

# **Operating Procedures**

**Of the Horse Creek Homeowners Association**

**April 8, 2006**

**Revised: April 12, 2007**

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## 1. Revision History

<b>Date</b>	<b>Action</b>
8 April 06	Initial version drafted by R. Martin, Don Musel, Doug Musel and Alma Musel
12 April 07	Spelling corrections and the addition of Appendixes A through H, by Don Musel

## **2. Purpose of this Operating Procedures Manual**

1. The purpose of this manual is to clarify and standardize the Operating Procedures of the Horse Creek Ranch Homeowner Association (HCRHA) and the Board of Directors of that Association.
2. The Operating Procedures outlined herein may never supercede the Deed restrictions and Bylaws of the HCRHA. Any time these Operating Procedures are in conflict with those Bylaws or Deed restrictions, the Bylaws and the Deed restrictions take precedence.

### **3. Adoption and Amendment of Operating Procedures**

- A. The adoption or amendment of these Operating Procedures requires a majority vote by a quorum of the Board of Directors at any Board meeting.

## 4. Architectural Control Committee (ACC)

### A. Membership

- a. Including the Chairperson, there will be not more than six ACC members.
- b. Any member of the Architectural Control Committee (ACC) must be paid-in-full for their HCRHA dues.
- c. The Chairperson of the ACC.
  - i. The ACC Chairperson will be an HCRHA Board member.
  - ii. The ACC Chairperson will serve as Chairperson for a single year, but may be re-elected in subsequent years.
  - iii. The ACC Chairperson is elected by a majority vote of the Board (as outlined in the HCRHA bylaws),
    1. at each Annual Board meeting, or
    2. when the incumbent Chairperson resigns, or
    3. when the incumbent Chairperson is removed from office by the Board.
- d. The non-chairperson committee members.
  - i. Non-chairperson ACC committee members must be members of HCRHA, but need not be a Board member.
  - ii. ACC non-chairpersons will serve for three years, but may be re-elected.
  - iii. Appointment of non-chairperson positions to the ACC will be accomplished by:
    1. nomination of the member by the ACC Chairperson or Board member, and
    2. confirmation by the Board (by majority vote).
- e. Removal from the ACC committee will be accomplished by a simple vote of the Board.

### B. Responsibilities of the ACC

- a. The ACC will approve or reject building plan projects submitted by HCRHA property owners, based on the deed restrictions as defined in the HCRHA bylaws and contracts.
- b. The ACC will be responsible for the investigation of Deed restrictions violations.
- c. While exercising the duties of the ACC (usually in investigating a deed restriction violation), **ACC members will under no circumstances enter a property without the property owner's expressed consent.**

### C. Procedure to investigate / rule on Deed restriction violations.

- a. Any alleged deed restriction violation may only be submitted by an HCRHA member.
- b. Reports of alleged deed restriction violations must be reported to the ACC Chairperson in writing. Verbal reports will not be accepted. That violation complaint must include, in writing:
  - i. the name and property/tract of the person reporting the violation (this identifying information will not be sent to the owner of the property in alleged violation),
  - ii. the current date,
  - iii. the date the violation was witnessed,

- iv. the identification of the tract, either by tract number or owner, allegedly in violation,
  - v. the specific section number reference of the deed restriction in violation, and
  - vi. a description of why the deed restriction is in violation.
- c. The ACC Chairperson, upon receipt of the written complaint, will instruct the Secretary to send a letter to the complainant, acknowledging receipt of the complaint stating that the alleged violation is under investigation. (See **Appendix A: Sample of Receipt of Complaint of Deed Restriction Letter.**)
- d. The ACC Chairperson or a designee will contact and meet with complainant to discuss and, if possible, view the alleged violation.
- e. If further investigation of the complaint leads the ACC Chairperson to determine that the complaint is without merit:
- i. The ACC Chairperson will instruct the Secretary to send a letter to the complainant, signed by the President, ruling on the rejection of the complaint. (See **Appendix B: Sample of Rejection of Complaint of Deed Restriction Violation Letter.**)
  - ii. The ACC Chairperson will report this complaint and its rejection to the Board at the next Board meeting.
- f. If the ACC Chairperson determines the complaint is either a clear violation or unsure whether a violation exists, they will report the possible violation to the HCRHA Executive Committee (President, Vice President, Secretary/Treasurer).
- i. If the HCRHA Executive Committee, in conjunction with the ACC Chairperson, decides there is no violation:
    - 1. The ACC Chairperson will instruct the Secretary/Treasurer to send a letter to the complainant, signed by the President, ruling on the rejection of the complaint. (See **Appendix B: Sample of Rejection of Complaint of Deed Restriction Violation Letter.**)
    - 2. The ACC Chairperson will report this ruling to the Board at the next Board meeting.
  - ii. If the HCRHA Executive Committee decides there is a violation, they will notify the Board at the next Board meeting to announce pursuance of a violation action. This pursuance of action may not move forward without the approval (majority vote) of the Board.
  - iii. When the Board pursues a violation action, the Secretary will send a letter to the owner of the property in violation, signed by the President, confirming the finding of Deed restriction violation. (See **Appendix C: Sample of Ruling of Deed Restriction Violation Letter.**)
  - iv. The owner of the property in question will be required to reply within 21 calendar days with either:
    - 1. a plan which will correct the violation within 45 calendar days, or
    - 2. a request for a hearing to challenge the claim of alleged violation.
  - v. If the owner requests a hearing to challenge the claim, the President will call a special meeting of the Board within the next 21 calendar days, to hear the rebuttal by the owner. This meeting will require a quorum of HCRHA Board members to attend. Voting on the matter will conclude at the end of that meeting, and will be by secret ballot of the Board and require a majority vote.

