

**MYSTIC SHORES PROPERTY OWNERS ASSOCIATION
DOCUMENT RETENTION, ACCESS, PRODUCTION
AND COPYING POLICY**

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF COMAL §

WHEREAS, the property encumbered by the Mystic Shores Property Owners Association Document Retention, Access, Production and Copying Policy (the “Policy”) is the property restricted by the Declaration of Covenants, Conditions and Restrictions for Mystic Shores, recorded under Comal County Clerk’s File Number 200206027138, and all other Declarations and Supplemental Declarations of Covenants, Conditions and Restrictions for each unit in Mystic Shores (hereinafter collectively called the “Declaration”), as the same may be amended from time to time, and any other property which has been or may be annexed thereto and made subject to the authority of the Mystic Shores Property Owners Association (the “Association”);

WHEREAS, reference is hereby made to the Declaration for all purposes, and any and all capitalized terms used herein shall have the meanings set forth in the Declaration, unless otherwise specified herein;

WHEREAS, pursuant to Chapter 209 of the Texas Property Code, the Board of Directors (the “Board”) of the Association hereby adopts this Policy for the purposes of identifying the retention periods for the books and records of the Association (collectively, “Association Records”) and prescribing the costs the Association will charge for the compilation, production and reproduction of information requested under Section 209.005 of the Texas Property Code; and

WHEREAS, the Board has established that it is in the best interest of the Association to adopt this Policy concerning the retention, access, production and copying of Association Records.

NOW, THEREFORE, BE IT RESOLVED THAT the Association does hereby adopt the following Document Retention, Access, Production and Copying Policy, effective August 17, 2015:

1. ACCESS

Association Records, including financial records, shall be open to and reasonably available for examination by an Owner, or a person designated in writing signed by the Owner as the Owner’s agent, attorney, or certified public accountant, in accordance with this Policy. An Owner is entitled to obtain from the Association copies of information contained in the Association’s Records in accordance with this Policy. An Owner, or the Owner’s authorized representative, must submit a written request for access or information by certified mail, with sufficient detail describing the Association Records requested, to the mailing address of the Association as reflected on the most current

management certificate filed in the Comal County public records. The request must contain an election either to inspect the Association Records before obtaining copies, or to have the Association forward copies of the requested Association Records.

An attorney's files and records relating to the Association, excluding invoices requested by an Owner under Section 209.008(d) of the Texas Property Code are not Association Records 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 Records, 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. Any document that constitutes attorney work product or that is privileged as an attorney-client privileged communication is not required to be produced.

The Association is not required to release or allow inspection of any Association Records that identify the dedicatory instrument violation history of an Owner, an Owner's personal financial information, including records of payment/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 Owner. These records may be made available only with (i) the express written approval of the Owner whose records are the subject of the request, or (ii) if a court of competent jurisdiction orders the release of the records.

The Association also shall not be required (1) to release or allow inspection of any confidential information of another Owner, without the express written approval of the Owner whose records are the subject of the request, or (2) to copy or permit copying of any copyrighted documents.

If inspection is requested, the Association, on or before the tenth (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 Association Records to the extent those Association Records are in the possession, custody or control of the Association. The inspection shall take place at a mutually agreed upon time during normal business hours,

If copies of identified Association Records are requested, the Association shall, to the extent those Association Records are in the possession, custody or control of the Association, produce the requested Association Records for the requesting Owner on or before the tenth (10th) business day after the date the Association receives the request, except as otherwise provided herein. The Association may produce the requested Association Records in hard copy, electronic, or other format reasonably available to the Association.

If the Association is unable to produce the requested Association Records on or before the tenth (10th) business day after the date the Association receives the request, the Association shall give the requesting Owner notice that it is unable to produce the Association Records within such ten (10) business days, and state a date by which the

information will be sent to, or made available for inspection by, the requesting Owner, that is not more than fifteen (15) business days after the date the notice is given.

Notwithstanding anything contained herein to the contrary, all Association Records shall be produced subject to the terms of this Policy as set out below. The Association may require advance payment of estimated costs in accordance with this Policy.

2. CUSTODIAN OF RECORDS

The Secretary of the Board, or other person designated by the Board, is the designated Custodian of the Association Records. As such, the Secretary of the Board, or other Board designee, is responsible for overseeing compliance with this Policy. Any questions regarding this Policy shall be directed to the Custodian of the Association Records.

3. PROCEDURES FOR RESPONDING TO REQUEST FOR INFORMATION

All requests for information must comply with the requirements set forth hereinabove. The dated and signed written request must state the specific information being requested.

Requests for information will NOT be approved when the information regards pending legal issues, unless specifically required by law; information of personnel matters such as individual salaries; information about other members; or information that is privileged or confidential.

4. COST OF COMPILING INFORMATION AND MAKING COPIES OF RECORDS

The costs of compiling information and making copies shall not exceed those set forth in 1 TAC §70.3. The following fee schedules and explanations complied with this code section on the date this Policy was adopted by the Board.

The following are the costs of materials, labor, and overhead, which shall be charged to the requesting Owner. The Association may require advance payment of the estimated costs of compilation, production, and 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.

An owner who makes a request for Association Records and subsequently declines to accept delivery will be liable for payment of all costs under this Policy.

