

AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.  
Winstead, PC  
401 Congress Ave., Suite 2100  
Austin, Texas 78701  
Email: rburton@winstead.com



# WATER CREST ON LAKE CONROE

## DEVELOPMENT AREA DECLARATION

[RESIDENTIAL]

**Declarant:** D. R. HORTON – TEXAS, LTD., a Texas limited partnership

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828 in the Official Public Records of Montgomery County, Texas.

Table of Contents

**ARTICLE 1 DEFINITIONS ..... 2**

**ARTICLE 2 USE RESTRICTIONS ..... 2**

2.01 Single-Family Use Restrictions ..... 2

2.02 Subdividing..... 3

2.03 Hazardous Activities ..... 3

2.04 Insurance Rates ..... 3

2.05 Noise ..... 3

2.06 Animals - Household Pets ..... 4

2.07 Rentals ..... 4

2.08 Rubbish and Debris ..... 4

2.09 Trash Containers ..... 5

2.10 Drainage ..... 5

2.11 Maintenance..... 5

2.12 Street Landscape Area-Owner’s Obligation to Maintain Landscaping ..... 6

2.13 Antennae ..... 6

2.14 Location of Permitted Antennas ..... 7

2.15 Signs ..... 7

2.16 Flags – Approval Requirements ..... 8

2.17 Flags – Installation and Display ..... 8

2.18 Tanks..... 9

2.19 Temporary Structures..... 10

2.20 Outside Storage Buildings ..... 10

2.21 Unsightly Articles; Vehicles ..... 10

2.22 Mobile Homes, Travel Trailers and Recreational Vehicles ..... 11

2.23 Basketball Goals; Permanent and Portable..... 11

2.24 Liability of Owners for Damage to Common Area ..... 11

2.25 Shared Fences Between Lots..... 11

2.26 Retaining Walls ..... 12

2.27 Playscapes and Sports Courts ..... 13

2.28 Decorations and Lighting ..... 13

2.29 Compliance with Documents..... 14

2.30 No Warranty of Enforceability ..... 14

**ARTICLE 3 CONSTRUCTION RESTRICTIONS ..... 14**

3.01 Construction of Improvements ..... 14

3.02 Garages ..... 15

3.03 Fences; Sidewalks..... 15

3.04 Building Restrictions ..... 15

3.05	Construction Activities.....	15
3.06	Roofing .....	16
3.07	Swimming Pools .....	16
3.08	Compliance with Setbacks.....	17
3.09	Solar Energy Device.....	17
3.10	Rainwater Harvesting Systems .....	18
3.11	Xeriscaping .....	20
<b>ARTICLE 4 DEVELOPMENT .....</b>		<b>21</b>
4.01	Notice of Applicability .....	21
4.02	Withdrawal of Land .....	22
4.03	Assignment of Declarant's Rights .....	22
<b>ARTICLE 5 GENERAL PROVISIONS .....</b>		<b>22</b>
5.01	Term .....	22
5.02	Eminent Domain .....	23
5.03	Amendment .....	23
5.04	Enforcement and Nonwaiver .....	24
5.05	Higher Authority .....	24
5.06	Severability .....	24
5.07	Conflicts.....	24
5.08	Gender .....	25
5.09	Acceptance by Owners.....	25
5.10	Notices .....	25
5.11	Interpretation.....	25

**DEVELOPMENT AREA DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**[WATER CREST ON LAKE CONROE, RESIDENTIAL]**

This Development Area Declaration for Water Crest on Lake Conroe, [Residential] (the "Development Area Declaration") is made by D. R. HORTON – TEXAS, LTD., a Texas limited partnership (the "Declarant"), and is as follows:

**RECITALS**

A. Declarant previously recorded that certain Water Crest on Lake Conroe Master Covenant, recorded as Document No. \_\_\_\_\_, in the Official Public Records of Montgomery County, Texas (the "Covenant").

B. Pursuant to the Covenant, Declarant served notice that portions of the Property may be made subject to one or more Development Area Declarations upon the filing of one or more Notices of Applicability in accordance with *Section 9.05* of the Covenant, and once such Notices of Applicability have been filed, the portions of the Property described therein will constitute the Development Area and will be governed by and fully subject to this Development Area Declaration in addition to the Covenant.

