

**BY-LAWS OF  
BLUE HERON BAY PROPERTY OWNER'S ASSOCIATION, INC.**

WHEREAS, the Blue Heron Bay Property Owner's Association, Inc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board"), is the governing entity of the Blue Heron Bay, Section One and Section Two subdivisions; and

WHEREAS, these By-laws of the Association, apply to the operation and utilization of property within the Blue Heron Bay, Section One and Section Two subdivisions, additions in Montgomery County, Texas, according to the maps or plats thereof, recorded in the Map Records of Montgomery County, Texas as follows:

Blue Heron Bay, Section One, in Cabinet J, Sheets 94-95; and  
Blue Heron Bay, Section Two in Cabinet M, Sheet 38; along with any supplements, additions or replats thereof and any additional land annexed into to the jurisdiction of the Association (collectively the "Subdivision"); and

NOW THEREFORE, pursuant to the vote of a majority of the Board at a properly noticed meeting of the Board at which a quorum was present, the Association hereby adopts the following initial By-laws of the Blue Heron Bay Property Owner's Association, Inc., as follows:

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is the Blue Heron Bay Property Owner's Association, Inc The principal office of the Association shall be located at an address designated by the Board of Directors for the Association. The principal office of the Association as of the date of the approval of these By-laws is P.O. Box 833, Montgomery, Texas 77356.

**ARTICLE II  
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Blue Heron Bay Property Owner's Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Association.

Section 3. "Board meeting" 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 Association business is considered and the board takes formal action; and 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.

Section 4. "Common Property" shall mean and refer to all property, real or personal, by whomever owned, shared and used by the Association and the Owners of Lots for their common use and enjoyment, as well as that of the Association.

Section 5. "Declaration" shall mean and refer to the Declarations of Covenants, Conditions and Restrictions for following sections of Blue Heron Bay filed of record in the Montgomery County, Texas, Real Property Records and any additional land annexed into the jurisdiction of the Association as provided in the Declarations:

Declaration of Covenants Conditions and Restrictions for Blue Heron Bay, Section One, filed of record under Montgomery County, Texas Clerk's File No. 9747500; and

Declaration of Covenants Conditions and Restrictions Blue Heron Bay, Section Two, filed of record under Montgomery County, Texas Clerk's File No. 99044866; along with any amendments or supplements thereto and any additional land annexed into the jurisdiction of the Association (collectively the "Declarations").

Section 6. "Lot" shall mean and refer to any lot as defined in the Declaration or any of the lots and reserves shown on the recorded plats of the Properties.

Section 7. "Member" shall mean and refer to every person or entity which holds a membership in the Association by virtue of Lot ownership, but for the purposes of voting, the presence of a quorum, and the calling of special meetings of the Members, there shall be only one Member per Lot .

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entitles, of a fee simple title to the surface estate in any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Properties" shall mean and refer to the property contained in those plats listed above and defined as the "Subdivision," along with any supplements, additions or replats thereof or any additional lands annexed into the jurisdiction of the Association.

### **ARTICLE III** **MEETINGS OF MEMBERS**

Section 1. Annual Meetings. Regular annual meetings of the Members shall be held once a calendar year on a day and at a time and location determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by a majority of the Board of Directors, or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all the votes of the membership.

Section 3. Location of Meetings. Meetings of Members may be held at such places within Montgomery County, Texas as may be designated by the Board of Directors.

Section 4. Notice of Meetings. Written notice of each annual and special meeting of the Members shall be given by the Secretary or person designated by the Board to provide such notice. Notice shall be mailed postage prepaid, at least ten (10) but no more than sixty (60) days before such meeting to each Association Member. Notice shall be addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date, hour, and for special meetings, the purpose of the meeting.

Section 5. Quorum. The presence at a meeting, in person, by proxy, by electronic ballot or by absentee ballot, of Members constituting at least fifty percent (50%) of the Lots shall constitute a quorum for any action, except as otherwise provided in the Certificate of Formation, the Declaration or these Bylaws. If, however, a quorum shall not be achieved as set forth above, the Board of Directors may adjourn the meeting from time to time and reconvene, at any time, without notice other than an announcement at the meeting being adjourned, until a quorum shall be present or represented.

