION 34

 16.5. MEDIATION 34

 16.6. TERMINATION OF MEDIATION 34

 16.7. ALLOCATION OF COSTS 34

 16.8. ENFORCEMENT OF RESOLUTION 34

 16.9. GENERAL PROVISIONS 35

 16.10. LITIGATION APPROVAL & SETTLEMENT 35

 16.11. CONSTRUCTION-RELATED DISPUTES 35

ARTICLE 17 - HOME SALES & REALES 35

 17.1. GENERAL 35

 17.2. HOA SALE FEES 35

 17.3. ADMINISTRATIVE TRANSFER FEES 36

 17.4. NEW HOME SALES 36

 17.5. HOME REALES 36

 17.6. CHANGES IN AMOUNTS 36

 17.7. EXCLUSIONS 37

ARTICLE 18 - COVENANTS FOR DECLARANT'S BENEFIT 37

 18.1. OWNERSHIP NOT REQUIRED 37

 18.2. ASSOCIATION FINANCES 37

 18.3. AMENDING GOVERNING DOCUMENTS 37

 18.4. APPENDIXES B AND C 37

ARTICLE 19 - GENERAL PROVISIONS FOR ALL GOVERNING DOCUMENTS 38

 19.1. HIGHER AUTHORITY 38

 19.2. COMPLIANCE 38

 19.3. CHANGE OF APPLICABLE LAW 38

 19.4. NOTICE 38

 19.5. CHANGING TECHNOLOGY 38

 19.6. LIBERAL CONSTRUCTION 38

 19.7. SEVERABILITY 39

 19.8. CAPTIONS 39

 19.9. INTERPRETATION 39

 19.10. DURATION 39

 19.11. APPENDIXES 39

SIGNED AND ACKNOWLEDGED 39

Appendix B and Appendix C have priority over the main body of this Declaration.

APPENDIX A - DESCRIPTION OF SUBJECT LAND

APPENDIX B - DECLARANT'S RIGHTS & RESERVATIONS FOR BUILD-OUT & SELL-OUT B-1

B.1. GENERAL PROVISIONS B-1

B.2. DEFINITIONS B-2

B.3. LAND USE RIGHTS & RESERVATIONS B-2

B.4. RIGHTS & RESERVATIONS TO MAKE CHANGES B-3

B.5. ARCHITECTURAL COVENANTS FOR VACANT LOTS B-4

B.6. GOVERNING DOCUMENTS RIGHTS & RESERVATIONS B-5

B.7. MARKETING RIGHTS & RESERVATIONS B-5

B.8. RELATIONSHIP WITH BUILDERS B-6

B.9. SUCCESSOR DECLARANT B-6

B.10. COMMON AREAS B-7

B.11. PARDON OUR DUST B-7

APPENDIX C - DECLARANT'S RIGHTS & RESERVATIONS FOR ASSOCIATION GOVERNANCE C-1

C.1. GENERAL PROVISIONS C-1

C.2. DEFINITIONS C-1

C.3. CLASSES OF MEMBERS C-2

C.4. VOTING C-2

C.5. BOARD CONTROL RIGHTS & RESERVATIONS C-3

C.6. ASSOCIATION GOVERNANCE C-3

C.7. VETO OVER CERTAIN BOARD DECISIONS C-4

C.8. DECLARANT AS EX-OFFICIO BOARD MEMBER C-4

C.9. ADVISORY & ARCHITECTURAL COMMITTEES C-4

C.10. FINANCIAL RIGHTS & RESERVATIONS C-5

C.11. RIGHT OF REIMBURSEMENT FOR SHORTFALL LOANS C-6

C.12. HOA SALE FEES ON VACANT LOTS C-7

C.13. HOA SALE FEES ON NEW HOME SALES C-7

APPENDIX D - NOTICE OF POSSIBLE OIL & GAS ACTIVITY AFFECTING THE SUBDIVISION

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 6
ARCHITECTURAL COVENANTS & USE RESTRICTIONS FOR IMPROVED LOTS

6.1. **GENERAL PROVISIONS.** Because the lots are part of a single community, this Declaration creates rights to regulate the improvement, design, use, and appearance of the lots in order to preserve and enhance the Property's value and Declarant's architectural vision for the Property, as the vision evolves.

