



VOTER SIGNATURE PAGE

Section 209.0058 of the Texas State Property Code requires that votes cast must be signed.

PLEASE DO NOT REMOVE ANY PAGE FROM THIS BALLOT

These ballots will be opened and tabulated during an Open Regular or Special Meeting of the Board. Once you finish casting your votes on the three (3) ballot initiatives, seal this spiral-bound ballot in the enclosed return enveloped and return or mail it (certified) to the designated repository. Once received, it shall remain sealed until the appointed time during the Board meeting.

Before tabulation begins, this signature page shall be removed & filed separately, so that votes cast will remain **confidential from homeowners.**

This Signature Page Covers The Following:

- **Ballot Initiative #1: Amendments to the CC&Rs, Version 8.1, October 21, 2014**
- **Ballot Initiative #2: Amendments to the Bylaws Version 24 FINAL**
- **Ballot Initiative #3: Amendments to the CC&R's. Any amendment in this initiative, if approved, shall also supersede the referenced section or subsection in Ballot Initiative #1.**
 - A. Loosening Garbage Can Restriction**
 - B. Loosening Sign Restriction**
 - C. Contrasting Amendments to Article 8**
 - 1. Loosening trailer restriction on boats only**
 - 2. Tightening restriction on all trailers**

Your Ballot ID# ties this signature page to the votes that you cast and is therefore unique from all others, included on all pages where you may cast a vote. Be sure that your voter ID# is the same on all pertinent pages. This satisfies state statutes providing sufficient verification of your participation or vote, should it be necessary.

Sign Here Before Returning



Ballot Initiative

The HOA Board is prepared to answer your questions.

If you have any questions regarding the amendments or need clarification about the ballot or voting, please email hoa@quailcreekrockwall.org.

If you prefer a phone call or visit, please include your phone number and the Board will respond promptly.

TABLE OF CONTENTS

Amendments to CC&Rs: **INITIATIVE #1**

Proposed Amended Bylaws: **INITIATIVE #2**

Loosening Garbage Can Restriction: **INITIATIVE #3A**

Loosening Sign Restriction: **INITIATIVE #3B**

Contrasting Amendments to Trailer Restriction: **INITIATIVE #3C**



Amendments to CC&Rs:

INITIATIVE #1

Instructions For Voting on Ballot Initiative #1: Amending the Quail Creek CC&Rs

**VERSION 8.1
October 21, 2014**

The Ballot to vote on the CC&Rs is broken down to subsections, however, this does not mean that you must approve or disapprove each and every subsection, section, or even Article.

Vote for the Entire Document (a single vote)

The very first vote option in the document is the ability to vote for all amendments, and stop there. This means that you approve or disapprove of the entire document. However, you may still vote on specific items within the document, where all others will be tabulated as reflecting this single, overarching vote, unless you vote to Approve/Disapprove an entire Article or Section, then all amendments that fall under that or those shall be tabulated as reflecting the Article[s]/Section[s].

Vote for a Group of Amendments.

In most instances within the document, where there are subsections, you are given the option to vote for the entire group of amendments that fall under it.

Vote on each and every Amendment.

As currently applies, Phase I & Phase II remain under separate restrictions (**Article 8 ONLY applies to Phase II Lots**).¹

Members (Homeowners) will be given the opportunity to approve or disapprove the amendments by (A) Subsection, (B) Section, (C) Article, and/or (D) its entirety, at the sole discretion of the homeowner. **This is NOT an “all or nothing” proposition.**

FOR AN AMENDMENT TO BE RATIFIED, 67% OF THE HOMEOWNERS MUST APPROVE.

¹ Neither a Texas State statute nor legal precedent can be found to support the argument that added restrictions to different phases of a development within a single Declaration of Covenants require separate ingress & egress points.

How Are the CC&Rs Amended?

The included amendments to the Declaration:

1. Bring the Declaration of Covenants of the Quail Creek Homeowners' Association into compliance with Texas Property Code &/or the City of McLendon Chisolm and;
2. Clarifies language and correct grammar for the benefit of the Membership.
3. Removes parts that are obsolete, such as the "Declarant" or Developer.

Unless a Subsection(s), Section(s) or Article(s) in the 2009 CC&Rs violates Texas State Statute(s) or is now obsolete **NO addition, deletion, change, or modification is included in these proposed amendments that materially change, remove, or alter the nature of the instrument.**²

Color Key to Understand the CC&R Amendments

NOTE***

Footnotes & highlighted text will not be included in the recorded document.

Current & existing text/wording is in blue standard typeface.

Removed text is ~~crossed out~~ in red typeface.

Added or amended text/wording is *printed in green italics*.

Dark highlighted text exists in the original Deed Restrictions.

² Amendments that are intended to materially change the Declaration, such as a change to Homeowner Restrictions, are included in Ballot Initiative #3.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
QUAIL CREEK**

ALL AMENDMENTS

This option accepts or rejects the entire document
and you need not go further.

Approve []
Disapprove []
Abstain []

THE STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS
COUNTY OF ROCKWALL)

AMENDMENT A

ALL Amendments A through J

This Declaration of Covenants, Conditions, and Restrictions for Quail Creek ~~made on the date hereinafter set forth by QUAIL CREEK CATTLE & LAND, INC., a Texas Corporation, for the purpose of evidencing the covenants, conditions and restrictions contained herein.~~ *Phase 1 ("Phase 1") and Quail Creek Phase 2 ("Phase 2") (Phase 1 and Phase 2 are referred to herein collectively as the "Quail Creek Subdivision"), City of McLendon-Chisholm, Rockwall County, Texas, is made on this _____ day of _____, 201__, by QCHOA, Inc., a Texas non-profit corporation, through the affirmative vote of not less than sixty-seven percent of the Owners of Lots.*

Approve []
Disapprove []
Abstain []

Amendment A

Approve []
Disapprove []
Abstain []

WITNESSETH:

AMENDMENT B

WHEREAS, Declarant (defined herein) is the owner of certain real property in the City of McLendon Chisholm, Rockwall County, State of Texas and more particularly described on the attached Exhibits attached hereto and made a part hereof (the Property).

Amendment B

Approve []
Disapprove []
Abstain []

AMENDMENT C

WHEREAS, Declarant has previously filed in the public records of Rockwall County, Texas Declaration of Covenants covering Phase I of Quail Creek Subdivision, recorded in Book 782, Page 63 of said records, and covering Phase II of Quail Creek Subdivision, recorded in Book 1669, Page 096;

Amendment C

Approve []
Disapprove []
Abstain []

AMENDMENT D

WHEREAS, Declarant & the Board of Directors of the Quail Creek Homeowners Association has previously filed amended Declaration of Covenants in the public records of Rockwall County, Texas, on November 12, 2003 recorded in Book 3290, Page 116 of said records, *(the "First Purported Amendment")*;

Amendment D

Approve []
Disapprove []
Abstain []

AMENDMENT E

***WHEREAS,** QCHOA, Inc. filed that certain Amendment to the Declaration of Covenants and Restrictions of Quail Creek on November 15, 2005, recorded in Volume 4298, Page 36 of the real property records of Rockwall County, Texas, purporting to amend the First Purported Amendment (the "Second Purported Amendment")*;

Amendment E

Approve []
Disapprove []
Abstain []

AMENDMENT F

WHEREAS, Quail Creek Cattle & Land, Inc., as declarant thereunder, and Quail Creek Homeowners' Association, Inc. filed that certain Declaration of Covenants, Conditions and Restrictions for Quail Creek on December 31, 2009, recorded as Document no. 2009-00427472 in the real property records of Rockwall County, Texas, and purporting to amend the First Purported Amendment (the "Third Purported Amendment") (collectively, the Phase 1 Declaration, the Phase 2 Declaration, the First Purported Amendment, the Second Purported Amendment and the Third Purported Amendment are referred to herein as the "Previous Declarations");

Amendment F

Approve []
Disapprove []
Abstain []

AMENDMENT G

WHEREAS, QCHOA, Inc., a Texas nonprofit corporation, was formed January 1, 2004, and is the Homeowners' Association, heretofore known as the "Association," referenced in previous Declarations and to which all Owners of Lots in the Quail Creek Subdivision are required to pay annual membership dues;

Amendment G

Approve []
Disapprove []
Abstain []

AMENDMENT H

WHEREAS, Section 209.0041 of the Texas Property Code provides in pertinent part that a declaration may be amended by a vote of sixty-seven percent (67%) of the total votes allocated to property owners in the property owners' association and that if the declaration contains a lower percentage, such lower percentage controls; and, as certified below, this Amended Declaration has been approved by at least sixty-seven percent (67%) of the total votes allocated to property owners in the Association, and no government approval is necessary;

Amendment H

Approve []
Disapprove []
Abstain []

AMENDMENT I

WHEREAS, said Declaration allows for the amendment of said Declaration of Covenants, *and*

Amendment I

Approve []
Disapprove []
Abstain []

WHEREAS, the Association and the undersigned owners of Lots within the Quail Creek Subdivision desire to amend and supersede the Previous Declarations in their entirety as set forth herein;

AMENDMENT J

NOW, THEREFORE, ~~Declarant and~~ the Board of Directors of *QCHOA, Inc.* ~~the Quail Creek Homeowners' Association,~~ hereby declares that all of the Property described in each and all exhibits shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and be binding on all parties having or acquiring any right, title or interest in the above described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of ~~the Declarant~~ *the Homeowners Association* and each Owner (defined herein) thereof.

Amendment J

Approve []
Disapprove []
Abstain []

ALL FOLLOWING AMENDMENTS SHALL BE BY SECTION/SUBSECTION

ARTICLE I DEFINITIONS

ALL Amendments Under Article I

Approve []
Disapprove []
Abstain []

1.1 ASSOCIATION. "Association" shall mean and refer to the "*Homeowners Association*" formally *QCHOA, INC.* ~~QUAIL CREEK HOMEOWNERS' ASSOCIATION~~, a Texas non-profit corporation established for the purposes set forth herein, its successors and assigns.

Amendment 1.1

Approve []
Disapprove []
Abstain []

1.2 ~~AREAS OF COMMON AREAS RESPONSIBILITY~~. "*Common Areas*" shall mean any area within the *Quail Creek Subdivision designated for common use as depicted on the Plats, and any other property conveyed to the Association for common use, including but not limited to*, all streets, landscaped parkways and median areas at FM 1139 in McLendon Chisholm, Texas ~~TX~~ and such other improvements, if any, including entrance monuments and signs, all as designated by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners.

Amendment 1.2

Approve []
Disapprove []
Abstain []

1.3 DECLARANT. The term "Declarant" shall mean and refer to QUAIL CREEK CATTLE & LAND, INC., a Texas corporation its successors and assigns.

1.4 CITY. "CITY" shall mean the City of McLendon Chisholm, Rockwall, Texas.

1.5 HOME OR RESIDENCE. "Home" or "Residence" shall mean a single-family unit constructed on a Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which the Home is located.

1.6 LIENHOLDER. "Lien holder" or "Mortgagee" shall mean the older of a first mortgage line, either on any Home and/or any Lot.

1.7 LOT. "Lot" shall mean and refer to a portion of the Property designated as a Lot on the Subdivision Plat of the Property, excluding Common Area lots, streets, alleys ~~and any Area of Common Responsibility~~. Where the context requires or indicates, the term Lot shall include the Home and all other improvements, which are or will be constructed on the Lot.

Amendment 1.7

Approve []
Disapprove []
Abstain []

1.8 MEMBER. Member shall mean and refer to every person or entity that holds Membership in the Association. ~~The Declarant and e~~ Each Owner shall be a Member.

Amendment 1.8

Approve []
Disapprove []
Abstain []

1.9 OWNER. “Owner” *or “Owners”* shall mean and refer to the record Owner, ~~other than Declarant~~ whether one (1) or more persons ~~or entities~~¹, of a fee simple title to any Lot ~~and shall include the homebuilder~~, but *excluding shall exclude* those having such interest merely as security for the performance of an obligation. However, the term Owner shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot, which is a part of the Property, through deed in lieu of foreclosure or through judicial or non-judicial foreclosure. *The term Owner does not include owners of any lesser estate or interest.*

Amendment 1.9

Approve []

Disapprove []

Abstain []

1.10 PERSON. “Person” *refers to an individual, corporation, limited liability company, partnership, association, trust, or other legal entity or any combination thereof.*

Amendment**1.10**

Approve []

Disapprove []

Abstain []

1.11 PROPERTY. PREMISES OR DEVELOPMENT. Property, Premises and/or Development shall mean and refer to that certain real property known as QUAIL CREEK *(Phase I and Phase II)*, as described on Exhibit A *and Exhibit B* hereto.

Amendment**1.11**

Approve []

Disapprove []

Abstain []

1.12 SUBDIVISION PLAT. Subdivision Plat shall mean or refer to the Final Plat, which has been or will be filed with respect to the Property in the Map or Plat Records of Rockwall County, Texas, as same may be amended from time to time.

1.13 BOARD OF DIRECTORS: Board of Directors *[the “Board”]* shall mean the board of directors elected by the Association pursuant to its Articles of incorporation and/or bylaws.

Amendment**1.13**

Approve []

Disapprove []

Abstain []

¹ “Person” is defined in Article I, which includes the term “entity.”

ALL Amendments Under Article II

ARTICLE II HOMEOWNERS ASSOCIATION

Approve []
Disapprove []
Abstain []

2.1 FORMATION ~~ESTABLISHMENT OF THE ASSOCIATION.~~ *The formal establishment of the Association has been accomplished by the filing of Articles of Incorporation with the Secretary of State of the State of Texas. The Association, by and through its Board, is delegated and assigned the power of administering and enforcing the conditions, covenants, easements, reservations, and restrictions set forth herein, including but not limited to levying, collecting and disbursing assessments. The Board has established certain bylaws of the Association (as amended, supplemented and/or restated from time to time, the "Bylaws") for the purpose of exercising the foregoing functions and any other duties set forth herein and therein.* ~~The formal establishment of the Association will be accomplished by the filing of the Articles of Incorporation of Quail Creek Homeowners Association with the Secretary of State for the State of Texas and the subsequent issuance by the Secretary of State of the Certificate of Incorporation of the Quail Creek Homeowners Association, Inc.~~

Amendment 2.1

Approve []
Disapprove []
Abstain []

~~**2.2 ADOPTION OF BY LAWS.** By laws for the Association will be established and adopted by the Board of Directors of the Quail Creek Homeowners Association.~~

Strikethrough 2.2

Approve []
Disapprove []
Abstain []

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

ALL Amendments Under Article III

3.1 MEMBERSHIP. ~~Declarant, during the time it owns any single family Lots and~~ Each person ~~or entity~~² who is a record Owner of a fee or undivided fee interest in any single family Lot shall be a Member of the Association. The foregoing is not intended to include persons ~~or entities~~ that hold an interest merely as security for the performance of an obligation. No Owner shall have more than one (1) Membership. Membership shall be appurtenant to and may not be separated from any ownership of any Lot, which is subject to assessment by the Association. Transfer of ownership, either voluntarily or by operation of law, shall terminate such Owner's Membership in the Association, and Membership shall be vested in the transferee: provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to assessments which have accrued prior to such transfer.

Approve []
Disapprove []
Abstain []

Amendment 3.1

Approve []
Disapprove []
Abstain []

3.2 VOTING RIGHTS. ~~The Association shall have two (2) classes of voting Membership. Class "A". All of the Owners shall be "Class A Members" of the Association.~~ The Class "A" Members shall ~~all~~ be all Owners. The Class "A" Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, ~~all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot.~~

All Amendments Under Section 3.2

Approve []
Disapprove []
Abstain []

~~(a) Class B. The Class B Member (s) shall be Declarant. The Declarant shall be entitled to two (4) votes for each Lot it owns in each Phase of Development of Quail Creek as shown in recorded plats; provided, however, that Declarant shall cease to be a Class B Member and shall become a Class A Member entitled to one (1) vote per Lot owned upon the happening of either of the following:~~

- ~~(i). When the total votes outstanding in the Class "A" Membership equals the total votes outstanding in the Class "B" Membership in each phase, or;~~
- ~~(ii). As to the entire Quail Creek Development upon the expiration of ten (10) years from the recording date of this instrument in the Deed Records of Rockwall County, Texas.~~

3.3 NO CUMULATIVE VOTING. At all meetings of the Association, there shall be no cumulative voting. Prior to all meetings, the Board of Directors shall determine the total number of votes outstanding and entitled to vote by the Members.

3.4 ABSENTEE AND ELECTRONIC VOTING. ~~The voting rights of an Owner may be cast or given (a) in person or by proxy at a meeting of the Members; (b) by written absentee ballot; (c) by electronic ballot via email, facsimile, or posting on an internet website, such method being determined in the sole discretion of the Board; or (d) by any method of representative or delegated voted provided in these Restrictions.~~

Amendment 3.4

Approve []
Disapprove []
Abstain []

² "Person" is defined in Article I, which includes the term "entity."

ARTICLE IV COVENANT FOR ASSESSMENTS

ALL Amendments Under Article IV

Approve []

Disapprove []

Abstain []

Amendment

4.1

Approve []

Disapprove []

Abstain []

4.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association: (i) annual regular assessments or charges (*“Regular Assessments”*), and (ii) special assessments for capital improvements (*“Special Assessments”*); collectively, *together with Regular Assessments*, the “Assessments”). Such Assessments (collectively, the “Assessments”) are to be fixed, established and collected as provided herein *and/or in the Bylaws of the Association*. Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be secured by a continuing lien which is hereby created and impressed for the benefit of the Association upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest costs and reasonable attorney's fees shall also constitute a personal obligation of the person ~~or entity~~³ that was the record Owner of such Lot at the time of the Assessment. The personal *liability* obligation for delinquent Assessments shall not pass to *purchasers or assignees who are* successors in title unless expressly assumed by such successors; however the lien upon the Lot shall continue until paid.

