

23

SUPPLEMENTAL NOTICE OF DEDICATORY INSTRUMENT
for
THE CLIFFS AT SOUTH SHORE PROPERTY OWNERS' ASSOCIATION

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

The undersigned, being the Managing Agent for The Cliffs at South Shore Property Owners' Association, a property owners' association as defined in Section 202.001 of the Texas Property Code ("the Association"), hereby supplements the "Affidavit for the Filing of Dedicatory Instrument" (the "Notice") recorded in the Official Public Records of Real Property of Montgomery County, Texas under County Clerk's File No. 2001-040561, which Notice was filed of record for the purpose of complying with Section 202.006 of the Texas Property Code.

1. Additional Dedicatory Instrument. In addition to the Dedicatory Instrument identified in the Notice, the following document is a Dedicatory Instrument governing the Association.
 - a. Resolution Adopted by Unanimous Written Consent of The Board of Directors of The Cliffs at South Shore Property Owners' Association regarding Amended and Restated Bylaws.
 - b. Resolution of Board of Directors for The Cliffs at South Shore Property Owners' Association regarding Fining Policy for The Cliffs at South Shore.

This Supplemental Notice is being recorded in the Official Public Records of Real Property of Montgomery County, Texas for the purpose of complying with Section 202.006 of the Texas Property Code. I hereby certify that the information set forth in this Supplemental Notice is true and correct.

THE CLIFFS AT SOUTH SHORE PROPERTY OWNERS' ASSOCIATION

By: MMC, Inc., Managing Agent


Christy Johnson, Association Manager

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

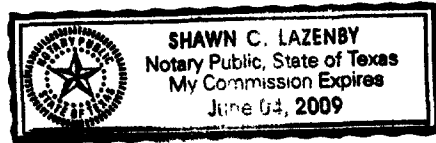
BEFORE ME, the undersigned notary public, on this day personally appeared Christy Johnson, Association Manager for MMC, Inc., Managing Agent for The Cliffs at South Shore Property Owners' Association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and in the capacity therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 9 day of May, 2007, to certify which witness my hand and official seal.

Shawn C. Lazenby
Notary Public in and for the State of Texas

Return to:
Butler & Hailey, P.C.
1616 S. Voss, Suite 500
Houston, Texas 77057

128395



**RESOLUTION ADOPTED BY UNANIMOUS
WRITTEN CONSENT OF THE BOARD OF DIRECTORS
of
THE CLIFFS AT SOUTH SHORE PROPERTY OWNERS' ASSOCIATION
regarding
AMENDED AND RESTATED BYLAWS**

We the undersigned, being all of the members of the Board of Directors of The Cliffs at South Shore Property Owners' Association (the "Association"), a Texas non-profit corporation organized under the Texas Non-Profit Association Act, do by this writing consent to the following action and adopt the following resolution:

WHEREAS, Article 1396, Section 2.09B of the Texas Non-Profit Corporation Act provides that a board of directors of a non-profit corporation may amend the non-profit corporation's by-laws, or adopt new by-laws unless:

- (1) the articles of incorporation or this Act reserves the power exclusively to the members in whole or in part;
- (2) the management of the corporation is vested in its members; or
- (3) the members in amending, repealing, or adopting a particular by-law expressly provide that the board of directors may not amend or repeal that by-law.

;and

WHEREAS, none of the provisions set forth above are present in either the Articles of Incorporation or Bylaws of the Association ("Bylaws"); and

WHEREAS, Article X of the Bylaws of the Association provides the Board can amend the Bylaws at anytime.

NOW THEREFORE BE IT RESOLVED, that the Board hereby amend and restate the Bylaws as set forth above.

We direct that this consent be filed with the minutes of the proceedings of the Board of Directors of the Association.

This consent is executed pursuant to Article 9.10 of the Texas Non-Profit Corporation Act, which authorizes the taking of action by the Board of Directors by

unanimous consent without a meeting. This consent may be executed in multiple counterparts, which, when placed together shall constitute the fully executed original instrument.

EXECUTED on the dates set forth below to be effective on the 6 day of MARCH, 2007.

