



The Hills at Firewheel Estates Homeowners Association

Hills Dedicatory Instruments: Addendums & Clarifications

OVERVIEW: During the 82nd Legislative Session in 2011, the Texas Legislature passed several new laws governing Property Owners Associations. This legislation impacts the Hills at Firewheel Estates Homeowners Association (HOA). In some instances, the new mandates supersede language and/or provisions in the neighborhood’s existing Dedicatory Instruments, as well as necessitate a need for clarification and/or additional content. This document summarizes those updates.

The Hills at Firewheel Estates Homeowners Association operates under the mandates and guidelines of three primary governing documents (“Dedicatory Instruments”), plus addendums, as well as published HOA policies and guidelines. The three primary Dedicatory Instruments are:

- 1) Certificate of Incorporation
- 2) By-Laws
- 3) Declaration of Covenants, Conditions, and Restrictions

Limitations. This “Hills Dedicatory Instruments: Addendums & Clarifications” document is meant as a convenience for Hills homeowners, as well as future boards of directors, Architectural Control Committee members, and/or any others called upon to direct or advise upon the business of the Association. While interpretation and application of the 2011 POA legislation may evolve over time through common usage and/or court action, initial interpretation would indicate that the following provisions in the Hills Dedicatory Instruments as listed are either superseded, appended, or clarified with modifications as shown below.

General. In multiple instances, the Dedicatory Instruments refer to the responsibilities of the Hill’s Board of Directors to uphold and maintain neighborhood standards, as well as collect assessments. For additional policies on both of these activities, refer to separate Hills at Firewheel “Neighborhood Standards Guidelines” and the “Collections and Payment Plan Policy.” Association documents are located at: hillshoa.com.

Dedicatory Instrument #1

**“Certificate of Incorporation” of the Hills at Firewheel Estates Homeowners, Inc.
Charter Number 10522956**

Article V: Membership

Existing Statement: “The By-Laws of the Association may provide for suspension of membership for failure to pay assessments and for violation of the Rules and Regulations established by the Board of Directors.”

Limitation Addendum (per new 2011 legislation 209.0059): New owner voting rights stipulate that owners may not be disqualified from voting. (Note that Association rights to suspend other membership privileges are still in force.)

Article XIV: Amendments

Existing Statement: “Amendments to these Articles shall require the assent of not less than three-quarters (3/4) of the entire membership, in the aggregate of the Association.”

Updated Provision (per new 2011 legislation: 209.0041): Declarations may be amended by 67% of the Owners (or less if stated in the Declaration).

Dedicatory Instrument #2

“By Laws” of The Hills at Firewheel Estates Homeowners Association, Inc.

Article III: Membership. Section 2.

Existing Statement: Suspension of Membership. “During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right

to use of the recreational facilities of such member may be suspended by the Board of Directors until such assessment has been paid..."

Limitation Addendum (per new 2011 legislation: 209.0059): New owner voting rights stipulate that owners may not be disqualified from voting. (Note that the Association's rights to suspend other membership privileges is still in force.)

ARTICLE VI: Meeting of Directors. Section 1. Regular Meetings.

Existing Statement: "Regular meetings of the Board of Directors shall be held quarterly without notice ..."

Addendum (per new 2011 legislation: 209.0051): Board meetings now require notification to members. (Note that board meetings have always been and continue to be open to all members.)

ARTICLE VII: Nomination and Election of Directors. Section 2. Election

Existing Statement: "Election to the Board of Directors shall be by secret written ballot cast at the annual meeting."

Updated Provision (per new 2011 legislation: 209.0058): Secret ballots are prohibited. A member's vote in a POA-wide vote must be in writing and signed by the member, except for uncontested elections.

ARTICLE XII: Assessments. Section 6. Miscellaneous (a)

Existing Statement: "Attendant to the rights of the members is the right to inspect the books upon proper notice of fifteen (15) days to the Secretary of the Association."

Updated Provision (per new 2011 legislation): Timeframe requirements are set forth in the Hills at Firewheel Document Inspection and Copying Policy drafted pursuant to Sec 209.005 of the Texas Property Code.)

Dedictory Instrument #3

"Declaration of Covenants, Conditions and Restrictions" for the Hills at Firewheel Estates

ARTICLE II Section 6. Voting Rights. (c) Suspension.

Existing Statement: "All voting rights of the owner shall be suspended during any period in which the owner is delinquent in the payment of any assessment..."

Limitation Addendum (per new 2011 legislation: 209.0059): New owner voting rights stipulate that owners may not be disqualified from voting. (Note that the Association's rights to suspend other membership privileges is still in force.)

ARTICLE VII: Property Rights. Section 1. Owner's Easement of Enjoyment (b)

Existing Statement: "The right of the Association to suspend the right of use of the Common Areas and the voting right of an Owner for any period during which any assessment against his Affected Lot remains unpaid..."

Limitation Addendum (per new 2011 legislation: 209.0059): Owner voting rights now stipulate that owners may not be disqualified from voting. (Note that the Association's rights to suspend other membership privileges is still in force.)

ARTICLE VIII: Use Restrictions. Section 4, Signs and Picketing.

Existing Statement: "No sign or emblem of any kind may be kept or placed upon any Affected Lot..."

Limitation Addendum (per new 2011 legislation: 202.018): POAs must allow an owner to display religious items on his front door or doorframe, with certain permissible limitations.

ARTICLE VIII: Use Restrictions

This section describes regulated activities and structural limitations.

Addendums (per various Texas Property Code Bills established in 2011): New rights and permissions with acceptable limitations now exist specifically for Rain Barrels (202.007d), Solar Panels (202.010), and Certain Roofing Materials (202.01). See Hills policy for "Blanket Approvals for Standard Neighborhood Projects" for additional details.

Article X: General. Section 1. Remedies.

This section refers to rights and remedies of the Association to collect assessments and other fees.

Addendums (per various Texas Property Code Bills established in 2011): New payment processes and procedures now apply to POAs. Most notable are provisions mandating the offering of Payment Plans (209.0062) establishment of new foreclosure requirements (209.0092), and special rights and relief for owners on active military duty (209.006b). Key provisions of the 2011 legislation affecting payments and collections are included in the updated Hills "Collections and Payment Plan Policy."