Amendment

4.2

Approve []

Disapprove []

Abstain []

4.2 USE PURPOSE OF ASSESSMENTS. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of the Lots, the improvement and maintenance of the ~~Areas of Common~~ *Areas Responsibility*, and the performance and/or exercise of the rights and obligations of the Association arising hereunder. Assessments shall include, but not be limited to, funds to cover actual Association costs for all taxes, insurance, repair, replacement, maintenance and other activities as may from time to time be authorized by the Board of Directors; legal and accounting fees, and any fees for management services; expenses incurred in complying with any laws, ordinances or governmental requirements applicable to the Association or the ~~Property Quail Creek Subdivision~~; reasonable replacement reserves and the cost of other facilities and service activities, including, but not limited to, mowing grass, grounds care, sprinkler system, landscaping, and other charges required or contemplated by this Declaration and/or that which the Board of Directors of the Association shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein.

³ “Person” is defined in Article I, which includes the term “entity.”

4.3 BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

(a). *Subject to the provisions of Section 4.3 (b) below* ~~Until January 1" of the next year following the conveyance of the first single family lot to an Owner, the regular~~ *the maximum annual Regular Assessment shall be no greater than \$319.00* ~~295.00~~ *per Lot. The Board shall fix the amount of the Regular Assessment at least thirty (30) days in advance of each Assessment year, which shall be the calendar year. Written notice of the Regular Assessment shall be given by the Board to each Member as soon as practicable after fixing the same. The Assessment is an obligation created each January 1st, though billed at some point after that. If a property is sold during a calendar year, the dues may be prorated between the buyer and seller, but that is a negotiated term of the sale and handled during the sale by the title company. The Annual Assessment shall be prorated based on the period of time the Owner owns the Lot during such year. The Board of Directors may recommend a rate less than the maximum allowed and the Membership shall demonstrate their acceptance by simple majority vote at a regularly scheduled meeting.*

Amendment
4.3(a)

Approve []
Disapprove []
Abstain []

(b). ~~From and after January 1st of the year next following the conveyance of the first single family Lot to an Owner, the maximum~~ *The Regular annual Assessment may be increased in the sole discretion of the Board in by an amount up to ten percent (10%) over the preceding years Regular annual Assessment; solely by the Board of Directors. provided however that Any increase above the maximum Regular Assessment as set forth in Section 4.30 (a) or more than ten percent (10%) over the preceding year's Regular Assessment shall over and above 10% of the previous years regular annual assessment ball* be done only by the prior written approval of *no less than sixty-seven six (67%) and two-thirds percent (66 2/3%)* of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members at a meeting *of the Members* at which a quorum is present.

Amendment
4.3(b)

Approve []
Disapprove []
Abstain []

4.4 SPECIAL ASSESSMENTS. In addition to the Regular ~~annual~~ Assessment authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, ~~other the~~ costs incurred by the Association, *or proposed to be incurred by the Association* pursuant to the provisions of this Declaration, provided that any such Special Assessment shall have the prior written approval of *no less than sixty-seven six (67%) and two-thirds percent (66 2/3%)* of the outstanding votes ~~(determined pursuant to Section 3.2 hereof)~~ held by the Members at a meeting *of the Members* at which a quorum is present. Any Special Assessments shall be prorated based on the period of time the Owner owns the Lot during such year.

Amendment
4.4

Approve []
Disapprove []
Abstain []

4.5 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.3 AND 4.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.3 and 4.4 hereunder shall be given to all Members not less than ten (10) days nor more than thirty (30) days in advance of such meeting. At such meeting, the presence of Members or of proxies entitled to cast sixty percent (60%)⁴ of all the votes entitled to be cast by the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting.

Amendment 4.5

Approve []

Disapprove []

Abstain []

4.6 UNIFORM RATES OF ASSESSMENT. ~~Both the regular annual Assessments and Special Assessments~~ shall be fixed at a uniform rate for all ~~single family~~ Lots, *except as specifically authorized herein*, and shall commence and be due in accordance with the provisions of Section 4. 7 hereof. Each Owner shall pay one hundred percent (100%) of the established Assessment for each Lot he or it owns.

Amendment 4.6

Approve []

Disapprove []

Abstain []

4.7 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES.

ALL Amendments**Under 4.7**

Approve []

Disapprove []

Abstain []

(a). ~~The Obligation to pay regular annual Assessments provided for herein shall commence on July 1, 2003.~~ The Assessments shall be due on such payment dates as may be established by the Association. Assessments shall be due and payable on an annual basis unless otherwise designated by the Association.

Amendment**4.7(a)**

Approve []

Disapprove []

Abstain []

(b) — ~~As long as Declarant is a Class B Member pursuant to Section 3.2 hereof, Declarant shall pay the deficiency resulting in the event the cost of maintenance exceeds the amount of the Assessments received from the Owners; provided, however, in such event, Declarant shall not otherwise be required to pay Assessments with respect to portions of the Property owned by Declarant; and further, provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established Assessment for each Lot it owns. When the Declarant is converted to a Class A Member, the Declarant (i) shall no longer be responsible for contributing shortfalls outlined in the preceding sentence but rather, (ii) shall commence making regular annual and Special Assessments pursuant to Sections 4.3 and 4.4 hereof calculated on the number of remaining Lots Declarant then owns.~~

Amendment**4.3(b)**

Approve []

Disapprove []

Abstain []

(b). ~~The annual Assessments for the first Assessment year shall be fixed by the Association prior to the sale of the first Lot to an Owner. Except for the first Assessment year, *The* Association shall fix the amount of the annual *Regular* Assessment at least thirty (30) days in advance of each Assessment year, which shall be the calendar year *unless otherwise*~~

⁴ Tex. Prop. Code § 209.0041(h) establishes that a declaration may be amended only by a vote of 67 percent of total votes allocated to property owners... unless the declaration contains a lower percentage than the percentage in the declaration controls.

designated by the By-laws; provided, however, that the Association shall have the right to adjust the regular annual Assessment upon thirty (30) days written notice given to each Owner, as long as any such adjustment does not exceed the maximum permitted pursuant to Section 4.3 hereof. Written notice of *an adjusted* ~~the~~ Regular ~~annual~~ Assessment shall be given as soon as is practicable to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed either by the President, Vice President or the Treasurer of the Association setting forth whether the ~~annual~~ Regular and Special Assessments on a specified Lot have been paid and the amount of any delinquency. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(c). No Owner may exempt himself from liability for Assessments by waiver of the use or enjoyment of any portion of the *Quail Creek Subdivision* ~~Development~~ or by abandonment of his *Lot* ~~Home~~.

4.8 EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION

(a). ~~All payments of the Assessments shall be made to the Association at its principal place of business in Rockwall County, Texas, or at such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has Declarant, the Association, any other Owner or any other person or entity regarding any matter to which this Declaration relates or pertains. Payment of the Assessments shall be both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Property.~~

(b). Any Assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear interest from the date of delinquency, until paid, at the rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is the lesser.⁵ The *Association* may, at its option, bring an action at law against the Owner personally obligated to pay the same; or, upon compliance with the notice provisions hereof, foreclose the lien against the Lot as provided in Subsection 4.8(d) hereof; *and/or take any other lawful action to enforce compliance with these Covenants and Restrictions and collect all amounts due the Association.* There shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and reasonable attorneys fee, together with costs of action. *Each Owner, by acceptance of a deed conveying a Lot to him, her or it hereby covenants and agrees to pay any and all Assessments on such Lot and to the extent such Assessments are not paid hereby grants a lien and security interest in the*

ALL Amendments Under 4.8

Approve []

Disapprove []

Abstain []

Amendment 4.8(a)

Approve []

Disapprove []

Abstain []

⁵ Deed Restriction Article XXVII: *The purchaser must abide by provisions in the Homeowners Association and pay his current dues, subject to a lien on his house.*

Lot (and the improvements thereon) to the Association to secure the payment of such unpaid Homeowners' Assessments. Each Owner vests in the Association or its assigns, the right and power to ~~bring all actions at law or in equity foreclosing~~ *foreclose* such lien against such Owner *as a non-judicial foreclosure without need for application to or order of any court of law or equity, or at the election of the Association, to bring any action at law or equity separately or in connection with any such collection, enforcement or foreclosure,* and the expenses incurred in connection therewith, including interest, costs and reasonable attorney's fees shall be chargeable to the Owner in default. Under no circumstances, however, shall ~~Declarant or~~ the Association be liable to any Owner or to any other person or entity for failure or inability to enforce or attempt to enforce any Assessments.

Amendment
4.8(b)

Approve []
Disapprove []
Abstain []

(c). No actions shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided in less than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the County Clerk of Rockwall County, Texas. Said notice of claim must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment at the maximum legal rate, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association.

(d). Any such sale provided for above is to be conducted in accordance with the provisions *of the Texas Property Code, including Chapter 51 thereof, as amended,* applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in ~~Section 51.002 of the Texas Property Code of the State of Texas including chapter 51 thereof, as amended, or in any other manner permitted by law.~~ Each Owner, by ~~accepting a deed to a Lot, expressly grants to the Homeowners' Association a power of sale as set forth in said Section 51.002 of the Property Code,~~ in connection with the Assessment lien. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Amendment
4.8(d)

Approve []
Disapprove []
Abstain []

(e). Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association but not to exceed the actual cost, *including attorney fees,* of preparing and filing or recording the lien and the release *and any other expenses associated with the collection of the Assessments.*

Amendment
4.8(e)

Approve []
Disapprove []
Abstain []

(f). The Assessment lien and the right to foreclosure sale hereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including the right of suit to recover a money judgment for unpaid Assessments, as ~~above~~ provided *above*.

Amendment 4.8(f)

Approve []

Disapprove []

Abstain []

(g). *In the event of a foreclosure sale as provided for herein, each Owner, by acceptance of a deed thereof whether or not it shall be so expressed therein or by acceptance of any other conveyance thereof, shall be deemed to covenant and agree, on behalf of himself and on behalf of his heirs, administrators, executors, successors, personal representatives and assigns, that any and all statements of fact or other recitals made in any deed of conveyance given by the Association or its duly authorized representative, to a purchaser of a Lot at any foreclosure sale shall be conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against such Owner and his heirs, administrators, executors, successors, personal representatives and assigns.*

Amendment 4.8(g)

Approve []

Disapprove []

Abstain []

(h). *Each Owner vests in the Association the authority to appoint an agent or trustee to act on behalf of the Association in the enforcement of any lien authorized hereunder. This authority includes the right to appoint a substitute agent or trustee, and as many substitutes or successors thereto as the Association may thereafter deem necessary, to act instead of any agent or Trustee without other formality than the designation in writing of a substitute or successor.*

Amendment 4.8(h)

Approve []

Disapprove []

Abstain []

4.9 SUBORDINATION OF ~~THE~~ LIEN TO FIRST MORTGAGES. The lien securing the Assessments provided for herein shall be subordinate to the lien of any first lien mortgage. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any first lien mortgage, pursuant to a decree of foreclosure or a non-judicial foreclosure under such first lien mortgage or any proceeding in lieu of foreclosure *under such first lien mortgage or any proceeding in lieu of foreclosure* thereof, shall extinguish the lien of such Assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due, in accordance with the terms herein provided.

Amendment 4.9

Approve []

Disapprove []

Abstain []

4.10 EXTRAORDINARY CIRCUMSTANCES. Extenuating circumstances, reasonably beyond the control of Owner, including but not limited to involuntary severance from work, catastrophic illness, or other Acts of God, shall be thoughtfully considered and given great weight before any action allowed *under Section 4.8* is ~~hereunder shall be~~ taken.

Amendment 4.10

Approve []

Disapprove []

Abstain []

4.11 EXEMPTION FROM ASSESSMENTS. ~~EXEMPT PROPERTY~~. *All real property in the Quail Creek Subdivision dedicated to the local public authority and/or devoted to public use and all Common Areas are exempted from Assessments, charge and lien. The following property otherwise subject to the Declaration shall be exempted from the assessments, charge and lien created herein:*

ALL Amendments
Under 4.11
Approve []
Disapprove []
Abstain []

- ~~(a). All properties dedicated and accepted by the local public authority and devoted to public use.~~
- ~~(b). All common property of the Association.~~
- ~~(c). All Areas of Common Responsibility.~~

4.12 MANAGEMENT AGREEMENTS: The Association shall be authorized to enter into management agreements with third parties in connection with the operation and management of the development and the performance of its obligations hereunder. A copy of all such agreements shall be available for review by each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled with or without cause and without penalty by either party with thirty (30) day written notice. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type. The Association may, at its discretion, assume self-management of the development by the Association.

4.13 INSURANCE REQUIREMENTS. The Association through the Board of Directors, or its duly authorized agent, shall obtain insurance policies covering the Areas of common Responsibility and covering all damage or injury caused by the negligence of the Association, any of its employees, officers, directors and/or agents, commercial general liability insurance, directors and officers liability insurance, and such other insurance as the Association may from time to time deem necessary or appropriate.

4.14 FILING OF SIGNED AGREEMENT. Upon purchase of a Lot, the Owner will forward signed copies of this Agreement to the Association as evidence of constructive notice of its contents.

ARTICLE V PROPERTY RIGHTS

ALL Amendments Under Article V

Approve []
Disapprove []
Abstain []

It is proposed that the ~~Areas of Common~~ *Areas Responsibility* will be improved only to the extent of landscaping and planting, including such screening fences and walls as are prudent for security and safety to the Property and also including park gazebos, picnic table covers, playground equipment and other such common amenities as the Association may approve from time to time. As such, the Association shall not, except as the Association may reasonably deem appropriate to comply with applicable laws or to protect the health, safety or welfare of the Properties or the Members, cause any buildings to be constructed within the ~~Areas of Common~~ *Areas Responsibility*; or allow any interference or conflict with the natural or planted vegetation or trees in the ~~Areas of Common~~ *Areas Responsibility*. The foregoing shall not imply any obligation on the part of ~~the Declarant or the~~ Association to provide any particular enhancement to the ~~Area of Common~~ *Areas Responsibility* or render the Association in any way responsible for the actions of any Members or other parties on or in connection with the ~~Areas of Common~~ *Areas Responsibility*, unless such actions are undertaken pursuant to the written instructions of the Association.

The Association is not responsible for, nor holds any liability for, any loss, damage, injury or harm that may occur as a result of residents' use of the common area. Any persons using the Common Areas for recreational purposes, active or passive, or for any other purpose do so at their own risk. Residents indemnify the Association and the officers of the Association for any and all damages or liabilities that may result from any loss, damage, injury or harm that may occur.

ARTICLE VI ARCHITECTURAL REVIEW COMMITTEE

ALL Amendments Under Article VI

Approve []
Disapprove []
Abstain []

6.1 *PURPOSE. The Architectural Review Committee [ARC] shall be composed of three (3) representatives elected by the Association pursuant to the By-laws that shall serve as a gate-keeping function for maintaining a harmonious architectural style and attractive appearance of all improvements that are constructed or erected in the Quail Creek Subdivision. The ARC may create "Architectural Guidelines" setting forth various standards relating to the building materials and construction specifications for improvements constructed upon any Lot.*

Amendment 6.1

Approve []
Disapprove []
Abstain []

6.2 ~~6.1 BASIS OF APPROVAL OF PLANS: COMMITTEE.~~ No Residence building, septic system, fence, wall ~~or, new structure of any kind or character (either permanent or temporary) or modification of an existing structure~~ shall be ~~commenced, erected or placed, or the erection or placing thereof commenced or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction, on any Lot in the Quail Creek Subdivision without the prior written approval of the ARC maintained upon any Lot or the patio or garage used in connection with any Lot after the purchase of any Lot from Declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved in writing by the~~

Amendment 6.2

Approve []
Disapprove []
Abstain []

~~Architectural Review Committee (the ARC) which shall be composed of three (3) representatives: One (1) appointed by Declarant (during such time Declarant owns any Lot(s) and two (2) appointed by the Association during the time Declarant owns any Lots. Once Declarant has made the initial, final disposal of all Lots, the Association will appoint all three (3) committee Members.~~

6.3 ~~6.2~~ PLANS SUBMISSIONS AND APPROVAL PROCEDURE.

