

HOME DEPOT'S RESTRICTIONS ON USE

5.1. Home Improvement Store Restrictions. No portion of the Shopping Center other than the Home Depot Parcel shall be used for a home improvement center or for any business that sells, displays, leases, rents or distributes the following items or materials, singly or in any combination: lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper and other wall coverings, carpeting and other floor coverings, tile (including ceramic tile), cabinets, siding, ceiling fans, gardening supplies, artificial and natural plants, light fixtures, nursery products, major home appliances (including, without limitation, stoves, dishwashers, washing machines, dryers, microwave ovens, refrigerators and freezers), patio furniture, pool supplies, barbeque grills and accessories, lawnmowers, Christmas trees and other related items customarily carries by a home improvement center, except for the incidental sale of such items. An "incidental sale of such items" is one in which there is no more than the lesser of (i) five percent (5%) of the total Floor Area of such business, or (ii) 1,000 square feet of sales and/or display area, relating to such items individually or in the aggregate. Nothing herein shall be deemed to prohibit the operation of Ivan Smith Furniture, Linens 'N Things, Bed Bath & Beyond, Pier One Imports, Crate and Barrel, Pottery Barn, The Container Store, Kohls, Marshalls, T.J. Maxx, Best Buy, Circuit City, Michaels, MJ Designs, JoAnn's, Amber's, Hobby Lobby, Leslie's Pool Store, Office Depot, Staples, PETCO or PetSmart, or other similar retail stores. The provisions of this Section 5.1(a) shall run with the land, shall exist for the maximum period permitted by applicable law, shall be recorded against Owner's Land and each other property owned or controlled by Owner and located within two (2) miles of the outer boundaries of the Shopping Center; provided however, that the provisions of the Section 5.1(a) shall terminate automatically if the Home Depot Parcel ceases to be used as a home improvement center and/or garden center for a period of eighteen (18) consecutive months.

5.2. Shopping Center Restrictions.

(a) No portion of the Shopping Center other than the Home Depot Parcel shall be used for any non-retail use. No portion of the Shopping Center shall be used for any of the following purposes: a surplus store; gun range; the sale of guns as a primary use; car wash facility or gasoline station [provided, however, that the car wash facility and gasoline station restriction shall not apply to the Home Depot Parcel and shall not apply to one (1) pad site along Highway 30 west of Cajun Road]; a warehouse; an animal kennel; theater, auditorium, sports or other entertainment viewing facility (whether live, film, audio/visual or video); bowling alley; skating rink; fitness center, workout facility, gym, health spa or studio, or exercise facility [provided, however, that the fitness center, workout facility, gym, health spa or studio, or exercise facility restriction shall not prohibit the operations of one (1) such facility with less than ten thousand (10,000) square feet of Floor Area on any portion of the Developer Parcel other than those portions of Developer Parcel labeled Retail B, Retail C, and Retail D]; Restaurants that derive more than thirty-five percent (35%) of their gross sales from alcohol sales [provided, however, that notwithstanding the foregoing alcohol sales restriction, one (1) Restaurant operating on an Outparcel or on the Developer Parcel may derive up to forty percent (40%) of its gross sales from alcohol sales, and further provided that the 35% and 40% limits shall be increased for changes in Governmental Regulations (including but not limited to, taxes and license fees) which increases the percentage of gross sales from alcohol sales above the 35% and 40% limits.]; business office usage (defined as any office that does not provide services directly to a consumer) other than incidental in connection with non-prohibited uses; retail office usage, which for purposes hereof is defined as any office that provides services directly to consumers, including but not limited to real estate, stock brokerage and title companies, travel and insurance agencies, and medical, dental and legal clinics [provided, however, that such retail office usage restriction shall not prohibit operation of (i) retail office only on the portion of Developer Parcel labeled Retail A, Pad 1 or Pad2 as long as the aggregate of such retail office in such areas shall not exceed fifteen thousand (15,000) square feet of the total Floor Area, provided however that upon expiration of seven (7) years from the day Home Depot opens for business to the public, the square footage of retail office space shall not be limited to 15,000 square feet, and/or (ii) retail banking operations on an Outparcel or on Developer Parcel other than the portion of the Developer Parcel labeled Retail B, Retail C and Retail D]; provided however, that the provisions of this Section 5.2(a) shall terminate automatically if the Home Depot Parcel ceases to be used as a home improvement center and/or garden center for a period of eighteen (18) consecutive months.