6.1.1. **Applicability.** This Article purposefully distinguishes between vacant and improved lots because of the separation of approval authorities ~ the ARC has authority over improved lots, the Declarant or its appointed Architectural Reviewer has authority over vacant lots. If a provision of this Article is not clear as to its applicability, it will be construed to apply to improved lots only.

6.1.2. **Purposes.** One purpose of this Article is to require that all proposed improvements on a lot ~ vacant or improved ~ be subject to review, approval, and disapproval. Another purpose is to promote and ensure the level of taste, design, and quality by which improved lots in the Property are maintained, modified, and further improved over time. A third purpose is to prevent modifications on improved lots that may be considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements or the evolving architectural vision for the Property. A fourth purpose is to regulate the appearance of every aspect of proposed or existing improvements on an improved lot, including but not limited to replacement dwellings, additions, fences, landscaping, retaining walls, yard art, sidewalks and driveways.

**BEFORE CHANGING YOUR LOT OR THE OUTSIDE OF YOUR HOME,
APPLY FOR WRITTEN APPROVAL OF THE ARC.**

6.2. **OWNER'S DUTY.** By accepting an interest in or title to a vacant or improved lot in Highlands Glen, **each owner covenants to make no changes or additions to the owner's lot or to improvements on the lot without the Architectural Reviewer's prior written approval** ~ the ARC being the Architectural Reviewer for improved lots. Also, each owner of a vacant or improved lot in Highlands Glen, and each resident of Highlands Glen, by occupying a home in the Property, acknowledges that the improvement, modification, appearance, maintenance, and use of the lot and home are regulated by the Governing Documents, in particular this Declaration and the Specifications Manual. Each owner and resident further covenants to comply with and conform to the applicable rules and restrictions of each chapter of the Specifications Manual. Also, each owner and resident will follow the customary procedures for applying for an approval, waiver, or variance by the board or the ARC, as applicable, and will abide by the outcome. Each owner of a vacant lot will follow the customary procedures of the Architectural Reviewer for vacant lots.

6.3. **SPECIFICATION SOURCES.** Specifications for the construction of initial improvements on vacant lots are not published in this Declaration or in the Specifications Manual, and may be part of a private agreement between Declarant and a Builder. The specifications contained in the Specifications Manual were selected from the multitudes because of their potential applicability to the daily use of the improved lots and the expectation that owners may try to modify their houses, fences, and yards. Additional specifications or variations of the requirements in the Specifications Manual may be included in lot-specific restrictions. This Section serves as notice of multiple sources of specifications pertaining to the initial construction or subsequent modification of improvements in Highlands Glen.

"DOs and DON'Ts" ARE IN THE SPECIFICATIONS MANUAL

6.4. **ARCHITECTURAL REVIEW COMMITTEE.** The Architectural Review Committee (the "ARC") is a committee of the Association. The ARC will consist of at least 3 but not more than 7 persons appointed by the board, pursuant to the Bylaws. Members of the ARC serve at the pleasure of the board and may be removed and replaced at the board's discretion. Members of the ARC need not be owners or residents. The Association may hire professionals - such as architects, engineers, and design consultants - to serve on or to advise the ARC at a compensation determined by the board.

Appendix B and Appendix C have priority over the main body of this Declaration.

6.4.1. Limits on Liability. The ARC and each of its members has no liability for decisions made in good faith by the ARC, and which are not arbitrary or capricious. The ARC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ARC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with governmental codes and ordinances, and public laws.

6.4.2. Discretion. The ARC may exercise discretion with respect to taste, design, and all standards specified by this Declaration or by the Specifications Manual.

6.4.3. Variations. All lots are not similarly situated. One lot may be more visible than others because of its location, size, or elevation. For example, a corner lot or a lot at the Property's entrance is typically more visible than an interior lot. The ARC may vary its interpretation and enforcement of construction specifications and use restrictions based, in part, on a lot's location or visibility - provided the ARC tries to treat similarly-situated lots or circumstances in like manner.

6.4.4. Appeal of ARC Decision. An owner may appeal to the board any decision by the ARC to deny the owner's application or to approve the owner's application only if certain changes are made. The owner must submit a written application for appeal to the board, with a copy to the ARC, within 60 days after the ARC's decision. The board may affirm, overrule, or modify the ARC's decision.