(a). Plans and specifications shall be submitted to the ARC ~~Committee~~ at least fourteen (14) days prior to the commencement of any construction or modification. The following shall be submitted *to the ARC* in duplicate for approval: a site plan showing the entire Lot with existing improvements, proposed lot drainage, detailed sanitary sewer septic system (which must comply with state and local regulations), floor plan and elevations of all faces of the proposed structure; and a description of all exterior construction materials. *Such plans and specifications shall show the nature, kind, shape, height, materials, location and all other material attributes of the Residence or building, improvement or structure being constructed.* A copy of *such documents* ~~the above described plans and specifications~~ shall be retained by the *Association, pursuant to the By-laws* ~~Committee~~. The *ARC* ~~Committee~~ shall review the plans and specifications and notify the Owner in writing of its approval or disapproval. If the *ARC* ~~Committee~~ fails to approve or disapprove said plans and specifications within fourteen (14) days after the same has been submitted to *the ARC*, they will be presumed to have been approved by the *ARC* ~~Committee~~ *provided, however that such inaction shall not waive compliance with these Covenants and Restrictions.* Any disapproval shall set forth the elements disapproved and the reason or reasons thereof. The judgment of the *ARC* ~~with respect to~~ *in this respect in* the exercise of its sole and absolute discretion shall be final and conclusive and the Owner shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval. No construction, alteration, change or modification shall commence until approval of the *ARC* ~~Committee~~ is obtained. The *ARC* ~~Committee~~ may approve any deviation from these Covenants and Restrictions as the *ARC* ~~Committee~~, in its sole discretion, deems consistent with the purpose hereof. *Any future request for a deviation by an Owner shall be reviewed separately and apart from other such requests and the grant of a deviation to any Owner shall not constitute a waiver of the ACC's rights to strictly enforce the Restated Restrictions and the architectural standards provided herein against any other Owner.*

ALL Amendments

Under 6.3

Approve []
Disapprove []
Abstain []

Amendment 6.3(a)

Approve []
Disapprove []
Abstain []

(b). *The ARC shall have the right, in its sole and exclusive discretion, to disapprove any plans, specifications and/or plats submitted for review and approval for any of the following reasons: (i) if such plans, specifications and/or plats are not in accordance with any of the provisions of these Covenants and Restrictions or the codes, ordinances and regulations of the City of McLendon-Chisholm, Texas, or any other applicable laws or regulations; (ii) if the external design, elevation, appearance, location or color scheme for the proposed improvements are not in harmony with the general surroundings of the Quail Creek Subdivision or with existing or proposed adjacent structures or with the topography thereof; (iii) if the plans, specifications and/or plats submitted are incomplete; (iv) if the design, appearance or location of any landscaping is not in harmony with the general surroundings or topography thereof; (v) if the plans do not provide for adequate structural integrity or structural support for the improvements; (vi) if the plans, specifications and/or plats do not provide for approved quality of materials or finished grade elevation; or (vii) if the ARC deems the plans, specifications and/or plats, or any part thereof, to be contrary to the interest, welfare or rights of any or all parts of the Quail Creek Subdivision.*

Amendment 6.3(b)

Approve []

Disapprove []

Abstain []

6.4 ~~6.3~~ NO LIABILITY; DEVIATIONS. *Notwithstanding anything herein to the contrary, the approval of the ARC as to any plan, specification, and/or plat submitted shall constitute only an expression of opinion that the terms and provisions hereof would be complied with if the Residence, building, structure or other proposed improvement is constructed and erected in accordance with said plans, specifications and plats. Neither the Members of the ARC, the Board, or the Association shall be liable for damages or otherwise to anyone submitting plans and specifications for approval to any Owner by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans submitted to the ARC shall be responsibility of the Owner, and the ARC shall have no obligation to check for errors in, or omissions from, any such plans or to check statutes, ordinances, the Plats or other applicable rules or regulations relating thereto. No Member of the ARC Committee shall be personally liable to any Owner for any claims, causes of action or damages arising out of the denial of any submittal or grant of any deviation to an Owner. Future request for deviations submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a deviation from these Restrictions to any Owner shall not constitute a waiver of the ARC's Committees rights to strictly enforce the Declaration and the architectural standards provided herein against any other Owner. Approval by the ARC Committee of the plans and specifications or its determination that the completed construction or modification has been constructed in accordance with the plans and specification shall be deemed to an acknowledgment by the ARC Committee that such are in accordance with these Covenants and Restrictions and such acknowledgment shall be binding against the Owners of the Lots and the Property. The ARC shall not be responsible in any way for any defects in any work done in connection with such plans, specifications and plats.*

Amendment 6.4

Approve []

Disapprove []

Abstain []

6.5 ~~6.4~~ SELECTION OF COMMITTEE. The ARC shall be comprised of three (3) Members elected annually by the Members at the annual meeting of the Members. A vacancy in any seat of the ARC due to the death, resignation, removal, or disqualification of an ARC Member shall be filled by the Board, pursuant to the Bylaws. The Member appointed to such vacancy shall serve for the remainder of the term of the ARC Member replaced. ~~As vacancies in the Committee occur by resignation or otherwise, successor Members shall be appointed by Declarant as to the one (1) position reserved for Declarant's appointment shown in 6.2 and two (2) successor Members shall be appointed by Association as to the positions reserved for the Association's appointments. After the Declarant no longer owns any lots, the Members of the Committee shall be selected and appointed by the Board of directors of the Association. In the event that such Directors fail to designate Members of the Committee within thirty (30) days after any vacancy appears thereon, then the remaining Members of the Committee shall be entitled to appoint a successor to fill any vacancies. Members of the Committee may at any time and without cause, be removed by Declarant, as to his appointee, or in accordance with the parameters above, by the Board of Directors of the Association, as to their appointees. Neither the Declarant, the Association, the Board of Directors, the Committee nor employees, officers, directors or Members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans or the site plan submitted to the Committee shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Committee shall have no obligation to check for errors in or omissions from any such plans, or to check for such state statutes or the common law, whether the same relate to Lot lines, building lines, easements or any other issue.~~

Amendment 6.5

Approve []

Disapprove []

Abstain []

6.6 VARIANCES. *The ARC may allow reasonable variances and adjustments of the conditions and restrictions contained herein in order to overcome practical difficulties and prevent unnecessary hardships in the application of the restrictions contained herein; provided, however that the ARC exercises such authority in conformity with the intent and purposes hereof and such variance or adjustment will not be materially detrimental or injurious to other Lots or improvements in the Quail Creek Subdivision.*

Amendment 6.6

Approve []

Disapprove []

Abstain []

6.7 ~~6.5~~ HOMEBUILDERS. Notwithstanding anything to the contrary contained herein, once a particular set of plans and specification submitted by a homebuilder (which for purposes hereof shall be defined as any entity or person in the business of constructing single family residences for the purpose of sale to third parties) has been approved by the ~~ARC Committee~~ or deemed approved, such homebuilder may construct homes on the Properties in accordance with such plans and specifications without the necessity of obtaining subsequent approvals therefor, so long as there are no major material changes in the plans and specifications.

Amendment 6.7

Approve []

Disapprove []

Abstain []

**ARTICLE VII
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS
AS TO ALL PHASES OF DEVELOPMENT**

**ALL Amendments
Under
Article VII**

Approve []
Disapprove []
Abstain []

7.1 RESIDENTIAL USE. *All Lots in the Quail Creek Subdivision* The Property shall be used for single-family residential purposes only. No *structure building* shall be erected, altered, placed or permitted to remain on any Lot *except one (1) single-family dwelling intended for living and containing rooms for, at a minimum, sleeping, kitchen and bathroom facilities ("Residence") per Lot and such other customary and usual structures as may be permitted hereunder and approved by the ARC. The* other than on (1) detached single family residence per Lot, which residence may not exceed two and one-half (2 1/2) stories in height⁶ and a private garage as provided herein ~~below~~. *The construction of any structure on any Lot* All Member requirements and construction shall conform to the City of McLendon Chisholm Comprehensive Zoning Ordinance of 1982 *(as amended, modified, and supplemented from time to time)* and all other applicable statutes, laws, and subsequent ordinances.⁷ ~~A single family residence shall be defined as a building intended for living and which contains a room for sleeping, kitchen and bathroom facilities.~~ Additions or extensions to existing single family residences must have a contiguous slab and incorporate a continuation of the existing roofline.

Amendment 7.1

Approve []
Disapprove []
Abstain []

7.2 GARAGE-REQUIRED. Each residence shall have an enclosed garage *with sufficient space suitable* for parking a minimum of two (2) standard size automobiles, which garage shall conform in design and materials with the *Residence main structure*. Each garage shall open only to the side or rear of the Lot so as not to face a residential street⁸.

Amendment 7.2

Approve []
Disapprove []
Abstain []

7.3 NO RESTRICTIONS ON RESUBDIVISION. No Lot or combination of Lots shall be subdivided into smaller Lots so as to create more Lots⁹ than is described in Exhibit A & B hereto *[Phase I & Phase II]*.

Amendment 7.3

Approve []
Disapprove []
Abstain []

7.4 DRIVEWAYS. All driveways shall be surfaced with concrete¹⁰ or similar substance approved *in writing* by the *ARC Committee*. Hot mix asphaltic concrete is prohibited.

Amendment 7.4

Approve []
Disapprove []
Abstain []

7.5 USES SPECIFICALLY PROHIBITED.

ALL Amendments Under 7.5

(a). Except as expressly approved by the *ARC Committee*, no temporary structure of any kind shall be erected or placed on any Lot *for any purpose of said property* without the approval of the ARC¹¹. In no instance shall more than one residence be erected or placed on any one Lot. No building material of any kind or character shall be placed or stored upon *any Lot the Property* until construction is ready to commence, and then such material

Approve []
Disapprove []
Abstain []

Amendment 7.5(a)

Approve []
Disapprove []
Abstain []

⁶ Highlighted is consistent with Deed Restriction IV

⁷ Highlighted is consistent with Deed Restriction Article I

⁸ Highlighted is consistent with Deed Restriction VIII

⁹ Highlighted is consistent with Deed Restriction Article III

¹⁰ Highlighted is consistent with Deed Restriction Article IX

¹¹ Highlighted is consistent with Deed Restriction Article V

shall be placed totally within the property lines of the Lot upon which the improvements are ~~to~~ *being* erected.

Amendment 7.5(b)

(b). ~~No mobile home shall be allowed either temporarily or permanently~~¹²
on any Lot.

Approve []
Disapprove []
Abstain []

(c). ~~No structure of a temporary character, such as a trailer, tent shack, barn, or other outbuilding shall be used on any Lot the Property at any time as a dwelling house~~¹³. Sales offices and model homes must be approved by the ~~ARC Committee~~ in accordance with the requirements ~~hereunder of~~ *Article VI.*

Amendment 7.5(c)

Approve []
Disapprove []
Abstain []

(d). ~~No animals, livestock or poultry or birds of any kind shall be raised, bred, or kept on any Lot of less than three acres, except that dogs, cats and~~
~~or other household pets may be kept in reasonable numbers, provided that~~
~~they are not kept, bred, or maintained for any commercial purpose. It is the~~
~~purpose of this subsection (d) these provisions to restrict the use of Lots the~~
~~Property so that no person shall quarter on any Lot on the premises cows,~~
~~horses, bees, hogs, sheep, goats, guinea fowls, chickens, turkeys~~¹⁴, ~~skunks,~~
~~or any other animals that may interfere with the quiet peace, health and~~
~~safety of the community. Pets must be restrained or confined within the~~
~~Residence house or in a secure fenced area~~¹⁵. ~~The Owner shall It is the pet~~
~~owners' responsibility to keep the Lot clean and free of pet debris or~~
~~noxious pet odors to adjoining Lots. Approved pets shall All animals must~~
~~be kept in the Quail Creek Subdivision only upon the condition that the~~
~~custodian thereof abide by all of the ordinances and regulations of the City~~
~~of McLendon-Chisholm, Texas, with respect to the care, control and~~
~~ownership of such animals within such City, including, but not limited to~~
~~"leash" and "vaccination" ordinances, and reference is hereby made to~~
~~such ordinances and regulations for all purposes properly registered and~~
~~tagged for identification in accordance with local ordinances.~~

Amendment 7.5(d)

Approve []
Disapprove []
Abstain []

(e). ~~No Lot or other area in the Quail Creek Subdivision of the Property~~
~~shall be used as a dumping ground for rubbish or the accumulation of~~
~~unsightly materials of any kind~~¹⁶, ~~including without limitation, broken or~~
~~rusty equipment, disassembled or inoperative cars or and discarded~~
~~appliances and furniture. Trash, garbage and or other waste shall not be kept~~
~~only except in sanitary containers. All containers for the storage or other~~
~~disposal of such material shall be kept in a clean and sanitary condition~~¹⁷
~~inside the garage of each residence except on days of trash pickup.~~
~~Materials incident to construction of improvements may only be stored on~~
~~Lots during construction of the improvements thereon.~~

Amendment 7.5(e)

Approve []
Disapprove []
Abstain []

¹² Highlighted is consistent with Deed Restrictions Article II

¹³ Highlighted is consistent with Deed Restriction Article V (added *either temporarily or permanently*)

¹⁴ Highlighted is consistent with Deed Restriction Article XII & XIII

¹⁵ Deed Restriction Article XIII: *No kennels shall be allowed.*

¹⁶ Highlighted is consistent with Deed Restriction Article XVI

¹⁷ Highlighted is consistent with Deed Restriction Article XV

(f). No individual water well ~~supply system~~¹⁸ shall be permitted on any Lot.

Amendment 7.5(f)

Approve []

Disapprove []

Abstain []

(g). No garage, garage house or other outbuilding shall be occupied by any Owner, tenant or other person prior to the erection of a residence¹⁹ on a Lot.

Amendment 7.5(g)

Approve []

Disapprove []

Abstain []

(h). No air-conditioning apparatus shall be installed on the ground in front of a residence. No gas or electric meter shall be set nearer the street than the front or side of a Residence ~~dwelling house~~ unless the meter is ~~of an~~ underground type.

Amendment 7.5(h)

Approve []

Disapprove []

Abstain []

(i). No Lot or improvement thereon shall be used for commercial, industrial or manufacturing purposes of any kind. No business activity shall be conducted on the Property that is not consistent and compatible with single family residential purposes. No noxious or offensive activity shall be undertaken on any Lot the Property, nor shall anything be done which is or may become an annoyance or nuisance to other Owners the Properties²⁰. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales/construction office for so long as such builder is actively engaged in construction in ~~on the Quail Creek Subdivision Property~~. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive, non-intrusive activities (such as tutoring, art and music lessons and/or professional counseling) so long as no signage advertising such service is displayed on the subject Lot Property and such activities do not materially increase the number of cars parked on the street or interfere with adjoining Owners' peaceful use and enjoyment of their residences and yards.

Amendment 7.5(i)

Approve []

Disapprove []

Abstain []

(j). Within the easements on each Lot, as designated on the Quail Creek Subdivision Plat of the Development, no improvement, structure, planting or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water through drainage channels.²¹

Amendment 7.5(j)

Approve []

Disapprove []

Abstain []

(k). No exterior signs or advertisements of any type may kind or character shall be placed, allowed, or maintained displayed to the public view on any Lot without the prior written approval of the ARC, except for (i) one (I) professionally fabricated sign of not more than six (6) square feet advertising the Lot "for sale" or "for rent;" property for rent or (ii) signs used by an approved builder to advertise the Lot property during its

Amendment 7.5(k)

Approve []

Disapprove []

Abstain []

¹⁸ 202.007(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from: (2) installing rain barrels or a rainwater harvesting system;

¹⁹ Highlighted is consistent with Deed Restriction Article V

²⁰ Highlighted is consistent with Deed Restriction Article XIV

²¹ Highlighted is consistent with Deed Restriction Article XIX

construction and sales period;²² and (iii) one or more political candidate or ballot initiative signs for a period beginning not more than ninety (90) days prior to, and ending not more than ten (10) days after, the election subject of the sign. ~~Declarant or its agents shall have the right to remove any sign, billboard or other advertising device that does not comply with the above, and in so doing shall not be subject to any liability for trespass, or any other tort arising in connection therewith from such removal, nor in any way be liable for any accounting or other claim by reason of the disposition thereof. Development related signs owned and erected by the Declarant shall be permitted.~~

(l). No noxious ~~or~~ offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the *Quail Creek Subdivision or to any other Lot Owner neighborhood*²³. No Owner shall *complete, or undertake to complete, do* any work *on his or her Lot* that will impair the structural soundness or integrity of another *Owner's Lot*; ~~residence or~~ impair any easement or hereditament, *within the Quail Creek Subdivision; or cause* ~~nor do any act~~ *nor allow* any condition to exist which will adversely affect *any the* other *Lot residences* or *their* Owners.

Amendment
7.5(l)

Approve []
Disapprove []
Abstain []

7.6 MINIMUM SQUARE FOOTAGE ~~FLOOR AREA~~. The total air-conditioned living area of the main residential structure, as measured to the outside of *the* exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings), shall be not *be* less than two thousand five hundred (2,500) square feet.²⁴

Amendment
7.6

Approve []
Disapprove []
Abstain []

7.7 BUILDING MATERIALS. The total exterior walls ~~area~~ of each Residence constructed on a Lot *within the Quail Creek Subdivision* shall ~~be~~ not ~~be~~ less than eighty percent (80%) brick²⁵, brick veneer, stone, or stone veneer (but *in no event* ~~not~~ less than the minimum percentage as established by the City *of McLendon-Chisholm* by ordinance or *by other* building code requirement). Windows, doors and other openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from calculation of total exterior wall area. The roofs of *any principal or secondary structure on any Lot* ~~principal and secondary structures~~ which are exposed to public view shall be shale, slate, clay, neutral tone tile, or architectural series quality composition shingle (240 pounds per square or more) and of either a weathered wood color or bark wood color, ~~unless some other material is approved by the Committee~~. *This restriction does not restrict or prohibit the installation of shingles that are designed to be wind or hail resistant, provide heating and cooling efficiency greater than those provided by composite shingles, or provide electrical generation capabilities.*

Amendment 7.7

Approve []
Disapprove []
Abstain []

7.8 OUTBUILDINGS. *Construction of any outbuilding on any Lot shall be approved in writing by the ARC. Any such* outbuildings shall be constructed only of

Amendment 7.8

Approve []
Disapprove []
Abstain []

²² Highlighted is consistent with Deed Restriction Article XX

²³ Highlighted is consistent with Deed Restriction Article XIV

²⁴ Deed Restriction Article VI: *Dwellings shall be at least 2000 square feet and of new construction, exclusive of open or screened porches, terraces, patios, driveways, carports and garages.*

²⁵ Highlighted is consistent with Deed Restriction Article VI

new materials and shall be erected no closer than *five (5) feet from the rear of the Residence residential dwelling²⁶ on the Lot. The exterior of any such outbuilding Exteriors* shall be constructed of the same materials as the residence and *must be approved by the²⁷ Committee.* ~~All Out buildings shall not be~~ less than 80% masonry. *Outbuildings These buildings* shall be of a permanent type built on a concrete slab or other ~~Architectural Committee approved~~ *approved by the ARC, and* shall not exceed 20 x 30 feet in size, and shall not be greater than one story *in height unless approved by the ARC Architectural Control Committee.*

7.9 ~~SIDE LINE AND FRONT LINE~~ SETBACK REQUIREMENTS.²⁸ *No structure of any type, including but not limited to, any Residence, garage, or outbuilding, (A) No dwelling shall be erected located on any Lot in the Quail Creek Subdivision (i) nearer to the front Lot line than the minimum setback lines shown on the Quail Creek Subdivision plat Subdivision Plat.; (ii) closer to No dwelling or garage or outbuilding or any permanent structure of any kind or character shall be located nearer the side Lot lines than a distance of twenty-five (25) (20) feet²⁹ and (iii) The dwelling shall be located no further behind the front building line than five (5) feet and will be centered within fifteen (15) feet of the center of the Lot. (B) No fence, wall, hedge or shrub planting, which obstructs sight lines at an elevation between three (3) and eight (8) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right of way lines and a line connecting them at points twenty-five (25) (20) feet from the right of way line intersection.*

7.10 CONSTRUCTION COMPLETION. With reasonable diligence and in *any event all events* within seven (7) months³⁰ from the commencement of construction, unless completion is prevented by war, labor strike or an act of God, *the construction of any Residence residential dwelling commenced upon a on any Lot shall be completed as to its exterior, and all temporary structures relating to such construction shall be removed. Construction of any approved outbuilding commenced upon a Lot Outbuildings* shall be completed within two (2) months³¹.