Section 6. Ballots and Proxies. At all meetings in which a vote is called, any Member may vote in person or by proxy; and, if authorized and established by the Board of Directors, by electronic ballot or absentee ballot as described in 209.00593 of the Texas Property Code. All persons owning a Lot are eligible to vote at any meeting of Members. Only one vote may be exercised per Lot. Should Owners of the same Lot cast conflicting votes, or not agree upon how to vote the vote for such Lot, no vote will be counted for that Lot. The Board of Directors shall be authorized to establish voting procedures to provide reasonable assurance that the person casting the vote is entitled to vote. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot. All ballots must be signed by the Member (or the Member's proxy) casting such vote. Electronic votes cast under Section 209.00592 constitute written and signed ballots. In an association-wide election, written and signed ballots are not required for uncontested races.

Section 7. Action Taken Without a Meeting. Any action that can be taken at a meeting of the Members can be taken without a meeting by obtaining the signatures of the number of Members that would be required to approve said action at a meeting, provided all Members have been given notice of the effort to approve such action and the language regarding the action to be taken is the same with respect to all signatures approving the action.

**ARTICLE IV**  
**NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Each Member of the Association is eligible to serve on the Board of Directors unless having within the prior twenty years been convicted of a felony or a crime of moral turpitude. NonMembers are not eligible to serve on the Board. Any eligible Member may have their name placed into consideration as a candidate to be elected to the board by informing the Association of their desire to be a candidate and following procedures and regulations developed by the Board for the election process. Candidates for election to the Board of Directors may also be nominated by the Board or may also be made from the floor at the annual meeting. There can only be one member of the board from any family, spouse or cohabitation situation.

At least 10 days before the date the Association disseminates absentee ballots or other ballots to Members for purposes of voting in a Board election, the Association must provide notice to the Members soliciting candidates interested in running for a position on the Board. The notice must contain instructions for an eligible candidate to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request. The deadline may not be earlier than the 10<sup>th</sup> day after the date the Association provides the required notice.

The notice must be mailed to each Owner or provided by posting the notice in a conspicuous manner reasonably designed to provide notice to Members in a place located on the Association Common Property OR posted on any internet website maintained by the Association or other internet media; AND by sending the notice by email to each Member who has registered an email address with the Association (it is an Owner's duty to keep an updated e-mail address registered with the Association).

The Association must include on each absentee ballot or other ballot for a Board election the name of each eligible candidate from whom the Association received a request to be placed on the ballot.

Section 2. Election. Election to the Board of Directors shall be by a written ballot, proxy and absentee ballot. The Board may authorize voting by electronic ballot. All ballots must be signed by the Member if the vote is cast:

- (1) Outside of a meeting;
- (2) In an election to fill a position on the Board;
- (3) On a proposed adoption or amendment of a dedicatory instrument;
- (4) On a proposed increase in the amount of a regular assessment or the proposed adoption of a special assessment; or
- (5) On the proposed removal of a Board member;

except that the Association may adopt rules to permit voting by secret ballot as long as such rules reasonably ensure that a Member cannot cast more votes than the Member is eligible to cast, that the Association counts each vote the Member is eligible to cast, and when involving an election for the Board, each candidate may name one person to observe the counting of the ballots, provided that this does not entitle an observer to see the name of the person who cast

any ballot, and that any disruptive observer may be removed.

Written and signed ballots are not required for uncontested elections. At each election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is prohibited. In any election in which there are varying lengths of terms, the person receiving the largest number of votes shall be elected to the longest term.

Section 3. Tabulation of Vote. A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in that election or vote except as provided in the recount procedure in Section 4 below. A person other than a person described above may tabulate votes in an Association election or vote but may not disclose to any other person how an individual voted. A person other than a person who tabulates votes, may be given access to the ballots cast in the election or vote only as part of a recount process authorized by law.

Section 4. Recount of Votes. Any Owner may, not later than the 15th day after the date of the meeting at which the election or vote was held or the date of the announcement of the results of the election or vote, require a recount of the votes. A demand for a recount must be submitted in writing either:

- (i) by verified 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; or
- (ii) in person to the Association's managing agent as reflected on the latest management certificate or to the address to which absentee and proxy ballots are mailed.

The Association must estimate the costs for performance of the recount by a person qualified to conduct the recount and send an invoice to the persons requesting the recount at their last known address according to the Association's records not later than the 20<sup>th</sup> day after the Association receives the request for a recount. The person requesting the recount must pay the invoice in full within 10 days after the date the invoice is sent or the request for recount shall be deemed withdrawn.

Upon payment of the invoice for recount, 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 section. The Association shall enter into a contract for the services of a person who:

- (i) 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
- (ii) is: (a) a current or former:
  - (1) county judge;
  - (2) county elections administrator;

- (3) justice of the peace; or
- (4) county voter registrar; or
- (b) a person agreed on by the Association and each person requesting the recount.