A Development Area is a portion of Water Crest on Lake Conroe which is subject to the terms and provisions of the Covenant. A Development Area Declaration includes specific restrictions which apply to the Development Area, in addition to the terms and provisions of the Covenant.

C. Upon the further Recording of one or more Notices of Applicability, portions of the Property identified in such notice or notices will be subject to the terms and provisions of this Development Area Declaration. The Property made subject to the terms and provisions of this Development Area Declaration will be referred to herein as the "Development Area".

**NOW, THEREFORE**, it is hereby declared: (i) those portions of the Property as and when made subject to this Development Area Declaration by the filing of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; and (ii) each contract or deed conveying those portions of the Property which are made subject to this Development Area Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed;

and (iii) that this Development Area Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Covenant.

## ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Development Area Declaration will have the meanings hereinafter specified:

**“Solar Energy Device”** means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

Any other capitalized terms used but not defined in this Development Area Declaration shall have the meaning subscribed to such terms in the Covenant.

## ARTICLE 2 USE RESTRICTIONS

All of the Development Area will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

**2.01 Single-Family Use Restrictions.** The Development Area shall be used solely for single family residential purposes. The Development Area may not be used for any other purposes without the prior written consent of the Declarant, which consent may be withheld by the Declarant in its sole and absolute discretion.

No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Development Area, except an Owner or Occupant may conduct business activities within a residence so long as: (i) such activity complies with all Applicable Law; (ii) participation in the business activity is limited to Owner(s) or Occupant(s) of a residence; (iii) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business within the Development Area, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Development Area; (v) the business does not, in the Board’s judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Development Area which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Development Area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of

the Development Area as may be determined in the sole discretion of the Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the residence nor the Lot will be considered open to the public. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

Leasing of a residence shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

**2.02 Subdividing.** No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Water Crest on Lake Conroe Reviewer.

**2.03 Hazardous Activities.** No activities may be conducted on or within the Development Area and no Improvements may be constructed on or within any portion of the Development Area which, in the opinion of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Development Area unless discharged in conjunction with an event approved in advance by the Water Crest on Lake Conroe Reviewer and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Development Area may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

**2.04 Insurance Rates.** Nothing shall be done or kept on the Development Area which would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area or the Special Common Area, or the Improvements located thereon, without the prior written approval of the Board.

**2.05 Noise.** No exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any portion of the Development Area. No noise or other nuisance shall be permitted to exist or

operate upon any portion of the Development Area as to be offensive or detrimental to any other portion of the Development Area or to its Occupants. Without limiting the generality of the foregoing, if any noise or nuisance emanates from any Improvement on any Lot, the Association may (but shall not be obligated to) enter any such Improvement and take such reasonable actions necessary to terminate such noise (including silencing any burglar or break-in alarm).

**2.06 Animals - Household Pets.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Development Area (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such as pot-bellied pigs, miniature horses, chickens, exotic snakes or lizards, ferrets, monkeys, or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner or Occupant may keep on a Lot more than three (3) cats and dogs, in the aggregate. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Development Area other than within the residence, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Development Area. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Development Area, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside areas. All pet waste will be removed and appropriately disposed of by the owner of the pet. All pets must be registered, licensed and inoculated as required by Applicable Law. All pets not confined to a residence must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Development Area.

**2.07 Rentals.** Nothing in this Development Area Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all rentals must be for terms of at least six (6) months. All leases shall be in writing. The Owner must provide to its lessee copies of the Documents. Notice of any lease, together with such additional information as may be required by the Board, will be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease.

**2.08 Rubbish and Debris.** As determined by the Water Crest on Lake Conroe Reviewer no rubbish or debris of any kind may be placed or permitted to accumulate on or

within the Development Area, and no odors will be permitted to arise therefrom so as to render all or any portion of the Development Area unsanitary, unsightly, offensive, or detrimental to any other property or Occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

**2.09 Trash Containers.** Trash containers and recycling bins must be stored in one of the following locations:

- (a) inside the garage of the single-family residence constructed on the Lot; or
- (b) behind the single-family residence or fence constructed on the Lot in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Lot.

