

AMENDED BYLAWS

OF

MUSTANG BEACH UNIT 1 PROPERTY
OWNERS ASSOCIATION, INC.

Cross reference to Vol. 1064, page 206 and Doc. No.2010042729

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Article I. AUTHORITY & PURPOSES

Section 1.01 Recital of Authority

These Bylaws ("Bylaws") govern the affairs of **MUSTANG BEACH UNIT 1 PROPERTY OWNERS ASSOCIATION, INC.** ("Association") organized under the Business Organizations Code ("BOC") as authorized in the paragraph on page 8 of the Original Declaration at Vol. 1064, page 206. The Association amends its Bylaw and adopts these Bylaws under the authority of Article 13 of the Bylaws recorded at Doc. No. 2010042729

Section 1.02 Purposes of Association

The following are the purposes for which this Association has been organized:

1. To maintain the channels and waterways in said subdivision;
2. To have architectural control of the subdivision; and
3. To preserve the property values within the subdivision.

Article II. DEFINITIONS

Section 2.01 Bylaws

"Bylaws" mean these Bylaws and any properly adopted amendments.

Section 2.02 Covenants

"Covenants" means instrument recorded at Vol. 1064, page 206, property records Nueces County, Texas.

Section 2.03 Subdivision

"Subdivision" means all of the real property located in **Mustang Beach Unit 1**, a subdivision of Nueces County, Texas as shown by the plat filed as Volume 29, pages 5 & 6 in the map records of Nueces County, Texas.

Section 2.04 Lot

“Lot” means any real property available for constructing a residence or home in the Subdivision.

Section 2.05 Owner

“Owner” means any natural person or entity, such as a corporation, partnership, limited liability company, or trust, that holds fee simple title to any Lot in the Subdivision. To be an Owner, the name of the natural person or entity must appear on a deed. An entity must designate in writing one natural person to act as the “Owner” on behalf of the entity for voting purposes. The entity must supply the full name and other information, such as an address or drivers license number, to permit the Association to confirm the identity of the designated individual. The spouse of an Owner, whose name does not appear on a deed, is not an Owner for purposes of board membership or voting.

Section 2.06 Association & Members

“Association” means the non-profit corporation known as Mustang Beach Unit 1. The members are any Owners of real property located in the Subdivision.

Section 2.07 Board

“Board” means the Association’s board of directors as defined in Article V of the Bylaws.

Section 2.08 BOC

“BOC” means the Texas Business Organizations Code.

Section 2.09 Property Code

“Property Code” means the Texas Property Code.

Article III. OFFICES

Section 3.01 Registered Office

The Association is a non-profit corporation comprised of property owners in the Subdivision. The Association has no rented space and no reason to have an “office” per se. The “office” of the corporation is the residence of the secretary of the association but the official address shall be: P.O. Box 929, Port Aransas, TX 78373.

Section 3.02 Registered Agent

The registered agent of the corporation shall be either the 1) Association secretary (as defined in Article IV of the Bylaws) or 2) the Association's attorney, or a similar independent agent. The Association president has the full authority to select the registered agent and need not seek approval from the Board or other Owners. If the president or secretary is the registered agent, the address for the agent must be the residential address of the president or secretary within the Subdivision.

Article IV. MEMBERS

Section 4.01 Membership

Any Owner, or fractional owner, of a Lot in the Subdivision is automatically a member of the Association. Lien holders are not members of the Association. Membership terminates automatically when an Owner no longer owns an interest in a Lot.

Section 4.02 Proof of Membership

When proof of membership is required by these Bylaws, an Owner may prove ownership of a Lot by: a deed, a title insurance policy, a current property tax bill, or a court order.

Section 4.03 Burden to Provide Association with Information

Each Owner, regardless of the share of ownership in a Lot, must provide within 30 days of acquiring a Lot current contact information to the Association. This contact information shall include 1) full first and last name, 2) the current residential address (no P.O. Boxes), 3) the telephone number. The member may provide an email address.

If an Owner provides an email address, the Owner gives the Association permission to use the email address to provide any written notices required by Texas law, the Covenants, or these Bylaws.

It is the sole responsibility of the Owner to provide the Association with the contact information in this paragraph and must update any change the information, including email address, within 30 days of a change. Under no circumstances will the Association be required to seek out and obtain contact information, update the contact information, or be responsible for or prejudiced by for using outdated information if the Owner has not

timely supplied or updated contact information.

Article V. BOARD OF DIRECTORS

Section 5.01 Number & Authority

The number of directors of the Association is seven. The number of directors may be increased up to a maximum of seven but never decreased below three. The Board shall have the control and management of the affairs and business of this Association. Such Board shall only act in the name of the Association when it shall be convened by its chairperson after due notice to all the directors of such meeting.

Section 5.02 Term

The terms for the directors shall be two years. The terms of the directors may never be increased but may be decreased. The directors to be chosen for the ensuing year shall be chosen at the annual meeting of the Owners by vote of the Owners.

Section 5.03 Qualifications

All board members must be property Owners. Pursuant to Property Code section 209.00592, all Owners may run for a position on the board. The only exception permitted is if the board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the Association, automatically considered removed from the board, and prohibited from future service on the board.

