



STATE OF TEXAS §

COUNTY OF GILLESPIE §

**SIXTH AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HERITAGE HILL COUNTRY
(Regarding leasing)**

Document reference. Reference is hereby made to the Declaration of Covenants, Conditions and Restrictions for Heritage Hill Country, filed at Vol. 360, Pg. 551 in the Official Public Records of Gillespie County, Texas (together with all amendments and supplements thereto, the "**Declaration**").

WHEREAS the Declaration provides that persons owning homes subject to the Declaration are automatically made members of Heritage Hill Country Association, Inc. (the "**Association**");

WHEREAS the Association is authorized to amend the Declaration pursuant to Article XII, Section 4 of the Declaration and Section 209.0041 of the Texas Residential Property Owners Protection Act and has previously adopted amendments; and

WHEREAS the Members and all Eligible Mortgagees as the term is defined in the Declaration have voted to adopt the amendment attached as Exhibit "A" in accordance with Declaration §Article XI Section 7;

THEREFORE, the Declaration has been, and by these presents is, AMENDED to ADD the language attached as Exhibit "A" hereto:

Subject solely to the amendments contained herein, the Declaration remains in full force and effect.

A new Section, Article VIII Section 17, is added to read as follows:

Section 17. Leasing.

- 17.1 **DEFINITION OF RENTAL.** A home (aka Lot) is deemed “rented,” and its occupants deemed “tenants,” for purposes of this provision and other rent-related provisions in this Declaration and the other documents, except when: (i) the home is only occupied by the home owner and/or a person(s) immediately related to the owner by blood, marriage or adoption¹, (ii) the home is vacant, (iii) the home is subject to a “sale and leaseback” agreement, or (iv) title to the home is held by a corporation, trust, partnership, or other legal entity, with the primary purpose of providing occupancy to the current occupant. This definition applies irrespective of whether there is a written agreement between the home owner and the occupant(s) or whether any financial consideration has been provided for the right of occupancy. The Association may in the sole discretion of the Board require proof of familial relation between a home owner and occupant.

A person is considered a tenant for all purposes under these rules (including background checks) if that person stays overnight on the property more than 7 days in any month. Presence on the property at any time between 11:00 pm and 6:00 am will be considered an overnight stay.

- 17.2 **GENERAL RENT CONDITIONS.** The renting of homes is subject to the following general conditions:

- (1) Occupancy of units. In accordance with Article VIII Section 14, of this Declaration the statement that homes within Heritage Hill Country are intended for the housing of persons fifty-five (55) years of age or older must be in conspicuous type in any lease or other occupancy agreement or contract. Any home leased must be occupied by at least one Qualifying Occupant as set forth in this Declaration.
- (2) Minimum lease term. **No home may be rented for an initial rental term of fewer than 90 days.** If a tenant fails to fulfill the rent term (moves out early), the property may not be re-occupied by another tenant without prior approval of the board and unless any replacement rental agreement is in compliance with all rental restrictions. This is to prevent a situation for example where a home is rented “for six months” but in reality is rented for the weekend and the tenant “leaves early” and a new tenant is obtained.

No Owner may advertise the rental of any home for a term less than the minimum lease term. All advertisements for the rental of a home must clearly state the minimum rental term allowed by these provisions. **Daily or weekly rates (or any rate less than monthly) may not be advertised.** Fines may be automatically assessed for any violations, regardless of whether the advertised home is actually rented for a period of less than the minimum rental term.

¹ A situation where an owner lives with an unrelated individual for purpose of companionship, regardless of whether the companion contributes to living expenses, will not be considered a lease under these rules.

- (3) Written rental agreements only; mandatory rental agreement provisions. All rental agreements must be in writing, must contain the names of all tenants and occupants; must expressly provide that they are subject to the declaration, bylaws, and rules of the Association; and must have as an exhibit the rules and regulations of the Association.
- (4) Must provide tenants with Association documents. An owner must provide his tenants with copies of the governing documents and notify them of changes thereto.
- (5) Tenants subject to Association documents. Each tenant is subject to and must comply with all provisions of the governing documents, federal and State laws, and local ordinances. Owners are responsible for their tenants and occupants and their guests violations.
- (6) Owner must provide Association a copy of all rental agreements, rental agreement renewals and contact information. An owner must provide the Association upon request: (i) a complete and legible copy (electronic copy or hard copy) of the fully-executed rental agreement, and any rental agreement renewal document(s), both of which must include the name of all tenants and occupants. Dollar figures and any drivers' license or social security number or other sensitive personal information may be redacted; (ii) current contact information including full names, email addresses, and any additional mailing address for all tenants.

It is also recommended that all owners obtain background checks prior to leasing; owners should consult with their own attorneys regarding legal requirements for background checks.

17.3 EVICTON OF TENANTS. Every rental agreement on a home, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:

A. Violation Constitutes Default. Failure by the tenant or occupants or invitees to comply with the deed restrictions of the Association, federal or State law, or local ordinance is deemed to be a default under the rental agreement. When the Association notifies an owner of his tenant's violation, the owner must promptly obtain his tenant's compliance or diligently exercise his rights as landlord for tenant's breach of rental agreement, including eviction. If the owner fails to obtain the tenant's compliance after reasonable notice (at least 10 days notice) from the Association, the Association has the right, but not the obligation, to pursue the remedies of a landlord under the rental agreement, or State law for the default, including eviction of the tenant.

B. Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the rental agreement for enforcement of the deed restrictions by the Association, each owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the deed restrictions against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the owner at least 10 days' notice, by certified mail, of its intent to so enforce the Documents.

C. Association Not Liable for Damages. The owner of a rented home is liable to the Association for any expenses incurred by the Association in connection with enforcement of the deed restrictions against his tenant. The Association is not liable to the owner for

any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the documents against the owner's tenant.

- 17.4 VIOLATIONS. The Board may require a tenant, by written notice to the tenant, to pay rent directly to the Association during any time in which the Owner is delinquent in payment of amounts due the Association. The Board may pursue any other remedies, including fining, eviction, and common area use right suspension, and other remedies allowed under these or other Association governing documents or state law. All enforcement costs, including attorneys' fees, incurred by the association due to violations of a tenant or a tenant's guest, occupant or invitee may be assessed to the owner's account. Owners are responsible for all violations of their tenants, and their guests and invitees.

Notwithstanding any language to the contrary in the other applicable deed restrictions of the Association, the minimum fine² for any violation of the leasing/renting provisions involving either violation of the **minimum rental term** or **rental advertising** provisions shall be **\$500/violation**. Each day of the violation may be considered a separate violation. The Association's managing agent shall have the authority and absent board resolution otherwise on a case-by-case basis is directed to implement/levy these fines for violations of this nature and shall provide any notice required for such levy.

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Mary Lynn Rusche

Mary Lynn Rusche, County Clerk

Gillespie County Texas

February 01, 2019 03:50:15 PM

FEE: \$32.00

PHERBER

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² This is the minimum fine. The board may in its discretion approve a larger fine on a case-by-case basis.

HERITAGE HILL COUNTRY ASSOCIATION, INC.

Acting by and through its Board of Directors

SIGNATURE: Ray Bluhm
NAME: Ray Bluhm
TITLE: H.H.C. - Treas.

Acknowledgement

STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on the 1st day of February, 2019, by Raymond Bluhm in the capacity stated above.

[Signature]
Notary Public, State of Texas