7.11 ~~ARC WAIVER BY THE ARCHITECTURAL REVIEW COMMITTEE.~~³² The ~~ARC Committee~~ may, *in at its sole discretion, approve construction of a structure lacking not more than 10% of the minimum square footage required by Paragraph 7.7 above, and may grant waive* such other variations from these restrictions as *the ARC said Committee* deems, in its sole discretion, not to be inconsistent with the general tenor and purposes of these restrictions.

7.12 MAINTENANCE; UPKEEP; DRAINAGE; LANDSCAPING.

²⁶ Deed Restriction Article XI: *No storage or outbuildings shall be located in front of any residence.*

²⁷ Deed Restriction Article VI: *...approved by the developer before construction...*

²⁸ Deed Restriction X: *Dwellings shall be erected at least 100 feet from the front of property line and at least 100 feet from the side property line with variances approved by the developer.*

²⁹ This material change is to comply with the City of McLendon Chisholm setback requirement of 25ft.

³⁰ Deed Restriction VII: *"All dwellings must be completed within 6 months of starting of construction..."*

³¹ Deed Restriction VII: *"...all out buildings must be completed within 90 days of starting construction."*

³² Deed Restriction XXV: *The developer at his discretion may permit variances to these deed restrictions in individual cases.*

Amendment 7.9

Approve []
Disapprove []
Abstain []

Amendment 7.10

Approve []
Disapprove []
Abstain []

Amendment 7.11

Approve []
Disapprove []
Abstain []

ALL Amendments Under 7.12

Approve []
Disapprove []
Abstain []

(a). ~~Following occupancy of the residence on any Lot,~~ *Each Owner* shall maintain and care for ~~the Home,~~ all improvements and *structures (including, but not limited to, the Residence, garage, and approved outbuilding),* ~~all~~ trees, foliage, plants, and lawn areas on the Lot and *shall* otherwise keep the Lot and all improvements thereon in good condition and repair and in conformity with the general character and quality of *other Lots properties* in the *Quail Creek Subdivision immediate area.* Such maintenance and repair to includes but *is* not *necessarily* ~~be~~ limited to: (i) the replacement of worn and/or rotted components; (ii) the regular painting of all exterior surfaces; (iii) the maintenance, repair and replacement of roofs, rain gutters, down spouts, exterior walls, windows, doors, walks, drives, parking areas and other exterior portions of the *Residence Home* to maintain an attractive appearance;; (iv) *regular mowing and edging of lawn and grass areas;* (v) drainage easements; and (vi) sanitary sewer septic systems. Upon failure of any Owner to maintain a Lot owned by him in the manner prescribed herein, the *Board Declarant or the Association, or either of them,* at its option and *in its sole* discretion, ~~(but without any obligation to do so),~~ but only if such non-compliance continues five (5) days after written notice to such Owner, may enter upon such Owners Lot and undertake *or cause to be undertaken,* to maintain and care for such Lot to the condition required hereunder; *provided, however, that the Board must first provide written notice to the Owner, and such noncompliance shall have continued five (5) days after such written notice is provided to* ~~and the~~ Owner. *An Owner* thereof shall be obligated, when presented with an itemized statement, to reimburse *the* said Declarant and/or Association for the cost of such *remedial or maintenance* work within ten (10) days after presentment of such statement.³³ ~~This restriction provision,~~ however, shall in no manner be construed to create a lien in favor of any party on any Lot for the costs or charges of such work or the reimbursement for such work.

Amendment
7.12(a)

Approve []
Disapprove []
Abstain []

(b). The Association, *by and through the Board,* shall maintain, repair and/or replace, *as necessary,* ~~bear the responsibility for the operation, maintenance, repair and, if required, the replacement of~~ the brick entry features, signs, lighting, and landscaping located in the *Common Areas in the landscape, parkway and median of Quail Creek Subdivision and all streets.*

Amendment
7.12(b)

Approve []
Disapprove []
Abstain []

(c). The Association, *by and through the Board,* shall operate, maintain and, when necessary, repair and/or replace the landscaping improvements and irrigation systems located in the ~~Areas of~~ *Common Areas* ~~Responsibility~~ including along the frontage of FM 1139, *and each Quail Creek Subdivision Development entry planting area and signage, and shall insure ensure* the free flow and integrity of the drainage *systems in these easement area easements* (where such operation and maintenance is not contrary to the requirements and limitations of the City *or State*).

Amendment
7.12(c)

Approve []
Disapprove []
Abstain []

³³ Highlighted is consistent with Deed Restriction Article XVII

(d). *Common Areas shall be improved only to the extent of landscaping and planting, including such screening fences and walls as are prudent for security and safety of the Quail Creek Subdivision and Owners, and the inclusion of park gazebos, picnic tables, playground equipment and other such common amenities as the Board may approve from time to time. The Association shall not, except as the Board may reasonably deem appropriate to comply with applicable laws or to protect the health, safety or welfare of the Owners, cause (a) any building or structure to be constructed within the Common Areas; or (b) allow any interference or conflict with the natural or planted vegetation or trees in the Common Areas. The foregoing shall not imply any obligation on the part of the Association to provide any particular enhancement to the Common Areas or render the Association in any way responsible for the actions of any Members or other parties on or in connection with the Common Areas. The Association is not responsible for, nor holds any liability for, any loss, damage, injury or harm that may occur as a result of an Owners or an Owner's guest's use of the Common Areas. Any Persons using the Common Areas for recreational purposes, active or passive, or for any other purpose does so at their own risk. Owners hereby agree to indemnify the Association for any and all damages or liabilities that may result from any loss, damage, injury or harm that may occur as a result of use of the Common Areas.*

Amendment**7.12(d)**

Approve []
 Disapprove []
 Abstain []

(**NOTE: There is no 7.12 in the recorded documents)

7.13 All vehicles must have a current license, inspection sticker, be operable and in good condition. No wrecked or junk cars shall be allowed on any Lot³⁴. No ~~permitted~~ vehicles shall be parked in front of any residence³⁵ for more than 14 hours.

Amendment 7.13

Approve []
 Disapprove []
 Abstain []

7.14 Lot shall have a properly sized culvert installed according to state and local statutes, regulations³⁶ and ordinances.

Amendment**7.14**

Approve []
 Disapprove []
 Abstain []

7.15

(a). Nothing to the contrary withstanding as to the rights granted to the Association in Articles IV and/or VI, the Association may in accordance with its By-Laws assess fines for failure to conform to the restrictions detailed herein. Any fines assessed ~~hereunder~~ on a per-day basis cannot be greater ~~on a per-violation basis~~ than the then in effect ~~annual~~ Association Regular Assessment ~~dues~~.³⁷

Amendment**7.15(a)**

Approve []
 Disapprove []
 Abstain []

(b). The By-Laws of the Association must contain therein provisions for appeal to the entire Association of fines contemplated under 7.15 (a) during a regularly scheduled Association meeting to allow a final judicial review of

³⁴ Highlighted is consistent with Deed Restriction Article XV

³⁵ Highlighted is consistent with Deed Restriction Article XV, however private cars and trucks are allowed.

³⁶ Highlighted is consistent with Deed Restriction Article XVIII

³⁷ Deed Restriction XXIV: Any violation of these deed restrictions will result in a penalty of \$100 per day until said violation is corrected.

~~initial~~ actions before fines can be collected. Said action will require a seventy-five percent (75%) vote of the Members present to overturn a fine.

ARTICLE VIII
ADDITIONAL RESTRICTIONS AS TO PHASE 2
~~AND ALL SUBSEQUENT PHASES OF DEVELOPMENT~~

**ALL Amendments
Under Article VIII**

Approve []
 Disapprove []
 Abstain []

Amendment 8.1

Approve []
 Disapprove []
 Abstain []

8.1 ~~ARC WAIVER OF FRONT SETBACK REQUIREMENTS.~~ With the written approval of the ~~ARC Committee~~, a Residence ~~structure~~ may be located farther back from the front property line ~~of a Lot shown on the Quail Creek Subdivision plat than provided in Paragraph 7.9 10 above~~, where ~~the ARC, in its sole discretion the opinion of the Committee~~, the proposed location of the structure will ~~not be inconsistent with the general tenor and purposes of these Restrictions. negatively impact the appearance or value of the Property or adjacent Lots.~~

8.2 ~~FENCES; AND WALLS.~~ *All fences shall be eight (8) feet or less in height from the prevailing ground line adjacent thereto and of style, design and materials approved in writing by the ARC before installation thereof.* No fence or wall on any Lot shall extend nearer to any street than the front of the residence thereon. Any fence or portion thereof visible from a public street or facing a neighbors property shall be constructed so that all structural members and support posts will be on the side of the fence away from the street or away from the neighbors property. *The color of an existing fence may not be changed, unless it is to black, without written approval by the ARC.* Subject to ~~ARC Committee~~ approval, screening fences may be constructed a distance of no more than thirty (30) feet from the rear of the ~~primary~~ Residence. No screening fence shall extend from the side of the residence so as to front toward the street. These screening fences may be *either (i) constructed using the masonry product approved for the primary residence, with a maximum height of eight (8) feet, or (ii) wooden fence not exceeding eight (8) feet in height. No portion of any screening fence shall exceed eight (8) feet in height as measured from the prevailing ground line adjacent thereto.* An exception to this restriction ~~may~~ *shall* be granted by the ~~ARC~~ should the neighbor affected by the construction of such fence approve its construction in writing. The remainder of the Lot, including the rear, may be fenced using a subdivision standard four (4) foot black ornamental metal fence. *No chain link or wire fencing visible from ground level of another Lot shall be permitted.*

Amendment 8.2

Approve []
 Disapprove []
 Abstain []

8.3 ~~SIDEWALKS.~~ All walkways, if any, along public rights-of-ways shall, *at the very least*, conform to the minimum ~~property~~ standards of the City *of McLendon Chisholm.*

Amendment 8.3

Approve []
 Disapprove []
 Abstain []

8.4 ~~MAILBOXES.~~ Mailboxes shall be of a design and specification as meets the standards of the U.S. Postal Service, and shall be constructed of masonry of the same type as the *Residence on the Lot* ~~main dwelling structure and as approved by the Committee.~~

Amendment 8.4

Approve []
 Disapprove []
 Abstain []

8.5 VEHICLES; EQUIPMENT; RECREATIONAL VEHICLES; BOATS; ETC.**ALL Amendments****Under 8.5**

Approve []

Disapprove []

Abstain []

(a). ~~No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles and pick-up trucks (including those with attached bed campers) that are in operation condition and have~~ Except as otherwise provided herein, no motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, and pickup trucks (including those with attached bed campers) that are in operational condition and have current valid license plates and inspection stickers. All vehicles must be parked on a driveway or improved surface and not on the grass or yard of any Lot.

Amendment 8.5(a)

Approve []

Disapprove []

Abstain []

(b). No vehicle or equipment shall be used as a residence or office at any time, either temporarily or permanently. This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked in the Quail Creek Subdivision except those used by a builder during the while in use for the construction of improvements on a Lot. ~~; maintenance or repair of a residence in the Development.~~

Amendment 8.5(b)

Approve []

Disapprove []

Abstain []

(c). Trucks with tonnage in excess of one and one-half (1/2) tons and any commercial vehicle with painted advertisement shall not be permitted to park overnight on the public streets within the Quail Creek Subdivision the Property except those used by a builder during the construction of improvements on a Lot.

Amendment 8.5(c)

Approve []

Disapprove []

Abstain []

(d). No vehicle of any size, which transports flammable, explosive or noxious cargo may be kept in the Quail Creek Subdivision on the Property at any time.

Amendment 8.5(d)

Approve []

Disapprove []

Abstain []

(e). No boat, marine craft, hovercraft, aircraft, recreational vehicle, camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street on the Property, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view. Boats, recreational vehicles, campers, travel trailers, motor homes or similar vehicles or equipment may be temporarily parked in the driveways of the subdivision for no more than two (2) consecutive days.

8.6 POOL EQUIPMENT. *[Formerly one paragraph, now two subsections]*

ALL Amendments Under 8.6
 Approve []
 Disapprove []
 Abstain []

(a). Above ground pools are expressly prohibited.

(b). All pool service equipment shall be fenced and located in ~~either (a) a side yard between the front and rear boundaries of the Residence dwelling, or (b) in the rear yard adjacent to the Residence dwelling; (c) or at such other location approved by the ARC committee~~

Amendment 8.7
 Approve []
 Disapprove []
 Abstain []

8.7 SEPTIC SYSTEMS. *Septic systems shall be approved by the City of McLendon Chisholm.*

8.8 MISC.

ALL Amendments Under 8.8
 Approve []
 Disapprove []
 Abstain []

~~(a).— No vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use for the construction, maintenance or repair of a residence in the Development.~~
[Relocated under Section 8.5]

Relocated to 8.5 & Strikethrough
 Approve []
 Disapprove []
 Abstain []

(a). No oil *exploration* drilling, ~~oil development operation, oil or refining operation, and no~~ quarrying or mining operations of any kind, *including but not limited to* ~~shall be permitted in or on the Property, nor shall~~ oil wells, *service* tanks, tunnels, mineral excavations or shafts *shall* be permitted upon, *in, or under any Lot or in any part of the Property.* No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on *any Lot* ~~the Property.~~

Amendment 8.8(a)
 Approve []
 Disapprove []
 Abstain []

~~(e).— No individual water supply system shall be permitted on any Lot.~~
[Covered under Section 5.5(f)]

Covered Under 5.5(f) & Strikethrough
 Approve []
 Disapprove []
 Abstain []

~~(d).— No garage, garage house or other outbuilding shall be occupied by any Owner, tenant or other person prior to the erection of a residence.~~ *[Covered under Section 7.5(g)]*

Covered Under 7.5(g) & Strikethrough
 Approve []
 Disapprove []
 Abstain []

~~(e).— No air-conditioning apparatus shall be installed on the ground in front of a residence. No gas or electric meter shall be set nearer the street than the front or side of a dwelling house unless the meter is of an underground type.~~
[Covered under Section 7.5(h)]

Covered Under 7.5(h) & Strikethrough
 Approve []
 Disapprove []
 Abstain []

(b). ~~(f)~~ The general grading, slope and drainage of a Lot may not be materially altered without the written approval of the *ARC Committee* and/or the City *of McLendon Chisholm* (where such authority rests with the City).

Amendment
8.8(b)

Approve []
Disapprove []
Abstain []

(c). ~~(g)~~ No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential fireplaces, barbecues, grills, decorative gas pits and the equivalent. ~~Except within fireplaces in the main residential dwelling and proper equipment for outdoor cooking, no burning of anything or open fires shall be permitted anywhere on the Property.~~

Amendment
8.8(c)

Approve []
Disapprove []
Abstain []

(d). ~~(h)~~ No Lot shall be used for, or contain a site for the use of, landing and/or departure of helicopters and similar craft.

(e). ~~(i)~~ No exterior lighting of any sort shall be installed or maintained on a Lot such that ~~where~~ the light source is offensive or a nuisance to the Owner of an adjacent Lot; provided, however, that ~~neighboring property (except~~ reasonable security or landscape lighting ~~approved by that has approval of the ARC that Committee and~~ does not shine directly upon an adjacent Lot shall be permitted. ~~the property of other owners).~~ ["Exterior speakers" has been moved into its own subsection below]

Amendment
8.8(e)

Approve []
Disapprove []
Abstain []

(f). ~~(i)~~ No exterior speakers shall be ~~used installed or maintained~~ on any Lot such that ~~where~~ the volume ~~thereof of music~~ is offensive or is a nuisance to the Quail Creek Subdivision or to other Owners ~~neighboring property~~. No horns, whistles, bells or other sound devices (except security alarm devices and interior door bell and similar devices ~~such as entry door situated thereon~~) shall be placed or used upon any Residence or Lot.