Section 5.04 Candidacy

In any year in which a directorship position is open for an election, the Association shall notify the Owners in the annual meeting notice or the agenda. To aid the Association in determining who intends to run for the board and to draft appropriate ballots or other documents for the election, anyone desiring to run shall provide the Association with a written notice (“Notice to Run”) to place the Owner’s name on the list of persons running for the Board position. An Owner must provide a Notice to Run as soon as practical after receiving the meeting notice or notice of a director’s vacancy. An Owner who fails to provide a timely Notice to Run may not be included on the ballot. These notice provisions are intended to ensure no Owner is denied the right to vote for a director by providing the Association with enough time to create required written ballots prior to an annual meeting. For this reason, an Owner not providing the Association with a Notice

to Run risks not being included on the list of candidates.

Section 5.05 Vacancy

All board members must be elected by the Owners. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member. To make an appointment under this section, the board must call a special meeting under Sections 8.01 & 8.02, and at the meeting, a majority of the remaining directors must agree on the appointment. In the event a situation arises where all of the directorships but one qualify for appointment under this paragraph, the sole remaining director may make one appointment unilaterally and then the appointment provisions of this section must be followed.

Section 5.06 Removal

A director may be removed when sufficient cause exists for such removal. The Board may entertain charges against any director. A director may be represented by counsel at any removal hearing. The Board of Directors shall adopt such rules as it may, in its discretion, consider necessary for the best interests of the Association for this hearing.

Section 5.07 Administration, Powers, & Management

The Association shall be managed by the board of directors. The directors shall have powers given to a non-profit corporation in the BOC and all of the powers given to an Association board in Chapter 204, section 204.010 of the Property Code. The Bylaws incorporate section 204.010 as if fully set forth in this paragraph. To the extent any of the provisions of the BOC or section 204.010 conflict with the Covenants, the Covenants control. The president of the Association, by virtue of the office, shall be chairperson of the Board.

Article VI. OFFICERS

Section 6.01 Number, Titles & Qualification

The officers of the Association shall be a President, Secretary, and Treasurer and must be members of the Board. The Association may also have, at the discretion of the Board, one or more additional vice presidents or other officers as the board may designate. One person may hold two or more offices, except that of President. The President, Secretary, and Treasurer must be members of the board; any other officers created by the board are not required to be board members.

Section 6.02 Election & Term

The officers shall be elected by a majority vote of the board at an annual board meeting. The term of each officer shall be two years.

Section 6.03 Resignation & Removal

Any officer may be removed, either with or without cause, by a majority vote of the Board, at any regular or special meeting of the Board. Any officer may resign at any time by giving written a notice of resignation to the Board. Any resignation shall take effect on the date of receipt of the notice unless the notice specifies another time.

Section 6.04 Vacancy

If the office of the President, Secretary, Treasurer, or other officer (if any) becomes vacant by reason of death, resignation, removal, or otherwise, the Board of Directors shall elect a successor who shall hold office for the unexpired term, and until his successor is elected. The Board must call a meeting under Sections 8.01 & 8.02 to fill the vacancy.

Section 6.05 President

Subject to such supervisory powers, if any, as may be given by the Board, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board, have general supervision, direction, and control of the business and officers of the corporation, and shall have the general powers and duties as may be prescribed by the Board or the bylaws. Within this authority and in the course of his duties the President shall:

- (a) Conduct Meetings. Preside at and conduct all meetings of the Board.
 - (b) Execute Instruments. When authorized by the Board or required by law, execute, in the name of the corporation deeds, conveyances, notices, leases, checks, drafts, bills of exchange, warrants, promissory notes, bonds, debentures, contracts, and other papers and instruments in writing. Unless the Board shall order otherwise by resolution, the President has the power to make such contracts as the ordinary conduct of the corporation's business may require. The President, however, must obtain approval by majority vote of the Board to enter into a contract that is more than one year in duration or more than \$5,000.00.
 - (c) Hire and Fire Employees. Appoint and remove, employ and discharge, and prescribe the duties
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and fix the compensation of all agents, employees, and clerks of the corporation other than the duly appointed officers subject to the approval of the Board of Directors, all of the officers, agents, and employees of the corporation.

Section 6.06 Secretary

The Secretary shall attend all board meetings and all meetings of the Members and keep minutes of these meetings. The Secretary shall give, or cause to be given, notice of all meetings of the members or the board of any type, and shall perform such other duties as may be prescribed by the Board in a resolution.

Section 6.07 Treasurer

The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association, and deposit all such funds in the name of the Association in such banks, trust companies, or other depositories as shall be selected by the Board. As part of the responsibilities, the Treasurer shall receive, and give receipt for, moneys due and payable to the Association from any source whatever; disburse the funds of the Association as may be directed by the Board. The Treasurer shall keep and maintain adequate and correct accounts of the corporation's business transactions and shall perform such other duties as may be prescribed by the Board in a resolution.

Section 6.08 Power to Sign Certain Documents

The President, Secretary, or Treasurer has the power and authority to sign any document or form required by law to be filed with the secretary of state, office of the comptroller, or recorded in the Nueces County property records.

Article VII. MEMBER MEETINGS

Section 7.01 Annual Meeting & Failure to Call Meeting

(a) The Association must have an annual meeting of the Owners. The date of the meeting shall be determined by the board, and notice of the meeting provided according to section 7.02. The meeting shall be held in the Subdivision or at a location within the city limits of Port Aransas, Texas between the hours of 9 am and 5 pm on any day but a federal or Texas State holiday.

(b) If a board of the Association does not call an annual meeting of the association members, an

owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand. The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the Association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.

(c) If the board does not call a meeting of the members of the Association on or before the 30th day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.

(d) A notice filed by an election committee must contain:

- (1) a statement that an election committee has been formed to call a meeting of owners who are members of the Association for the sole purpose of electing board members;
- (2) the name and residential address of each committee member; and
- (3) the name of the subdivision over which the Association has jurisdiction under a dedicatory instrument.

