



12/CS (2)

**SUPPLEMENTAL DECLARATIONS RELATING TO RAIN BARRELS AND RAIN HARVESTING SYSTEMS, SOLAR ENERGY DEVICES, STORM AND ENERGY EFFICIENT SHINGLES, FLAGS, POLITICAL SIGNS, RELIGIOUS ITEMS, AND COMPOSTING**

THE STATE OF TEXAS §  
  §  
COUNTY OF COMAL                   §

I, Darryl G. Stegemoller, President of the Kings Point Property Owners Association, Inc., do hereby certify that at a meeting of the Members of the Kings Point Property Owners Association, Inc. duly called and held on the 9<sup>th</sup> day of November 2013, with at least a quorum of the Members being present and remaining throughout, and being duly authorized to transact business, the following "Supplemental Declarations Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, Political Signs, Religious Items, and Composting" were duly approved by proper vote of the Members.

**RECITALS**

1. Chapter 202 of the Texas Property Code was amended to add sections relating to rain barrels and rain harvesting systems, solar energy devices, storm and energy efficient shingles, flags, political signs, religious items, and composting.
2. The amendments relating to solar energy devices, storm and energy efficient shingles, flags, and religious items became effective on June 17, 2011, and the amendments relating to rain barrels, rain harvesting systems, and composting became effective on September 1, 2011.
3. The Members of the Kings Point Property Owners Association, Inc. desires to adopt supplemental and amended declarations and guidelines relating to rain barrels and rain harvesting systems, solar energy devices, storm and energy efficient shingles, flags, and religious items consistent with the applicable provisions of Chapter 202 of the Texas Property Code and adopt and incorporate these supplemental declarations into the existing Declarations of the Kings Point Subdivision.

**SUPPLEMENTAL DECLARATIONS**

**SECTION 1. DEFINITIONS.**

- 1.1. "Association" shall mean and refer to the Kings Point Property Owners Association, Inc., a Texas non-profit corporation, its successors and assigns.
- 1.2. "Properties" shall mean and refer to that certain real property described in the Declarations of Covenants, Conditions and Restrictions of Kings Point Subdivision (Units 1 and 2), Kings Point North Subdivision (Unit 3), and Lots 1 and 2 Kings Point East, as supplemented or amended, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, as more fully described in the Declarations.

1.4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

1.5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.6. "Declarations" shall collectively mean and refer to (a) the Declaration of Covenants, Conditions and Restrictions executed on January 26, 1983, and recorded on January 26, 1983, in Volume 339, Page 497 of the Deed Records of Comal County, Texas and amended by the First Amended Declaration of Covenants, Conditions and Restrictions executed on August 10, 1984, and recorded in Volume 459, Page 331 and re-recorded in Volume 488, Page 17, Official Public Records of Comal County, Texas (Units 1 and 2), (b) the Declaration of Covenants, Conditions, and Restrictions of Kings Point Unit 3 Subdivision dated May 3, 2007, recorded as Document No. 200706018832 in the Official Public Records of Comal County, Texas (Kings Point North), and (c) Kings Point East Volume 261 at Page 94, Volume 275 at Page 424, Volume 285 at Page 494, Volume 339 at Page 497, Volume 459 at Page 331 and in Volume 488 at Page 17 of the Official Public Records of Comal County, Texas, as these may be supplemented or amended from time to time.

1.7. "KPPOA" means the Kings Point Property Owners Association, Inc. and its corresponding Architectural Control Committee, as identified in the Declarations.

## **SECTION 2. RAIN BARRELS AND RAIN HARVESTING SYSTEMS.**

Section 202.007 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing rain barrels or a rain harvesting system on the owner's lot. Section 202.007 of the Texas Property Code further provides that a property owners' association is not required to permit a rain barrel or rainwater harvesting system to be installed on a lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners.