Amendment
8.8(f)

Approve []
Disapprove []
Abstain []

(g). ~~(j)~~ The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of *the Lot* or for drainage improvement during construction on such Lot. Such drainage improvements, however, shall be consistent with ~~proper~~ drainage of adjacent Lots and the Quail Creek Subdivision ~~neighborhood~~ in general. Nothing effecting drainage shall be permitted on any ~~individual~~ Lot that would harm the *Lots in the Quail Creek Subdivision of other owners.*

Amendment
8.8(g)

Approve []
Disapprove []
Abstain []

~~(k). Trucks with tonnage in excess of one and one-half (1/2-) tons and any commercial vehicle with painted advertisement shall not be permitted to park overnight on the public streets within the Property except those used by a builder during the construction of improvements. [Relocated under Section 8.5]~~

**Relocated to 8.5
& Strikethrough**

Approve []
Disapprove []
Abstain []

~~(l). No vehicle of any size which transports flammable, explosive or noxious cargo may be kept on the Property at any time. [Relocated under Section 8.5]~~

**Relocated to 8.5
& Strikethrough**

Approve []
Disapprove []
Abstain []

~~(m). No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles and pick-up trucks (including those with attached bed campers) that are in operation condition and have current valid license plates and inspection stickers. [Relocated under Section 8.5]~~

**Relocated to 8.5
& Strikethrough**

Approve []
Disapprove []
Abstain []

8.9 No more than four (4) household pets will be permitted on each Lot.

8.10 Outdoor clothes lines and drying racks are prohibited.

~~8.11 No chain link or wire fencing visible from ground level of another Lot will be permitted. [Relocated to Section 8.2]~~

**Relocated to 8.2
& Strikethrough**

Approve []
Disapprove []
Abstain []

8.11 ~~8.12~~ CHIMNEY FLUES. Chimney stacks on all walls shall be *completely* enclosed ~~One Hundred Percent (100%)~~ in brick, masonry or stone of the same type as the *Residence* main dwelling structure.

**Amendment
8.11**

Approve []
Disapprove []
Abstain []

8.12 ~~8.13~~ WINDOWS. Window jambs and mullions on all Residences shall be of anodized aluminum or wood materials. All windows on any front elevation of a Residence shall have baked-on painted aluminum divided light windows (no mill finish).

8.13 ~~8.14~~ LANDSCAPING. Landscaping of each Lot shall be completed within sixty (60) days after the dwelling construction is completed, subject to extension for delays caused by inclement weather or for seasonal planting limitations. Minimum landscaping requirements for each Lot shall include sodded grass for the front and side yards, and completed front flowerbeds (across the entire width of *the* front) with an appropriate amount of shrubbery.

**Amendment
8.13**

Approve []
Disapprove []
Abstain []

8.14 ~~8.15~~ EROSION CONTROL. During construction of improvements and prior to landscaping, reasonable measures will be taken to prevent excessive erosion of *Lots*, causing silt to be deposited in the streets and in the storm drainage system. Protection can be ~~by~~ retaining walls, berm, hay bales or other means suitable for each ~~individual~~ *Lot*. The *Lot Owner* will be responsible for removing excessive silt accumulations from the street or the storm drainage easements of adjacent *Lots* affected by such deposits.

Amendment**8.14****Approve []****Disapprove []****Abstain []**

8.15 ~~8.16~~ BUILDING PERMITS. The Building Inspector of the City of McLendon Chisholm, Texas, or other municipal authority, is hereby authorized and empowered to revoke, as the case may be, any and all permits for construction of improvements of any kind or character to be erected or placed on any of the *Property*, if such improvements do not conform to and comply with the restrictions set out herein.

8.16 ~~8.17~~ RECONSTRUCTION COMPLETION TIME. In the event that residence is partially or totally damaged by fire or other *casualty causes*, construction or reconstruction of the damaged residence, or *applicable* portions thereof, must commence within one hundred eighty (180) days after the occurrence causing the damage. No construction or reconstruction shall commence until plans and specifications have been submitted to the *ARC Committee* and subsequently approved.

Amendment**8.16****Approve []****Disapprove []****Abstain []**

8.17 ~~8.18~~ ANTENNAS Except with the written permission of the *ARC Committee*, no antennas, free standing satellite dishes, nor roof mounted satellite dishes larger than 24 inches in diameter or other equipment for receiving or sending sound or video signals shall be permitted in or on the *Lot Property* except antennas for AM or FM radio reception and UHF and VHF television reception. Such antennas shall be located inside the attic of the main residential structure except that, in the case of a satellite dish of less than 24 inches in diameter, it may be roof mounted, but in such a manner as to not be *conspicuous and that an unattractive feature*. ~~All~~ reasonable efforts ~~must~~ be made to mount such small antenna out of sight of the *front of the Lot street*. One additional satellite antenna of up to 36 inches in diameter per residence for the sending and receiving of computer data may be approved by the Committee if said larger antenna is mounted in the rear of each residence so as to not be visible from the *front of the Lot street*. *Antenna must comply with the Federal Communications Commission's Over-The-Air-Reception-Devices ("OTARD") rules, and all applicable statutes and ordinances or must be approved by the ARC.*

Amendment**8.17****Approve []****Disapprove []****Abstain []**

ARTICLE IX
OBLIGATION TO IMPROVE PROPERTY AND WAIVER

**ALL Strikethroughs
Under Former
Article IX**

~~9.1 OBLIGATION TO IMPROVE PROPERTY. If any Owner of a Lot does not, within eighteen (18) months after receipt of title to such Lot begin (and thereafter continue to completion) substantial and meaningful construction of a building upon said Lot (which building shall comply with all provisions of this Declaration), the Declarant conveying such Lot or its assignee (Optionee), shall have an option to repurchase said lot for a purchase price equal to the purchase price paid by such Owner (Optionee) for said Lot. This option to repurchase must be exercised in writing within six (6) months after the expiration of the above referenced eighteen (18) month period. Closing of the repurchase shall take place within ninety (90) days after the exercise of the option to repurchase and shall be held at the office of Optionee or at the office of the title company selected by Optionee. At the closing, Optionee may deem necessary to properly convey title to said Lot to Optionee, its successors and assigns. For the purposes hereof, A substantial and meaningful construction= shall mean the commencement of construction of a component part of the building, such as the laying of a foundation of the building. Such activities as erection stakes, unloading dirt, and erection batter boards shall be insufficient activities for these purposes.~~

Approve []
Disapprove []
Abstain []

**Strikethrough
Former 9.1**

Approve []
Disapprove []
Abstain []

~~9.2 WAIVER OF OBLIGATION TO IMPROVE PROPERTY. The provisions of paragraph 9.1 above may be waived or modified by Declarant as to any Lot purchased by an Owner from such Declarant. In addition, Declarant shall have the right in its discretion from time to time to grant extensions of the said eighteen, (18) month period by written notice of such extension given to any Owner affected thereby.~~

**Strikethrough
Former 9.2**

Approve []
Disapprove []
Abstain []

~~9.3 RIGHT OF FIRST REFUSAL ON SALE OF UNDEVELOPED LOTS. For so long as any Owner has not commenced substantial and meaningful construction upon a lot covered by this Declaration, Declarant shall have the right to repurchase any of such lots upon the terms and conditions set forth in this Paragraph 9.3. In the event such Owner shall receive a bona fide offer for the purchase of any Lot upon which has not already begun such construction of a single family residence, Owner shall either refuse such offer or give Declarant written notice setting out in full the details of such offer, which notice, among other things, shall include a true and correct copy of the offer make to Owner. Upon delivery of the notice with respect to such offer, Declarant shall have the exclusive right and option, exercisable at any time during a period of fifteen (15) days after the date of delivery of such notice, to purchase such lot (or Lots) at the lesser of (i) the bona fide purchase price per lot as set forth in the applicable sales contract or (ii) the price specified in such bona fide offer.~~

**Strikethrough
Former 9.3**

Approve []
Disapprove []
Abstain []

ARTICLE IX GENERAL PROVISION

ALL Amendments Under Article IX

Approve []

Disapprove []

Abstain []

Amendment 9.1

Approve []

Disapprove []

Abstain []

9.1 APPLICABILITY. These Covenants and Restrictions are made for the mutual benefit of, and are binding upon, each and every Person acquiring any part of the Quail Creek Subdivision, which shall be developed for residential purposes only, it being understood that these Covenants and Restrictions are not for the benefit of the Owner of any land except land contained in the Quail Creek Subdivision as it may be expanded pursuant hereto. This instrument, when executed, shall be filed of record in the real property records of Rockwall County, Texas, so that each and every Owner or purchaser of any portion of any property in the Quail Creek Subdivision shall be on notice of the provisions herein contained. From and after the date of recordation of these Covenants and Restrictions, the land contained in the Quail Creek Subdivision shall be subject to these Covenants and Restrictions and said Covenants and Restrictions shall run with, be for the benefit of, and bind and burden said land.

9.2 ~~10.1~~ EASEMENTS.

ALL Amendments Under 9.2

Approve []

Disapprove []

Abstain []

(a). Utility easements. Easements for the installation, operation and maintenance of all public utilities desiring to use same and for drainage facilities are reserved for the purposes indicated as shown on the Subdivision Plats. Full rights of ingress and egress shall be had by Declarant, and any bona fide public utility company at all times over the easement areas for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement, or with the use, maintenance, operation or installation of such utility.³⁸ The Lot Owner is responsible for the maintenance of all drainage and use easements platted as part of the respective lots.

Amendment 9.2(a)

Approve []

Disapprove []

Abstain []

(b). Ingress, Egress and Maintenance by the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon the ~~Areas of Common~~ *Areas Responsibility* for the purpose of maintaining the ~~Areas of Common~~ *Areas Responsibility* as set forth herein.

Amendment 9.2(b)

Approve []

Disapprove []

Abstain []

(c). Police Power Easement. With respect to streets, easements and rights-of-way within the Property, the City of McLendon Chisholm and all other government agencies and authorities shall have full rights of ingress, egress and access for personnel and emergency vehicles for maintenance, police and fire protection, drainage and other lawful police powers designed to promote the health, safety and general welfare of the residents within the *Quail Creek Subdivision Property*.

Amendment 9.2(c)

Approve []

Disapprove []

Abstain []

³⁸ Highlighted is consistent with Deed Restriction Article XIX

9.3 ~~10.2~~ **ENFORCEMENT.** *In the event of any violation of any of the provisions hereof, including any of the covenants, conditions, easements, restrictions and reservations herein contained, enforcement shall be authorized by any proceedings at law or in equity against any Person or Persons violating or attempting to violate any of such provisions, including proceeding to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with any such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of a legal remedy or irreparable harm. Likewise, any Person entitled to enforce the provisions hereof may recover such damages as such Person has sustained by reason of the violation of such provisions. It shall be lawful for the Association, the ARC or any Person or Persons owning real property in the Quail Creek Subdivision to prosecute any proceedings at law or in equity against the Person or Persons violating or attempting to violate any of such provisions. Failure by the Association or any Owner to enforce any covenant or restriction herein imposed shall in no event be deemed a waiver of the right to do so thereafter.* ~~The Declarant or the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, these restrictions, conditions and covenants and any reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein imposed shall in no event be deemed a waiver of the right to do so thereafter.~~ With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney fees from the non-prevailing party.

Amendment 9.3

Approve []

Disapprove []

Abstain []

9.4 ~~10.3~~ **SEVERABILITY.** *If any provision* ~~Invalidation of any one (1) of these Covenants or Restrictions shall be invalid or unenforceable, which invalidity or unenforceability shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity or unenforceability shall in no way by judgment or court order shall in no wise affect any other provisions hereof, each of which shall remain in full force and effect.~~³⁹

Amendment 9.4

Approve []

Disapprove []

Abstain []

9.5 ~~10.4~~ **TERM.** *The Covenants and Restrictions of this Declaration, as amended from time to time, shall run with the land and shall be binding upon Owners and all Persons claiming under the Owners or such* ~~bind the Property, and shall inure to the benefit of and be enforceable by Declarant (during the time it owns any Lots), the Association, or the Owner of any Lot subject to this Declaration,~~⁴⁰ ~~their respective legal representatives, heirs, successors and assigns, for a period~~ *term* ~~of ten (10)⁴¹ years from the date of recordation hereof, at this Declaration is recorded, after which time these said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years, unless prior to the expiration of any such ten (10) year period, by vote, the then record fee simple title Owners of at least sixty-seven percent 67% of the Lots in the Quail Creek~~

Amendment 9.5

Approve []

Disapprove []

Abstain []

³⁹ Highlighted is consistent with Deed Restriction Article XXIII

⁴⁰ Highlighted is consistent with Deed Restriction Article XXVIII adding...unless amended as provided herein.

⁴¹ Deed Restriction Article XXVIII: *These conditions and restrictions shall run for a period of 20 years from the date they are recorded, after which time said conditions and restrictions shall be automatically extended for successive periods of 10 years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said conditions and restrictions in whole or in part.*

Subdivision affirmatively vote ~~agree in writing~~⁴² to terminate these Covenants and Restrictions and execute and record ~~or change this Declaration in whole or in part and such writing is recorded~~ in the Real Property Records of Rockwall County, Texas, an instrument terminating these Covenants and Restrictions.

9.6 ~~10.5~~ **AMENDMENTS**⁴³. Notwithstanding Section 10.4 ~~of this Article~~, these Covenants and Restrictions may be *repealed or amended and/or changed in part as follows: with* by the affirmative vote of at least sixty-seven percent (67%) of the outstanding votes of the Members. Any such amendment shall not be operative unless and until executed by the appropriate percentage of Lot Owners and recorded in the real property records of Rockwall County, Texas.

**ALL Amendments
Under 9.6**

Approve []
Disapprove []
Abstain []

~~(a).— during the ten (10) year period immediately following the date of recordation Covenants and Restrictions with the consent of at least fifty-one percent (51%) of the outstanding votes of each Membership class of the Association.~~

~~(b).— In all other situations, these Covenants and Restrictions may be amended or changed upon the express written consent of at least seventy-five percent (75%) of the outstanding votes of each Membership class of the Association.~~

~~Any and all amendments, if any, shall be recorded in the office of the County Clerk of Rockwall County, Texas.~~

9.7 ~~10.6~~ **GENDER AND GRAMMAR**. *Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural. The singular wherever used herein shall be construed to mean the plural when applicable, and such grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.*

Amendment 9.7

Approve []
Disapprove []
Abstain []

9.8 ~~10.7~~ **MANNER OF ENFORCEMENT**. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity, including, without limitation, an action for injunctive relief, it being acknowledged and agreed that a violation of the covenants, conditions and restrictions contained herein could cause irreparable injury to Declarant and/or the other Owners and that Declarants and/or any Owners remedies at law for any breach of the Owners obligations contained herein would be inadequate. Enforcement may be commenced by the Association, the Declarant, or any Owner against any person or persons violating or attempting to violate them, and failure by the Association, the Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

⁴² Deed Restriction Article XXVIII requires a simple majority (While Tex. Prop. Code § 209.0041(h) requires 67%, it also states that *if the declaration contains a lower percentage, the percentage in the declaration controls*).

⁴³ Deed Restriction Article XXVIII requires a simple majority (While Tex. Prop. Code § 209.0041(h) requires 67%, it also states that *if the declaration contains a lower percentage, the percentage in the declaration controls*).

9.9 10.8 NOTICES TO MEMBER/ OWNER. ~~Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered seventy two (72) hours after deposited in the United States Mail, postage prepaid, certified or registered mail, and addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.~~ *Whenever notices are required to be sent hereunder, the same shall be sent to the Owner who is the intended recipient, by certified mail, return receipt requested and postage prepaid at the address of such Owner's Lot and further provided that any such notice may be delivered in person. Notices shall be deemed received when actually received and when deposited in a regularly maintained receptacle of the United States Postal Service in accordance with the provisions hereof, whether or not received. Notices sent to the ARC and Association shall be sent by certified or registered mail, return receipt requested and postage prepaid, only at such address as provided herein or subsequently specified by the ARC and Association to the Owners.*

Amendment 9.9

Approve []
 Disapprove []
 Abstain []

9.10 10.9 CAPTIONS AND HEADINGS. ~~The All captions, titles or headings contained in this Declaration these Covenants & Restrictions are for reference the purposes of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any other provision herein or be used in determining the intent or context hereof. only and shall not in any way affect the meaning or interpretation of this Declaration. I hereby agree to abide by the provisions of this Quail Creek Homeowners Association and to keep my annual dues currently paid.~~

Amendment 9.10

Approve []
 Disapprove []
 Abstain []

FINAL PARAGRAPH

By their signatures below, the President of the Board of Directors of the Association and the Secretary of the Board of Directors of the Association certify that this Declaration of Covenants was approved by a vote of at least sixty-seven percent (67%) of the total votes allocated to property owners in the Association, including at least sixty-seven percent (67%) of the total votes allocated to property owners' in Phase 1 and at least sixty-seven percent (67%) of the total votes allocated to property owners' in Phase 2, and no government approval was required by law. Such vote of the property owners concluded on _____, 2014.

FINAL PARAGRAPH**Amendment**

Approve []
 Disapprove []
 Abstain []

END OF BALLOT

This Page Intentionally Left Blank

SAMPLE



Proposed Amended Bylaws: **INITIATIVE #2**

Instructions

For Voting on Ballot Initiative #2: Amending the Quail Creek CC&Rs "Bylaws"

VERSION 22
January 09, 2015

Misprinted in
Distributed Ballots

Unlike the CC&R's, the Bylaws may only be amended by the Board of Directors, as stipulated in the current Bylaws (Bylaw 7.02), subject to the approval of the Members. Therefore, this ballot item is an all or nothing proposition.

Your ballot to vote can be found on the opposite side of this page. Following the ballot is (i) an explanation of the process taken to amend, (ii) a one page review of the substantive changes made, and (iii) a complete, fully referenced, copy of the proposed-amended Bylaws where current wording is in plain text, new wording is *underlined in italics*, and removed wording is ~~crossed out~~.



Ballot

I cast my vote to
Approve [] Disapprove []
the amended Bylaws as proposed
or
I abstain from this vote []

The Process Taken to Amend These Bylaws

The proposed-amended Bylaws, which the Board has approved by unanimous consent, is the result of a collaborative effort by and between many homeowners who have a vested interest in the preservation and harmony of Quail Creek. It is a compilation of several different renditions and drafts written over the span of more than a year by current and former members of the Board as well as the Association's attorney.

Bylaws govern how the Board operates and has no impact on the restrictions contained in the CC&Rs. However, the Bylaws in their current form, which were recorded on December 31, 2009, do not include the many substantive changes that were enacted by the 2011 Texas State Legislature; changes that strengthened the rights of homeowners significantly and yet establish increased requirements and obligations of governing bodies (Boards) over HOA's.