(e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.

(f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.

(g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.

(h) The election committee may call meetings of the owners who are members of the Association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the Association apply to any meeting called by the election committee.

Section 7.02 Election of Directors

Each directorship, in an uncontested election, shall be an individual election. Under no circumstances shall directors be proposed and voted for as a slate or group. Directors shall be elected only at an association-wide meeting of the Owners.

Section 7.03 Notice Requirement

Not later than the 10th day or earlier than 60th day before the date of an election or vote, the Association shall give written notice of the vote or election to:

- (1) each owner of property in the Association, for purposes of an association-wide election or vote; or
- (2) each owner of property in the Association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the Association with the authority to elect or appoint board members of the Association.

The Association may provide the notice required in this Section by email to any Owner that provides the Association with an email address.

Section 7.04 Voting

Every Owner must have the right to vote. However, voting is on a per-lot basis. Each lot is entitled only to one vote on any issue or any election. Thus, the total number of votes to be cast on any issue or in any election shall not exceed the total number of Lots in the Subdivision. Cumulative voting, or pooling of votes, is not permitted. For example, an Owner cannot pool the votes available for three directorships and apply them as a vote for only one director or pool votes available on all issues on the ballot and apply them to one issue.

Section 7.05 Manner of Voting & Ballots

All votes, except in an uncontested association-wide election, must be in writing and signed by the Owner. The signed ballot must identify the issue or person for which the written, signed ballot is cast. Any of the electronic voting methods in this section, under Texas law, are defined as written, signed ballots for purpose of this section.

- (a) The voting rights of an owner may be cast or given:
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- (1) in person or by proxy at a meeting of the Association;
- (2) by absentee ballot in accordance with this section;
- (3) by electronic ballot in accordance with this section; or
- (4) by any method of representative or delegated voting provided by a dedicatory instrument.

(b) An absentee or electronic ballot:

- (1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;
- (2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and
- (3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

- (1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
- (2) instructions for delivery of the completed absentee ballot, including the delivery location; and
- (3) the following language: “By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail.”

(d) For the purposes of this section, “electronic ballot” means a ballot:

(1) given by:

- (A) e-mail;
- (B) facsimile; or
- (C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

Section 7.06 Vote Recount Procedures

(a) Owner shall have the right to a recount of votes as follows:

(b) Any Owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the Association's mailing address as reflected on the latest management certificate filed under Section 209.004; or

(2) in person to the Association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The Association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

- (A) a current or former:
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- (i) county judge;
 - (ii) county elections administrator;
 - (iii) justice of the peace; or
 - (iv) county voter registrar; or
- (B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections (b) and (c). If the recount changes the results of the election, the Association shall reimburse the requesting owner for the cost of the recount. The Association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Section 7.07 Quorum & Quorum Requirement

The presence in person, proxy, or absentee ballot of more than 25% of the Owners constitutes a quorum for purposes of voting or conducting Association business. The majority vote of a quorum shall decide any question brought before the meeting, unless a law or provision of the Covenants or these Bylaws require a higher number of votes. In that case, the provision with the higher-vote requirement controls. An Owner can appear at a meeting and not be counted toward a quorum if the Owner provides the secretary with a written objection, to be placed in the meeting minutes, that questions whether the formalities to call the meeting have been met. Otherwise, the presence of the Owner at the meeting will be counted toward the quorum requirement.

Section 7.08 Act of the Association

Once a quorum is established, even a person or entity leaves the meeting before adjournment and a quorum otherwise would not be present as a result, the majority vote of the persons or entities remaining at such meeting constitutes an act of the Association on any business before it.

Section 7.09 Power to Call Meeting of the Association

In addition to the annual meeting, the president has the power to call a meeting of the members. The members, by a vote of more than 25% of the members, may also call a meeting of the members. All member meetings must comply with the notice requirements in Section 7.03.

Section 7.10 Failure to Comply with Notice Requirement

The notice provisions are designed to ensure the Owners can exercise their voting rights.

Therefore, if proven that the notice requirements were not substantially met by the Association, business conducted at the meeting with defective notice shall not be an act of the Association. This paragraph is intended to protect voting rights and not intended to provide a technical basis on which to invalidate a meeting. An attempt by the Association to substantially comply with the member-meeting notice requirements should be construed in favor of satisfying the notice requirements. Proof of notice containing an affirmative statement that the Association officials provided notice that complied with Section 7.03, signed by all Association officers and placed in the corporate records, shall create a presumption in favor of proper notice. Any Owner challenging notice has the burden to defeat this presumption by a preponderance of the evidence.

Article VIII. BOARD MEETINGS

Section 8.01 Open Meetings & Notice

(a) Any Board meeting shall be held according to this section.

(b) In this section:

(1) "Board meeting":

(A) means a deliberation between a quorum of the voting board of the Association, or between a quorum of the voting board and another person, during which the Association business is considered and the board takes formal action; and

(B) does not include the gathering of a quorum of the board at a social function unrelated to the business of the association or the attendance by a quorum of the board at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.

(c) Regular and special board meetings must be open to owners, subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that

was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

(c-1) Except for a meeting held by electronic or telephonic means under Subsection (h), a board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(d) The board shall keep a record of each regular or special board meeting in the form of written minutes of the meeting. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the Association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the board.

(e) Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

- (1) mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or
- (2) provided at least 72 hours before the start of the meeting by:

- (A) posting the notice in a conspicuous manner reasonably designed to provide notice to the Association members:

- (i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or
 - (ii) on any Internet website maintained by the association or other Internet media; and

- (B) sending the notice by e-mail to each owner who has registered an e-mail address with the association.