The following shall be applicable to rain barrels and rain harvesting systems in Kings Point Subdivision:

2.1. Approval. In order to ensure a proposed rain barrel or rain harvesting device is in compliance with these Supplemental Declarations, an Owner shall apply to the Architectural Control Committee for prior approval. The Architectural Control Committee may require an Owner to remove a rain barrel or rain harvesting device that does not comply with the statutory provisions or the requirements of the Declarations and these Supplemental Declarations.

2.2. Location. A rain barrel or rain harvesting system is not permitted on a Lot between the front of the residential dwelling on the Lot and an adjacent street.

2.3. Color and Display. A rain barrel or rain harvesting system is not permitted:

A. Unless the color of the rain barrel or rain harvesting system is consistent with the color scheme of the residential dwelling on the Owner's Lot; or

B. If the rain barrel or rain harvesting system displays any language or other content that is not typically displayed by the rain barrel or rain harvesting system as it is manufactured.

2.4. Regulations if Visible. If a rain barrel or rain harvesting system is located on the side of the residential dwelling on the Lot or at any other location on the Lot that is visible from a street, another Lot, or a common area, the rain barrel or rain harvesting system must comply with the following regulations:

A. Rain Barrels:

(i) Size: A maximum height of forty-five (45) inches and a maximum capacity of sixty-five (65) gallons.

(ii) Type: A rain barrel that has the appearance of an authentic barrel and is either entirely round or has a flat back to fit flush against a wall. A rain barrel must have a manufactured top or cap to prevent or deter the breeding of insects and mosquitoes,

(iii) Materials: Wood, metal, polyethylene, terracotta or plastic resin designed to look like an authentic barrel in brown or other earth tone color.

(iv) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another Lot, and common area, unless otherwise approved in writing by the Architectural Control Committee.

(v) Downspout: The downspout which provides water to the rain barrel must be the same color and material as the gutters on the residential dwelling. Further, the downspout must be vertical and attached to the wall against which the rain barrel is located.

B. Rain Harvesting System:

(i) Type: Tank may be built (1.) to be attached to the house on the property and has the appearance of being part of the building or (2.) buried.

(ii) Size: The size is limited to (1.) when attached to the house, the entire construction including the roof or deck as in paragraph (iv) below must comply with the Association's maximum height restriction and building set restrictions for the lot. (2.) When built under ground, there is no size restriction.

- (iii) Material: Professionally built metal, polyethylene, concrete, fiberglass, or other professionally built material.
- (iv) Screening: (1.) An attached tank and associated piping and equipment must be surrounded by a wall constructed of a material and color consistent with the construction of the structure to which it is attached such as rock, stucco, etc., or in another fashion approved by the Architectural Control Committee, and covered with the same roofing material as the house, or by decking approved by the Architectural Control Committee. (2.) An underground tank must be covered with landscaping approved by the Architectural Control Committee.

### **SECTION 3. SOLAR ENERGY DEVICES.**

Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171,107 of the Tax Code, which defines the term as "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 power." 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.

The following shall be applicable to solar energy devices in the Kings Point Subdivision:

3.1. Approval. The installation of a solar energy device requires the prior written approval of the Architectural Control Committee; provided that, the Architectural Control Committee may not withhold approval if Section 3 of these Supplemental Declarations is met or exceeded, unless the Architectural Control Committee determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist. Architectural Control Committee may require an Owner to remove a solar energy device that does not comply with the statutory provisions or the requirements of the Declarations and these Supplemental Declarations.

3.2. Location. A solar energy device is not permitted anywhere on a Lot except on the roof of the residential dwelling or other permitted structure on the Lot or in a fenced yard or patio within the Lot.

3.3. Devices Mounted on a Roof. A solar energy device mounted on the roof of the residential dwelling or other permitted structure on a Lot:

- A. Shall not extend higher than or beyond the roofline;
- B. Shall conform to the slope of the roof and have a top edge that is parallel to the roofline;

C. Shall have frames support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and

D. Shall be located on the roof as designated by the Architectural Control Committee unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the Architectural Control Committee. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.