Without amending these Bylaws, current & future Boards must become well educated in the Texas Property Code to know and understand where the state statutes apply to Quail Creek, however most homeowners would most assuredly remain oblivious to their rights, as few can be expected to do likewise.

Besides the added changes linked to state statutes (references included), the most significant changes made to the Bylaws have to do with the transfer of authority away from individual officers to the collective Board while amplifying and protecting the voice of homeowners.

The proposed-amended Bylaws (next page) go from five pages to fifteen.

Here's why:

- At the recommendation of the HOA attorney, Richard Archibald, governing instruments need to include a section that establishes the organization (1.01) and where currently there are seven, nineteen terms are included in the “Definitions,” (Section III).
- A “Governance” Section (IV) has been added, which includes state mandated rules (4.02-4.08) and establishes the Board’s obligation to govern with integrity and accountability (4.01).
- An entire section (V) focuses on “Meetings of Members,” which, in addition to guidelines that are state mandated (5.01-5.06), establishes a modicum of decorum & order (5.08 & 5.09) and protects the rights of homeowners to present motions (5.10).
 - Section 5.02 will establish that annual meetings be held the first week of October, which provides a more definitive timeframe than before and, reflective of the State statute, notice for annual meetings also changes from thirty days to ten (5.06).
 - One significant change includes the ability of ten percent (10%) of the Members to call a “Special Meeting” of the membership whereas currently, only the president can do this (5.03).
- State mandated rules necessitate the inclusion of a section devoted entirely to Voting & Elections (VI), whereas balloting guidelines are dictated by the state (6.02-6.03).
 - This section also establishes a process for nominating and voting for members of the Board (6.04) as was employed during the October 2014 Annual Meeting.
 - Where currently, only the Board may amend the Bylaws, the amended Bylaws allow any Member to bring forth an amendment.
 - When new state laws are enacted that either adds new HOA requirements or invalidates certain parts of the instrument, the Board would then be able to change the Bylaws to bring them into compliance, but only after homeowners are afforded 60 days to review the changes and only if 20% of the Members (14 by count) do not object (6.06A).
- Section VII, “Board of Directors,” amplifies the duties and responsibilities of the Board Officers (7.04) and the Board’s fiduciary obligation to the Association (7.02).
 - Section 7.01 ends the confusion regarding the role of the three members of the ARC. *Regardless the result of ballot initiative #1, which amends and updates the CC&Rs, or this initiative to amend the Bylaws, the ARC members shall remain as full and equal voting members of the Board.*
 - **The proposed changes to the Bylaws DO NOT grant the Board more authority than currently exists within the existing Bylaws or superseding state statutes (7.03)** but do include the added expectation of maintaining the financial well being of the Association. Accordingly, the proposed amended Bylaws also:
 - Eliminates the ability of the Board to grant itself authority and duties as they determine (current Bylaw 4.04(f)).
 - Removes the added title of the President as “CEO.”
 - Allows Members to remove a Director from the Board (7.10B).
 - As with each section, state mandated rules are also included (7.09 & 7.10A).
- “Meetings of the Board” (VIII) is highly regulated by state statute. Most of the included wording (8.01, 8.02, 8.06, 8.07, 8.10) is practically verbatim to the State Property Code.

Proposed-Amended BYLAWS (v.24 FINAL)
QUAIL CREEK HOMEOWNERS' ASSOCIATION

I. General

- 1.01 Name and Location. *The name of this organization shall be the QCHOA INC. ("Association") an IRS 501 c (4), a non-profit corporation organized under the Texas Non-Profit Corporation Act. The principal office of the Association shall be in the Quail Creek Subdivision, McLendon-Chisholm, Texas. The Association may have such other offices as may from time to time be designated by the Members of its Board of Directors (the Board).*
- 1.02 Fiscal Year. The Association shall have a fiscal year beginning on October 1 and ending ~~October 1st~~ on September 30 of the following year.
- 1.03 Governing Laws. *Insofar as Federal Law does not apply, the provisions of these Bylaws shall be governed by and constructed in accordance with the laws of the State of Texas.*
- 1.04 Non-Profit Character. (a) The Association is a non-profit Association; (b) It is organized and operated exclusively for non-profit purposes. No part of its net income shall inure to the benefit of any Officer, Director, Member or private individual nor shall it declare or make to any such persons any dividend or other distribution. (c) This section shall not prevent the payment of reasonable compensation for services rendered or the reimbursement of reasonable expense incurred in connection with the Association's affairs.
- 1.05 Prohibited Activities.
- A. The Association shall not carry on propaganda or otherwise attempt to influence legislation.
 - B. It shall not participate or intervene in any political campaign on behalf of any candidate(s) for public office.
 - C. It shall not make any distribution, engage in any activity or enter into any transaction, the effect whereof, under applicable Federal laws then in force, will cause the Association to lose status as an organization exempt from Federal income taxes.

II. PURPOSE

The purpose of the Association shall be civic (a) to represent the residents of QCHOA, Inc. as their liaison to the City of McLendon-Chisholm, Rockwall County, Texas and other governmental entities; (b) to oversee and evaluate the maintenance of roads, open spaces and other common areas; and (c) to manage the affairs of the QCHOA, Inc.

III. DEFINITIONS

- 3.01 "Association" shall mean and refer to the Quail Creek Homeowners' Association (QCHOA, Inc.).
- 3.02 "Board" or "Board of Directors" shall mean and refer to the duly elected or appointed collective of Officers/Directors of the Association that acts as the governing body of the Association.
- 3.03 "Board Meeting" shall mean a meeting between a quorum of the Board during which Association business is considered and the Board takes formal action. It does not include the gathering of a quorum of the Board at a social function unrelated to the business of the Association.
- 3.04 "Bona Fide" shall mean legitimate and verifiable.

- 3.05 "Business Day" means a day other than Saturday, Sunday, or a state or federal holiday.
- 3.06 "CC&Rs" shall mean and refer to the Declaration as defined under Bylaw Subsection 3.08.
- 3.07 ~~Common Properties Areas" shall mean and refer to those areas of land shown on any recorded subdivision plat of the Properties any area within the Quail Creek Subdivision and intended to be devoted to the common use and enjoyment of the owners of the Property designated for common use as depicted on the recorded Plats, and any other property conveyed to the Homeowners' Association for the common use and enjoyment in accordance with the Declaration.~~
- 3.08 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions (CC&Rs) applicable to the ~~Properties Subdivision~~ and recorded ~~or to be recorded~~ in the office of the County Clerk of Rockwall County, Texas, as the same may be amended or supplemented from time to time as therein provided ~~and as contained in deeds to owners of lots and lands in the additions.~~
- 3.09 "Dedictory Instrument" means each governing instrument covering the establishment and maintenance of the Association. The term includes restrictions or similar instruments subjecting Owners to restrictive covenants, Bylaws, or similar instruments governing the administration or operation of the Association, including properly adopted rules and regulations of the Association, and all lawful amendments to the covenants, Bylaws, policies, rules, or regulations.
- 3.10 "Director" shall mean and refer to a duly elected or appointed member of the Board of Directors and used interchangeably with "Officer."
- 3.11 "Electronic Ballot" means a Ballot (i) given by e-mail, facsimile or posting on an Internet website;(ii) for which the identity of the Owner submitting the Ballot can be confirmed; and (iii) for which the Owner may receive a receipt of the electronic transmission and receipt of the Owner's Ballot.
- 3.12 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map with the exception of the Common Areas as heretofore defined.
- 3.13 "Officer" shall mean and refer to a duly elected or appointed member of the Board of Directors and used interchangeably with "Director."
- 3.14 "Owner" shall mean and refer to the recorded Owner, whether one or more persons, of fee simple title to any Lot but excluding those having only security interest in such Lot until such time as such person shall have acquired title pursuant to foreclosure or any other proceeding in lieu of foreclosure and becomes the recorded Owner thereof.
- 3.15 "Person" refers to an individual, corporation, LLC, partnership, association, trust or any other legal entity or any combination thereof.
- ~~2.02—"Properties" shall mean and refer to the land and premises to be known as Quail Creek, and the addition or additions in Rockwall County, Texas (Said additions being described by plat attached.)~~
- 3.16 "Proxy" shall mean an agent or substitute who is authorized to act on behalf of a Member.
- 3.17 "Member" shall mean every person ~~and/or entity who~~ that holds a Membership in the Association pursuant to the Declaration of Covenants, Conditions and Restrictions.
- ~~2.06—"Owner" shall mean and refer to the recorded owner, whether one or more persons, of fee simple title to any Lot but excluding those having only security interest in such Lot until such time as such person shall have acquired title pursuant to foreclosure or any other proceeding in lieu of foreclosure and becomes the recorded owner thereof.~~

- 3.18 "Recording" shall mean, when referencing a document, policy or instrument, that it has been recorded with the County of Rockwall or other governing agency as required by the Texas Property Code.
- 3.19 "Records" shall mean the Books and Records of the Association.

IV. GOVERNANCE

- 4.01 Governance. The Association is governed by a seven-member Board of Directors elected annually, which is established as collective fiduciaries of the Association who owe the Members a high duty of good faith, fair dealing, honest performance, strict accountability and the duty of loyalty requiring that all Officers act in good faith and not allow their personal interest to prevail over the interest of the Association.
- 4.02 Governing Ascendancy. No Bylaw, rule, or policy may be amended to conflict with the Declaration¹ or Texas State Property Code. The Bylaws supersedes Board Policies, while the Declaration supersedes the Bylaws, while the Texas Property Code supersedes the Declaration.
- 4.03 Membership. As defined in the Declaration.² Every person or entity who is a Recorded Owner shall be Member of the Association. Members shall be entitles to one vote each. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the core for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any landowner regardless of the number of lots he owns.
- 4.04 Voting. Nothing may disqualify a Member from voting in an election or vote.³
A. A Person may not vote if the Person has an interest in a lot only by virtue of being a lienholder.
- 4.05 Association Records & Policies.⁴ The Board shall document, keep and, when applicable, Record the following policies, which shall be posted and made available for viewing or download via the Association's website:
A. Fine and Enforcement Policy
B. Record Retention Policy
C. Record Reproduction and Copying Policy
D. Priority of Payments Policy
E. Alternative Payment Schedule Guidelines
F. Reimbursement Policy
G. Rules & Order of Business Policy for Member Meetings
H. 60 Day Ballot Initiative Policy
I. Other policies as the Board deems necessary.
- 4.06 Member Privacy. The Association and Board shall not release or allow inspection of any books or records that identify the Dedicatory Instrument violation history of an individual Owner, an Owner's personal financial information, including records of payment or nonpayment of amounts due the Association, an Owner's contact information, other than the Owner's address without prior written consent.⁵ Information may be released in an aggregate or summary manner that would not identify an individual Owner.⁶
- 4.07 Member Email for Notifications. It is an Owner's duty to keep an updated e-mail address registered with the Homeowners' Association.⁷
- 4.08 Waiver of Notice. Whenever any notice is required to be given to any person, If a Member who is entitled

~~to but was not provided proper notice of a Meeting a waiver thereof in writing signed by such person whether before or after the time stated therein actually participates in or attends such Meeting, such participation or attendance at such Meetings constitutes a waiver of meeting notice shall be equivalent to the giving of such notice, unless he or she participates in or attends such meeting solely to object to the transaction of business at the Meeting on the grounds that the meeting was not lawfully called or convened.⁸~~

- 4.09 Records of Meetings. Official actions of the Board or its Members that pertain to the business of the Association shall be documented and recorded in writing.
- 4.10 Assessment. The Board ~~shall be~~ is authorized to levy assessments on behalf of the Association pursuant to Article 4 of the Declaration in furtherance of the Association purposes, both Regular Assessments and Special Assessments. Special Assessments shall be for capital improvements or for the repair, maintenance and/or replacement of roads and or Common Properties Areas. ~~Such assessment shall be extended only in furtherance of the Association purposes. Details shall be maintained at such bank(s), and checks and notes shall be signed by such person(s) as the Board shall determine.~~
- 4.11 Gift. The Association shall be authorized to receive gifts, legacies and bequests (general or specified purposes), subject to the approval of the Board.

V. MEETINGS OF MEMBERS

- 5.01 Participation. Only bona fide Members or their designated proxies may participate in Association Meetings.
- 5.02 Regular (Annual) Meeting of Members. A Regular Meeting of the Membership shall ~~hold an annual meeting be held annually,~~ during the first week ~~month~~ of October at a ~~place~~ time and place designated by the Board of Directors.

~~At the annual meeting, the Members shall elect officers who will be Members of the Board.~~

A. The Board shall be responsible to prepare and distribute the agenda for the meeting, which shall include the following:

- 1) The nomination and election of a permanent chair of the meeting, pursuant to the Board Policy.
- 2) Annual finance report and proposed budget.
- 3) Motions presented by Members.
- 4) The nomination and election of Board Officers, pursuant to the Board Policy.
- 5) Other business as may be properly brought before the meeting.

B. Mandatory Election Required After Failure to Call Regular Meeting.⁹ If the Board does not call an annual meeting of the Association Members, an Owner may demand that a meeting of the Association Members be called not later than the thirtieth (30th) day after the date of the Owner's demand. If the Board fails to do so on or before the thirtieth (30th) day after the date of a demand, three (3) or more Owners may form an election committee and hold an election in accordance with Texas Property Code Section 209.014.

- 5.03 Special Meetings of Members. ~~Other meetings may take place as deemed necessary by the President and three (3) Directors~~ Except as provided under Bylaw Subsection 5.02B, special meetings of the Members, for any stated purpose or purposes, may be called either by (i) the President, ~~by agreement of with the support of at least three (3) Officers of the Board or~~ (ii) a majority of the Board, or (iii) by written and signed petition of at least ten percent (10%) (seven (7) by count) of the Members¹⁰ ~~entitles to cast at least~~

~~one tenth (1/10) of all the votes entitles to be cast at meetings..~~ Business transacted at a Special Meeting shall be confined to the purposes stated in the notice of the Special Meeting and are subject to the notice requirements pursuant to Bylaw 5.06.

- 5.04 Record Date. The Board of Directors may fix in advance a record date for the purposes of determining Members entitled to notice of or to vote at a meeting of Members, such a record date being not less than ten (10) days nor more than sixty (60) days prior to such meetings. In the absence of any action by the Board, the date upon which the notice of the meeting is mailed shall be the record date.
- 5.05 Location. Meetings shall be held in a location in Rockwall County that is convenient for attendees and in an environment that is adequate for the Members to convene, deliberate, and vote.
- 5.06 Notice.¹¹ ~~Not later than the tenth (10th) day not less than thirty (30) days or earlier than the sixtieth (60th) day nor more than fifty (50) days before the date of meeting by Members, notice to all Owners shall be given either personally or by mail, by or at the direction of the President, the Secretary or the officer or person calling the meeting, to each Member of record entitled to vote at the meeting..~~
- A. The notice shall include the location, address, day, date, and time of the meeting.
 - B. In the case of a Special Meeting, the general purpose or purposes for which the meeting is called shall be included.
 - C. Such notice shall be deemed to have been properly sent when notice has been provided when one of the following two options are met:
 - 1) ~~mailed, postpaid~~ Via US mail, postmarked not later than the 10th day or earlier than the 60th day before the date of the meeting to the last known address of the person who appears as Member on the record of the Association at the time of the ~~meting~~ notice. The last address appearing in the record of the Association at the time of the mailing of any such notice shall be deemed the official address of such Member for all purposes hereunder, and it shall be the duty of each Member to notify the Secretary of the Association of all address changes when the mailing address is different from the county recorded records; or ~~Any notice properly addressed and mailed to a Member at the most current address appearing for him in the records of the Association shall be deemed lawful notice to such Member of the matter or matters contained in such notice.~~
 - 2) No earlier than sixty (60) days, nor later than ten (10) days, before the date of the Membership Meeting,
 - (a) By e-mail to each Owner who has a registered e-mail address with the Homeowners' Association, and;
 - (i) It is an Owner's duty to keep an updated e-mail address registered with the Homeowners' Association.¹²
 - (b) On the Quail Creek website, www.quailcreekrockwall.org, and;
 - (c) With a sign that is placed in a conspicuous manner and reasonably designed at the entrance/exit to the Quail Creek subdivision not later than seventy-two (72) hours or earlier than the tenth (10th) day before the beginning of the meeting.
 - D. A Member's right to receive notice may be waived in accordance with Bylaw Subsection 4.07.
- 5.07 Quorum. For a meeting of the Membership, a quorum is established by a majority, which is fifty percent, plus one vote (50% +1) (35 by count if all sixty-nine lots qualify as one vote in accordance with Bylaw 6.01B), of the votes which Members are entitles to cast at such meeting eligible votes, either in person or

by proxy, ~~shall be requisite and shall constitute a quorum at all meetings of the Members for the transaction of business.~~

A. ~~If however, such a quorum shall not be present or represented at any meeting of the Members, another meeting may be called, subject to the notice requirements thereof, and the required quorum at such subsequent meeting shall be one-half (1/2) (eighteen (18) by number) of the required quorum at the preceding meeting provided that no such subsequent meeting shall be held within thirty (30) days following the first meeting.~~

1) For an Annual Meeting, the meeting shall automatically be rescheduled two weeks following on the same day of the week, at the same time.

(a) The Board shall secure a location in accordance with Bylaw Subsection 5.05.

(b) The required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting (eighteen (18) by number).

(c) Proper notice shall be provided to the Membership in accordance with Bylaw Subsection 5.06.

B. The only actions that can be taken in the absence of a quorum are to fix the time in which to adjourn, recess, or take measures to obtain a quorum (for example, contacting Members during a recess and asking them to attend).

1) The prohibition against transacting business in the absence of a quorum cannot be waived even by unanimous consent.

