

Herons Glen Homeowners Association, Inc.

Dennisport Cul de Sac Gate Policy

Resolution of the Board of County Commissioners for Lee County #Z-12-025

Condition #26 Interconnection between Herons Glen and Magnolia Landing

An emergency only interconnection between Herons Glen and Magnolia Landing is permitted to remain on Avenida Del Vera Boulevard (Herons Glen Blvd), as depicted on the latest MCP. Another emergency / limited access interconnection is permitted at the Dennisport Lane and Magnolia Landing Lane intersection, as depicted for location purposes on the approved MCP, subject to compliance with the deviation requirements. The Dennisport Lane gate is intended to provide limited ingress/egress for the nine Dennisport Lane units on the south side of Magnolia Landing Lane. These interconnections shall serve both communities (Herons Glen and Magnolia Landing) for ingress and egress in emergency situations or where ingress or egress to the other community is blocked by emergency conditions in that community. Amended and updated Emergency Preparation Plans, to include emergency protocols for operation of these two gates, shall be submitted for County approval, when the Development Order request for the first gate(s) is made.

Declaration of Gate Covenant for Dennisport Lane Cul De Sac Instr #2011000058670

1.1 Purpose and Intent.

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The intended development plan will establish an emergency access only, security gate on the right-of-way of Dennisport Lane at a point on the North side of the intersection of Dennisport Lane and Magnolia Landing Lane. The gate is intended to provide direct access for the owners of the cul de sac lots for their ingress and egress between their lots and the balance of Herons Glen community by using a pass code, transponder or other similar security device, but will not allow general access for others between Magnolia Landing and Herons Glen, except during emergencies as such may be determined by the Rec District and the HOA, or Lee County.

#1.3 Benefited Parties.

This Gate Covenant is made specifically for the benefit of the Rec District and the HOA to protect them from claims of illegal limitation or denial of access by the owners of the Dennisport cul de sac lots after the installation of the proposed gate. This Gate Covenant shall be enforceable by the Rec District or the HOA, and their respective legal representatives, heirs, successors, and assigns, for a term of 30 years from the date this Gate Covenant is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Gate Covenant or otherwise without the consent of the holder of such easement.

For means of ingress and egress from the Dennisport Cul de sac homes to the North side of Herons Glen by any method of travel the access is provided by use of a gate remote.

Policy

The Dennisport gate, structures, signage, operation and maintenance are paid for as a common expense of the Herons Glen Homeowners Association, Inc. (HOA). The limited access through the gate is exclusively provided to the Dennisport Cul de sac property owners except for emergencies where the gates will be opened during the emergency or emergency responder access. Two gate remotes will be provided to each property as a common expense. All additional remotes for a property will be issued according to rules established in this policy.

Gate remotes will be issued as follows:

- The Herons Glen HOA will provide two gate remotes for each property lot located on the Dennisport Cul de sac for the limited access Dennisport gate. The cost will be charged as an HOA common expense.

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- Each additional resident living in the home and registered with the HOA as an occupant may apply for a gate remote. Upon approval by the HOA Board the gate remote will be issued and charged as an HOA common expense.
- If the property lot has more than two vehicles registered with the HOA and has a barcode applied from the HOA, the property owner may apply to purchase a gate remote for each additional vehicle.

Leased Units- in accordance with Declaration of Covenants, Conditions and Restrictions

Owners who lease their Units shall be deemed to have delegated their rights to use the Common Property to the lessee of the Unit as more particularly described in and subject to the Rules and Regulations.

- Owners shall provide the appropriate number of their assigned gate remotes to the tenants for ingress/egress.
- Owners shall include with the required rental forms submitted to the Association, the number of gate remotes provided to the tenants and the serial number of each remote.

Gate Remotes, Registration & Use

- Gate remotes have serial numbers and gate registration numbers. The numbers are encoded in the gate operator.
- Before a gate remote is issued the serial and registration number is recorded in the lot owner's record.
- A form indicating the gate remote serial and registration number is provided to the owner to sign to acknowledge receipt of the gate remote. If a remote is purchased, the date, check number and amount paid will be included on the form.
- The property owner(s), occupants, and tenants are not permitted to give the remote out for use by their guests, invitees, and or any type of visitor or vendor.
- Non-working gate remote(s) must be returned to the HOA Office. The remotes have a limited manufacturer warranty. If not covered under warranty, replacement cost will be at the price indicated on the Dennisport Gate Form. Battery replacement is the owner's responsibility.

All Gate remotes issued are the property of the Herons Glen HOA Gate remotes are issued for the exclusive use by the owners, occupants of the household, and tenants. The gate remotes must be returned to the HOA when the occupant no longer resides in the home. The property lot will be charged for remotes that are not returned to the HOA. Any fees charged for the gate remotes are nonrefundable except when the property is sold, the seller may be eligible for a refund of purchased gate remotes if the gate remote was purchased and paid for after May 2024 and all of the following requirements are met.

- All remotes issued for the property are returned to the HOA Office.
- Remote was not a replacement purchased for a remote that was initially provided at no charge.
- Owner is the purchaser of the remote.
- Remote serial number is readable on the remote
- Remote is in good condition and working.

If all gate remotes are not returned, the owner will not be eligible to receive a refund for qualifying remotes purchased.

A fee will be charged to the property and paid for by the seller for all gate remotes issued and paid for as an HOA common expense that are not returned prior to transfer of ownership. Gate remote fees will be charged according to the fee listed on most recent approved Dennisport Gate Form.

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New owners will receive two gate remotes upon registration with the HOA Office. Any gate remotes from prior seller given to new owners or found after closing must be returned to the HOA Office.

The Herons Glen HOA having control of the common properties may from time to time find it necessary to change this policy, the control system or to install an upgrade to the existing system or to install an entirely new system. If a change to the gate system occurs where the existing gate remotes will no longer work, the following will be applied:

- Owners shall return for an audit all remotes issued.
- Refunds for gate remotes purchased within 12 months prior to a system change will receive a refund if the property owner returns all gate remotes issued. Gate remotes purchased over 12 months before the change will not be refunded.

Violations of this policy will be subject to enforcement as authorized by the Governing documents and the Florida Statutes.

As provided in the Boundary Agreements, Declaration of Gate Covenant and by the Lee County DRI the property owners of the lots listed above may use Herons Glen and Magnolia Landing entrances for entry and exit. Guests, service companies and vendors are to be directed to use the Magnolia Landing entrance for entry and exit to Dennisport Cul de Sac properties. Magnolia Landing will permit waste collection, mail service, Federal Express Service and other services and deliveries to the owners within the Dennisport Cul de Sac.

*Adopted at the 10/15/2014 HOA Board Meeting
Amended at the 7/12/2023 HOA Board Meeting
Amended at the 9/11/2024 HOA Board Meeting*