3.4. Devices Mounted on the Ground. A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio.

3.5. Warranties. A solar energy device shall not be installed on a Lot in a manner that voids material warranties.

3.6. Limitations. A solar energy device is not permitted on a Lot if, as adjudicated by a court it threatens the public health or safety or violates a law.

#### **SECTION 4. STORM AND ENERGY EFFICIENT SHINGLES.**

Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing shingles that:

(a) are designed to:

(i) be wind and hail resistant;

(ii) provide heating and cooling efficiencies greater than those provided by customary composition shingles; or

(iii) provide solar generation capabilities; and

(b) when installed:

(i) resemble the shingles used or otherwise authorized for use on property in the subdivision;

(ii) are more durable than and are of equal or superior quality to the shingles described below; and

(iii) match the aesthetics of the property surrounding the Owner's property.

4.1. Approval. In order to ensure the proposed shingles (new or replacement) conform to the foregoing description and are in compliance with these Supplemental Declarations, Owners shall apply to the Architectural Control Committee for prior approval. The Architectural Control Committee may require an Owner to remove shingles that does not comply with the statutory provisions or the requirements of the Declarations and these Supplemental Declarations.

4.2. Regulations. When installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in the Kings Point Subdivision. In addition, the storm or energy efficient shingles must match the aesthetics of the Lots surrounding the Lot in question.

## **SECTION 5. FLAGS.**

Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein.

The following shall be applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:

5.1. Approval. A flagpole that does not comply with all setbacks, above-ground flagpole stands and/or footings and illumination under Section 5.6 must be approved by the Architectural Control Committee. Additionally, in order to ensure a proposed flagpole conforms to the following standards, Owners shall apply to the Architectural Control Committee for prior approval. The Architectural Control Committee may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with the statutory provisions or the requirements of these Declarations.

5.2. Flag of the United States. The flag of the United States must be displayed in accordance with applicable provisions of 4 U.S.C. Sections 5-10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.

5.3. Flag of the State of Texas. The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things, the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States, and the display of the flag outdoors.

5.4. Flagpoles.

A. Not more than one (1) freestanding flagpole or flagpole attached to the residential dwelling or garage (on a permanent or temporary basis) is permitted on a Lot.

B. A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.

C. A flagpole attached to the residential dwelling or garage shall not exceed six (6) feet in length.

D. A flagpole, whether freestanding or attached to the residential dwelling or garage, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the residential dwelling on the Lot on which it is located.

E. A flagpole shall not be located in an easement or encroach into an easement.

F. A freestanding flagpole shall not be located nearer to a property line of the Lot than the applicable setbacks as either shown on the recorded plat or as set forth in the Declaration; provided, with prior Architectural Control Committee approval, a freestanding flagpole may be located up to five (5) feet in front of the front building setback line for a Lot. Above-ground stands and/or footings also require Architectural Control Committee approval in accordance with Section 5.1.

G. A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.

H. An Owner is prohibited from locating a flagpole on any Common Area or property owned or maintained by the KPPOA.

I. A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.

J. If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the Architectural Control Committee may require the installation of landscaping to screen the stand and/or footing from view.

#### 5.5. Flags.

A. Only the three (3) types of flags addressed in this Section shall be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall mounted flagpole as otherwise provided in architectural guidelines adopted by the KPPOA or as otherwise permitted by the Architectural Control Committee.

B. Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any given time.

C. The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the residential dwelling or garage shall be three (3) feet by five (5) feet.

D. The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.

E. A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.

F. A flag must be displayed on a flagpole. A flag shall not be attached to the wall of the residential dwelling or other structure on a Lot or a fence, or be displayed in a window of the residential dwelling or other structure on a Lot.

5.6. Illumination. Illumination of a flag is permitted but the lighting must be in-ground and have a maximum of 150 watts. High intensity lighting such as mercury vapor, high pressure sodium, or metal halide is not permitted. The lighting is required to be compatible with exterior lighting requirements within the Declarations and appropriate for a residential neighborhood. Lighting used to illuminate a flag shall be positioned in a manner so that the lighting is not directed toward an adjacent lot or a street adjacent to the Lot and does not otherwise unreasonably affect an adjacent lot.