**BOARD OF DIRECTORS
THE CLIFFS AT SOUTH SHORE
PROPERTY OWNERS' ASSOCIATION**

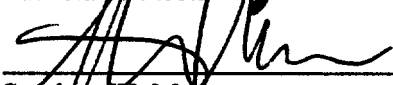
Date: 3-6-07

By: 
Dale F. Russell

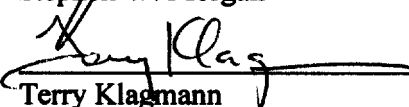
Date: 6-Mar-07

By: 
Patricia Johnson

Date: 6 March 07

By: 
Stephen W. Morgan

Date: 3-6-07

By: 
Terry Klagmann

Date: 3-6-07

By: 
Linda Rayha

***Amended and Restated
Bylaws of
The Cliffs at South Shore
Property Owners' Association
A Non-Profit Corporation***

**ARTICLE I.
OFFICE**

- 1.1. The registered office and registered agent of the Association shall be as established by the Board of Directors from time to time, the business of the Association requires.
- 1.2. **Definitions.** The words used in these Bylaws shall have the same meaning as set forth in the Declaration of Covenants Conditions and Restrictions of the Cliffs at South Shore, filed under Montgomery County Clerk's File No. 9664241 (said Restrictions, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Restrictions").

**ARTICLE II.
PROPERTY OWNERS MEETINGS**

2. All meetings of the Members, whether regular or special, shall be held at the principal office of the Association, or at such other place, within or without the State of Texas as may be designated by the Board of Directors and specified in the notice of meeting.
 - 2.1. **Membership.** The association's membership shall consist of Owners within The Cliffs at South Shore Subdivision.
 - 2.2. **Annual Meeting.** An Annual Meeting of Members shall be held every year, at which meeting the Members shall elect Directors and transact such other business as may properly come before the meeting. The Board of Directors shall set the date, time and place of the Annual Meeting.
 - 2.3. **Special Meetings.** Special Meetings of the Members for any purpose or purposes may be called by the President, by the Vice President in the event of the absence or disability of the President, by majority of the Board of Directors, or by the holders of not less than one-tenth (1/10th) of all votes entitled to cast at a meeting.
 - 2.4. **Notice of Meetings.** Notice, written or printed, stating the place, day and hour of any meeting of the Members, and in case of a special meeting, the purpose or purposes, for which the meeting is called, shall be delivered to each Member of record not less than ten (10) nor more than sixty (60) days before the date of the

meeting, either personally or by mail, by or at the direction of the office or person calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited with the United States Postal Service, addressed to the Member at his address as it appears on the books of the Association, with postage thereon prepaid. Notice of adjourned meetings is not necessary unless the meeting is adjourned for thirty (30) days or more, in which case notice of the adjourned meeting shall be given as in the case of a special meeting.

- 2.5. **Voting Eligibility.** The officer or agent having charge of the books of the Association shall make, at least ten (10) days before each meeting of the Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of votes held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office of the Association and shall be subject to inspection by any Member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection of any Member during the whole time of the meeting. Subject to the provisions of Section 7.2 hereof, the original books shall be prima facie evidence as to who are the Members entitled to examine such list or transfer books or to vote at any meeting of Members.
- 2.6. **Quorum.** A quorum for the transaction of business at Annual or Special Meetings shall be defined as at least twenty percent (20%) of the total Members present or by proxy, provided the requirements of Section 2.4 (Notice of Meetings) are met. If a quorum shall fail to attend any meeting of the Members, then the meeting shall be rescheduled, without the necessity for giving additional notice other than the announcement at the meeting, at which subsequent meeting of Members representing fifteen percent (15%) of the total votes of the Association shall constitute a quorum for that meeting. When a quorum is present at any meeting of the Members, the vote of the holders of a majority of the outstanding votes, present in person or represented by proxy, shall decide any question properly brought before such meeting, unless the question be one upon which, by law, a different vote is required, in which case such requirement shall control.
- 2.7. **Voting.** The Member or Members having an ownership interest in a single property subject to the Association shall be entitled to one (1) vote for each property owned, so long as the properties are intended for a single family construction on each Lot. While two (2) adjacent Lots are owned by a single Owner and remain undeveloped, said Owner shall have two (2) votes. Should two (2) adjacent Lots be used for a single-family construction, once construction starts, that property will be voted as a single Lot. The vote by one (1) Owner of a property shall be presumed to be the representative of all Owners of that property. An ownership interest merely as a security interest for a loan shall not be considered an ownership interest having any voting rights. Voting may take place in person, by proxy, by facsimile transmission (ballot or facsimile of proxy,) mail, electronic mail or a combination of any of these methods. No proxy shall be valid

after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Each proxy shall be revocable, unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law.

