

HEATHLAKE COMMUNITY ASSOCIATION, INC.
ACC APPOINTMENT POLICY

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, Heathlake Community Association, Inc., (hereinafter the “Association”) is the governing entity for Lakeview Forest, Section One; Heathwood, Section One; and Woods of Lakeside, Section One, additions in Harris County, Texas, according to the maps or plats thereof, filed for record in the Real Property Records of Harris County, Texas, under Clerk’s File Nos. F480635, F752554, and F901768, along with any amendments, replats and supplements thereto (hereinafter the “Subdivision”); and

WHEREAS the Subdivision is subject to the Declaration of Covenants, Conditions and Restrictions Heathwood, Section One, the Declaration of Covenants, Conditions and Restrictions Woods of Lakeside, and the Annexation to Declaration of Covenants, Conditions and Restrictions Lakeview Forest, Section One, filed for record in the Real Property Records of Harris County, Texas, under Clerk’s File No. F782726, F933976, and V690521, along with any amendments, annexations, and supplements thereto (hereinafter the “Declaration”); and,

WHEREAS Article II, Section 2 of the Declaration provides that, subsequent to occupation of one-hundred percent (100%) of all Lots in the Subdivision are occupied by residents, the Declarant, as that term is used in the Declaration, shall have the right to assign the duties, powers, and responsibilities of the Architectural Control Committee (the “ACC”) to the Association, and that the term “Architectural Control Committee” shall include the Association, as such assignee; and

WHEREAS the duties, power, and responsibilities the ACC were so assigned to the Association; and,

WHEREAS Article II, Section 2 further provides that, in the event of a vacancies on the ACC, the remaining ACC may appoint members to fill such vacancy; and

WHEREAS in 2021, Chapter 209 of the Texas Property Code was amended, in part, by adding a Section 209.00505, which provides that a person may not be appointed or elected to serve on a property owners’ association’s architectural review authority if the person is a current board member, a current board member’s spouse, or a person residing in a current board member’s household; and,

WHEREAS there is a need to enact an architectural review authority appointment policy to implement a standard procedure for appointing members to the Association’s architectural review authority in light of the Texas Property Code’s newly-enacted prohibition on directors (and their spouses, etc.) serving on a property owners’ association’s architectural review authority; and,

WHEREAS to the extent this policy conflicts with any existing governing document or dedicatory instrument of the Association or Subdivision, this policy controls by virtue of such contrary provision being pre-empted by State law; and,

WHEREAS to the extent any existing governing document or dedicatory instrument does not conflict with this policy or the Texas Property Code, such governing document or dedicatory instrument remains in full force and effect; and,

WHEREAS this Dedicatory Instrument constitutes Restrictive Covenants as those terms are defined by Texas Property Code §202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these Restrictive Covenants;

NOW THEREFORE, in view of the foregoing and in compliance with the Texas Property Code, the Association hereby adopts and imposes on the Subdivision and the Association the following Policy:

ACC APPOINTMENT POLICY

1. The Association's architectural review authority shall vest in an Architectural Control Committee (hereinafter an "ACC"). The ACC shall consist of three (3) members, except as otherwise provided for herein.

2. Each year following the recording of this policy, no later than thirty (30) days before the annual meeting of the members, the Association shall solicit candidates from among the Association's members for appointment to the ACC. The Association may solicit candidates by regular mail or electronic mail, or by any other reasonable means, as determined by the Association's Board of Directors. Additionally, at each annual meeting of the members, the Association may solicit candidates for appointment to the ACC from those members in attendance at the annual meeting of the members.

3. Each year following the recording of this policy, at the first the open meeting of the Board of Directors subsequent to that year's annual meeting of the members, the Association's Board of Directors shall appoint three (3) members to the ACC, from among those Association members who responded to the Association's solicitation for appointment to the ACC.

a. The following categories of persons cannot be appointed and/or elected to serve on the ACC:

- i. serving board members;
- ii. spouses of serving board members;
- iii. persons cohabitating with serving board members.

4. The Association's Board of Directors may remove any member of the ACC, with or without cause, by majority vote, at any open meeting of the board of directors. Further, any

ACC member may resign from the ACC by providing written notice of said resignation to the Association's Board of Directors, and such resignation shall be effective immediately upon the Board of Director's receipt of such notice.

- a. In the event of the death, removal, or resignation of any member of the ACC, the Association's Board of Directors may appoint a replacement to serve the remainder of the former ACC member's term at the next open meeting of the Board of Directors.

5. Members of the ACC may be appointed to serve consecutive terms, and there is no limit to the number of terms any member of the ACC may serve.

6. If, by the date of the first open Board of Directors meeting subsequent to the annual meeting of the members in any given year, fewer than three (3) of the Association's members have responded to the Association's solicitations for candidates for appointment to the ACC, the Board of Directors may, by majority vote, appoint the Association's designated representative (as designated on the Association's most recently recorded Property Owners' Association Management Certificate), or any third party, to serve as some or all of the ACC.

7. The ACC may, at any time, appoint an agent to act as authorized representative on behalf of the ACC, and the ACC may delegate any duties, powers and/or functions to the authorized representative. Said agent may be a member of the ACC, any other member of the Association, the Association's designated representative (as designated on the Association's most recently recorded Property Owners' Association Management Certificate), or any third party, provided however, that the ACC must provide written notice to the Board of Directors upon appointment of any such authorized representative.

- a. The following categories of persons cannot be appointed and/or elected to serve as an agent of the ACC:
 - i. serving board members;
 - ii. spouses of serving board members;
 - iii. persons cohabitating with serving board members.
- b. An appointed authorized representative of the ACC shall continue to serve as agent of the ACC until that agent's death, removal by the ACC, or resignation.

8. At any open meeting of the Board of Directors, the Board of Directors may (but is in no way required to) appoint one (1) director to serve as the board's Designated Representative to the ACC (hereinafter the "DRACC").

- a. In the event the Board of Directors appoints a DRACC, the DRACC shall be entitled to attend meetings of the ACC for the purposes of advising the ACC as to the Association's restrictive covenants, architectural control requirements and

standards, and general community aesthetic, but in no event shall the DRACC review, consider, vote on, and/or participate in the debate/discussion concerning, any application pending before the ACC.

CERTIFICATION

“I, the undersigned, being a Director of Heathlake Community Association, Inc., hereby certify that the foregoing was adopted by at least a majority of Heathlake Community Association, Inc.’s board of directors, at an open and properly noticed meeting of the board, at which a quorum of the board was present.”

By: 

Print name: Stephen Read

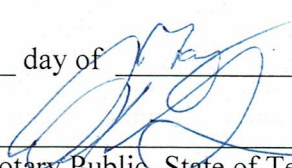
Title: President of Heathlake Community Association

ACKNOWLEDGEMENT

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BEFORE ME, the undersigned authority, on this day personally appeared the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that he is the person who signed the foregoing document in his representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 14th day of May, 2022.


Notary Public, State of Texas