6.5. ARC APPROVAL REQUIRED. Without ARC approval, a person may not re-construct a dwelling on an improved lot or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to an improved lot, or to a vacant lot owned by a person other than Declarant or a Builder, if it will be visible from a street or common area, or if it may have an adverse impact on neighboring homes. **The ARC has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.** Without the ARC's prior written approval for a variance, alterations and additions to an improved lot, or to a vacant lot owned by a person other than Declarant or a Builder, must have the characteristics described in the Specifications Manual. In case of conflict between the terms of this Article or the Specifications Manual, and a restriction or guideline that pertains directly to the portion of the Property in which a lot is located, the more lot-specific restriction controls. The ARC may supplement this Article and the Specifications Manual with interpretations, explanations, and adaptations. An owner should review the Association's architectural restrictions and requirements before planning or initiating changes, repairs, or replacements to his lot and dwelling.

6.6. APPLICATION FOR APPROVAL. To request architectural approval, an owner must make written application to the applicable Architectural Reviewer and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the owner of an improved lot may but is not required to submit letters of support or non-opposition from owners of lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration or the Specifications Manual for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. Verbal approval by an Association director or officer, a member of the ARC, the Association's manager, or Declarant does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

6.6.1. Deemed Approval. Under both of the limited conditions identified below, the applicant may presume that his request has been approved by the ARC. If both of those conditions are satisfied, the owner may proceed, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the applied-for work in a timely manner. In exercising deemed approval, the burden is on the owner to document the ARC's actual receipt of the owner's complete application. Under no circumstance may approval of the ARC be deemed, implied, or presumed for an addition or modification that would require a variance from the requirements and construction specifications contained in this Declaration or the Specifications Manual, and in any design guidelines for the Property in effect at the time of application. The limited conditions that must be met for deemed approval are:

Appendix B and Appendix C have priority over the main body of this Declaration.

- (1) If the applicant or a person affiliated with the applicant has not received the ARC's written response - approving, denying, or requesting additional information - within 60 days after delivering his complete application to the ARC.
- (2) If the proposed addition or modification strictly conforms to requirements and specifications contained in this Declaration or the Specifications Manual, and in any design guidelines for the Property in effect at the time of application.

6.6.2. **No Approval Required.** No approval is required to repaint exteriors in accordance with the color scheme approved by the ARC, or to rebuild a dwelling in accordance with its original plans and specifications. Nor is approval required for an owner to remodel or repaint the interior of a dwelling.

6.6.3. **Building Permit.** If the application is for work that requires a building permit from a governmental body, the ARC's approval is automatically and implicitly conditioned on the issuance of the appropriate permit. The ARC's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, issuance of a building permit does not ensure ARC approval.

6.6.4. **Neighbor Input.** The ARC may solicit comments on the application, such as from owners or residents of lots that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant are solely at the discretion of the ARC. The ARC is not required to respond to the commenters in ruling on the application.

6.6.5. **Initial Variances for Vacant Lots.** A lot does not come within the jurisdiction of the ARC until the initial improvements on a vacant lot have been completed. An aspect of an initial improvement that is contrary to this Declaration or the Specifications Manual may have been granted a variance by the Architectural Reviewer for vacant lots.

6.7. **TIME LIMITS.** In approving an application, the Architectural Reviewer may specify maximum dates for starting and completing the proposed work, which dates may be tailored to the circumstances of the application and the nature of the proposed work. If the work has not commenced by the specified start date, the approval is void and the owner must re-apply for approval. Once started, the work must be completed with due diligence. In the absence of time periods specified in the Architectural Reviewer's approval, the work must be started within 60 days from the date of application approval, and must be completed within 90 days from the date the work commences. In most cases, the commencement of work must be apparent at a site inspection and does not pertain to planning. The deadlines of this Section are subject to force majeure and may be extended if the approved work cannot be started or completed due to causes that are outside the control of the owner and its contractors and which could not be evaded through the exercise of due care, such as natural disasters. An approval automatically expires on the earlier of completion of the work for which approval was granted, or one year after date of approval. This Section does not apply to improvements made by Declarant or to the construction of new homes.

If you own adjoining lots and one is house-less, "Co-Adjacent" applies to you.

