

# **RULES AND REGULATIONS FOR ARCHITECTURAL CONTROL**

## **USE RESTRICTIONS AND VEHICLE PARKING**

Amended and readopted by the Board of Directors on December 9, 2014

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### **INTRODUCTION**

In 1973, Celebrity Homes, the developer of Highland Greens Subdivision, filed a Declaration of Covenants, Conditions and Restrictions which subjected all of the property now owned by members of the First Hyland Greens Association to its provisions. This Declaration, which has over the years become commonly known as the Covenants, provides in part that all of the property in Hyland Greens shall be held, sold and conveyed subject to certain easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of; and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof."

While the Covenants represent the Association's primary governing document, and provide in general for the manner in which First Hyland Greens Association is entrusted with the responsibility for implementing and enforcing its provisions, it is clear that the Covenants do not address and cannot deal with every situation. Rather, they describe a general framework for the administration and control of all properties within First Hyland Greens.

Since the Covenants cannot provide anything more than general guidance as to how architectural control and use standards will be administered and since the Covenants vest responsibility for the administration and enforcement of such matters in the Board of Directors of the Association, the Board, hoping to achieve standards pursuant to which all Association members will be better able to own, maintain and enjoy their properties, hereby promulgates the Rules and Regulations that follow.

### ***DEFINITIONS***

1. "Association" shall mean First Hyland Greens Association, a Colorado nonprofit corporation, its successors and assigns.
2. "Board of Directors" or "Board" shall mean the governing body of the Association whose members are elected in accordance with the Bylaws. Within the context of these Rules and Regulations, such term may also

refer to the architectural committee, if any, appointed by the Board pursuant to the Covenants.

3. "Bylaws" shall mean the Bylaws of the Association, as amended, supplemented or restated.

4. "Common Area" shall mean those properties owned by the Association for the common use and enjoyment of the Owners.

5. "Covenants" shall mean the Declaration of Covenants, Conditions and Restrictions of Hyland Greens, Filing No.1, dated December 18, 1973, as amended, supplemented or restated.

6. "Lot" shall mean any plot of land shown upon any recorded subdivision plot of the Properties except for Common Areas.

7 "Owner" shall mean the record owner(s) of a fee simple title to any Lot.

8. "Properties" shall mean all of the real property subject to provisions of the Covenants.

9. "Structure" shall mean any enclosed or semi-enclosed building placed on a Lot, but not limited to, a house and any detached improvement such as a garage, treehouse, or storage shed.

10. "Camper" shall mean a combination pickup truck and attached enclosure larger than the outline of the truck that provides living accommodations. This definition includes motor homes (a vehicle with the sole purpose of providing mobile living space).

### ***ARCHITECTURAL CONTROL***

Article V of the Covenants provides that the Board, or an architectural committee composed of three (3) or more representatives appointed by the Board, must approve any exterior addition, change or alteration to any of the Properties

Any Owner desiring to change, alter or add to the exterior of any existing Structure, fence or wall must submit a written request for approval, including with it plans and specifications detailing such proposed work, to the Board prior to commencing such work. Such plans and specifications must include a description of any such project in such detail as will enable the Board to determine with reasonable accuracy whether such project will result in an improvement harmonizing with the external design and location of surrounding improvements within Hyland Greens.

Properly documented written requests will be acted upon by the Board within 30 days from their submission. The Board reserves the right to request additional documentation or clarification of any applicant's plans and specifications as a condition to processing any request for approval. The 30-day approval period will not begin to run until each application is complete.

Any change, alteration or addition falling within the Covenants which is made without the Board's approval is in violation of the Covenants and subject to Board action for non-compliance, which may include an order that the non-conforming addition or improvement be removed and the existing Structure, fence or wall restored to its original condition.

### ***USE RESTRICTIONS***

Article VI of the Covenants provides for the manner in which the Properties shall be used and maintained. It is specific and detailed on certain subjects and not specific on others. The following guidelines are provided in connection with those subjects which are most frequently considered by the Board.

#### **1. Walls and Fences**

Article VI, paragraph (i) deals with privately-owned walls and fences and is very specific, stating that "No wall or fence except a decorative wood, stone or brick fence not exceeding six feet in height measured from the adjoining ground surface inside the fence, may be erected or maintained on any Lot, except in connection with recreational facilities. No walls, fences or hedges will be permitted on the street frontage within fifteen feet of front property line, except for needed retaining walls." Specifically prohibited are:

a. Chain link fences;

b. Any use of metal or plastic fencing (e.g., poultry netting) in combination with a wooden fence.