(f) It is an owner's duty to keep an updated e-mail address registered with the Association under Subsection (e)(2)(B).

(g) If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is

continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed by Subsection (e)(2)(A) within two hours after adjourning the meeting being continued.

(h) A board may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Subsection (e), if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, without prior notice to owners under Subsection (e), consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval; or
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue.

Section 8.02 Bi-Annual Meeting & Special Meetings

The Board shall have at least two (bi-annual), regularly scheduled meetings per year. The Board may call special meetings as specified in Section 8.01. The president has the power to unilaterally call special meetings. By a majority vote, the other Board members may also call a special meeting that conforms with the requirements of Section 8.01.

Section 8.03 Consent Without Meeting Allowed

Any action required or permitted to be taken by the Board under any provision of the BOC may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors. Any certificate or other document filed under any provision of

the BOC which relates to action so taken shall state that the action was taken by unanimous written consent of the Board to so act, and such statement shall be prima facie evidence of such authority.

Article IX. ASSOCIATION RECORDS

Section 9.01 Open Records

- (a) The records of the Association shall be open to all Members as described in this Section.
 - (b) This Section is taken almost verbatim from the Texas Property Code and includes some Property Code language describing the obligations of the Association, for example the obligation to create a document retention policy, to make cross-referenced obligations easier to understand.
 - (c) The Association shall make the books and records of the association, including financial records, open to and reasonably available for examination by an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records.
 - (d) Except as provided by this subsection, an attorney's files and records relating to the Association, excluding invoices requested by an owner under Property Code Section 209.008(d), are not records of the association and are not subject to inspection by the owner or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.
 - (e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Property Code Section 209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and:
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- (1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or
 - (2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.
 - (f) If the Association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:
 - (1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and
 - (2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.
 - (g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the Association to copy and forward to the requesting party.
 - (h) The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.
 - (i) The Association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Property Code Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and
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reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) The Association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

- (1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the Association; or
- (2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) The Association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

- (1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
 - (2) financial books and records shall be retained for seven years;
 - (3) account records of current owners shall be retained for five years;
 - (4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
 - (5) minutes of meetings of the owners and the board shall be retained for seven years; and
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- (6) tax returns and audit records shall be retained for seven years.
- (n) A member of the Association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:
- (1) a judgment ordering the Association to release or allow access to the books or records;
 - (2) a judgment against the Association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or
 - (3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the Association.
- (o) If the Association prevails in an action under Subsection (n), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.
- (p) On or before the 10th business day before the date a person brings an action against the Association under this section, the person must send written notice to the association of the person's intent to bring the action. The notice must:
- (1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Property Code Section 209.004; and
 - (2) describe with sufficient detail the books and records being requested.
- (q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

Section 9.02 Record Retention

As required by Texas Property Code Chapter 209, section 209.005, the Association has adopted and will abide by the following policies regarding its documents and records:

1. All certificates of formation, dedicatory instruments, restrictive covenants, bylaws and all
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amendments to these instruments will be kept with the Association's records indefinitely;

2. All financial books and records will be kept among the Association's records for a minimum of seven years. After seven years, the Association, in the sole discretion of the officers and board, may destroy the records;

3. Account records of current owners, that is the amounts billed, charged, or levied for any reason on an owner's property, and records of the owner's payments will be kept for a minimum of five years. After five years, the Association, in the sole discretion of the officers and board, may destroy the records;

4. Contracts with a term of one year or more shall be kept among the Association's records for four years after the expiration of the contract term. After four years, the Association, in the sole discretion of the officers and board, may destroy the records;

5. Minutes of meetings of the members and of the board of any type shall be kept among the Association's records for a minimum of seven years. After seven years, the Association, in the sole discretion of the officers and board, may destroy the records;

6. Tax returns and audit records shall be kept among the Association's records for a minimum of seven years. After seven years, the Association, in the sole discretion of the officers and board, may destroy the records;

No other association records are subject to a retention policy.

Section 9.03 Record Production and Copying Costs

As required by Texas Property Code Chapter 209, section 209.005, the Association has adopted the cost schedule for record production, copying, compiling, labor, materials, and overhead costs as set forth in 1 Texas Administrative Code §70.3 ("Code"). Charges from the Code for the most common and anticipated copying and production requests are set forth below; any charges not specifically set forth are incorporated from the Code by reference as if fully set forth..

1. Standard copies: 10 cents per page.

2. Non-standard copies larger than 11 x 17: 50 cents per page or the actual cost for copying irregular items, like a map.

3. CDs are \$1.00 each. DVDs are \$3.00 each.

4. Copy and compilation jobs of 50 pages or more are billed at \$15.00 per hour.
5. Computer programmer time to manipulate software or write programs to generate desired records is billed at \$28.50 per hour.
6. Overhead is billed whenever a labor charge is incurred and is billed at 20% of the labor charge. For example, if 1 hour (\$15.00) is incurred to gather records, an overhead charge of \$3.00 is added (1 hr of labor (\$15.00) + overhead charge (\$15.00 x 20% = \$3.00) = \$18.00.
7. Resale Certificates: The Association will charge a flat rate of \$100.00 to compile, copy, and produce the information required by Chapter 207 of Texas Property Code when properly requested.