On or before the 30th day after the date of receipt of payment for a recount the recount must be completed and the Association must provide notice of the results to each person requesting the recount. 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.

## **ARTICLE V**

### **BOARD OF DIRECTORS**

Section 1. Number. The affairs of this Association shall be managed by the Board of Directors, which consists of seven (7) members (individually a "Director" and jointly "Directors"). All Directors shall be Members of the Association.

Section 2. Term of Office. Directors shall serve a three year term and such terms shall be staggered, so that in each of the first two years two Director positions will expire and three Director positions will expire in the third year.

Section 3. Vacancies. Any Director may resign at any time by giving written notice to the President or Secretary of the Association. Such resignation shall take effect at the time specified therein (or if no time is given, upon delivery of the resignation); and unless otherwise specified therein, the acceptance of such resignation shall not be necessary in order for it to be effective. Any vacancy occurring due to resignation, death or disqualification of a Director may be filled by the affirmative vote of a majority of the remaining Directors even though less than a quorum. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his or her predecessor in office. A member can not be added to fill a vacancy if that member is a spouse, family member or cohabitant of an existing Board Member. A vacancy occurring by virtue of the expiration of the Director's term may only be filled by the election of a Director by the Members at a meeting of Members.

Section 4. Removal. Any Director may be removed from the Board with or without cause by a majority vote of the Members voting at a meeting held under these Bylaws; with the replacement Director being elected by the Members at the meeting at which the removal occurred. In the event of the death, resignation or disability of a Director, his or her successor shall be selected by the remaining members of the Board, and shall serve for the unexpired term of his or her predecessor.

Section 5. Compensation. No Director shall receive compensation for any service rendered to the Association. However, a Director may be reimbursed for actual expenses incurred in the performance of duties upon submission of an expense report and approval thereof by the Board.

**ARTICLE VI**  
**MEETINGS OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place and with such frequency as the Board from time to time deems necessary. Meetings of Directors may be held at such places within Montgomery County, Texas, as may be designated by the Board of Directors; or may be held by electronic or telephonic means as provided by Section 209.0051 of the Texas Property Code.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by any two Directors, after no less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Notice of Board Meetings to Owners. 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. Such notice shall be either:

- (a) mailed to each property owner at least ten (10), but not more than sixty (60) days before the meeting date;
- (b) provided at least 72 hours before the start of the meeting by posting in a conspicuous manner reasonably designed to provide notice to Members in a place located on the Common Property OR posted on any internet website maintained by the Association or other internet media; AND by sending the notice by email to each Member who has registered an email address with the Association (it is an owner's duty to keep an updated e-mail address registered with the Association); or
- (c) by alternative means as provided and to the extent permitted by Chapter 209.0042 of the Texas Property Code.

Section 5. Open Meetings. 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.

Section 6. Executive Session. 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.

Section 7. Minutes. 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.

Section 8. Meeting Recesses. 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 notice requirements. 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 set forth in Section 4 above within two hours after adjourning the meeting being continued.

Section 9. Meeting or Action Taken Without Notice. A Board may take action outside of a meeting, including voting by electronic or telephonic means, without prior notice to owners, if each Board member is given a reasonable opportunity to express the Board member's opinion to all other Board members and to vote. Any action taken without notice to owners 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, unless done in an open meeting for which prior notice was given to owners 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;
- (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.
- (9) lending or borrowing money;
- (10) the adoption or amendment of a dedicatory instrument;
- (11) the approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than 10 percent;
- (12) the sale or purchase of real property;
- (13) the filling of a vacancy on the Board;
- (14) the construction of capital improvement other than the repair, replacement, or enhancement of existing capital improvement; or
- (15) the election of an officer.

## ARTICLE VII

## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. In addition to the powers enumerated in Section 204.010(a) of the Texas Property Code, the Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area, and the personal conduct of the Members or their guests thereon, and to establish penalties for the infraction thereof;
- (b) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these By-Laws, the Certificate of Formation, or the Declaration;
- (c) declare that a Director has resigned from the Board in the event such director shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (d) employ a manager, an independent contractor, or such other employees as the Board of Directors deems necessary, and to prescribe their duties.
- (e) adopt and publish rules and regulations relating to the interpretation and enforcement of restrictions and collection of assessments.
- (f) Borrow money and pledge property of the Association as collateral.
- (g) To purchase or sell real or personal property.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-quarter (1/4) of the Members who are entitled to vote;
- (b) supervise, all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
  - (1) fix the amount of the annual assessment against each Lot as set forth in the Declaration;
  - (2) send written notice of each assessment to every Owner subject thereto as set forth in the Declaration; and
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be

made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association and, at the option of the Board of Directors, directors' and officers' liability insurance;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (h) cause the Common Area to be maintained; and
- (h) perform the other duties of the Association set forth in the Declaration.