- vi. If the owner replies with a plan to correct the violation, the President will present the plan at the next Board meeting for the Board to either accept or reject the plan.
- vii. If the plan to correct the violation is accepted by the Board:
  - 1. The President will send a letter to the property owner acknowledging acceptance of plan. (See **Appendix D: Sample of Acceptance of Plan to Remedy Deed Restriction Violation Letter.**)
  - 2. The ACC Chairperson will monitor completion of the plan and report to the Board when completed. At this point the President will send a letter to the property owner acknowledging they are no longer in violation of the deed restriction in question. (See **Appendix F: Sample of Fulfillment of Remedy of Deed Restriction Violation Letter.**)
- viii. If the plan to correct the violation is rejected by the Board, the President will send a letter to the property owner stating that the plan is unacceptable and needs to be revised and resubmitted to the Board within 21 calendar days. (See **Appendix E: Sample of Rejection of Plan to Remedy Deed Restriction Violation Letter.**)
- ix. If subsequently submitted plans are deemed unacceptable by the Board, they may either:
  - 1. allow resubmission of the plan by the owner, or
  - 2. notify the property owner that the Board is pursuing remedy of the violation. (See **Appendix G: Sample of Board Pursuit of Remedy of Deed Restriction Violation Letter.**)
- g. If the owner of the property does not reply to the original **Ruling of Deed Restriction Violation** within 21 calendar days, the President will request that the Secretary send a letter, signed by the President, reiterating confirmation of deed restriction violation. This letter will be registered by the US Post Office, requiring confirmation of receipt. (See **Appendix H: Sample of Reiteration of Confirmation of Deed restriction Violation Letter.**) The letter will require response by the owner within 21 calendar days.
- h. If the owner of the property in question does not reply to the **Reiteration of Confirmation of Deed restriction Violation** within 21 calendar days, the President will report to the Board at the next regularly scheduled or called Board meeting the details of the situation. At that point, the Board will decide the best way to pursue corrective action.



## **Appendix A: Sample Receipt of Complaint of Deed Restriction Violation Letter**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC Chairman has received your complaint and will investigate and hand his findings over to the Board of Directors.

In the event your complaint is found to be without merit you will receive another letter from the homeowners association explaining to you why the board is not pursuing further action on this matter.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

## **Appendix B: Sample Rejection of Deed Restriction Violation Letter**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC Committee has investigated the complaint you submitted against tract 19B and found the complaint without merit. Below is an explanation of their findings.

The HCRHA Chairman contacted the owners of tract 19B about the possibility that the storage shed that was constructed is too close to the side property line. The property owners agreed to let the chairman come out and measure the distance from the property line to the shed. The shed was measured at 27 feet from the property line to the nearest part of the building. The HCRHA deed restriction, article 7.9 only requires only 20 feet between a side property line and a structure. This structure is clearly outside that distance and thus not in violation of HCRHA deed restrictions.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

## **Appendix C: Sample Notice of Deed Restriction Violation Letter**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors is notifying you that you are **in violation** of the Deed Restrictions that govern your property located at Tract 19B, Horse Creek Ranch, Coryell County, Texas. The Deed Restrictions are in place for the benefit of all property owners in the Horse Creek Ranch Subdivision and are on file at the County Clerks Office in Coryell County, Texas.