Article X. ASSESSMENTS

Section 10.01 Payment Plan

The Association has adopted an alternative payment schedule (“Payment Plan”) for those owners unable to pay an assessment or other monies owed to the Association by the due date. The terms of the Payment Plan are as follows:

1. To begin the plan, the owner must request a payment plan in writing. The first payment will be due 15 days from the date a payment plan is requested and future payments 30 days from that date.
 2. All owners qualify for an automatic payment plan of an initial payment of 25% of the outstanding amount with the balance to be paid in 3 monthly installments, plus interest and a one-time fee of \$10.00 to administer the payment plan. Nothing prevents the owner from paying the entire balance in less than 3 months.
 3. Interest is calculated at the annual rate of 18% and shall be applied beginning in the first month.
 4. An owner may propose an alternate payment plan with a term no shorter than 3 months and no longer than 18 months. However, the Board, in its sole discretion, can approve or deny the plan. Any payment plan, other than the automatic plan described in paragraph 2, requires written approval from the association.
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5. If an owner defaults on a payment plan, the association is under no obligation to offer the owner another payment plan for two years.

An owner defaults on the Payment Plan if an installment payment is not received by the association within 3 business days of its due date.

Section 10.02 Order of Payment Application

(a) Except as provided by Subsection (b), a payment received by the Association from the owner shall be applied to the owner's debt in the following order of priority:

- (1) any delinquent assessment;
- (2) any current assessment;
- (3) any attorney's fees or third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;
- (4) any attorney's fees incurred by the association that are not subject to Subdivision (3);
- (5) any fines assessed by the association; and
- (6) any other amount owed to the association.

(b) If, at the time the Association receives a payment from a property owner, the owner is in default under a payment plan entered into with the association:

- (1) the association is not required to apply the payment in the order of priority specified by Subsection (a); and
- (2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Article XI. STATUTORY PROPERTY USE RESTRICTIONS

Section 11.01 Political Signs

(a) Except as otherwise provided by this section, the Association may not enforce or adopt a restrictive covenant, Bylaws, or Rules that prohibits a property owner from displaying on the owner's property one or more signs advertising a political candidate or ballot item for an election:

- (1) on or after the 90th day before the date of the election to which the sign relates; or
 - (2) before the 10th day after that election date.
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(b) The following restrictions on political signs apply:

- (1) the sign must be ground-mounted; and
- (2) the Owner may display only one sign for each candidate or ballot item;

(c) Signs that contain or involve the following are prohibited:

- (1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component;
- (2) is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;
- (3) includes the painting of architectural surfaces;
- (4) threatens the public health or safety;
- (5) is larger than four feet by six feet;
- (6) violates a law;
- (7) contains language, graphics, or any display that would be offensive to the ordinary person; or
- (8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

(d) The Association may remove a sign displayed in violation of subsections (b) or (c) in this Section.

Section 11.02 Solar Panels

(a) “Solar energy device” has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by Subsection (d), the Association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) The Association, in the discretion of the Board, may prohibit a solar energy device that:

- (1) as adjudicated by a court:
 - (A) threatens the public health or safety; or
 - (B) violates a law;
 - (2) is located on property owned or maintained by the Association;
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- (3) is located on property owned in common by the members of the Association;
- (4) is located in an area on the property owner's property other than:

- (A) on the roof of the home or of another structure allowed under a dedicatory instrument; or
 - (B) in a fenced yard or patio owned and maintained by the property owner;

- (5) if mounted on the roof of the home:

- (A) extends higher than or beyond the roofline;
 - (B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;
 - (C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or
 - (D) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;

- (6) if located in a fenced yard or patio, is taller than the fence line;
- (7) as installed, voids material warranties; or
- (8) was installed without prior approval by the Association.

(e) The Association may not withhold approval for installation of a solar energy device if the provisions of the dedicatory instruments to the extent authorized by Subsection (d) are met or exceeded, unless the Association determines in writing that placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. For purposes of making a determination under this subsection, the written approval of the proposed placement of the device by all property owners of adjoining property constitutes prima facie evidence that such a condition does not exist.

Section 11.03 Flag Display

(a) The Association may not, except as provided in this Section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

- (1) the flag of the United States of America;
- (2) the flag of the State of Texas; or
- (3) an official or replica flag of any branch of the United States armed forces.

(b) The Association has the following restrictions on flag display:

(1) The Association requires:

- (A) the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10;
 - (B) the flag of the State of Texas be displayed in accordance with Chapter 3100, Government Code;
 - (C) any flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling. The Board has discretion to determine if the flagpole complies;
 - (D) the display of a flag, or the location and construction of the supporting flagpole, to must comply with applicable zoning ordinances, easements, and setbacks of record; and
 - (E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;
- (2) unless approved by the Board in writing, each Lot is limited to one flagpole per property that is not more than 20 feet in height;
 - (3) the flag must be an appropriate size for the pole, which will be determined by the Board;
 - (4) all lighting of a flag must be approved by the Board prior to use and unless permission is granted in writing, the lighting shall be limited to one landscaping-style light that must be pointed away from the street or neighboring homes;
 - (5) any halyard must be secured such that it does not make generate noise by banging on the flagpole; and
 - (6) unless approved by the Board, an Owner may not display a flag on property:
 - (A) owned or maintained by the property owners' association; or
 - (B) owned in common by the members of the association.
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Article XII. VIOLATIONS OF COVENANTS, BYLAWS, OR RULES

Section 12.01 Notice Before Enforcement Action

(a) Before the Association may suspend an owner's right to use a common area, file a suit against an owner other than a suit to collect a regular or special assessment or foreclose under an association's lien, charge an owner for property damage, or levy a fine for a violation of the restrictions or bylaws or rules of the association, the association or its agent must give written notice to the owner by certified mail, return receipt requested.

