

# THE VILLAGE AT MASON CREEK TOWNHOME ASSOCIATION, INC.

## ASSOCIATION DOCUMENTS PRODUCTION, INSPECTION AND COPYING POLICY

### 1.0 Definitions.

1.1 Incorporation. In this policy the definitions set forth in Section 209.002 of the Texas Property Code control (whether or not capitalized), including "Board" which means the governing body of this Association, whether incorporated or unincorporated. To the extent not inconsistent with the foregoing, all definitions set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Mason Creek Townhome Association, Inc. (whether or not capitalized), including Article I thereof, are also incorporated herein.

1.2 Additional Definitions. In this policy the following definitions also apply:

1.2.1 "Association Documents" means all books and records of the Association, including all financial records, all dedicatory instruments and all other governing documents.

1.2.2 "Inspection Officer" means a Board member, employee of the Association's managing agent or attorney, or any other person designated by the Board who will facilitate or supervise an inspection of Association Documents under this policy.

1.2.3 "Owner Representative" means an Owner's agent, attorney or certified public accountant so designated by the Owner in writing.

1.2.4 "Production Costs" means all reasonable costs for the compilation, production and reproduction of Association Documents incurred in response to a request under this policy, including but not limited to copies, postage, supplies, labor, overhead and third party fees (such as archive document retrieval fees from off-site storage locations), as more particularly described in Section 8.0 of this policy.

2.0 Right of Inspection. The Association shall make Association Documents open and reasonably available for examination by an Owner or Owner Representative in accordance with, and subject to the exceptions in, this policy.

3.0 Proper Request Required. An Owner or Owner Representative must submit a proper written request for inspection and/or production of Association Documents. A proper written request must:

3.1 be delivered by certified mail to the Association's attention at the Association's address as reflected on the Association's most recent management certificate filed in the Official Public Records of Real Property of Harris County, Texas; and

3.2 contain sufficient detail to identify the specific Association Documents being requested; and

3.3 state an election to either inspect the requested Association Documents or to have the Association forward the requested Association Documents; and

3.4 if the Association Documents are to be forwarded, the mailing address of the Owner or Owner Representative, and, subject to Section 6.0, a preferred delivery format and/or delivery method from among the following:

3.4.1 format - electronic file, compact disk or paper; and

3.4.2 delivery method - email (email address must be provided), certified mail or pick-up.

#### 4.0 Responses to Requests.

4.1 Within ten business days after receipt of a proper written request, the Association shall either (i) forward the requested Association Documents together with an invoice for final Production Cost, or (ii) send written notice to the Owner or Owner Representative who requested the Association Documents:

4.1.1 stating any deficiencies in the request which prevent the Association from making a proper response; or

4.1.2 stating the amount of estimated Production Costs and advising the Association Documents will be produced within ten business days after receipt of payment for estimated Production Cost; or

4.1.3 if an inspection is requested, stating the place where, and stating available dates and times during normal business hours when, the Association Documents are available for inspection, and in such case the Owner or Owner Representative must deliver to the Association written confirmation of the date and time the inspection will take place at least one full business day before the selected date (for example, if the inspection is to take place on a Wednesday, the Association must receive the written confirmation by Monday); or

4.1.4 if the Association Documents cannot be produced within ten business days:

(a) advising the Association is unable to produce the Association Documents on or before the tenth business day after the date the Association received the request, and

(b) stating an alternative date by which the requested Association Documents will be available either for inspection or for forwarding and estimated Production Costs, and in such case the alternative date must be not later than fifteen business days after the date of the notice given under this Section 4.1.4; or

4.1.5 advising that after a diligent search, some or all of the requested Association Documents cannot be located, or are not in the possession, custody or control of the Association; or

4.1.6 any combination of the foregoing as the circumstances may reasonably require.

#### 5.0 Inspections.

5.1 The Owner or Owner Representative who conducts an inspection of Association Documents may (i) at the time of the inspection designate specific Association Documents for the Association to copy and forward to the Owner or Owner Representative, or (ii) send a proper request to the Association after the inspection as provided in Section 3.0. If designated at the time of inspection (y) the designation must be in writing and signed by the Owner or Owner Representative, as applicable, and the Inspection Officer, and (z) the Association shall promptly thereafter send notice and produce the Association Documents as provided in Section 4.1.

5.2 At the discretion of the Board or the Association's managing agent, the Inspection Officer and/or a Board member may be present during all or any part of the inspection.

5.3 No Association Document may be removed by the Owner or Owner Representative from the inspection area without the express written consent of a Board member or the Association's managing agent. No original Association Document may be removed from the Association's office for any reason by an Owner or Owner Representative.

#### 6.0 Production of Association Documents.

6.1 Format. The Association may produce Association Documents in paper, electronic or other format reasonably available to the Association, in the discretion of the Board or the Association's managing agent.

6.2 Delivery. The Association may deliver requested Association Documents by certified mail, email or facsimile, in the discretion of the Board or the Association's managing agent. Upon written request by an Owner or Owner Representative, requested Association Documents may be made available for pick-up.

6.3 Conversion. The Association is not required to transfer any electronic records to paper format unless the Owner or Owner Representative requesting the transfer pays all costs thereof, in advance.