In reference to the Deed Restrictions, which govern use of all land in Horse Creek Ranch, please note the item highlighted below. The following violations are in response to **several wrecked/junked automobiles on your property.**

**“Article 7.05** *No junk yard or wrecking yard may be operated or maintained on the property and no wrecked, junked, broken down, or inoperative automobile, truck, bus, motorcycle or other motor vehicle, boat, or trailer, or any part thereof, shall be placed or parked or be permitted to remain on or in front of the property so as to be visible from any street or highway or from any adjacent property.”*

You are required to reply in writing within 21 calendar days with either:

1. a plan which will correct the violation within 45 calendar days,
2. or a request for a hearing to challenge the claim of the violation.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

## **Appendix D: Sample Notice of Acceptance of Homeowner's Plan to Remedy Deed Restriction Violation**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors has approved your plan to remedy The deed restriction violation.

The Architectural control committee will continue to monitor your progress and when you have completed your plan you will be notified in writing that you are no longer in violation.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

## **Appendix E: Sample Rejection of Homeowner's Plan to Remedy Deed Restriction Violation Letter**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors feel your plan will not satisfactorily remedy the Deed Restriction Violation for the reason(s) stated below:

1. The time-line you have given of 180 days to remove the junk/salvage vehicles from your property is excessive.
2. All junk/salvage vehicles must be removed not just 8 of the 12 counted.

You will be given 21 days to revise and resubmit your plan to the Homeowners Association. If the plan is still deemed unacceptable you will be considered uncooperative and the Homeowners Association will move forward in pursuing corrective action at your expense.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

**Appendix F: Sample of Remedy Fulfillment for Deed Restriction Violation letter.**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors feel your plan was successfully implemented and the Deed Restriction Violation was adequately remedied.

The Deed Restrictions are set in place to protect all of the Horse Creek Ranch homeowner's property values and we thank you for your efforts to resolve this issue.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

## **Appendix G: Sample of Board to Implement Remedy of Deed Restriction Violation Letter.**

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors has determined that you are uncooperative and unwilling to remedy the Deed Restriction Violation noted on your property as stated below:

In reference to the Deed Restrictions, which govern use of all land in Horse Creek Ranch, please note the item highlighted below. The following violations are in response to **several wrecked/junked automobiles on your property.**

***“Article 7.05** No junk yard or wrecking yard may be operated or maintained on the property and no wrecked, junked, broken down, or inoperative automobile, truck, bus, motorcycle or other motor vehicle, boat, or trailer, or any part thereof, shall be placed or parked or be permitted to remain on or in front of the property so as to be visible from any street or highway or from any adjacent property.”*

At this point the Homeowners association is moving forward with and pursuing action to remedy the violation. All costs associated with the remedy of the violation, including any legal fees, will be itemized and billed to you. If payment in full is not received within 30 days, any unpaid balance will bear interest at the rate of ten percent (10%) annually. Non-payment could lead liens being filed on and/or foreclosure of your property.

The Deed Restrictions set in place are to protect all of the Horse Creek Ranch homeowner’s property values.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors

**Appendix H: Sample 2<sup>nd</sup> Notice of Deed Restriction Violation Letter**

# SECOND NOTICE!

Dear Landowner,

The Horse Creek Ranch Homeowners Association ACC and Board of Directors is **again** notifying you that you are **in violation** of the Deed Restrictions that govern your property located at Tract 19B, Horse Creek Ranch, Coryell County, Texas. The Deed Restrictions are in place for the benefit of all property owners in the Horse Creek Ranch Subdivision and are on file at the County Clerks Office in Coryell County, Texas.

In reference to the Deed Restrictions, which govern use of all land in Horse Creek Ranch, please note the item highlighted below. The following violations are in response to several wrecked/junked automobiles on your property.

***“Article 7.05*** *No junk yard or wrecking yard may be operated or maintained on the property and no wrecked, junked, broken down, or inoperative automobile, truck, bus, motorcycle or other motor vehicle, boat, or trailer, or any part thereof, shall be placed or parked or be permitted to remain on or in front of the property so as to be visible from any street or highway or from any adjacent property.”*

You are required to reply in writing within 21 calendar days with either:

1. a plan which will correct the violation within 45 calendar days,
2. or a request for a hearing to challenge the claim of the violation.

This is your second warning to comply. If you do not comply within the specified time, you will be considered uncooperative and the next step will require the Homeowners Association Board of Directors to take action to remedy the violation at your expense.

For questions contact me at 555-9987.

Thank You,

*John Smith*

**John Smith**  
President,  
HCRHA Board of Directors