5.7. Noise. An external halyard on a flagpole is required to be securely affixed to the flagpole so that it is not moved by the wind and thereby permitted to clang against the flagpole.

5.8. Holidays. Notwithstanding the above provisions: These Supplemental Declarations shall not prohibit or apply to temporary seasonal decorations or displays of flags related to certain patriotic holidays including Memorial Day, the Fourth of July, and Veterans Day as otherwise permitted in the Kings Point Subdivision.

## **SECTION 6. RELIGIOUS ITEMS.**

Section 202.018 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items, the display of which is motivated by the owner's or resident's sincere religious belief, except as otherwise provided therein.

The following shall be applicable to the display of religious items in the Kings Point Subdivision:

6.1. Approval. Any alteration to the entry door or door frame must first be approved by the Architectural Control Committee. The Architectural Control Committee may require an Owner to remove a religious item that does not comply with the statutory provisions or the requirements of the Declarations and these Supplemental Declarations.

6.2. Location. Except as otherwise provided in this Section or by statute, a religious item is not permitted anywhere on a Lot except on the entry door or door frame of the residential dwelling. A religious item shall not extend past the outer edge of the door frame.

6.3. Size. The religious item(s), individually or in combination with other religious items displayed or affixed on the entry door or door frame, shall not have a total size of greater than twenty-five (25) square inches.

6.4. Content. A religious item shall not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.

6.5. Limitation. A religious item shall not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.



6.6. Color of Entry Door and Door Frame. An Owner or resident is not permitted to use a color for an entry door or door frame of the Owner's or resident's residential dwelling or change the color of an entry door or door frame that is not authorized by the Architectural Control Committee.

6.7. Notwithstanding the above provisions:

A. The Architectural Control Committee shall have the authority to allow a religious statue, such as by way of example and not in limitation, a statue of St. Francis of Assisi or other religious item in a landscape bed or other portion of a Lot, and

B. These Supplemental Declarations shall not prohibit or apply to temporary seasonal decorations related to religious holidays as otherwise permitted in the Kings Point Subdivision.

## **SECTION 7. POLITICAL SIGNS.**

Section 202.009 of the Texas Property Code provides that a property owners' association may not adopt or enforce a provision in a dedicatory instrument that prohibits the display of signs advertising a political candidate or ballot item for an election except as otherwise provided therein. In accordance with the Texas Property Code, the following shall be applicable to signs for political candidates and ballot items for an election:

7.1. An owner may display on the owner's property one or more signs advertising a political candidate or ballot item for an election:

- (a) on or after the 90th day before the date of the election to which the sign relates; or
- (b) before the 10th day after that election date.

An owner may display only one sign for each candidate or ballot item.

7.2. In addition, the following limitations and restrictions apply to all signs advertising a political candidate or ballot item for an election:

- (a) All such signs must be ground-mounted. Such signs may not be displayed in any other manner on the owner's property.
- (b) No sign shall be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object.
- (c) Signs shall not contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component.
- (d) Signs shall not include the painting of architectural surfaces.
- (e) Signs shall not contain threats to the public health or safety.

- (f) Signs shall not violate any law.
- (g) Signs shall not contain language, graphics, or any display that would be offensive to the ordinary person.
- (h) Signs shall not be accompanied by music or other sounds or by streamers or are otherwise distracting to motorists.

7.3. Signs shall be no larger than four feet by six feet.

7.4. The Association shall have and reserves to itself the right to remove a sign displayed in violation of these restrictions and limitations.