(b) The notice must:

- (1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and
- (2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

(B) may request a hearing under Section 12.02 on or before the 30th day after the date the owner receives the notice.

(b) The notice must:

- (1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and
- (2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months;

(B) may request a hearing under Section 12.02 on or before the 30th day after the date the owner receives the notice; and

(C) may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the owner is serving on active military duty.

Section 12.02 Hearing Before Board

- (a) If the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the board of the Association or before the board if the board does not appoint a committee.
- (b) If a hearing is to be held before a committee, the notice prescribed by Section 12.01 must state that the owner has the right to appeal the committee's decision to the board by written notice to the board.
- (c) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting.
- (d) The notice and hearing provisions of Section 12.01 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Section 12.01 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.
- (e) An owner or the Association must use alternative dispute resolution services as described in Article xx for any dispute to which Section 12.01 and this Section apply.

Section 12.03 Attorneys Fees for Enforcement Actions

- (a) The Association may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the association relating to collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association only if the owner is provided a written notice that attorney's fees and costs will be charged to the owner if the delinquency or violation continues after a date certain.
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(b) An owner is not liable for attorney's fees incurred by the association relating to a matter described by the notice under Section 12.01 if the attorney's fees are incurred before the conclusion of the hearing under Section 12.02 or, if the owner does not request a hearing under that section, before the date by which the owner must request a hearing. The owner's presence is not required to hold a hearing under Section 12.02.

(c) All attorney's fees, costs, and other amounts collected from an owner shall be deposited into an account maintained at a financial institution in the name of the association or its managing agent. Only members of the association's board or its managing agent or employees of its managing agent may be signatories on the account.

(d) On written request from the owner, the association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the association seeks reimbursement of fees and costs.

(e) The notice provisions of Subsection (a) do not apply to a counterclaim of an association in a lawsuit brought against the association by a property owner.

(f) This Section does not prevent the Association from recovering or collecting attorney's fees in excess of limits imposed in this Section by other means provided by law.

Article XIII. FORECLOSURE

Section 13.01 Foreclosure & Prohibitions

The Association must use judicial foreclosure; non-judicial foreclosure is prohibited.

The Association may not foreclose the Association's assessment lien if the debt securing the lien consists solely of:

- (1) fines assessed by the association; or
- (2) attorney's fees incurred by the association solely associated with fines assessed by the association.

Section 13.02 Junior Lien Holder Notice Before Foreclosure

(a) The Association may not foreclose the Association assessment lien on real property unless the Association has:

(1) provided written notice of the total amount of the delinquency giving rise to the foreclosure to any other holder of a lien of record on the property whose lien is inferior or subordinate to the association's lien and is evidenced by a deed of trust; and

(2) provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the recipient receives the notice.

(b) Notice under this section must be sent by certified mail, return receipt requested, to the address for the lienholder shown in the deed records relating to the property that is subject to the Association assessment lien.

Section 13.03 Notice After Foreclosure Sale

(a) The Association that conducts a foreclosure sale of an owner's lot must send to the lot owner and to each lienholder of record, not later than the 30th day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the lot owner and each lienholder of record of the right of the lot owner and lienholder to redeem the property under Section 13.03.

(b) The notice must be sent by certified mail, return receipt requested, to:

(1) the lot owner's last known mailing address, as reflected in the records of the Association;

(2) the address of each holder of a lien on the property subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located; and

(3) the address of each transferee or assignee of a deed of trust described by Subdivision (2) who has provided notice to the Association of such assignment or transfer. Notice provided by a transferee or assignee to the Association shall be in writing, shall contain the mailing address of the transferee or assignee, and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the Association according to the mailing address of the Association pursuant to the most recent management certificate filed of record pursuant to Property Code Section 209.004.

(b-1) If a recorded instrument does not include an address for the lienholder, the association does not have a duty to notify the lienholder as provided by this section.

(b-2) For purposes of this section, the lot owner is deemed to have given approval for the association to notify the lienholder.

(c) Not later than the 30th day after the date the association sends the notice required by Subsection (a), the association must record an affidavit in the real property records of the county in which the lot is located, stating the date on which the notice was sent and containing a legal description of the lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit.

(d) The notice requirements of this section also apply to the sale of an owner's lot by a sheriff or constable conducted as provided by a judgment obtained by the Association.

Section 13.04 Right of Redemption

(a) The Association or other person who purchases occupied property at a sale foreclosing the Association's assessment lien must commence and prosecute a forcible entry and detainer action under Chapter 24 to recover possession of the property.

(b) The owner of property in a residential subdivision or a lienholder of record may redeem the property from any purchaser at a sale foreclosing the Association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner and the lienholder under Section 13.03. A lienholder of record may not redeem the property as provided herein before 90 days after the date the association mails written notice of the sale to the lot owner and the lienholder under Section 13.03, and only if the lot owner has not previously redeemed.

(c) A person who purchases property at a sale foreclosing the Association's assessment lien may not transfer ownership of the property to a person other than a redeeming lot owner during the redemption period.

(d) To redeem property purchased by the Association at the foreclosure sale, the lot owner or lienholder must pay to the association:

- (1) all amounts due the association at the time of the foreclosure sale;
 - (2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;
 - (3) costs incurred by the association in foreclosing the lien and conveying the property to the lot owner, including reasonable attorney's fees;
 - (4) any assessment levied against the property by the association after the date of the foreclosure sale;
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- (5) any reasonable cost incurred by the association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and
- (6) the purchase price paid by the association at the foreclosure sale less any amounts due the association under Subdivision (1) that were satisfied out of foreclosure sale proceeds.