In implementing provisions of the Covenants on this subject, the Board will consider minor variances necessitated by topography and physical location of such walls or fences relative to adjoining Lots.

## **2. Separate Structures**

Article VI, paragraph (f) provides, in part, that "No construction whatsoever, other than one first class, private, single-family residence shall be erected. Garage or carports must either be attached to the residence as an integral part thereof or attached thereto by arbor breezeway and shall conform to the architecture thereof." In implementing this section of the Covenants, the following guidelines are provided:

a. Storage sheds, greenhouses, and other enclosed structures which are to be attached to the main structure may be approved by the Board. For approval to be granted the proposed structure must conform to the architecture of the residence.

b. No separate structure shall be constructed (except as indicated in c & d below). Includes any form of storage shed, greenhouse, playhouse or other enclosed structure.

c. Gazebos, covered decks, and other open (non-enclosed) facilities may be approved provided that the Board is satisfied that, based upon the openness of its overall design, permanency, color, location on the Lot and degree to which it impacts views of and from other Lots, such facility will not adversely affect surrounding residents or the community in general. Specifically, any such facility must have an openness of design such that it does not significantly block the line of sight through the facility. Facilities that have more than 40% of any one side as an opaque and/or translucent surface (i.e., which can't be seen through) shall be deemed not to meet this test of openness and will not be approved by the Board. Facilities which have less than 40% opaque and/or translucent surface on each and every side may be approved by the Board, but each one shall be judged based on the criteria described above.

d. Small facilities such as doghouses and small playhouses which are no higher than 48" at their highest point and no larger than 80 cubic feet are not normally of concern to the Board and do not generally need to be presented to the Board for approval. The Board recognizes that the placement of such a facility on the Lot, the color or materials used, or the design may be such that an adverse impact can be created on neighboring Lots. Therefore the Board establishes the following restrictions on small facilities: the use of extreme colors (particularly bright tones) on a small facility, elevation of a small facility significantly above the ground, or location of a small facility in a front yard (or side yard unscreened from view from the street) are in violation of the Covenants and are not acceptable.

## **3. Additions of Enclosed Rooms**

As set forth in Article V of the Covenants, a major criterion for any addition or alteration is "harmony of external design." All added enclosed rooms should closely conform with the original architecture and constructed substantially of the same building materials. The goal should be an addition that appears to be a part of the original structure. The following guidelines are provided:

a. Roofing material must match that of the residence (i.e., cedar shakes) and the pitch of any new roof should match that of the existing structure.

b. Siding must match that of the residence.

c. The style of the windows and doors must closely match those of the residence.

d. Color (i.e., paint or permanently colored siding, if used) must match that of the residence.

e. Prefabricated structures of any kind are only acceptable when specifically approved by the Board.

## **4. Decks and Patios**

Decks and patios are subject to the requirements of Articles V and VI. The following guidelines apply:

a. Covered decks and patios must be attached to the residence (except as noted in subparagraph 2.c. above)

b. Decks must be constructed of:

i. A wood and finished naturally, stained or painted to match the color of the house, or

- ii. A material created to simulate a natural wood texture finished with a natural wood color or a color to match the color of the house and approved by the Architectural Control Committee
- c. Patios must be constructed of concrete, paving brick, stone or a similar material.
- d. Roofs over decks or patios shall conform to the same guidelines as apply to enclosed rooms. That is, the roof material must match that of the residence and the pitch of the deck or patio roof must conform with the pitch of the roof on the residence.
- e. Requests for approval of sunshades, awnings and lattice covers will be reviewed individually based on "harmony of external design."

## **5. Evaporative Coolers and Air Conditioners**

Evaporative coolers and air conditioners can have significant visual impact and frequently affect "harmony of external design." Roof mounted devices, and devices that are mounted high on the side of the residence are of particular concern. The following guidelines are provided:

- a. The preferred location for evaporative coolers and air conditioners is at ground level, in the back or side yard and screened from view.
- b. Subject to the limited exceptions noted in subparagraph c. below, roof mounted devices are not acceptable.
- c. Where there is no reasonable alternative to mounting a device high on the side of the residence, every effort should be made to install a low silhouette unit painted the same color as the residence. If a cover is used in the winter it should also be the same color as the residence. In the instance where a roof mounted device would not be highly visible (e.g., as might be the case for houses along the canal), approval of such installation will be considered, provided that the device must be a low silhouette design, painted to blend with the roof and having a cover also blending with the roof. No part of any approved device may be higher than the ridge line of the roof.

## **6. Driveways**

The construction and use of driveways have consistently been of concern to the Association. While matters dealing with use are dealt with later in these guidelines, structural and aesthetic aspects are addressed in this section.