The Water Crest on Lake Conroe Reviewer shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

**2.10 Drainage.** There shall be no interference with the established drainage patterns or detention areas over any of the Development Area, including the Lots, except by Declarant, unless adequate provision is made for proper drainage, and such provision is approved in advance by the Water Crest on Lake Conroe Reviewer. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

**2.11 Maintenance.** The Owners of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. The Board, in its sole discretion, shall determine whether a violation of the maintenance obligations set forth in this *Section 2.11* has occurred. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner, as determined by the Board, in its sole discretion:

- (i) Prompt removal of all litter, trash, refuse, and wastes.
- (ii) Lawn mowing.
- (iii) Tree and shrub pruning.
- (iv) Watering.



- (v) Keeping exterior lighting and mechanical facilities in working order.
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (vii) Keeping planting beds free of turf grass.
- (viii) Keeping sidewalks and driveways in good repair.
- (ix) Complying with Applicable Law.
- (x) Repainting of Improvements.
- (xi) Repair of exterior damage, and wear and tear to Improvements.

**2.12 Street Landscape Area-Owner's Obligation to Maintain Landscaping.** Each Owner will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the curb of any adjacent right-of-way, street or alley (the "**ST Landscape Area**") unless the responsibility for maintaining the ST Landscape Area is performed by the Association.

**2.13 Antennae.** Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, nor any solar energy system, may be erected, maintained or placed on a Lot without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that:

- (i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or
- (ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
- (iii) an antenna that is designed to receive television broadcast signals;

(collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Water Crest on Lake Conroe Reviewer consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish,

or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development.

**2.14 Location of Permitted Antennas.** A Permitted Antenna may be installed solely on the Owner's Lot and may not encroach upon any street, Common Area, Special Common Area, or any other portion of the Development Area. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Development Area, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Water Crest on Lake Conroe Reviewer are as follows:

(i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Water Crest on Lake Conroe Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, e.g., DirecTV or Dish satellite dishes, are permitted, HOWEVER, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Water Crest on Lake Conroe Reviewer from time to time. Please contact the Water Crest on Lake Conroe Reviewer for the current rules regarding installation and placement.

**2.15 Signs.** Unless otherwise prohibited by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the Water Crest on Lake Conroe Reviewer except for:

(i) signs which are permitted pursuant to the Design Guidelines or Rules;

(ii) signs which are part of Declarant or Homebuilder's overall marketing, sale, or construction plans or activities for the Development Area;

(iii) one (1) temporary "For Sale" sign placed on the Lot. The sign must be professionally made and shall be limited to a maximum face area of five

(5) square feet on each visible side and, if free standing, is mounted on a single or frame post. The overall height of the sign from finished grade at the spot where the sign is located may not exceed four (4) feet. The sign must be removed within two (2) business days following the sale or lease of the Lot;

(iv) political signs may be erected provided the sign: (a) is erected no earlier than the 90<sup>th</sup> day before the date of the election to which the sign relates; (b) is removed no later than the 10<sup>th</sup> day after the date of the election to which the sign relates; and (c) is ground-mounted. Only one sign may be erected for each candidate or ballot item. In addition, signs which include any of the components or characteristics described in Section 202.009(c) of the Texas Property Code are prohibited;

(v) a religious item on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame), provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches;

(vi) permits as may be required by legal proceedings; and

(vii) permits as may be required by any governmental entity;

An Owner or Occupant will be permitted to post a “no soliciting” and “security warning” sign near or on the front door to their residence, provided, that the sign may not exceed twenty-five (25) square inches.

For Lease and For Rent signs are expressly prohibited.

**2.16 Flags – Approval Requirements.** An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university (“**Permitted Flag**”) and is permitted to install a flagpole no more than five feet (5’) in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence (“**Permitted Flagpole**”). Only two (2) permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Water Crest on Lake Conroe Reviewer. Approval by the Water Crest on Lake Conroe Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot (“**Freestanding Flagpole**”).