- 2.8. Signed Consent. Any action required or permitted by statute to be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Members. Any such signed consent or a signed copy thereof, shall be placed in the minute book of the Association.

ARTICLE III. DIRECTORS

3. The business and affairs of the Association shall be managed by a Board of Directors consisting of five (5) directors unless and until such number be increased or decreased by amendment of these Bylaws. However, no such decrease shall have the effect of shortening the term of any incumbent director, and the number of directors shall never be less than three (3). Directors must be Members of the Association in "good standing". The term "good standing" means that the Member of the Association is not (i) delinquent in the payment of any annual maintenance fee charge or other charge levied by the Association against the Member or the Member's Lot, including, but not limited to, any applicable interest, late charges, costs, damages, fines or attorney's fees under the provisions of the Restrictions or as provided by law, or (ii) in violation of any provision of the Restrictions. A Member of the Association who is not in good standing is not eligible to be nominated for, elected or appointed to the Board of Directors. Only one (1) representative per Lot may serve on the Board at any given time; it is the intent of this provision that only one (1) spouse, significant other or family member may serve on the Board at the same time. A Director shall be deemed qualified when he or she enters upon the duties of the office, but the Board of Directors may also require a written acceptance and promise to faithfully discharge the duties of the office. Directors shall be elected at the Annual Meeting of Members, and each Director shall be elected to serve until his successor shall have been elected and qualified, or until his service as Director shall have been terminated by resignation, retirement, removal or death. At any meeting of the Members called expressly for the purpose, any director or the entire Board of Directors may be removed, with or without cause, by a vote of the holders of a majority of the properties then entitled to vote at an election of Directors.
- 3.1 Duration of Office. The terms of office of Directors will be three (3) years, with two (2) Directors elected at Annual Meetings in odd numbered years and three (3) Directors elected at Annual Meetings in even numbered years.

- 3.2. **Vacancy.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors or by the Members at a Special Meeting called for that purpose upon the removal of one (1) or more Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an Annual Meeting or at a Special Meeting of the Members called for that purpose.
- 3.3. **Quorum.** A majority of the number of existing Directors shall constitute a quorum for the transaction of business at a regular or special Board meeting. The act of the majority of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law.
- 3.4. **Compensation.** Directors, as such, shall not receive any stated salary for their services, but with proper receipts, may receive a rebate for personal funds expended in carrying out the duties of their office.
- 3.5. **Executive Committee.** The Board of Directors, by resolution adopted by a majority of the whole Board, may designate two (2) or more Directors to constitute an executive committee, which committee, unless its authority shall be otherwise expressly limited by such resolution, shall have and may exercise all of the power and authority of the Board of Directors in the business and affairs of the Association (including any power or authority granted under these Bylaws) except where action of the Board of Directors is specified by statute. Vacancies in the membership of the committee shall be filled by the Board of Directors at a regular or special meeting of the Board of Directors. The executive committee shall keep regular minutes of its proceedings and report the same to the Board when required. The designation of such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by law.
- 3.6. **Committees.** The Board of Directors is hereby authorized to establish normal committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a Board meeting at which a quorum is present. Each committee established by the Board shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee and in accordance with such rules as are adopted by the Board of Directors. All Committees of the Association (except an executive committee in accordance with Section 3.5) shall be vested with advisory powers only and are not authorized to act on behalf of the Association.
- 3.7. **Contracts.** Any contract or other transaction between the Association and any of its Directors (or any corporation or firm in which any of its Directors is directly or indirectly interested) shall be valid for all purposes notwithstanding the presence of such Director at the meeting authorizing such contract or transaction, or his

participation in such meeting. The foregoing shall, however, apply only if the interest of each such Director is known or disclosed to the Board of Directors and it shall nevertheless authorize or ratify such contract or transaction by a majority of the Directors present, each such interested director to be counted in determining whether to carry such vote. This section shall not be construed to invalidate any contract or transaction that would be valid in the absence of this section.