In implementing these Rules and Regulations, a driveway is defined as the concrete surface that directly provides access from the street to the garage. Depending on how the garage is situated on the lot the driveway may be straight or curved to provide access to the garage. There may be instances of a curved driveway that provides access to the street in two locations. Modifications to driveways are subject to the following restrictions:

- a. Driveway material must be concrete or other paving material such as paving stone or brick. Asphalt is not acceptable.
- b. The width of the driveway must not exceed the width of the garage, except that a curved driveway that provides access to the street at two locations must not exceed the width of a two car garage. In limited circumstances, this width restriction may be relaxed in order to accommodate a necessary turning radius or limited availability of street parking. In granting any approval of a driveway extension the Board shall consider the visual impact, and if approval is given, the Board may require landscaping or other conditions to reduce the visual impact.
- c. The use of paving stone, brick, or other materials adjacent to the driveway for purposes of foot traffic, landscaping, or other purely aesthetic purposes should be allowed. In no event may any such area adjacent to the original driveway be used for vehicle parking unless the Board has approved extension of such driveway for parking in accordance with subparagraph b. above.

## **7. Paint**

The Board recognizes that establishing acceptable colors for residences is a highly subjective process, however, color has a definite impact on "harmony of design" of the neighborhood and must be addressed. Recognizing the difficulty involved in setting standards on this subject, it is the Board's policy to allow residents latitude in selecting house colors while reserving the right to prohibit a color that has a significant negative or offensive impact on "harmony of design." In carrying out this policy the following guidelines are established:

- a. Repainting a residence in other than the currently existing colors requires Board approval. Any change in color must be submitted to the Board for consideration and must be approved by the Board.
- b. It is the Board policy to give approval to paint colors which have traditionally been used in the community. Extreme colors (particularly bright tones) or colors which do not harmonized with the aesthetics of the community will not be approved.

## **8. Siding**

Increasingly homes in the area are being re-sided, either by replacement of the existing siding or by covering the existing siding with some form of metal or vinyl siding. In order to maintain "harmony of external design," the following rules apply:

- a. The Rules with respect to colors for repainting will also apply to re-siding. High gloss finishes are not acceptable.
- b. Replacement of siding with substantially the same material as the original will be approved automatically.
- c. Siding may be applied horizontally, vertically or in a horizontal and vertical combination, but shall not be applied in a fan configuration or at any angle that departs from the horizontal or vertical.

## **9. Roofing**

a. Reroofing a residence with shake shingles, similar to the original roof provided by Celebrity Homes, does not require Board approval.

b. The Board may approve alternative roofing materials (other than shake shingles:). In considering alternative materials, the Board will take into consideration the color style and quality of materials, and how well such roofing material conforms with the appearance of neighboring residences.

1. The Board will consider the following alternative roofing materials: fiber-cement products; steel granulated products; cement tile products; and enhanced, heavy dimensional, premium asphalt products.
2. Each proposed alternative roofing material will be considered on a case by case basis. The Board reserves the right to deny approval of any proposed product at any time, including denial of products which have been previously approved by the Board for specific houses in the neighborhood.
3. The Board shall provide guidance on the procedures to apply for approval of alternative roofing material and guidance on the products which may be approved.

## **10. External Antennas and Satellite Dishes**

The Board has consistently adhered to the prohibition set forth in Article VI (p) providing that "no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, except as may be approved... by the Board." The Board has not approved any satellite earth stations (i.e., satellite dishes).

In view of new technology which is evolving, the Board may allow approval of antennas under the following conditions: 1) the antenna may not be on the roof; 2) the antenna must be aesthetically pleasing if within the view of others; 3) fencing, similar shielding, or adequate "disguises" or camouflage may be used to insure that the antenna is not "offensive;" and 4) each antenna must have specific written approval from the Board prior to installation identifying the terms and conditions which the Board has required for its approval.

## 11. Exterior Lighting

Article VI(1) of the Covenants specifies that “Each residence shall maintain at least one electric post light between the house and the street, which said light shall be operated by a photo-electric cell or other automatic device so that it will be lighted automatically during hours of darkness. It is the view of the Board that the purpose of such lights is to enhance both the security of the neighborhood and its visual attractiveness. Other exterior lighting in addition to that specified above may be installed, subject to the following guidelines:

- a. The overall physical appearance of the light standard shall match that of existing post lights.
- b. The fixture and light source shall be selected and installed so as not to disturb occupants of neighboring residences. In general this will require a size and design that provides relatively low light level and carefully controlled lighting pattern.