6.8. **CO-ADJACENT LOT.** This Section applies to Highlands Glen as long as applicable law defines "adjacent lot" and "residential purpose" as it does in Property Code Sec. 209.015 in effect on the date of this Declaration. This Declaration, the Specifications Manual, and the other Governing Documents are drafted with the expectation that every platted residential lot owned by a person other than Declarant will be improved with a dwelling, unless the lot is conveyed to the Association or to a Public Agency. This Section pertains to the atypical situation of a vacant lot (the "**Co-Adjacent Lot**") that is adjacent to a lot with a dwelling (the "**Dwelling Lot**"), and is used in conjunction with the Dwelling Lot, both lots having the same owner ~ a situation which is addressed by State law. Because there may be no Co-Adjacent Lot in the Property, this Declaration, the Specifications Manual, and the other Governing Documents do not specifically address how provisions intended for lots improved with dwellings are to be applied to Co-Adjacent Lots. Therefore, notwithstanding anything to the contrary in a Governing Document, the following provisions apply. A Co-Adjacent Lot may be used by the owner of the Dwelling Lot only for "residential purposes" as defined by applicable law, or for any additional purpose permitted by the Architectural Reviewer. Notwithstanding provisions (if any) specific to vacant lots

Appendix B and Appendix C have priority over the main body of this Declaration.

in the Property, a Co-Adjacent Lot is subject to the same assessment liability, at the same rate, as the Dwelling Lot with which it is paired. On a case-by-case basis and to the full extent permitted by applicable law, the Architectural Reviewer may establish and enforce additional or different criteria and specifications for every aspect of the use, maintenance, appearance, and improvement of the Co-Adjacent Lot, including (without limitation) screening, landscaping, and construction specifications. By owning a Dwelling Lot and a Co-Adjacent Lot, the owner acknowledges that (to the full extent permitted by applicable law) (1) this Section applies to the Co-Adjacent Lot and controls over any provision to the contrary elsewhere in the Governing Documents; (2) a Co-Adjacent Lot may not be used or improved without the prior written approval of the Architectural Reviewer; (3) in reviewing an application for uses or improvements on the Co-Adjacent Lot, the Architectural Reviewer may require additional information specific to the proposed use or improvement; (4) the Architectural Reviewer may establish lot-specific criteria and specifications that are different from or in addition to requirements for lots improved with dwellings, and tailored to the location and visibility of the Co-Adjacent Lot; and (5) the conditioned approval for the Co-Adjacent Lot may be in the form of a covenant agreement to be signed and acknowledged by the owner and by the Architectural Reviewer or the Association, and publicly recorded in Denton County, Texas.

6.9. **VARIANCE.** The use of the Property is subject to the restrictions contained in this Declaration and in the Specifications Manual, as each may be amended from time to time, and subject to rules adopted pursuant to this Article. The board or the ARC, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance, other than the limited exceptions authorized by this Declaration or the Specifications Manual.

HIGHLANDS GLEN HAS RULES

6.10. **ASSOCIATION'S RIGHT TO PROMULGATE RULES.** The Association has the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The right to make Rules, or to regulate, includes the right to prohibit or to restrict. In addition to the restrictions contained in this Article and the Specifications Manual, each lot is owned and occupied subject to the right of the board to establish Rules, and penalties for infractions thereof, governing:

- (1) Use of common areas.
- (2) Hazardous, illegal, or annoying materials or activities on the Property.
- (3) The use of Property-wide services provided through the Association.
- (4) The consumption of utilities billed to the Association.
- (5) The use, maintenance, and appearance of exteriors of dwellings and lots.
- (6) Landscaping and maintenance of yards.
- (7) The occupancy and leasing of dwellings.
- (8) Animals.
- (9) Vehicles.
- (10) Disposition of trash and control of vermin, termites, and pests.
- (11) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for residents.

6.11. **SUBJECTIVE STANDARDS.** Standards for some rules and restrictions are inherently subjective, such as what is unattractive or offensive. The Association is not required to honor every resident's individual tolerances. The Use Restrictions, in particular, are not intended to shield a hypersensitive resident from actions or circumstances that would be tolerable to a typical resident of the Property. The Association may refrain from acting on a perceived violation unless the board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one resident to enforce rules and restrictions against another resident. Residents are expected to deal directly and peaceably with each other about their differences.