ARTICLE IV MEETINGS OF THE BOARD OF DIRECTORS

4. The first meeting of each newly elected Board of Directors shall be held at the same place as the meeting of Members at which such Directors were elected, immediately following the holding of such meeting of Members. No notice of such meeting of Directors shall be necessary to the newly elected Directors in order to legally constitute the meeting if a quorum is present. In the event such meeting is not held at the time and place stated, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors, or as shall be specified in a written waiver signed by all of the Directors.
- 4.1. Regular Meetings. In addition to the meeting provided in Section 4. above there shall be held such regular meetings, of the Board of Directors, as the Board shall from time to time determine. The place, day and hour of all such meetings shall be as determined by the Board. No notice need be given for regular meetings of the Board of Directors.
- 4.2. Special Meetings. Special meetings of the Board of Directors may be called by the President and shall be called by the President or Secretary-Treasurer on written request of two (2) Directors.
- 4.3. Executive Session. The Board of Directors may close a portion of its meetings for the purpose of discussing items which require confidentiality, matters involving the personal accounts of Members, matters currently in litigation and other matters that the Board, in its discretion, considers to be of a sensitive nature.
- 4.4. Notice. Notice stating the place, day and hour of a special meeting shall be delivered to each Director not less than five (5) days before the date of the meeting. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board need be specified in the notice or in any waiver of notice of such meeting. Such notices shall be delivered to each Director personally, by mail or by electronic transmission. If mailed, such notice shall be deemed to be delivered when deposited with the United States Postal Service addressed to the Director at his address as it appears on the records of the Association with postage thereon prepaid. If by electronic transmission, it shall be deemed to be delivered when the message is properly sent. Attendance of a Director at a meeting shall

constitute a waiver of notice of such meeting, except where a Director who attends the meeting objects to the transaction of any business on the ground that the meeting is not lawfully called or convened.

- 4.5. Action taken at a Meeting. A Director of the Association who is present at a meeting at which action on any Association matter is taken shall be presumed to have assented to the action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as Secretary-Treasurer of the meeting before the adjournment thereof or shall forward such dissent by certified or registered mail to the Secretary-Treasurer of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.
- 4.6. Action taken without a meeting. Any action permitted or required by statute, by the Articles of Incorporation or by these Bylaws to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all members of the Board of Directors. Such consent shall have the same force and effect as a unanimous vote at a meeting. Any such signed consent, or a signed copy thereof, shall be placed in the minute book of the Association.
- 4.7. Powers and Duties.
- 4.7.1. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs. In addition to the duties imposed by the Bylaws, Texas law, or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation.
- 4.7.1.1. Adopt and amend Bylaws, Rules, and Restrictions;
- 4.7.1.2. Prepare and adopt annual budgets;
- 4.7.1.3. Set the amount of the Cliffs at South Shore maintenance charges for properties within the subdivision, establish the means and methods of collecting such charges and assessments, and establish the payment schedule for maintenance charges;
- 4.7.1.4. Institute, defend, intervene in, settle or compromise litigation or administrative proceedings on matters affecting the Association;
- 4.7.1.5. Collecting the charges and assessments, depositing the proceeds thereof in a bank depository that it shall approve, and using the proceeds to operate

the Association; provided, any reserve fund may be deposited, in the Board's best business judgment, in depositories other than banks;

- 4.7.1.6. Providing for the operation, care, upkeep and maintenance of all Common Areas, landscaping and other improvements located within the portion of Unrestricted Reserves "A" and "B", in the Cliffs at South Shore owned by the Association, along the brick wall adjacent to Old River Road, and inside and outside the access gate to the property. Association landscaping including but not limited to grass, flowers, shrubbery, trees and irrigation systems located in parkway right-of-ways, street right-of-ways, and medians with street right-of-ways; Association entrances, signage and lighting; and common areas and other property and areas as designated by the Board of Directors, all being hereinafter referred to as "Special Improvements";
- 4.7.1.7. Designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair and replacement of its property, the Special Improvements, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- 4.7.1.8. Making and amending Rules and Regulations and promulgating, implementing and collecting fines for violations of the Rules and Regulations;
- 4.7.1.9. Opening of bank accounts on behalf of the Association and designating the signatories required;
- 4.7.1.10. Enforcing by legal means the provisions of the Restrictions, including the provisions concerning architectural control, these Bylaws, and the Rules and Regulations adopted by the Association and bringing any proceedings that may be instituted on behalf of or against the Owners concerning the Association;
- 4.7.1.11. Obtaining and carrying insurance against property loss, casualties and liabilities, (including directors and officers liability insurance) with policy limits, coverage and deductibles as deemed reasonable by the Board of Directors and paying the premium cost thereof;
- 4.7.1.12. Paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;
- 4.7.1.13. Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