(e) To redeem property purchased at the foreclosure sale by a person other than the Association, the lot owner or lienholder:

(1) must pay to the association:

- (A) all amounts due the association at the time of the foreclosure sale less the foreclosure sales price received by the association from the purchaser;
- (B) interest from the date of the foreclosure sale through the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;
- (C) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;
- (D) any unpaid assessments levied against the property by the association after the date of the foreclosure sale; and
- (E) taxable costs incurred in a proceeding brought under Subsection (a); and

(2) must pay to the person who purchased the property at the foreclosure sale:

- (A) any assessments levied against the property by the association after the date of the foreclosure sale and paid by the purchaser;
- (B) the purchase price paid by the purchaser at the foreclosure sale;
- (C) the amount of the deed recording fee;
- (D) the amount paid by the purchaser as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and
- (E) taxable costs incurred in a proceeding brought under Subsection (a).

(f) If a lot owner or lienholder redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the redeeming party a deed transferring the property to the lot owner. If a purchaser fails to comply with this section, the lot owner or lienholder may file an action against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner or the lienholder is the prevailing party in the action.

(g) If, before the expiration of the redemption period, the redeeming lot owner or lienholder fails

to record the deed from the foreclosing purchaser or fails to record an affidavit stating that the lot owner or lienholder has redeemed the property, the lot owner's or lienholder's right of redemption as against a bona fide purchaser or lender for value expires after the redemption period.

(h) The purchaser of the property at the foreclosure sale or a person to whom the person who purchased the property at the foreclosure sale transferred the property may presume conclusively that the lot owner or a lienholder did not redeem the property unless the lot owner or a lienholder files in the real property records of the county in which the property is located:

- (1) a deed from the purchaser of the property at the foreclosure sale; or
- (2) an affidavit that:

- (A) states that the property has been redeemed;
- (B) contains a legal description of the property; and
- (C) includes the name and mailing address of the person who redeemed the property.

(i) If the Association purchases the property at foreclosure, all rent and other income collected by the association from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the association under Subsection (d), and if there are excess proceeds, they shall be refunded to the lot owner. If a person other than the association purchases the property at foreclosure, all rent and other income collected by the purchaser from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the purchaser under Subsection (e), and if there are excess proceeds, those proceeds shall be refunded to the lot owner.

(j) If a person other than the Association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the lot owner, the purchaser shall obtain an affidavit from the association or its authorized agent stating that all amounts owed the association under Subsection (e) have been paid. The association shall provide the purchaser with the affidavit not later than the 10th day after the date the association receives all amounts owed to the association under Subsection (e). Failure of a purchaser to comply with this subsection does not affect the validity of a redemption.

(k) Property that is redeemed remains subject to all liens and encumbrances on the property before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien of the Association is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after redemption.

(l) If a lot owner makes partial payment of amounts due the association at any time before the redemption period expires but fails to pay all amounts necessary to redeem the property before the redemption period expires, the association shall refund any partial payments to the lot owner by mailing payment to the owner's last known address as shown in the association's records not later than the 30th day after the expiration date of the redemption period.

(m) If a lot owner or lienholder sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, the lot owner's or lienholder's right of redemption is extended until the 10th day after the date the association and any third party foreclosure purchaser provides written notice to the redeeming party of the amounts that must be paid to redeem the property.

(n) After the redemption period and any extended redemption period provided by Subsection (m) expires without a redemption of the property, the association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property is located stating that the lot owner or a lienholder did not redeem the property during the redemption period or any extended redemption period.

(o) The association or the person who purchased the property at the foreclosure sale may file an affidavit in the real property records of the county in which the property is located that states the date the citation was served in a suit under Subsection (a) and contains a legal description of the property. Any person may rely conclusively on the information contained in the affidavit.

(p) The rights of a lot owner and a lienholder under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the Association.

Article XIV. ALTERNATIVE DISPUTE RESOLUTION

Section 14.01 ADR Required

Any dispute between Owners or between and Owner and the Association, except disputes listed in Section 14.02, that relate in any way to the Covenants, Bylaws, or any rules made by the Board must be resolved by the provisions of this Section. All disputes must first be subjected to mandatory mediation in Nueces County, Texas. Mediation costs are to be borne by each respective party. If mediation is unsuccessful, the parties must submit the dispute to binding arbitration. The parties agree that this paragraph can be enforced under the Federal Arbitration Act. The parties must agree on an arbitrator. The arbitration must take place in Nueces County, Texas, and the

laws of the State of Texas shall apply. Discovery will be limited to the discovery permitted under Rule 190.2 (Level 1) of the Texas Rules of Civil Procedure. If a party institutes arbitration, the losing party shall pay all of the prevailing party's attorney's fees, costs, and expenses, including expert witness expenses, and any and all costs for the arbitration.

Section 14.02 Exceptions to ADR

The following disputes are exempt from Section 14.01: a suit or foreclosure proceeding by the Association to collect unpaid assessments or fines and a suit for emergency or injunctive relief by the Association to prevent a violation of the declaration or bylaws.

Article XV. OTHER USE RESTRICTIONS

Section 15.01 Bulkhead Maintenance

All bulkheads along the rear lot lines of a lot shall be maintained in a satisfactory and stable condition by the owner or purchaser of said lot, and no bulkhead shall be cut or impaired in any capacity without the express consent of the Architectural Control Committee.