6.12. **LIMITS TO OWNER'S RIGHTS.** No right granted to an owner by this Article, the Specifications Manual, or any provision of any Governing Document is absolute. The Governing Documents grant rights with the expectation that

Appendix B and Appendix C have priority over the main body of this Declaration.

the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article, the Specifications Manual, and the other Governing Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. For example, an owner's right to have a sign advertising the home for sale is not the right to mount the sign on the chimney and illuminate it with pulsating neon lights. The rights granted by this Article, the Specifications Manual, and the other Governing Documents are at all times subject to the board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Governing Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

6.13. **LIMITED ROLE OF DECLARANT.** Prior to Build-Out, Declarant may identify to the ARC certain locations, uses, or modifications that must not be approved by the ARC without the prior written approval of Declarant or Declarant's designee to prevent a potentially adverse affect on the value or marketing of vacant lots and new homes in the Property. To illustrate, Declarant may require heightened scrutiny for improved lots near a subdivision entrance, along a main thoroughfare, near common areas, or across the street from a model home.

ARTICLE 7 ASSOCIATION OPERATIONS

7.1. **MANDATORY MEMBERSHIP.** By acquiring an ownership interest in a lot, a person automatically becomes a member of the Association ~ a mandatory membership Texas property owners association. Membership in the Association is not optional, and may not be severed from ownership of a lot. Conveyance of a lot automatically conveys the Association membership that is appurtenant to the lot, subject to the right of the Association to require satisfactory proof of conveyance as a condition for changing its membership records. This Section is modified by the Declarant Class Member provision of Appendix C.

EVERY OWNER OF A HIGHLANDS GLEN LOT AUTOMATICALLY JOINS A MANDATORY MEMBERSHIP ASSOCIATION.

7.2. **THE ASSOCIATION.** The existence and legitimacy of the Association are derived from this Declaration and the Bylaws of the Association.

7.2.1. **Type.** The Association must be a nonprofit organization, and may be unincorporated or incorporated, as the Association decides from time to time. If the Association is incorporated, the subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association.

7.2.2. **Applicability.** The Association is subject to the Texas Business Organizations Code ("TBOC"). Because provisions of this Declaration address issues covered by the TBOC, this Declaration is a "Governing Document" as defined by TBOC, and any such provision herein is a "Bylaw" as defined by TBOC. When incorporated, the Association is subject to TBOC Chapter 22 - the Nonprofit Corporation Law. When unincorporated, the Association is subject to TBOC Chapter 252 - the Unincorporated Nonprofit Association Act.

7.2.3. **Name.** A name is not the defining feature of the Association. Although the initial name of the Association is Highlands Glen Owners Association, the Association may operate under any name that is approved by the board and (1) registered by the board with the County Clerk of Denton County, Texas, as an assumed name, or (2) filed by the Association with the Secretary of State as the name of the filing entity. The Association may also change its name by amending the Governing Documents. Another legal entity with the same name as the Association, or with a name based on the name of the Property is not the Association, which derives its authority from this Declaration.

7.2.4. **Duties.** The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a property owners association and, as applicable, an unincorporated nonprofit association or a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in

Appendix B and Appendix C have priority over the main body of this Declaration.

12.2.1. Maintenance. Each owner, at the owner's expense, must maintain all improvements on the lot, such as (if any, without limitation) the dwelling, fences, retaining walls, sidewalks, driveways, drainage features, grounds, and landscaping. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

12.2.2. Avoid Damage. An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property, such as drainage easements.

12.2.3. Responsible for Damage. An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the common areas or the property of another owner.

You have a legal duty to maintain your home and yard.

12.3. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is an individual assessment against the owner and his lot. In case of an emergency, however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

12.4. FENCES BETWEEN LOTS. The concept of shared fences is intended to be more space-efficient, material-efficient, and cost-efficient than each owner separately fencing his own lot, with two fences abutting. Sharing fences requires cooperation and flexibility by and between owners of adjoining lots. A fence or other type of partition located on or near the dividing line between two lots and intended to benefit both lots constitutes a "**Party Wall**" and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

12.4.1. Encroachments & Easement. If the Party Wall is on one lot or another due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

12.4.2. Right to Repair. If the Party Wall is damaged or destroyed from any cause, the owner of either lot may repair or rebuild the Party Wall to its previous condition, and the owners of both lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

12.4.3. Right of Access. The owner of the lot on each side of the Party Wall hereby grants to the owner of the lot on the other side of the Party Wall a reciprocal access easement for maintenance, repair, replacement, or reconstruction of the Party Wall, as appropriate and necessary to effect the purposes and provisions of this Section.

12.4.4. Maintenance Costs. The owners of the adjoining lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an owner is responsible for damage to or destruction of the Party Wall, that owner will bear the entire cost of repair, reconstruction, or replacement. If an owner fails or refuses to pay his share of costs of repair or replacement of

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