**2.17 Flags – Installation and Display.** Unless otherwise approved in advance and in writing by the Water Crest on Lake Conroe Reviewer, Permitted Flags, Permitted Flagpoles and

Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

(i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height

(iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');

(iv) With the exception of flags displayed on Common Area or Special Common Area and any Lot which is being used for marketing purposes by a Homebuilder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;

(v) The display of a flag, or the location and construction of the flagpole must comply with Applicable Law, easements and setbacks of record;

(vi) Any Permitted Flagpole and Freestanding Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction thereof and harmonious with the dwelling;

(vii) Any Permitted Flag, Permitted Flagpole, and Freestanding Flagpole must be maintained in good condition and any deteriorated Permitted Flag or deteriorated or structurally unsafe Permitted Flagpole or Freestanding Flagpole must be repaired, replaced or removed;

(viii) A Permitted Flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring Lot; and

(ix) Any external halyard of a Permitted Flagpole or Freestanding Flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the Permitted Flagpole or Freestanding Flagpole.

**2.18 Tanks.** The Water Crest on Lake Conroe Reviewer must approve any tank used or proposed in connection with a residence, including tanks for storage of fuel, water, oil, or liquid petroleum gas (LPG), and including swimming pool filter tanks. No elevated tanks of

any kind may be erected, placed or permitted on any Lot within the Development Area without the advance written approval of the Water Crest on Lake Conroe Reviewer. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Water Crest on Lake Conroe Reviewer. This provision will not apply to a tank used to operate a standard residential gas grills.

**2.19 Temporary Structures.** No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Development Area without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant, approval to include the nature, size, duration, and location of such structure.

**2.20 Outside Storage Buildings.** Outside storage buildings located in a fenced rear yard of a Lot within the Development Area are allowed with the prior written approval of the Water Crest on Lake Conroe Reviewer. One (1) permanent storage building will be permitted if: (1) the surface area of the pad on which the storage building is constructed is no more than eighty (80) square feet; (ii) the height of the storage building measured from the surface of the Lot, is no more than seven (7) feet; (iii) the exterior of the storage building is constructed of the same or substantially similar materials and of the same color as the principal residential structure constructed on the Lot within the Development Area; (iv) the roof of the storage building is the same material and the color as the roof of the principal residential structure constructed on the Lot within the Development Area; and (v) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation.

**2.21 Unsightly Articles; Vehicles.** No article deemed to be unsightly by the Board will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden maintenance equipment shall be kept at all times except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Development Area except within enclosed structures or appropriately screened from view. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag shall

be permitted to remain visible on any Lot or to be parked on any roadway within the Development Area.

No garage may be permanently enclosed or otherwise used for habitation unless approved in advance by the Water Crest on Lake Conroe Reviewer.

**2.22 Mobile Homes, Travel Trailers and Recreational Vehicles.** No mobile homes, travel trailers or recreational vehicles shall be parked or placed on any street, right of way, Lot or used as a residence, either temporary or permanent, at any time. However, such vehicles may be parked temporarily for a period not to exceed seventy-two (72) consecutive hours during each two (2) month period. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Water Crest on Lake Conroe Reviewer shall be permitted.

**2.23 Basketball Goals; Permanent and Portable.** Portable basketball goals may be used in unfenced yards and on private driveways in Water Crest on Lake Conroe Reviewer during periods of active play, if the portable goals are removed from sight when not in use. Portable basketball goals must be maintained in good condition and repair, and may not be placed in any ROW. If determined unsightly by the Water Crest on Lake Conroe Reviewer or placed in the ROW, the Association may cause the basketball goals to Water Crest on Lake Conroe Reviewer be removed without liability for damage to said equipment. Basketball goals may not be permanently installed on a Lot.

**2.24 Liability of Owners for Damage to Common Area.** No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area or the Special Common Area without the prior written approval of the Board. Each Owner shall be liable to the Association for any and all damages to: (i) the Common Area, the Special Common Area, and any Improvements constructed thereon; or (ii) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such Owner or Owner's family, or by any tenant or other Occupant of such Owner's Lot, or any guest or invitee of such Owner or Occupant. The full cost of all repairs of such damage shall be an Individual Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided in *Section 5.12* of the Covenant.