## 12. Swimming Pools and Hot Tubs

Requests for Board approval of hot tub installations and swimming pools will be reviewed on a case by case basis, taking into account compatibility of materials with the residence, the overall size and shape of the structure, its proximity to existing structures, provisions for screening and landscaping in general and the visual impact such structures would have on neighboring property.

## 13. Skylights

Properly installed skylights have the potential to enhance external design. add skylights will be reviewed on a case by case basis taking into consideration respect to symmetry, size, shape, quantity and positioning. Where skylights are installed, the frame of the skylight shall harmonize with the roof material and all flashing shall or painted to blend with the roof.

## 14. Active Solar Energy Systems

(Note: these guidelines were originally developed and adopted by the Board in 1983.)

Financial Limitations: Compliance with the aesthetic provisions of these guidelines shall not increase cost of a residential active solar system by more than twenty-five percent (25%) of the cost of such installation without such compliance with these provisions. Should such event occur, appeal to the Board shall be made for resolution.

a. Definitions: For the purpose of these guidelines, certain terms, words and their derivatives shall be defined as specified below. where such terms, words or their derivatives are not defined, they shall have their commonly accepted meanings within the context in which they are used.

(1) Active Solar Energy System: A system using mechanical means such as pumps, fans, automatic controls, etc. to collect and store solar energy and 10 distribute such energy in a structure.

(2) Collector angle-tilt: The vertical angle between the surface of a solar collector and the horizontal plane.

(3) Collector fiat-plate: An Assembly containing a panel of metal or other suitable material for capturing solar energy and converting it to heat.

(4) Collector focusing: A solar collector having a parabolic or other reflector which focuses sunlight onto a smaller area in order to greatly intensify the heat at the point of collection, allowing the storage system to obtain higher temperatures.

(5) Collector solar: A device which absorbs solar energy and converts it into useful energy.

(6) Retrofitting: installing solar water heating and/or solar heating or cooling systems in an existing structure not originally designed to include such an installation.

(7) Dormers: A non-bearing partition constructed or installed to such a height as to conceal, protect or shelter

(8) Solar Attitude: The angle of the sun above the horizon measured in the vertical plane.

b. Permission for the installation of an active solar energy system may be granted by the Board in

compliance with Article V of the Covenants and the following guidelines. Permission for an active solar energy system using a focusing collector will require a special review by the Board and passage of a special resolution allowing its installation.

- (1) All collectors will be rectangular in shape, no less than two feet nor more than four feet in width no less than five feet nor more than ten feet in length, nor more than eight inches in depth. Glass surfaces of the collector shall be flat, non-reflective and black in color. Framing reflective and black in color. Framing and supporting materials shall be of a color to blend harmoniously with the surface on which the collectors are to be mounted. The solar collector frame along with any supporting structure and hardware must all adhere to the "single-color" criterion.
- (2) All piping or ducting shall be hidden from view:
  - (a) All manifold piping or ducting must be enclosed.
  - (b) Piping or ducting to and from manifolds shall be routed through the interior of the unit.
  - (c) Exposed pipe or duct work will not be permitted.
- (3) "Racks", provide the collectors with angles different from the surface which they are mounted must be screened. The screening must be architecturally compatible with the home in material and color. The material other than framing is to be cedar shakes.
- (4) Where structurally possible, the collector angle tilt is to be the same as (or parallel with) the roof pitch.
- (5) Any installation requiring a double or two angle mounting will be unacceptable. Only single angle mountings will be permitted for the regularity of architectural lines.
- (6) Where structurally possible no installation will protrude above the roof peak line.
- (7) All installations, except those where the panels are flat on the roof, are to be screened (dormered) to be architecturally compatible with the home in material and color. The material other than framing is to be cedar shakes.
- (8) The system must meet all local, state, and federal codes. All necessary permits will be obtained and all necessary inspections must be performed.
- (9) All external modifications to existing solar installations which modify the appearance require Board approval in the same manner as the original installation.

## **15. Vehicle Parking**

Vehicle parking, both on and off the street, has an obvious impact on visual attractiveness. As such, it is a matter of concern to residents of the area who bought homes in Hyland Greens because of its visual attractiveness, and to your Board of Directors, charged with the responsibility of enforcing the Covenants. The following background is provided (including provisions of City Ordinance) and specific guidelines are listed. Considering city ordinances first, they provide that.