4.1 Copy Charge

- (1) Standard paper copy. The charge for black and white 8 ½” x 11” paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.
- (2) Nonstandard copy: covers materials onto which information is copied and does not reflect any additional charges, including labor, that may be associated with a particular request. Charges for nonstandard copies are:
 - (A) Diskette - \$1.00
 - (B) Magnetic tape – actual cost
 - (C) Data cartridge – actual cost
 - (D) Tape cartridge – actual cost
 - (E) Rewritable & non-rewritable CD - \$1.00
 - (F) Digital video disc - \$3.00
 - (G) JAZ drive – actual cost
 - (H) Other electronic media – actual cost
 - (I) VHS video cassette - \$2.50
 - (J) Audio cassette - \$1.00
- (3) Oversize or color paper copy (e.g. 11 x 17, green bar, blue bar, not including maps and photographs using specialty paper - \$.50 per page). Each side that has recorded information is considered a page.
- (4) Specialty paper (e.g. Mylar, blueprint, blueline, map, photographic) – actual cost.

4.2 Labor Charge

For locating, compiling, manipulating data, and reproducing public information, the following charges shall apply:

- (1) Labor charge - \$15.00/hour. This charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information;
- (2) No labor charge to be billed for requests that are 50 or fewer pages of paper records, unless the documents to be copied are located in:
 - (A) Two or more separate buildings that are not physically connected with each other; or

(B) A remote storage facility;

- (3) Labor charge may be charged when confidential information is mixed with public information in the same page, an attorney, legal assistant, or any other person who reviews the requested information, for time spent to redact, blackout, or otherwise obscure confidential information for requests of 50 or fewer pages.

4.3 Overhead Charge:

Whenever a labor charge is applicable to a request, the Association may include in the charges direct and indirect charges, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the Association chooses to recover such costs, the charge shall be made in accordance with the methodology described hereafter:

- (1) The overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge; and
- (2) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request.

4.4 Miscellaneous Supplies:

The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge.

Related postal or shipping expenses, which are necessary to transmit the reproduced information, may be added to the total charge.

If payment by credit card is accepted, if a transaction fee is charged by the credit card company, that fee may be added to the total charge.

5. DENIAL OF REQUESTED INFORMATION

If it is decided that a request for information is inappropriate or unapproved, the Board, or its designee, will notify the requesting Owner of that decision and the reason for it in a timely manner. The Board, or its designee, will inform the Owner, in writing of their right to appeal to the Board.

6. DOCUMENT RETENTION POLICY

This Section 6 provides for the systematic review, retention, and destruction of Association Records in the custody or control of the Association, or received or created by the Association, on or after August 17, 2015 in connection with the transaction of the Association's business. This Policy covers all Association Records, regardless of physical form, contains guidelines for how long certain Association Records should be kept and how records should be destroyed.

The Association shall retain specific Association Records for the time periods outlined in the attached Exhibit "A." Association Records that may not be specifically listed will be retained for the time period of the documents most closely related to those listed in the schedule. Electronic Association Records will be retained as if they were paper documents. Therefore, any electronic files that fall into one of the document types on the attached Exhibit "A" will be maintained for the identified time period.

The Custodian of the Association Records is responsible for the ongoing process of identifying the Association Records that have met the required retention period and overseeing their destruction. Destruction of any physical Association Records will be accomplished by shredding. Destruction of any electronic Association Records shall be made via a reasonable attempt to remove the electronic records from all known electronic locations and/or repositories.

Approved by the Board of Directors
Mystic Shores Property Owners Association
August 17, 2015

Document Retention Schedule

Following is the schedule for retention of Association Records (as defined in the Mystic Shores Property Owners Association Document Retention, Access, Production and Copying Policy):

1. Association Records may be maintained in paper format or in an electronic format this can be readily transferred to paper.
2. Association Records shall be retained for the durations listed below:
 - (a) Articles of incorporation, bylaws, restrictive covenants, other dedicatory instruments and any amendments to any of the foregoing shall be retained permanently;
 - (b) Financial books and records, including annual budgets, reserve studies, monthly financial statements and bank statements, shall be retained for seven (7) years (for example the July 2015 financial statements shall be retained until July 31, 2022);
 - (c) Account records of current Owners shall be retained for five (5) years (for example, invoice, payment and adjustment records on an Owner's account with a transaction date of 08/15/2015 will be retained until 08/15/2020 subject to section (d) below);
 - (d) Account records of former Owners shall be retained as a courtesy to that former Owner for one (1) year after they no longer have an ownership interest in the property;
 - (e) Contracts with a term of one (1) year or more shall be retained for four (4) years after the expiration of the contract term (for example, a contract expiring on 06/30/2015 and not extended by amendment must be retained until 06/30/2019);
 - (f) Minutes of meetings of the Owners and the Board shall be retained for fifteen (15) years after the date of the meeting (for example, minutes from a 07/16/2015 board meeting must be retained until 07/16/2030);
 - (g) Tax returns and CPA audit records shall be retained for seven (7) years after the last date of the return or audit year (for example, a tax return for the calendar year 2015 shall be retained until 12/31/2022); and

- (h) Decisions of the Architectural Control Committee or Board regarding applications, variances, waivers or related matters associated with individual properties shall be retained for five (5) years from the decision date (for example, an application for a swimming pool approved on 10/31/2015 must be retained until 10/31/2020).
- 3. Any Association Records not described above may be retained for the duration deemed to be useful to the purpose of the Association, in the discretion of the Board, its attorney or its management company.
- 4. Upon expiration of the retention period listed above, the documents shall no longer be considered Association Records and may be destroyed, discarded, deleted, purged or otherwise eliminated.