5.08 Decorum. The Association meetings are intended, among other things, to provide a forum for open discussion of Members' concerns and interests. All in attendance shall maintain proper conduct and decorum. As such:

A. Meetings shall be conducted using Roberts Rules of Order, which is based on the consideration of the rights of the majority, of the minority (especially a large minority greater than one-third (1/3)), of individual Members, of absentee Members, of all of these groups taken together. As such, the Chair shall:

1) govern the process of conducting the meeting in an even-handed way, without prejudice;

2) neither present motions or amendments nor participate in discussion or debate unless the Chair is temporarily or permanently passed to a designated or appointed "chair-pro-tem;"

3) when he/she is a Member or designee, only participate in a "voice" or "standing vote" in the case of a tie while all other manners of casting their vote, and that as a proxy designee, is appropriate; and

4) enforce reasonable rules of conduct, and is empowered to use any lawful means or law enforcement entity to maintain order and decorum in the Association's meetings. Such reasonable rules of conduct specifically prohibit any violation of public law, and shall include without being limited to disruptive or disorderly conduct, use of abusive or profane language or gestures, acts designed to intimidate, offend or threaten harm to other persons, and actions intended to damage or destroy property.

5) Any person who is asked to leave a meeting for actions of misconduct or improper decorum, said request being made by the meeting's Chairman, or escorted from a meeting by a law enforcement official shall not have any legal recourse against the Association for any action taken in good faith by its Chairman or any other Member authorized to pursue legal action

against any individual who engages in any illegal act(s) at any meeting.

- 5.09 Order of Business. All meetings of Members shall be governed by the rules of order as established by Board Policy in accordance with Bylaw Subsection 4.05G and in all cases to which they are applicable and in which they are not inconsistent with these Bylaws or the Policy, the rules contained in the most current edition, at the time of the meeting, of Robert's Rules of Order. Special rules may be developed and approved by the majority of the Members present and voting. In cases of conflict between Robert's Rules and special rules, the special rules will govern.
- 5.10 Member Right To Present Motions. ~~At such meeting the Members shall elect officers and Board Members and transact such other business as may be properly brought before the meeting.~~ No Member may be denied the right to participate and present a motion or motions, so long as the Board was notified at least five (5) business days before the meeting of the general purpose so that the it may be included on the Agenda.

VI. VOTING; INITIATIVES; ELECTIONS; BALLOTS

Where the voice and/or consent of the Membership is required or permitted pursuant to these Bylaws, the governing documents of the Association, and or Texas state law, the Association shall govern these efforts according to the methods as prescribed in this section.

- 6.01 Voting. Voting is limited to bona fide Members of the Association.
- A. When designating a proxy, a Member must sign and date the document or they must do so by bona fide means of electronic authorization.
 - B. Pursuant to Article 3 Section 3 of the Declaration, cumulative voting is not permitted, whereas one person owning multiple lots may exercise only one vote.
 - 1) Accordingly, voting percentages stipulated in these Bylaws shall be the prevailing standard over any and all references to vote count.
- 6.02 Ballots. For any contested race, votes must be cast by ballot.
- A. A paper ballot must either be signed by the voting Member or must have a verifiable way to link the ballot to the voting Member, on which they must sign.¹³
 - 1) Written and signed Ballots are not required for uncontested races.¹⁴
 - B. An electronic ballot that is cast in accordance with these Bylaws constitutes a written and signed Ballot.¹⁵
 - C. A person who is a candidate in an election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity, may not tabulate or otherwise be given access to the Ballots cast in that election or vote.¹⁶
 - D. A person other than a person described by Subsection (C) may tabulate votes in an Association election or vote but may not disclose to any other person how an individual voted.¹⁷
 - E. With the exception of elections, the Board may conduct a ballot initiative whereby Members may vote on measures that require a greater number of votes than may be possible to achieve at a meeting, or where all Members must have an opportunity to consider said measures.
 - 1) Any ballot initiative must be approved by a majority of the Members at a properly called meeting, where a quorum is established.
 - 2) All ballot initiatives must meet the standards as described in (A) and (B).

- 3) The Board shall adopt and maintain a policy to carry out an approved ballot initiative that shall include an established timeframe for the initiative, the process of verifiable ballot delivery to Members, measures that protect the integrity and security of the ballots, and transparency in tabulating the votes.

6.03 Absentee or Electronic Ballot.¹⁸ An absentee or electronic Ballot:

- A. May be counted as an Owner present and voting for the purpose of establishing a quorum only for items appearing on the Ballot;
- B. May NOT be counted, even if properly delivered, if the Owner attends any meeting to vote in person, so that any vote cast at a meeting by an Owner supersedes any vote submitted by absentee or electronic Ballot previously submitted for that proposal; and
- C. May NOT be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic Ballot.
- 1) A solicitation for votes by absentee Ballot must include:
- (a) an absentee Ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
- (b) instructions for delivery of the completed absentee Ballot, including the delivery location; and
- (c) the following language: "By casting your vote via absentee Ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee Ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."
- 2) If an electronic Ballot is posted on an Internet website, a notice of the posting shall be sent to each Owner that contains instructions on obtaining access to the posting on the website.

6.04 Election of the Board. ~~The All Directors Officers~~ of the Association shall be elected ~~at the annual~~ annually at the regular meeting of the Members, except as hereinafter provided.

~~All Members of the Board shall be elected for the Membership at large.~~

- A. Nominations & Voting. Any Member of the Association may be nominated for any position on the Board so long as they have not been convicted of a felony or crime involving moral turpitude.¹⁹

~~The method of nomination and election shall be determined by the Members,~~

- 1) Nominations and voting shall be taken in turn, beginning with President. Following the close of nominations, Members shall vote by ballot, unless it is an uncontested race, whereby the candidate is the established winner.²⁰
- (a) The candidate who receives fifty percent, plus one (50%+1) of the votes cast is declared the winner.
- (i) In the event that no one candidate achieves fifty percent, plus one (50%+1) of the votes cast (in races with three (3) or more candidates), the two (2) candidates that received the most votes shall compete in a runoff ballot.
- (b) Nominations and voting for Vice President shall then commence, followed by Treasurer, and then Secretary.

(c) There shall be one (1) series of Nominations for the Architectural Review Committee (ARC). Following the close of nominations, Members shall vote by ballot for as many as three (3) distinct candidates listed.

(i) The top three (3) vote getting candidates are declared the winners.

(ii) The candidate who receives the most votes shall be deemed Chairman of the ARC.

- In the event of a tie between two or all three elected ARC members, the Board shall, at the first regular or special meeting of the Board select, by a majority vote, the Chairman of the ARC.²¹

6.05 Vacancies of the Board. Any voluntary vacancy occurring in the Board of Directors in any committee position or office provided in these Bylaws may be filled (For the unexpired term) by an affirmative vote of the majority of the remaining Directors, though less than a quorum of the Board at a regular or special meeting of the Board or pending Board action, by the President. The vacancy created by the involuntary removal of a Director in accordance with Bylaw Subsection 7.10 shall be filled by a vote of the membership through a Special Meeting of the Membership in accordance with these Bylaws. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

6.06 Amending the Bylaws. A Bylaw may not be amended to conflict with the CC&Rs.²²

A. Any amendment to these Bylaws may be amended by the Board subject to approval by two thirds (2/3) of the voting Membership must receive written approval by at least sixty-seven percent (67%) (forty-seven (47) by count) of the Membership except where these Bylaws expressly reflect or mirror a superseding amended instrument or more current law, whereby those parts may be amended by the Board without the consent or approval of the Membership so long as:

- 1) The amendments are only for the purpose of bringing the Bylaws into compliance;
- 2) The Members have been provided sixty (60) days written notice, whereas the notice includes (i) a copy of the CC&R or Property Code section where the Bylaws are in conflict, (ii) the current wording of the section of the Bylaws to be amended, and (iii) the new proposed wording;
- 3) During the sixty day notice period, Board Agendas shall include a forum for Members to ask questions and speak to the proposed compliance amendment(s); and
- 4) Twenty percent (20%) (fourteen (14) by count) of the Membership does not oppose the amendment via petition that is submitted to the Board on or before the sixtieth (60th) day following notice.

6.07 Regular or Special Assessment. Pursuant to the Declaration,²³ any meeting of the Membership where a vote to either increase the Regular Assessment²⁴ by more than the permitted ten percent (10%) or enact a Special Assessment,²⁵ shall require a quorum of sixty percent (60%) (forty-one (41) by count) of the Membership with consent by at least sixty-seven percent (67%) (twenty-eight (28) by count) of the established quorum to pass the proposal.

6.08 Voting List. At least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meetings arranges in alphabetical order with the residence of each and the number of votes entitled to be cast by each Owner shall be prepared by the Secretary.

A. Such list, for a period of ten (10) days prior to such meeting:

- 1) Shall be subject to inspection by any Member at any reasonable time.
- 2) Shall be kept on file:

- (a) In the home of the President and/or Secretary of the Association; and/or
- (b) Posted on the Association's website, www.quailcreekrockwall.org.

B. Such list shall be produced and kept open at the time and place of the meeting during the whole time thereof, and shall be subject to the inspection of any Member who may be present.

VII. BOARD OF DIRECTORS

7.01 Number. The Board shall consist of seven (7) Directors/Officers as described herein ~~It shall include all the officers of the Association elected by the Member and three (3) Directors elevated as the Architectural Review Committee pursuant to the rules of the Declaration or rules of the Associations.~~ All Directors shall be Members of the Association.

7.02 Purpose. The Board of Directors is a "Representative Board" and shall govern in a manner that reflects a sense of the majority of the voting Members of the Association so long as those actions do not undermine, contradict, or violate the governing instruments and/or superseding law. As such the Board shall:

A. Work as a collective whereas no individual member may act on behalf of the Association without expressed authorization to do so as reflected in either meeting Minutes or through a formal written decree; and

B. Act in good faith on behalf of the Membership and the Association; and

C. Act under the presumption that the Declaration and/or Bylaws of the Association are valid and enforceable until or unless,

1) a section, portion, part or the whole of the governing instruments violates or contradicts a superseding rule, statute, or law; as determined by either:

(a) unanimous consent of the Board; or

(b) a court of law; and

D. Amend these Bylaws in accordance with Bylaw Subsection 6.06A when a superseding instrument or statute is determined to alter a section, portion, or part of the whole.

E. Respond to Member's questions and/or concerns in a timely manner, in most cases forty-eight (48) hours (defined as two (2) business days).

7.03 Office, Authority and Duties. The affairs of the Association shall be managed by the Board which may perform all lawful acts as are not otherwise required to be exercised by the Members. Authority to govern is granted by, and contained within, these Bylaws and the dedicatory instruments of the Association. While the roles of its Officers are distinctive, the Board shall act as a collective, meaning that its parts are not greater than the whole.

A. The authority of the Board shall include the power to:

1) Bill & collect Assessments in accordance with the Declaration and these Bylaws;

2) Adopt, publish and enforce policies, rules and regulations governing the ~~use of Common Properties~~ Association;

3) Act on behalf of the Members to enforce deed restrictions established by the Declaration; and

4) Act in accordance with all provisions of the Declaration.

B. The Board is responsible for the financial well being of the Association. As such, the Board shall:

- 1) Adopt an annual budget during the first meeting of a new Board term.
 - (a) Once approved, the Board shall publish the budget on the Association's website, www.quailcreekrockwall.org and email it to all Members.
- 2) Review the financial report at each Regular Board meeting.
- 3) Ensure that the Board approves expenditures that exceed Budget
 - (a) Details regarding excess shall be included in Board Minutes.

C. Officers shall read and be acquainted with the Texas State Property Code, the Declaration, and these Bylaws.

7.04 Officers of the Board. ~~Number:~~ The Officers shall include a President, Vice President, Secretary, Treasurer and three (3) Members at Large elected during the Regular or Special Meeting of the Membership by methods established in these Bylaws. All Officers must be Members of the Association.

A. President. The President shall ~~be the chief executive officer and~~ have general charge and supervision of the business of the Association, but no greater authority to govern as the Board pursuant to Bylaw Subsection 7.03. The President shall also:

- 1) Preside at all meetings of the Board;
- 2) Serve as the primary spokesperson of the Association;
~~He shall see that all orders and resolutions of the Board are carried out.~~
- 3) Provide a written agenda for Board meetings, which shall include any Director-requested agenda item(s), so long as they are submitted at least forty-eight (48) hours in advance of the required deadline to provide meeting notice (72 hours) to Members;
- 4) Act as registered agent for the Association in conjunction with the Secretary;
- 5) Act as Temporary Chair at all Homeowners' Association meetings until a Permanent Chair is elected in accordance with Bylaw Subsection 5.09; and
- 6) Perform such other duties as are authorized by the Board.

B. Vice President. The Vice President shall ~~He shall see that all orders and resolutions of the Board are carried out.~~ preside in the absence of the President and assume all responsibilities of that office upon its vacancy. The Vice President shall have primary oversight of the Common Areas and shall be the liaison ~~be the Chairman of to~~ the Landscape Committee, if any.

C. Secretary. The Secretary shall ~~keep take and manage~~ minutes of all proceedings official business of the Board and ensure that proper notice is provided for the activities and actions of the Homeowners' Association. The Secretary shall:

- 1) Act as Registered Agent for the Association in conjunction with the President. At any time there is a change in this position, notification must be made with the Secretary of State and Rockwall County to reflect the Registered Agent's name and address;
- 2) Take a written record as ~~Shall keep~~ Minutes of the proceedings of the Board and of Committees having any authority of the Board ~~and a record of the names and addresses of person entitles to vote;~~
 - (a) The Secretary shall also present these Minutes to the Board at least 72 hours before the next Regular Board meeting.
- 3) Present and distribute at each annual and regular meeting written minutes of the previous

annual or regular meeting or any special meeting;

- 4) Keep an attendance roster of the Board at all meetings;
- 5) Prepare and send Board and Association correspondence;
- 6) Keep and maintain the records of the Association which shall include, but not be limited to the following:
 - (a) Official minutes and documents of the Association.
 - (b) Member violation complaint log.
 - (c) Board Vote log and an Annual Meeting Vote log.
 - (d) Fine log.
 - (e) Correspondence log.
- 7) The Secretary Shall publish an electronic directory, at least every two years for those Members who have provided written consent to do so, annually of Members with e-mail addresses, telephone numbers and mailing addresses; and
- 8) Act as Temporary Secretary at all Homeowners' Association meetings until a Permanent Secretary is elected in accordance with these Bylaws.

D. Treasurer. The Treasurer shall:

- 1) Keep correct and complete books and records of all accounts;
- 2) Make such reports as the Board shall require;
- 3) Make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner or the Owner's agent;²⁶
- 4) Keep an account of all monies received and expended for the use of the Association, and make disbursements authorized by the Board in accordance with approved budget;
- 5) Maintain Association depositories approved by the Board, with funds drawn on signatures of the President, Vice President, or Treasurer in accordance with directives from the Board;
- 6) Provide a report of receipts, assets and liabilities of the Association at all duly organized meetings;
- 7) Prepare an annual budget, report of receipts, disbursements and final balances for the incoming Board;
- 8) Assist the President in the preparation of all necessary filings with any regulatory agencies; and
- 9) Provide Resale Certificates – within ten (10) days of a request, disclosing additional information on Resale Certificates, including all lawsuits to which the Association is a party and all transfer-related fees by amount and payee. Resale Certificates must contain conspicuous notice language, and require that resale certificates include Rights of First Refusal (ROFRs) other than those prohibited by statute, the amount and purpose of any special assessment that has been approved before the Resale Certificate is delivered, lawsuits to which the Association is a party (except for lawsuits relating to unpaid ad valorem taxes) and a statement of all fees associated with a transfer of ownership, including a description of the fee, to whom the fee is paid and the amount. To collect the costs of \$50 of producing the Resale Certificate from the homebuyer, the Association may require advance payment of the fee.²⁷

E. Architectural Review Committee (ARC). Three (3) Members at Large shall ~~be elected. Two candidates nominated by the Members and one candidate nominated by the Developer. These Members at Large~~ constitute the Architectural Review Committee established under Article VI of the Declaration of Covenants, Conditions and Restrictions for Quail Creek.

F. ~~In general, the Officers shall have such authority and duties as are given by these Bylaws and as the Board shall, from time to time, determine.~~

7.05 Term of Office. Officers shall serve a term of one (1) year and thereafter until their successors are elected and qualified.

A. The beginning of an Officer's term:

- 1) Shall coincide with the annual meeting in October; and
- 2) Immediately following a meeting of Members where an Officer's election has taken place, or
- 3) In the case of appointment to fulfill an unexpired term, immediately following the appointment at a duly called Regular or Special Board Meeting.

B. An Officer's term ends:

- 1) Immediately following a meeting of Members where that Officer's election has taken place, or
- 2) Immediately following a notice of resignation pursuant to Bylaw Subsection 7.09, or
- 3) In the case of removal from office, immediately following a determination by the Board pursuant to Bylaw Subsection 7.10A.

7.06 Remuneration & Reimbursement. A Director or Committee Member shall receive no remuneration for their services as such but shall be entitled to reimbursement for reasonable expenses incurred in connection with Association's affairs *in accordance with a Board Policy pursuant to Bylaw Subsection 4.05F*.

7.07 Qualification. *Except as provided in Bylaw Subsection 6.04A, any current Member of the Association is qualified to serve as an Officer.*²⁸

7.08 Election. *Members of the Board shall be elected in accordance with Bylaw Subsection 6.04.*

7.09 Resignation. Any Officer/Director or Committee Member may resign by giving written notice to the President or Secretary.