**2.25 Shared Fences Between Lots.** The concept of shared fences is intended to be more space-efficient, material efficient, and cost-efficient than each Owner separately fencing his own Lot, with two fences abutting. Sharing fences requires cooperation and flexibility by and between Owners of adjoining Lots. A fence located on or near the dividing line between two Lots and intended to benefit both Lots is subject to the terms of this *Section 2.25* and constitutes a "Party Wall". To the extent not inconsistent with the provisions of this *Section 2.25*,

shared fences are subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) Encroachments & Easement. If the fence is on one Lot or another due to an error in construction, the fence is nevertheless deemed to be on the dividing line for purposes of this Section. Each Lot sharing a fence is subject to an easement for the existence and continuance of any encroachment by the fence as a result of construction, repair, shifting, settlement, or movement in any portion of the fence, so that the encroachment may remain undisturbed as long as the fence stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the fence.

(b) Right to Repair. If the fence is damaged or destroyed from any cause, the Owner of either lot may repair or rebuild the fence to its previous condition, and the owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt fence.

(c) Right of Access. The Owner of the Lot on each side of the fence hereby grants to the Owner of the Lot on the other side of the fence a reciprocal access easement for maintenance, repair, replacement, or reconstruction of the fence, as appropriate and necessary to effect the purposes and provisions of this Section.

(d) Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the fence, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the fence, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the fence, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Montgomery County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

(e) Alterations. The Owner of a Lot sharing a fence may not cut openings in the fence or alter or change the fence in any manner that affects the use, condition, or appearance of the fence to the other Lot, without the prior written consent of the Owner of the other Lot. Unless both Owners reach a mutual decision to the contrary, the fence will always remain in the same location as where initially erected.

**2.26 Retaining Walls**. As originally constructed, retaining walls within Water Crest on Lake Conroe may be located wholly or partly (a) within an individual Lot, (b) on or near the

boundary between two residential Lots, (c) on or near the boundary between a residential Lot and a Common Area, or (d) on or near the boundary between a residential Lot or Common Area and real property outside the Development or the Property. For the retaining walls located on or near boundaries, each configuration may present different issues for the Owners on each side of the boundary. The terms and provisions relating to use, maintenance, repair and/or reconstruction of retaining walls are set forth below in the Retaining Wall Supplement, attached and incorporated herewith as Appendix A-1 to this Development Area Declaration, and in the Retaining Wall Maintenance Specifications, attached and incorporated herewith as Appendix A-2 to this Development Area Declaration. To the extent not inconsistent with the provisions of the Retaining Wall Supplement and the Retaining Wall Maintenance Specifications, retaining walls on or near boundaries between two tracts of land are subject to the general rules of law regarding party and retaining walls, and the corresponding liability for property damage due to negligence, willful acts, or omissions.

**2.27 Playscapes and Sports Courts.** Playscapes and sport courts are permissible at the sole discretion of the Water Crest on Lake Conroe Reviewer. If allowed, these facilities must be properly sited and screened so as to minimize the visual and audio impact of the facility on adjacent properties. Sport Courts may not be lighted or enclosed with netting. Tennis courts are not permitted.

**2.28 Decorations and Lighting.** Unless otherwise permitted by *Section 2.15(v)*, no decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the Water Crest on Lake Conroe Reviewer. Customary seasonal decorations for holidays are permitted without approval by the Water Crest on Lake Conroe Reviewer but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any street unless otherwise approved by the Water Crest on Lake Conroe Reviewer.

**2.29 Water Quality Facilities, Drainage Facilities, Drainage Ponds.** The Property may include one or more water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Property and are inspected, maintained and administered by the Montgomery County MUD #126 in accordance with all Applicable Laws. Access to these facilities and ponds is limited to persons engaged by the Association or the Montgomery County MUD #126 to periodically maintain such facilities. Each Owner is advised that the water quality facilities, sedimentation, drainage and detention facilities and ponds are an active utility feature integral to the proper operation of the Property and may periodically hold standing water. Each Owner is advised that entry into the water quality