### **ARTICLE VIII** **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice president, who shall at all times be members of the Board, a secretary and a treasurer, who may be members of the Board and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. No person shall simultaneously hold both the office of President and the office of Secretary.

Section 8. Duties. The duties of the officers, except as may otherwise be approved by the Board, are as follows:

President

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes, except as may be otherwise approved by the Board of Directors.

Vice President

The Vice President shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

Secretary

The Secretary and/or the contracted management company shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, serve notice of meetings of the Board of Directors and of the Members, keep appropriate current records showing the Members of the Association together with their property address and any alternate address as may be provided in writing by such Member, and shall perform such other duties as may be required by the Board.

Treasurer

The Treasurer and/or the contracted management company shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; if requested by the Board, shall cause an audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

**ARTICLE IX**  
**COMMITTEES**

The Architectural Control Committee shall and will act independently of the Blue Heron Bay Property Owners Association until such time as the Declarant assigns its rights of appointment to Blue Heron Bay Property Owners Association Board of Directors. This section may not be amended without the written approval of the Declarant.

**ARTICLE X**  
**RECORDS**

The production of the Association Books and Records shall be made in accordance with the Association's duly recorded Policies and Chapter 209 of the Texas Property Code.

**ARTICLE XI  
AMENDMENTS**

These Bylaws may be amended at any time by the majority vote of the Board of Directors; or at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy. In the event a conflict exists between amendments approved by the Board of Directors and Members, the amendment approved by the Members shall control.

**EFFECTIVE ON THE DATE OF RECORDING**

CERTIFICATION

"I, the undersigned, being the President of the Blue Heron Bay Property Owner's Association, Inc., hereby certify that the foregoing Bylaws were adopted by at least a majority of the board of directors of the Association."

By: [Signature]

Print name: Anthony Cook

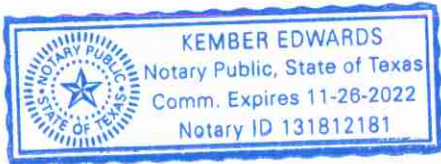
ACKNOWLEDGEMENT

STATE OF TEXAS                   §  
  §  
COUNTY OF MONTGOMERY       §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_ of the Blue Heron Bay Property Owner's Association, Inc., and known by me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that he is the person who signed the foregoing document in his representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 5 day of June, 2020.

[Signature]  
Notary Public, State of Texas



Blue Blue Heron Bay POA  
P.O. Box 833  
Montgomery TX 77356

FILED FOR RECORD  
06/05/2020 03:46PM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number sequence on the date and time stamped herein by me and was duly RECORDED in the Official Public Records of Montgomery County, Texas.

06/05/2020



County Clerk  
Montgomery County, Texas

**RECORDER'S MEMORANDUM:**

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of the illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.

BLUE HERON BAY PROPERTY OWNER'S ASSOCIATION, INC.  
RECORDS RETENTION POLICY

WHEREAS, the Blue Heron Bay Property Owner's Association, Inc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board"), is the governing entity of the Blue Heron Bay, Section One and Section Two subdivisions and authorized to enact this Policy; and

WHEREAS, this Records Retention Policy applies to the operation and utilization of property within the Blue Heron Bay, Section One and Section Two subdivisions, additions in Montgomery County, Texas, according to the maps or plats thereof, recorded in the Map Records of Montgomery County, Texas as follows:

Blue Heron Bay, Section One, in Cabinet J, Sheets 94-95; and  
Blue Heron Bay, Section Two in Cabinet M, Sheet 38; along with any supplements, additions or replats thereof and any additional land annexed into to the jurisdiction of the Association (collectively the "Subdivision"); and

WHEREAS, Chapter 209 of the Texas Property Code was amended to add Section 209.005(m), which requires the Association to adopt and record a policy regarding retention of Association Books and Books and Records and the Board of Directors of the Association desires to establish such guidelines; and

NOW THEREFORE, the Board of Directors of the Association hereby adopts the following Records Retention Policy pursuant to Chapter 209.005(m) of the Texas Property Code and the authority granted to the Board by the provisions of the By-laws:

This Records Retention Policy was approved by the Board of Directors for the Blue Heron Bay Property Owner's Association, Inc., on the 3<sup>rd</sup> day of June, 2020, to be effective upon filing in the Montgomery County Real Property Records.