The following restrictions shall apply to the parking of vehicles on public streets:

1. It shall be unlawful to park any trailer, boat, mobile home on any street unless it is being loaded or unloaded (Maximum of 72 hours for an RV or 8 hours for a boat or trailer).
2. It shall be unlawful to park any vehicle, including but not limited to those listed in (1) above, which is 35 feet or more long, on any public street, except for the purpose of loading or unloading.
3. It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any public street (except next to construction sites).
4. It shall be unlawful to park any vehicle which is displayed for sale on any public street.
5. It shall be unlawful for any camper not mounted upon a vehicle to be left upon any street.
6. It shall be unlawful to park any vehicle which is required to be licensed upon any street unless a valid license is displayed on the vehicle.

The following restrictions shall apply to the parking of any vehicles on private property:

1. It shall be unlawful to park any vehicle which is 35 feet or more in length upon any residential lot, except for the purpose of loading or unloading.
2. It shall be unlawful to park trailers, boats, automobiles, mounted or unmounted campers, or any motor vehicles in any front yard or side yard on street, unless such vehicles are parked on a driveway paved with

concrete, asphalt, rock or gravel or in a side yard behind a lawfully constructed 6 foot privacy fence.

3. It shall be unlawful to park any vehicle on private property so that the public street is obstructed.

4. It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any driveway, vacant lot, in a front yard or side yard on street except at a construction site.

5. It shall be unlawful to park a vehicle on any private property displaying that vehicle for sale except for a property owner selling his own vehicle.

6. It shall be unlawful to park more than one vehicle associated with a business in any residential district where such vehicle is visible from public or private property.

(The above is a somewhat condensed version of the actual ordinance provisions)

The intent of these ordinances is clear. Vehicles other than passenger cars are not to use public streets for permanent (meaning repetitive as well as continuous) parking. The Westminster Code Enforcement Department will ticket owners whose vehicles violate the above ordinance provisions.

Your Board urges residents to comply with both the letter and the spirit of the above ordinances. Still further, we are interested in hearing of violations. Specific complaints, however, should be made to the Code Enforcement Department. (Note: If your complaints do not produce satisfactory results, the Board will consider interceding with City officials)

With respect to our Covenants, they provide that:

1. No camper or trailer may be parked in the street and the parking of such vehicle off-street shall be in a manner reasonably shielding it from the view from the street consistent with the planting and fencing regulations." (Article VI (h)). The Board defines reasonable shielding as meaning behind a solid privacy fence at least six feet high, and if such fence does not shield such vehicle from view, then planting or other approved structure shall be used to shield the vehicle from view from the street. Parking of a camper or trailer in a driveway will be considered a violation of this covenant.

2. In no case shall there be off-street parking except in a driveway." (Article VI (h)). The Board deems this to mean that passenger cars parked off-street can only be parked in a driveway. (Note: If long-term storage is involved, storage behind an approved fence is acceptable).

In enforcing our Covenants your Board has adopted the following Guidelines.

1. As a general matter, the Board views vehicle parking at Hyland Greens, both on and off street, as a significant aspect of its responsibility to insure the maintenance of a high level of visual attractiveness in the community.

2. We believe the intent of both our covenants and City Ordinances is to minimize the amount of visual impact of any vehicle parking and, further, to minimize the incidence of any use of public streets for permanent (meaning repetitive as well as continuous) vehicle parking.

3. We recognize that, on occasion, the convenience of residents may require parking of a prohibited vehicle for short periods of time and that this may violate either the spirit or the letter of our Covenants.

4. It is our intent to attempt to deal with such violations in a reasonable and cooperative manner. However, it is the express intent of the Board to do all within its power to assure compliance with the spirit of our Covenants, which we interpret to mean minimization of the visual impact of parked vehicles.

5. In terms of process, the above means that: The Board, on its own initiative or on the complaint of a Hyland Greens resident, will initiate discussions with residents vehicle parking violates the covenants. In the event of continued violation, other than to accommodate the convenience of the resident as described under paragraph 3 above; we will then initiate proceedings to secure appropriate compliance. More specifically, we will take the following steps:



a. On the complaint of a resident, or on the initiative of the Board, a representative of the Board will discuss the violation with the homeowner.

b. If discussion does not produce satisfactory results, the homeowner will be provided with a written demand from the Board to refrain from violating the Covenants.

c. If this written demand does not produce satisfactory results, the Board may seek injunctive relief. In other words, the Board may then seek a court order to prevent a continued violation of the parking covenant. It should be noted that because the purpose of a preliminary injunction is generally to grant "emergency relief," the court procedures in such cases are expedited.

The Board will work with the City officials, as may be appropriate, to develop ordinances that assist in achieving an appropriate balance between the convenience of the residents of Hyland Greens and the maintenance of our present high level of visual attractiveness.