Section 15.02 Architectural Control

No building, fence, dock or other structure shall be erected, placed or altered on any lot until the construction plans and specification and a plan showing the location of the structure have been approved by the Architectural Control Committee.

Article XVI. ATTORNEYS FEES

Section 16.01 Loser Always Pays

In the event of any formal legal proceeding (lawsuit or arbitration) between Owners or an Owner and the Association involving or relating in any way to the Covenants, Bylaws, or rules created by the Board, it is the intent of this Section that the loser pay all of the prevailing party's attorney fees, costs, and expenses. This specifically includes the situation where an Owner or the Association brings an enforcement action against an Owner and the party trying to enforce the restriction or rule loses.

Article XVII. COMMITTEES

Section 17.01 Appointment and Composition

All committees of this Association shall be appointed by the president and the term of office shall be for a period of two years or less if sooner terminated by the action of the president. The permanent committees are: The Architectural Control Committee (“ACC”).

Article XVIII. ORDER OF BUSINESS

Section 18.01 Annual Meetings

The order of business at the annual Owner’s meeting shall be: 1) roll call; 2) reading of the minutes of the preceding meeting; 3) reports of committees; 4) reports of officers; 5) old and unfinished business; 6) new business; 7) good and welfare; and 8) adjournments.

Section 18.02 Other Meetings

The Board shall have discretion to set the order of business at any other meeting.

Article XIX. DUES & ASSESSMENTS

Section 19.01 Generally

The recurring annual dues, assessments and including all special assessments of this Association shall be established by the Board. The Board shall also annually publish a schedule of fees and assessments deemed necessary to enforce the Covenants and conduct the business of the Association.

The annual dues of this Association shall be due and payable on March 30. Members who do not pay their annual dues by April 1 and who do not request or are ineligible for the Association’s Payment Plan shall incur interest at 12% per annum to be compounded monthly and shall be retroactive to January 1 of the year in which the dues accrued.

Special assessments shall be due and payable on such dates as established by the Board. Members who do not pay by the due date and do not request or are ineligible for the Association's payment plan shall incur interest at 12% per annum, compounded monthly and commencing on the due date for the assessment.

Section 19.02 Assessment Formula

As authorized by the Covenants, the Association establishes the assessment formula in the bylaws. The Association's current assessment formula is, and has been for years, a flat rate. Each lot pays \$150.00 as an annual assessment and \$150.00 for the dredging fund for a total of \$300.00 annual payment.

Section 19.03 Fiscal Year

The Association's fiscal year begins on January 1 and ends on December 31 of the same calendar year.

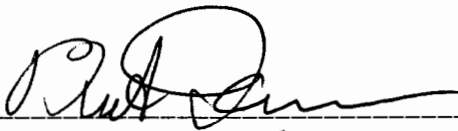
Article XX. AMENDMENTS

Section 20.01 Amending Requirements

The Association may amend these Bylaws by a vote of 51% the Members at an association-wide meeting. The amendments must be in writing, specify the Sections that are amended, deleted, or added, confirm that 51% of the Owners voted in favor, and must be signed and acknowledged (i.e. notarized) by the Association's president and one other officer. The amendments, with the acknowledged officer signatures, must be recorded in the property records of Nueces County, TX. The amending formalities in this Section must be strictly complied with and any defect will render the amendment void and unenforceable. A defect in the requirements of this paragraph will not affect the validity of this instrument because the adoption of it is controlled by the amending requirements of the then in effect bylaws.

Article XXI. SIGNATURES AND ATTESTATION

Adopted and approved by an affirmative vote of 51% of the Owners on this the 18th day of _____ 2012. Witnessed and attested to by the following officers on this the _____ day of February, 2012.


_____, President

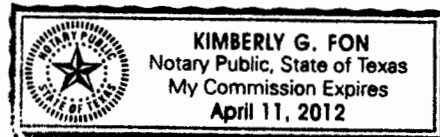

Susan Kennedy
Vice President Officer:

ACKNOWLEDGMENT

State of Texas)
)
County of Nueces)

Before me on this day personally appeared and is known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity stated for the purposes and consideration expressed.

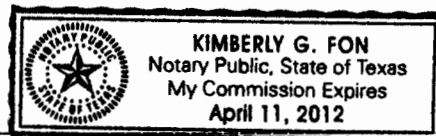
Given under my hand and seal of office this the 18th day of February, 2012



Notary Public in and for the State of Texas

Before me on this day personally appeared and is known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity stated for the purposes and consideration expressed.

Given under my hand and seal of office this the 18th day of February, 2012



Notary Public in and for the State of Texas

Before me on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity stated for the purposes and consideration expressed.

Given under my hand and seal of office this the _____ day of _____, 2011.

Notary Public in and for the State of Texas

When recording is complete please return recorded documents to:

✓ Mustang Beach Unit 1 Property Owners Association
PO Box 929
Port Aransas, Texas 78373

Doc# 2012006911
Pages 43
02/24/2012 2:34PM
Official Records of
NUECES COUNTY
DIANA T. BARRERA
COUNTY CLERK
Fees \$183.00

Any provision herein which restricts the Sale,
Rental or use of the described
REAL PROPERTY because of Race, Color,
Religion, Sex, Handicap, Familial Status, or
National Origin is invalid and unenforceable
under FEDERAL LAW, 3/12/89.

STATE OF TEXAS
COUNTY OF NUECES

I hereby certify that this instrument was FILED
in file number sequence on the date and at the
time stamped herein by me, and was duly RECORDED
in the Official Public Records of
Nueces County, Texas
Diana T. Barrera



Diana T. Barrera