The Association shall maintain its records as follows:

<u>RECORD</u>	<u>RETENTION PERIOD</u>
Certificate of Formation/ Articles of Incorporation, Bylaws, Declarations and all amendments to those documents.	PERMANENT
Association Tax Returns and Tax Audits	SEVEN (7) YEARS
Financial Books and Records	SEVEN (7) YEARS
Account Records of Current Owners	FIVE (5) YEARS
Contracts with a term of more than one year	FOUR (4) YEARS AFTER CONTRACT EXPIRES



FILED FOR RECORD  
06/08/2020 11:31AM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number  
sequence on the date and time stamped herein  
by me and was duly RECORDED in the Official Public  
Records of Montgomery County, Texas.

06/08/2020



County Clerk  
Montgomery County, Texas

BLUE HERON BAY PROPERTY OWNER'S ASSOCIATION, INC.  
PAYMENT PLAN POLICY

WHEREAS, the Blue Heron Bay Property Owner's Association, Inc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board"), is the governing entity of the Blue Heron Bay, Section One and Section Two subdivisions and authorized to enact this Policy; and

WHEREAS, this Payment Plan Policy applies to the operation and utilization of property within the Blue Heron Bay, Section One and Section Two subdivisions, additions in Montgomery County, Texas, according to the maps or plats thereof, recorded in the Map Records of Montgomery County, Texas as follows:

Blue Heron Bay, Section One, in Cabinet J, Sheets 94-95; and  
Blue Heron Bay, Section Two in Cabinet M, Sheet 38; along with any supplements, additions or replats thereof and any additional land annexed into to the jurisdiction of the Association (collectively the "Subdivision"); and

WHEREAS, the Board of Directors of the Association desires to establish guidelines to administer an installment payment process for delinquent amounts owed to the Association in compliance with Chapter 209 of the Texas Property Code ; and

NOW THEREFORE, the Board of Directors of the Association hereby adopts the following Payment Plan Policy pursuant to Chapter 209 of the Texas Property Code and the authority granted to the Board by the provisions of the By-laws:

This payment plan policy was approved by the Board of Directors for the Blue Heron Bay Property Owner's Association, Inc., on the 3<sup>rd</sup> day of June, 2020, to be effective upon filing in the Montgomery County Real Property Records.

- 1) All Owners are entitled to an approved payment plan to pay their annual assessments.
- 2) All payment plans require a down payment and monthly payments.
- 3) Upon request, all Owners are automatically approved for a payment plan consisting of 25% down, with the balance paid off in 6 monthly installments.
- 4) Alternative Payment Plan proposals shall be submitted to and approved by the Association in writing. The Association is not obligated to approve alternative Payment Plan proposals.
- 5) A Payment Plan must include sequential monthly payments. The total of all proposed payments under the Plan must equal the current balance plus the Payment Plan administrative fees, plus the estimated accrued interest.
- 6) If an owner requests a Payment Plan that will extend into the next assessment period, the owner shall be required to pay future assessments by the due date in addition to the payments specified in the Payment Plan.



FILED FOR RECORD  
06/08/2020 11:31AM

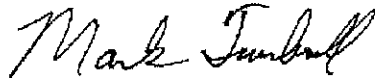


COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number  
sequence on the date and time stamped herein  
by me and was duly RECORDED in the Official Public  
Records of Montgomery County, Texas.

06/08/2020



County Clerk  
Montgomery County, Texas

BLUE HERON BAY PROPERTY OWNER'S ASSOCIATION, INC.  
REGULATION OF SOLAR PANELS, ROOF SHINGLES, FLAGS, FLAG POLES,  
RELIGIOUS ITEMS, RAIN BARRELS AND ELECTRONIC GENERATORS

WHEREAS, the Blue Heron Bay Property Owner's Association, Inc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board"), is the governing entity of the Blue Heron Bay, Section One and Section Two subdivisions and authorized to enact this Policy; and

WHEREAS, these Policies apply to the operation and utilization of property within the Blue Heron Bay, Section One and Section Two subdivisions, additions in Montgomery County, Texas, according to the maps or plats thereof, recorded in the Map Records of Montgomery County, Texas as follows:

Blue Heron Bay, Section One, in Cabinet J, Sheets 94-95; and  
Blue Heron Bay, Section Two in Cabinet M, Sheet 38; along with any supplements, additions or replats thereof and any additional land annexed into to the jurisdiction of the Association (collectively the "Subdivision"); and