7.10 Removal from Office. *Any member of the Board may be removed for the following:*

A. *If a Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a Board Member has been convicted of a felony or crime involving moral turpitude, the Board Member is immediately ineligible to serve on the Board of the Association and is automatically considered removed from the Board, and prohibited from future service on the Board.*²⁹

B. *By majority vote of the Membership at a Special Meeting of the Membership in compliance with Bylaw Subsection 5.03.*

VIII. MEETINGS OF THE BOARD

8.01 Open Board Meetings.³⁰ *Regular and Special Board Meetings must be open to Members and subject to notification requirements as described herein.*

8.02 Methods.³¹ *The Board may meet by any method of communication, including electronic and telephonic, without prior notice to Owners, if each director may hear and be heard by every other director, or the*

Board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board action. Any action taken without notice to Owners under Bylaw Subsection 8.07 must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board Meeting.

A. The Board may not, without prior notice to Owners under Bylaw Subsection 8.07, consider or vote on:

- 1) finances;
- 2) damage assessments;
- 3) initiation of foreclosure actions;
- 4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- 5) increases in assessments;
- 6) levying of special assessments;
- 7) appeals from a denial of architectural control approval; or
- 8) a suspension of a right of a particular Owner before the Owner has an opportunity to attend a Board Meeting to present the Owner's position, including any defense, on the issue.

8.03 Regular Board Meetings.³² The Board shall convene not less than meet monthly, based on a set scheduled day of the month as established during the first regular meeting of a new term, to conduct the business of the Association. As determined by a majority, the Board may alter the regularly scheduled day of the month and change the date of the meeting when conflicts arise.

8.04 Special Board Meetings. Any Director may, with the support of two (2) other Directors, call a special meeting of the Board. Business transacted shall be confined to the purposes stated in the notice of the Special Meeting and are subject to the notice requirements pursuant to Bylaw 8.07.

8.05 Transitional Meeting. The first regular meeting of the Board, following the election of Board Officers, the outgoing officers and committee chairs will meet with incoming officers for a report on status of ongoing events and duties and review of financial reports. Transfer of all Records and property of the Association shall be passed on at this meeting.

8.06 Location.

A. Except for a meeting held by electronic or telephonic means under Bylaw Section 8.02, Board Meetings shall be held in Rockwall County.

B. All meetings shall convene in a location that is convenient and in an environment that is adequate for the Board to convene and deliberate, retire into executive session, as well as interested Members a place to hear and observe the proceedings.

8.07 Notice of Board Meetings.³³ ~~Five (5) business days written notice shall be given to each Director of any special meetings of the Board.~~ Members shall be given notice of the date, hour, and place, for Regular and Special meetings of the Board.

A. The general subject, including a general description of any matter to be brought up for deliberation in executive session, shall be included.

~~Such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail, postage prepaid, addressed to such Director at such address as appears on the books of the Association. Each Director shall have one vote, exercisable in person or by proxy.~~

B. The notice shall be either:

- 1) mailed to each Owner not later than the tenth (10th) day or earlier than the sixtieth (60th) day before the date of the meeting; or
- 2) provided no later than seventy-two (72) hours or earlier than the tenth (10th) day before the beginning of the meeting by:
 - (a) a sign that is placed in a conspicuous manner and reasonably designed at the entrance/exit to the Quail Creek subdivision; and
 - (b) on the Association's website, www.quailcreekrockwall.org; and
 - (c) sending the notice by e-mail to each Owner who has registered an e-mail address with the Association.
 - (i) It is an Owner's duty to keep an updated e-mail address registered with the Homeowners' Association.³⁴

C. A Member's right to receive notice may be waived in accordance with Bylaw Subsection 4.07.

- 8.08 Quorum of the Board. A majority of the Board (*four (4) by count*) shall constitute a quorum *of Board Members present, either in person, electronically or telephonically.*
- 8.09 Voting; Action by Majority. The act or vote of a majority of the Directors present, either in person or by proxy, at which a quorum is present shall be the act or vote of the Board unless the act or vote of a greater number is required by these Bylaws.
- 8.10 Minutes.³⁵ *The Board shall keep a record of each regular or special Board Meeting in the form of written minutes of the meeting.*

A. The Board shall post meeting records, including approved minutes and a draft of minutes awaiting approval (marked as DRAFT), on the Quail Creek neighborhood website before the next meeting of the Board.

IX. MISCELLANEOUS

- 9.01 Prohibited Transactions. Tax Exemption: The Association shall not act in ways that constitute a basis for denial of tax exemption under applicable law.
- 9.02 Compliance with Internal Revenue Code. The Association shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws; the Association shall not retain any excess business holdings as defined in Sections 4942C of the Internal Revenue Code of 1954 or corresponding provision of any subsequent Federal tax laws; the Association shall not make any investments on such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws; the Association shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.
- 9.03 Dissolution. On dissolution, liquidation or winding up of the Association (whether voluntary or involuntary) the net assets shall be distributed as determined by the Association, but only to one or more religious, charitable for educational organization exempt from Federal Income Tax under Section 501(C)(3) of the Internal Revenue Code of 1954, or corresponding provision of any such future law.

Reference

- ¹ Property Code Title 11, § 209.0041(h) [Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. September 1, 2011].
- ² Declaration Article I, Section 1.8 [Recorded December 31, 2009]
- ³ Property Code Title 11, § 209.0059 Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ⁴ Property Code Title 11, § 209.005 Added by Acts 2001, 77th Leg., ch. 926, Sec. 1, eff. Jan. 1, 2002. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1367 (H.B. 3674), Sec. 6, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 2, eff. January 1, 2012.
- ⁵ Required under Property Code Title 11, § 209.0041(m) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. September 1, 2011.
- ⁶ Required under Property Code Title 11, § 209.0041(m) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. September 1, 2011.
- ⁷ Property Code Title 11, § 209.0051(f) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ⁸ Tex. Bus. Org. Code § 6.052(b)
- ⁹ Property Code Title 11, § 209.014 Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 5, eff. January 1, 2012.
- ¹⁰ Tex. Bus. Org. Code § 22.155. Such procedures apply to all Texas Subdivision Associations that are incorporated as nonprofit corporations and are in addition to applicable provisions under the Texas Uniform Condominium Act and Chapter 209 of the Texas Property Code.
- ¹¹ Property Code Title 11, § 209.0056 Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹² Property Code Title 11, § 209.0051(f) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹³ Property Code Title 11, § 209.0058(a) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹⁴ Property Code Title 11, § 209.0058(c) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹⁵ Property Code Title 11, § 209.0058(b) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹⁶ Property Code Title 11, § 209.00594(a) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1062 (H.B. 3176), Sec. 1, eff. June 14, 2013
- ¹⁷ Property Code Title 11, § 209.00594(b) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1062 (H.B. 3176), Sec. 1, eff. June 14, 2013
- ¹⁸ Property Code Title 11, § 209.0058(b) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.
- ¹⁹ Property Code Title 11, § 209.00591(b) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. January 1, 2011.
- ²⁰ Property Code Title 11, § 209.0058(c) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

²¹ The duly elected members of the ARC are considered to be full voting members of the Board and therefore may participate in the Board vote for the ARC Chairman when either two or all three tie for the most votes during the election at the Meeting of the Membership.

²² Property Code Title 11, § 209.0041(h) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. September 1, 2011.

²³ Declaration Article IV [Recorded December 31, 2009]

²⁴ Declaration Article IV, Section 4.3 [Recorded December 31, 2009]

²⁵ Declaration Article IV, Section 4.5 [Recorded December 31, 2009]

²⁶ Property Code Title 11, § 209.005 Added by Acts 2001, 77th Leg., ch. 926, Sec. 1, eff. Jan. 1, 2002. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1367 (H.B. 3674), Sec. 6, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 2, eff. January 1, 2012.

²⁷ 207.003 Property Code Title 11, § 207.003 Added by Acts 2011, 82nd Leg., R.S., Ch. 1142 (H.B. 1821), Sec. 5, eff. January 1, 2012.

²⁸ Property Code Title 11, § 209.00591(a) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. January 1, 2011.

²⁹ Property Code Title 11, § 209.00591(b) Added by Acts 2011, 82nd Leg., R.S., Ch. 1217 (S.B. 472), Sec. 2, eff. January 1, 2011.

³⁰ Property Code Title 11, § 209.0051 Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³¹ Property Code Title 11, § 209.0051(h) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³² Property Code Title 11, § 209.0051(c) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³³ Property Code Title 11, § 209.0051(e) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³⁴ Property Code Title 11, § 209.0051(f) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³⁵ Property Code Title 11, § 209.0051(d) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³⁵ Property Code Title 11, § 209.0051(h) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³⁵ Property Code Title 11, § 209.0051(g) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.

³⁵ Property Code Title 11, § 209.0051(c) Added by Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. 2761), Sec. 3, eff. January 1, 2012.



Instructions

For Voting on Ballot Initiative #3A: Loosening Garbage Can Restriction in CC&Rs

Your ballot to vote can be found on the opposite side of this page, under the proposed new wording. Following the ballot, on the facing page, is the how the proposed amendment will amend either the current CC&Rs (should Ballot Initiative #1 fail) or the newly amended CC&Rs (should Ballot Initiative #1 pass).

Loosening Garbage Can Restriction:

INITIATIVE #3A

FOR AN AMENDMENT TO BE RATIFIED, 67% OF THE HOMEOWNERS MUST APPROVE.



BALLOT INITIATIVE #3A: Loosening Garbage Can Restriction in CC&Rs

Proposed Amendment: to add the words “or behind the front line, adjacent to the home” to either the current version or, if it should pass, to the new wording as amended in Ballot Initiative #1.

Ballot

I cast my vote to

Approve [] Disapprove []

**the amendment to Bylaw 7.5(e) loosening the garbage can restriction
or**

Abstain from this vote []

NOTE: Selecting more than one (1) option under each amendment shall disqualify your vote on that amendment.

How This Amendment Will Be Counted

Should this amendment achieve at least 67% approval, it will either be inserted in the current instrument (as above) or inserted in the amended wording from Ballot Initiative #1 (as above).



The proposed amendment applied

7.5 (e) Uses Specifically Prohibited (Current Wording)

(As amended in the Current Instrument) No lot or other area of the property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage and other waste shall not be kept except in sanitary containers. All containers for the storage or other disposal of such materials shall be kept in a clean and sanitary condition inside the garage or behind the front line, adjacent to the home of each residence except on days of pickup. Materials incident to construction of improvements may only be stores on lots during construction of improvement thereon.

New Wording As Amended in Ballot Initiative #1

(As amended in Ballot Initiative #1) 7.5(e) No Lot or other area in the Quail Creek Subdivision shall be used as a dumping ground for rubbish or the accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars or discarded appliances and furniture. Trash, garbage and other waste shall be kept only in sanitary containers. All containers for the storage or other disposal of such material shall be kept inside the garage, or behind the front line, adjacent to the home of each residence, in a clean and sanitary condition except on days of trash pickup. Materials incident to construction of improvements may only be stored on Lots during construction of the improvements thereon.



Instructions

For Voting on Ballot Initiative #3B: Loosening Sign Restriction in CC&Rs

Your ballot to vote can be found on the opposite side of this page, under the proposed new wording. Following the ballot, on the facing page, is the current wording and the wording as amended in Ballot Initiative #1. Should it pass, this amendment will replace both versions.

FOR AN AMENDMENT TO BE RATIFIED, 67% OF THE HOMEOWNERS MUST APPROVE.

Loosening Sign Restriction:

INITIATIVE #3B



BALLOT INITIATIVE #3B: Loosening Sign Restriction in CC&Rs

NEW WORDING As Proposed in this amendment (this is the amendment for which you are voting):

Exterior signs &/or advertisements are prohibited from being placed or maintained on any Lot, except for professionally fabricated signs that meet the following guidelines:

1. Advertising the Lot for “for sale” or “for rent” of not more than six (6) square feet;
2. Advertising by construction or remodeling companies while work is in progress of not more than six (6) square feet and not to exceed one-hundred and twenty (120) days.
3. One or more political candidate or ballot initiative signs of not more than six (6) square feet for a period beginning not more than ninety (90) days prior to, and ending not more than ten (10) days after, the election subject of the sign.³
4. Common “spirit” signs of not more than four (4) square feet promoting a resident’s collegiate team and/or local elementary, middle and/or high school,
 - a. A Lot may display no more than three of these types of signs at a time without the Board’s expressed written approval.
5. Signs of not more than two (2) square feet that provide awareness of security and/or monitored alarm system(s) that exist to protect the property.

Ballot

I cast my vote to

Approve [] Disapprove []

**the amendment to Bylaw 7.5(k) loosening the sign restriction
or**

Abstain from this vote []

NOTE: Selecting more than one (1) option under each amendment shall disqualify your vote on that amendment.

³ The right of residents to display political signs is expressly written in the Texas Property Code.



Article 7.5(k)

Current Wording

No sign of any kind or character shall be displayed to the public view on any Lot except for one (I) professionally fabricated sign of not more than six (6) square feet advertising the property for rent or sale, or signs used by an approved builder to advertise the property during its construction and sales period. Declarant or its agents shall have the right to remove any sign, billboard or other advertising device that does not comply with the above, and in so doing shall not be subject to any liability for trespass, or any other tort arising in connection therewith from such removal, nor in any way be liable for any accounting or other claim by reason of the disposition thereof. Development related signs owned and erected by the Declarant shall be permitted.

As Amended in Ballot Initiative #1 Ballot (To bring in compliance with state statute)

7.5(k) No exterior signs or advertisements of any type may be placed, allowed, or maintained on any Lot without the prior written approval of the ARC, except for (i) one (I) professionally fabricated sign of not more than six (6) square feet advertising the Lot "for sale" or "for rent;" (ii) signs used by an approved builder to advertise the Lot during its construction and (iii) one or more political candidate or ballot initiative signs for a period beginning not more than ninety (90) days prior to, and ending not more than ten (10) days after, the election subject of the sign.



Instructions

**For Voting on Ballot Initiative #3C:
Loosening the trailer restriction on boats only” or
“Tightening the restriction on all trailers”**

Your ballot to vote can be found on the opposite side of this page. Following the ballot is the current wording that will be replaced by one of the two contrasting amendments (facing page), should they pass.

How This Amendment Will Be Counted

There are two competing amendments to this restriction, either of which, if approved, shall amend the current wording. To be adopted, the amendment must receive BOTH the most votes over the contrasting amendment AND achieves AT LEAST 67% approval of the homeowners in Phase II. Regardless the number of votes received, any amendment to the CC&Rs must achieve at least 67% approval or the current wording shall remain in effect.

FOR AN AMENDMENT TO BE RATIFIED, 67% OF THE HOMEOWNERS MUST APPROVE.

Contrasting Amendments to Trailer Restriction: INITIATIVE #3C



Ballot

I cast my vote to

Approve [] the amendment to Bylaw 8.5 loosening the trailer restriction for boats only

Approve [] the amendment to Bylaw 8.5 tightening the restriction on all trailers

Disapprove Both [] (Keeps Current Wording)

or

Abstain from this vote []

Current Wording

(In Ballot Initiative #1, this Section is moved from 8.5 to 8.5(e), however no changes were made to the wording of this restriction)

No boat, marine craft, hovercraft, aircraft, recreational vehicle, camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street on the Property, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view. Boats, recreational vehicles, campers, travel trailers, motor homes or similar vehicles or equipment may be temporally parked in the driveways of the subdivision for no more than two (2) consecutive days.

Proposed Amendment C1
Loosening the Trailer Restriction on Boats Only

- (i) One trailer containing watercraft shall be permitted so long as it meets the following guidelines:
- a. No more than one trailer that is no longer than thirty-five (35) feet in length carrying watercraft(s) shall be permitted on any Lot at a time.
 - b. Both the trailer and watercraft(s) must be maintained covered with purpose built, fitted covering, with current registration and/or licensed per state and federal regulations for both watercraft and trailer.
 - c. Covers must be maintained in good repair with no rips, holes or tears and fastened securely to the boat or watercraft.
 - d. Three (3) consecutive days are permitted without cover for watercraft(s) to dry out, except when weather not permitting, the time may be longer.
 - e. Trailered watercraft(s) shall be permitted in the rear yard behind an existing fence structure on a hard surface or gravel pad and not parked on the grass or turf.
- (ii) No recreational vehicles, motor homes or similar vehicles, hovercraft, aircraft or trailers of any form or function, except as permitted above in item (i); and/or lawn maintenance equipment shall remain on any lot for more than three (3) consecutive days, and must be fully contained within the driveway.
- a. Nothing may be parked for storage in the front yard of any dwelling or stored on any public street nor shall any vehicles and/or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view.
 - b. In certain and special circumstances for visiting family members with a recreational vehicle, motor home, or a similar vehicle, the Board may, through expressed written consent, grant an exception to extend the three (3) day time restriction, but not for more than two weeks at a time.

Proposed Amendment C2
Tightening the Restriction on all Trailers

No boat, boat trailer, hovercraft, aircraft, recreational vehicle, camper, or utility vehicle or equipment may be parked for storage in the driveway, front yard of any dwelling or parked on any public street on the Property, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view. For the purpose of this section, the following terms shall apply:

1. The term “boat” shall include and be defined as any boat, ship, sailboat, personal watercraft including but not limited to canoe, kayak, Jet Ski or other watercraft designed for transport upon the water.
2. The term “boat trailer” and “trailer” shall include and be defined as vehicles without motive power designed for carrying boats, livestock, property or persons wholly on their own structure and to be drawn by a motor vehicle, and including pole trailers or a pair of wheels used primarily to balance a load rather than for purposes of transportation.
3. The term “camper” and “recreational vehicle” shall include All-Terrain Vehicles, House Trailers, Recreational Vehicles, Motor Homes, Travel Trailers, Fifth-wheel trailers, Camping Trailers and Truck Campers.
4. The term “utility vehicle” shall mean any vehicle designed and manufactured for general maintenance, security, recreational, and landscaping purposes, including, without limitation, tractors, riding lawn mowers and golf carts, but does not include vehicles designed and primarily used for transportation of persons or property on a street or highway.
5. The term “storage” is defined as being kept on the Property of the residence as the primary location when not in use.