#### 7.0 Exclusions from Inspection or Production.

7.1 Excluded Association Documents. The following Association Documents are not available for inspection by, and the Association has no obligation to produce any of the same to, any Owner or Owner Representative:

7.1.1 financial records, including records of debit or credit entries as to amounts due on payable to the Association, associated with an individual current or former Owner; and

7.1.2 any Association Documents that identify any violation history of any current or former Owner regarding any dedicatory instrument or other Governing Documents of the Association; and

7.1.3 any Owner contact information other than an Owner's mailing address; and

7.1.4 documents, received, retained or reviewed in any closed executive session of the Board pursuant to Section 209.0051 (c) of the Texas Property Code, whether or not deemed to be Association Documents, which involve personal, pending or threatened litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual Owners, matters that are to remain confidential by request of the affected parties and agreement of the Board and, subject to an without limitation of Section 7.3 hereof, confidential communications with the Association's attorney; and

7.1.5 attorney files of a current or former Association attorney except as provided in Section 7.3.

7.2 Consent for Disclosure. The Association Documents described in Section 7.1.1, 7.1.2 or 7.1.3 or 7.14 shall be released or made available for inspection if:

7.2.1 the express written approval of the applicable Owner is provided to the Association stating the specific Association Documents covered by the approval; or

7.2.2 a court order releases the Association Documents or orders the Association Documents be made available for inspection.

7.3 Attorney Files.

7.3.1 Attorney's files and records relating to the Association (excluding invoices requested by an Owner pursuant to Section 209.008(d) of the Texas Property Code) are not records of the Association and are not: (i) subject to inspection by the Owner; or (ii) subject to production in a legal proceedings.

7.3.2 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.

7.3.3 The Association is not required under any circumstance to produce a document for inspection or copying that constitutes attorney work product or that is privileged as an attorney-client communication.

7.4 Non-Owners. The Association has no obligation to make any Association Documents available for inspection by, or to produce any Association Documents to, any Person other than an Owner or Owner Representative. This exclusion includes any tenant of an Owner unless the tenant is designated as an Owner Representative.

8.0 Production Costs.

8.1 Advance Payment. Advance payment of estimated Production Costs must be received by the Association prior to delivery of any Association Documents unless expressly waived by the Board or the Association's managing agent or attorney.

8.2 Invoicing. On a case-by-case basis, the Board or the Association's managing agent may agree to invoice estimated Production costs. In each such case, the Production Costs must be paid in full within thirty days after a statement for the same is mailed to the Owner or Owner Representative.

8.3 Refusal of Delivery. An Owner who, either directly or through an Owner Representative, makes a request for Association Documents and subsequently declines to accept delivery or otherwise renders delivery impracticable is liable for payment of all Production Costs.

8.4 Estimates, Final Invoice.

8.4.1 Estimates for Production Costs shall be made by the Association in accordance with Section 8.6.

8.4.2 If estimated Production Costs are lesser or greater than actual Production Costs, the Association shall submit a final invoice to the Owner or Owner Representative on or before the thirtieth business day after the date the Association Documents are delivered. Any additional amounts due must be paid to the Association, or any excess must be refunded to the Owner, not later than thirty business days after the date the final invoice is sent.

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8.5 Owner Responsible For Payment. An Owner who either directly or through an Owner Representative, makes a request under this policy is responsible for payment of all Production Costs due to the Association under this policy. The amount of any Production Costs not paid as required by this policy may be added to the applicable Owner's account as an assessment.

8.6 Allowable Charges. Estimated and actual Production Costs may not exceed the costs allowed pursuant to Texas Administrative Code, Section 70.3 (current copy as of the effective date of this policy attached), or as follows:

- 8.6.1 black and white 8½"x 11" single sided copies=\$0.10 each
- 8.6.2 black and white 8½"x 11" double sided copies=\$0.20 each
- 8.6.3 color 8½"x 11" single sided copies=\$0.50 each
- 8.6.4 color 8½"x 11" double sided copies=\$1.00 each
- 8.6.5 PDF images of documents=\$0.10 each
- 8.6.6 compact disk=\$1.00 each
- 8.6.7 labor and overhead=\$15.00 per hour (IF over 50 copies)
- 8.6.8 mailing supplies=\$1.00 per mailing
- 8.6.9 postage=at cost
- 8.6.10 other supplies=at cost
- 8.6.11 third party fees=at costs
- 8.6.12 other costs=as permitted by current Texas Administrative code, Section 70.3.

9.0 Effective Date; Amendment.

9.1 Effective Date. This policy is effective upon the date of filing in the Official Public Records of Real Property of Harris County, Texas, subject to amendment as hereafter provided.

9.2 Amendment. This policy may be amended from time to time and at any time by the Declarant, or by the Board. Any such amendment shall be effective upon the date of filing in the Official Public Records of Real Property of Harris County, Texas, or such later date as expressed stated in the amendment.

10.0 Controlling Effect. This policy is adopted pursuant to and in accordance with the requirements of Section 209.005 of the Texas Property Code in lieu of any other provisions of the Association's governing documents regarding the express provisions set forth in this policy or which conflict with applicable Texas law. In all other respects, all provisions of the Association's governing documents shall continue in full force and effect.

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