WHEREAS, Chapter 202 of the Texas Property Code was amended to add Sections 202.010, 202.011, 202.012, 202.018, and 202.007(d) which require the Associations to allow solar panels, certain roofing materials, flags, flag poles, religious items and rain barrels, and authorizes the Association to regulate such items; and

WHEREAS, the Board of Directors of the Association desires to regulate such items by establishing regulations and guidelines relating to solar panels, certain roofing materials, flags, flag poles, religious items and rain barrels in compliance with Chapter 202 of the Texas Property Code and pursuant to the authority granted to the Board by the provisions of the Declaration:

NOW THEREFORE, in accordance with the foregoing, the Blue Heron Bay Property Owner's Association, Inc., hereby adopts the following Regulations on the 3<sup>rd</sup> day of June, 2020, to be effective upon filing in the Montgomery County, Texas Real Property Records.

To the extent the regulations contained herein conflict with any previously existing Rules, Regulations or Architectural Guidelines of the Blue Heron Bay Property Owner's Association, Inc., the regulations contained herein control.

**I. Solar panels are permitted to the extent required by 202.010 of the Texas Property Code, subject to the following regulations:**

- 1) The owner shall first apply to and receive written approval from the ACC prior to installation of any solar panels or other solar items (collectively "Solar Panels") permitted by 202.010.
- 2) Solar Panels shall be located in a fenced-in yard or patio, OR on the roof of the house or other approved structure, not visible from the front of the structure, and in a location approved by the ACC (subject to any limitation imposed by 202.010).

- 3) Solar Panels shall be located entirely on the property of the owner erecting the Solar Panels and shall not be located on any other lot, property or common area.
- 4) When mounted on a structure, no Solar Panel may be higher or wider than the roofline of the structure it is mounted on.
- 5) When mounted on a structure, the top edge of all Solar Panels shall be parallel with the roofline and shall conform to the slope of the roofline.
- 6) If located in a fenced-in yard or patio, the Solar Panels shall be lower than the fence line of the yard or patio.
- 7) Solar Panel frames, brackets, wires and pipes shall be a shade of silver, bronze or black.
- 8) An Owner wishing to obtain approval of the installation of a solar panel or device that does not comply with any single criteria above must demonstrate that an alternative location will enable the panel or device to generate more than 10% greater production in the alternative location.

**II. To the extent required by 202.011 of the Texas Property Code, Owners are entitled to install roof shingles designed primarily to be wind and/or hail resistant; shingles that provide heating and cooling efficiencies greater than those provided by customary composite shingles; and shingles that provide solar generation capabilities (collectively referred to as “Alternative Shingles”), subject to the following regulations:**

An Owner must obtain prior written authorization of the Architectural Control Committee (“ACC”), to place or install any type of shingle or roofing material on the exterior of any improvement located on a Lot within the Subdivision. Roof Shingles will be approved upon the submission of a proper application to the ACC proposing an installation of roof shingles that is within the parameters set forth in Chapter 202.011 of the Texas Property Code and any other permissible criteria required by the ACC.

Roof shingles that satisfy all of the criteria of each subparagraph one through four below will be approved for installation.

1. shingles are either designed primarily to
  - a) be wind and hail resistant;
  - b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or
  - c) provide solar generation capabilities.
2. the shingles resemble the shingles used on property in the subdivision.
3. the shingles are more durable than and are of equal or greater quality to the shingles used on property in the subdivision.
4. the shingles match the aesthetics of the property surrounding the owner’s property.

**III. To the extent required by 202.012 of the Texas Property Code, Owners are entitled to display a United States Flag, a Texas State Flag, or a replica flag of any branch of the United States Armed Forces (“Permitted Flags”), and to install a flag pole on their property for the purpose of displaying the Permitted Flags; subject to the following regulations:**