## **SECTION 8. COMPOSTING.**

Section 202.007 of the Texas Property Code provides that a property owners' association may not adopt or enforce a provision in a dedicatory instrument that prohibits certain composting practices except as otherwise provided therein. In accordance with the Texas Property Code, the following shall be applicable to a property owner who implements measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass:

8.1. Without prohibiting the economic installation of any composting device on an owner's property, all such devices shall comply with all setbacks and not be located closer than 25 feet from any adjacent Lot or common area; and

- (a) Shall be properly maintained;
- (b) Shall be positioned in a manner so that the device does not unreasonably affect an adjacent Lot of any common area;
- (c) Shall be screened from visibility or shall be positioned on the owner's property in a location not visible from a street, another Lot, or a common area unless otherwise approved in writing by the Architectural Control Committee; and

8.2. To properly screen a composting device from visibility, the owner shall install visibility-restricting fence or wall one foot higher than the composting device or materials. Such fence or wall shall be constructed of wood, masonry, or metal approved by the Architectural Control Committee, be painted or stained to match the house or an earth tone color approved by the Architectural Control Committee, shall not to exceed current fence height restrictions for perimeter fencing, and shall be surrounded by evergreen plantings.

In the event of a conflict between a provision in the Declarations and a provision in these Supplemental Declarations, the provision in these Supplemental Declarations shall control.

I hereby certify that I am the duly elected, qualified and acting President of the Kings Point Property Owners Association, Inc. and that the foregoing Supplemental Declarations Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, Political Signs, and Religious Items was approved by proper vote of the Members of the Kings Point Property Owners Association, Inc. as set forth in the Declarations and now appears in the books and records of the Kings Point Property Owners Association, Inc. to be effective upon recording in the Official Public Records of Comal County, Texas.

IN WITNESS WHEREOF, I have subscribed my name in my official capacity as President of the Kings Point Property Owners Association, Inc.

EXECUTED this the 23 day of December 2013.

Kings Point Property Owners Association, Inc.

By: Darryl G. Stegemoller  
Darryl G. Stegemoller  
President

**CERTIFICATION**

I, the undersigned, do hereby certify:

THAT I am the duly elected Secretary of the Kings Point Property Owners Association, Inc., a Texas non-profit corporation; and

THAT the foregoing Supplemental Declarations Relating to Rain Barrels and Rain Harvesting Systems, Solar Energy Devices, Storm and Energy Efficient Shingles, Flags, and Religious Items were duly approved by the Members of the Association after proper notice at the annual meeting held on November 9, 2013, and thereafter adopted by the Board of Directors.

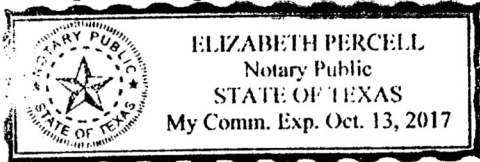
IN WITNESS WHEREOF, I have subscribed my name in my official capacity of Secretary of the Kings Point Property Owners Association, Inc.

Kings Point Property Owners Association, Inc.

By: *Shaunesse Clark*  
Shaunesse Clark  
Secretary

THE STATE OF TEXAS    §  
  §  
COUNTY OF COMAL    §

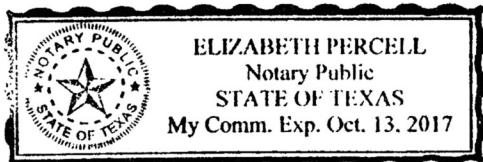
This instrument was acknowledged before me this 23 day of December 2013, by Darryl G. Stegemoller, President of the Kings Point Property Owners Association, Inc., a Texas non-profit corporation, on behalf of such corporation.



*Elizabeth Percell*  
Notary Public, State of Texas

THE STATE OF TEXAS    §  
  §  
COUNTY OF COMAL    §

This instrument was acknowledged before me this 23 day of December 2013, by Shaunesse Clark, Secretary of the Board of Directors of the Kings Point Property Owners Association, Inc., a Texas non-profit corporation, on behalf of such corporation.



*Elizabeth Percell*  
Notary Public, State of Texas

Filed and Recorded  
Official Public Records  
Joy Streater, County Clerk  
Comal County, Texas  
12/23/2013 02:21:12 PM  
CATHLEEN 12 Page(s)  
201306051802



*Joy Streater*