- 1) The Owner shall first apply to and receive written approval from the ACC prior to installation of any flag pole.
- 2) United States Flags must be displayed in accordance with 4 U.S.C. Sections 5-10.
- 3) The Texas Flag must be displayed in accordance with Chapter 3100 of the Texas Government Code.
- 4) Only Permitted Flags may be displayed within the Association.
- 5) Permitted Flags shall be displayed from a pole attached to a structure OR from a free-standing pole. Except for flags that are mounted in accordance with 4 U.S.C. Sections 5-10, Permitted Flags may not be draped over or directly attached to structures. For example, a Permitted Flag may not be laid across a fence or stapled to a garage or entry door.
- 6) A flag pole attached to a structure shall be limited to one per lot, shall be no more than 6 feet long and shall be securely attached by a bracket with an angle of 30 to 45 degrees down from vertical. The flag pole shall be attached in such a manner as to not damage the structure. One attached flag pole is allowed on the front portion of a structure facing the street in a location approved by the ACC. Brackets which accommodate multiple flag poles are prohibited.
- 7) A flag pole, whether attached to a dwelling or freestanding, shall be constructed of permanent, long-lasting materials with a finish appropriate to the materials used in the construction of the flag pole and harmonious with the dwelling. Flag poles shall be commercially produced and not home-made, they shall not be constructed of wood or plastic.
- 8) Only one Permitted Flag may be displayed on a flag pole attached to a structure; up to two Permitted Flags may be displayed on an approved free-standing flag pole that is at least 14 feet tall.
- 9) The flag display and flag pole shall conform to all setbacks, easements, and zoning ordinances.
- 10) Flags and flag poles must be maintained in good condition; flags and poles that are deteriorating or represent an unsafe condition shall be repaired, replaced or removed.
- 11) Free-standing flag poles, are limited to one per lot, in a location approved by the ACC in writing, and shall not exceed 20 feet in height (including any ornamental cap) and 9 inches in diameter. Free-standing flag poles shall be permanently installed in the ground according to the manufacturer's instructions.
- 12) Permitted Flags are limited in size to 3 feet tall by 5 feet wide.
- 13) Lighting may be installed to illuminate Permitted Flags if they will be displayed at night and if existing ambient lighting does not provide proper illumination. Flag lighting shall be:

- a) approved in writing by the ACC prior to installation, and
  - b) shall be ground mounted in the vicinity of the flag, and
  - c) shall utilize a fixture that screens the bulb and directs light in the intended direction with minimal spillover, and
  - d) shall point towards the center of the flag and face the main structure on the property or to the center of the property if there is no structure, and
  - e) shall not provide illumination exceeding the equivalent of a 60 watt incandescent bulb.
- 14) Flag poles shall not generate unreasonable noise levels which would disturb the surrounding residents. In order to minimize noise all flag poles shall utilize vinyl or plastic snap hooks, shall utilize snap hook covers and may secure a rope around the flag pole with a flag pole clasp, or do whatever else is necessary to comply.
  - 15) An owner can only place a flag pole or flag on his own property and no other lot, property or common area.
  - 16) Flag poles are permitted solely for the purpose of displaying Permitted Flags. If a flag pole is not longer used on a daily basis it shall be removed by the Owner.

**IV. Religious Items related to any faith that is motivated by an Owner's sincere religious belief or tradition, may be displayed, as required by 202.018 of the Texas Property Code, subject to the following regulations:**

- 1) The religious item cannot threaten public health or safety.
- 2) The religious item cannot violate any law.
- 3) The religious item cannot contain language, graphics or other display that is patently offensive to a passerby.
- 4) The religious item must be located on the entry door or entry door frame and cannot extend past the outer edge of the door frame of the dwelling.
- 5) The maximum space allotted to a religious item or combination of religious items shall be no more than 25 square inches.
- 6) The Association may remove any item that does not conform to these regulations.

**V. Rainwater Recovery Barrels or Systems ("Barrels/System") shall be permitted to the extent required by 202.007(d), subject to the following regulations:**

- 1) The Owner shall first apply to and receive written approval from the ACC prior to installation of any Barrels/System.

- 2) The Barrels/System must be of a color that is consistent with the color scheme of the owner's home.
- 3) The Barrels/System cannot be located between the front of the owner's home and an adjoining or adjacent street. (the front yard)
- 4) The Barrels/System must not display any language or other content that is not typically included on the item when it is manufactured.
- 5) The Association may regulate the size, type, materials and manner of screening for Barrels/System that are visible from the street, another lot, or common area.
- 6) There must be sufficient area on the owner's property to install the Barrels/System, no Barrels/System shall be located on or extend onto any property other than the owner's lot.
- 7) Other than gutters and downspouts conventionally attached to a dwelling or appurtenant structure, all components of the Barrels/ System, such as tanks, barrels, filters, pumps, motors, pressure tanks, pipes and hoses, must be substantially screened from public view from any street or common are.
- 8) Screening may be accomplished by an approved solid fence, structure or vegetation; by burying the tanks/barrels; or by placing the equipment in an outbuilding approved by the ACC.
- 9) A rain barrel may be placed in a location visible from public view from any street or common area only if the configuration of the guttering system on the structure precludes screening as described above, so long as:
  - a) the barrel does not exceed 55 gallons, and
  - b) the barrel is installed in close proximity to the structure on a level base with the guttering downspout leading directly to the barrel inlet at a substantially vertical angle, and
  - c) the barrel is fully painted in a single color to blend with the adjacent home or vegetation, and
  - d) any hoses attached to the barrel discharge must be neatly coiled and stored behind or beside the rain barrel in the least visible location when not in use.
- 10) Overflow lines from a System must not be directed onto or adversely affect adjacent properties or common areas.
- 11) Inlets, ports, vents and other openings must be sealed or protected with mesh to prevent children, animals and debris from entering the barrels, tanks or other storage devices. Open top storage containers are prohibited, however, where space allows and where appropriate as determined by the Association, ACC approved ponds may be used for water storage.
- 12) Harvested water must be used and is not allowed to become stagnant or a threat to health.

- 13) All systems shall be maintained in good repair. Unused systems should be drained and disconnected from the gutters. Any unused Systems in public view must be removed from public view of any street or common area.

**VI. Standby Electric Generators (SEG) are permitted to the extent required by § 202.019 of the Texas Property Code, subject to the following regulations, which shall be reasonably applied and enforced:**

- 1) The owner shall first apply to and receive written approval from the Association prior to installation of any SEG permitted by 202.019 that will be located outside of the main residential structure on the Property, in the same manner as all other submissions for approval or improvements to property.
- 2) The SEG must be installed and maintained in compliance with manufacture's specifications and applicable governmental health, safety, electrical and building codes.
- 3) All electrical, plumbing, and fuel line connections for the SEG shall be installed only by licensed contractors and all electrical connections must installed in accordance with applicable governmental health, safety, electrical and building codes.
- 4) All natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections for the SEG shall be installed in accordance with applicable governmental health, safety, electrical and building codes.
- 5) All liquid petroleum gas fuel line connections to be installed in accordance with rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical and building codes.
- 6) All nonintegral standby electric generator fuel tanks for the SEG shall be installed and maintained to comply with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.
- 7) The SEG, its electrical and fuel lines shall be maintained in good condition.
- 8) If a component of an SEG, including electrical or fuel lines, is deteriorated or unsafe then that component shall be repaired, replaced or removed as appropriate.
- 9) The SEG shall be screened in accordance with plans submitted to and approved by the Association, if it is:
  - a. visible from the street faced by the dwelling,
  - b. located in an unfenced side or rear yard of a residence and is visible either from an adjoining residence or from adjoining property owned by the property owners' association, or
  - c. located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the property owners association.

- 10) The SEG shall be periodically tested in accordance with the manufacturer recommendations.
- 11) The SEG shall not be used to generate all or substantially all of the electrical power to the residence, except when utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence.
- 12) The SEG shall be located in a location submitted to and approved by the Association.
- 13) The SEG shall not be located on property owned or maintained by the property owners association or owned in common by the property owners association.
- 14) The location required by the Association for a SEG may not increase the cost of installing the SEG by more than 10% or increase the cost of installing and connecting the electrical and fuel lines for the SEG by more than 20%.

The Association, through its Board of Directors, shall have and may exercise discretionary authority concerning the restrictive covenants contained herein.

CERTIFICATION

"I, the undersigned, being the President of the Blue Heron Bay Property Owner's Association, Inc., hereby certify that the foregoing Resolution was adopted by at least a majority of the Association Board of Directors."

By: Anthony Cook, President

Print name: Anthony Cook

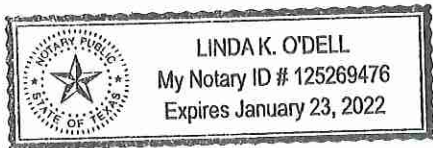
ACKNOWLEDGEMENT

STATE OF TEXAS                   §  
   §  
 COUNTY OF MONTGOMERY       §

BEFORE ME, the undersigned authority, on this day personally appeared Anthony Cook, President of the Blue Heron Bay Property Owner's Association, Inc., and known by me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that he is the person who signed the foregoing document in his representative capacity and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 9 day of June, 2020.

Linda K O'Dell  
 Notary Public, State of Texas



Blue Heron P.O. #1  
P.O. Box 833  
Montgomery TX 77356

FILED FOR RECORD  
06/08/2020 11:31AM



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

I hereby certify that this instrument was filed in the file number  
sequence on the date and time stamped herein  
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06/08/2020



County Clerk  
Montgomery County, Texas