- 4.7.1.14. **Maintaining a membership register reflecting, in alphabetical order, the names, property addresses and mailing addresses of all Members;**
- 4.7.1.15. **Permitting utility suppliers, including the granting of easements, to use portions of the real property owned by the Association, if any, reasonably necessary to the ongoing development or operation of the Cliffs at South Shore Subdivision; and**
- 4.7.1.16. **Execute measures for improvement of the properties under the Association, including, but not limited to, landscaping and mowing and removal of signs.**
- 4.7.2. **Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:**
- 4.7.2.1. **Accrual or cash accounting, as defined by generally accepted accounting principals, shall be employed;**
- 4.7.2.2. **Accounting and controls should conform to generally accepted accounting principles;**
- 4.7.2.3. **Cash accounts of the Association shall not be commingled with any other accounts.**
- 4.7.2.4. **No remuneration without full disclosure and prior agreement of the Board of Directors, or as contained in a written management contract, shall be accepted by the Board from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;**
- 4.7.2.5. **Any financial or other interest that any Board member or the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors.**
- 4.7.2.6. **Financial reports shall be prepared for the Association at least annually containing:**
- 4.7.2.6.1. **An income statement reflecting all income and expense activity for the preceding period on an accrual or cash basis;**
- 4.7.2.6.2. **A statement reflecting all cash receipts and disbursements for the preceding period;**

- 4.7.2.6.3. A variance report reflecting the status of all accounts in an “actual” versus “approved” budget format;
- 4.7.2.6.4. A balance sheet as of the last day of the preceding period; and
- 4.7.2.6.5. A delinquency report listing all Members who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments that remain delinquent.
- 4.7.2.7. An annual report consisting of at least the following may be made available at each Annual Meeting of Members (1) a balance sheet; and (2) an operating (income) statement. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant.
- 4.7.3. **Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Special Improvements, if any, or for any other proper purpose up to a total amount of \$25,000 without the approval of the Members of the Association. With the approval of the Members there shall be no limitation to the amount of money the Association may borrow.
- 4.7.4. **Rights of the Association.** With respect to the Special Improvements in the Association, and the areas of individual Lots maintained by the Association, and in accordance with the Articles of Incorporation and the Restrictions, the Association shall have the right to contract with any person or entity for the performance of various duties and functions. Without limitation the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other associations, both within and without the Property. Such agreements shall require the consent of a majority of the total number of Directors of the Association.
- 4.7.5. **Enforcement.** The Board shall have the power to impose reasonable fines and to suspend a Member’s right to vote or any person’s right to use the Special Improvements, if any, for violation of any duty imposed under the Restrictions, these Bylaws, or any Rules and Regulations adopted by the Association; provided, however, Sections 209.006 and 209.007 of the Texas Property Code must be complied with, and nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a property. In addition, the Association shall be entitled to suspend any services provided by the Association to a Lot or property in the event that the owners of such Lot or property is more than thirty (30) days delinquent in paying any assessment or other amount due to the Association. In the event that an occupant, guest or invitee of a property or Owner violates the Restrictions, Bylaws, or a Rule or Regulation and a fine is imposed, the fine shall first be assessed against the occupant, guest and/or invitee; provided, however, if the fine is not paid by the

occupant, guest and/or invitee within the time period set by the Board, the Member shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Restrictions, Bylaws, or any Rule or Regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

- 4.7.6. Charges and Assessments.** As provided in the Restrictions, each Member is obligated to pay to the Association certain charges and Assessments, including such charges and Assessments as may be included, from time to time, by amendment to the Restrictions. All costs, expenses, and fees charged to, or paid by, the Association in collecting, or attempting to collect, such charges and Assessments, as well as interest as specified in the Restrictions, shall be assessed against the Member and this property, and shall become part of the Assessments due on the property. Likewise, all costs, expenses, and fees incurred by the Association in rectifying, or attempting to rectify, a violation of the Restrictions shall be assessed against the Member and this property, and shall become part of the assessments due on the property. Such costs, expenses, and fees shall include, but not be limited to:
- 4.7.6.1.** Actual expenses, including attorney fees and court costs;
 - 4.7.6.2.** A late fee of \$50.00, which shall be assessed for any account that has an unpaid balance on or after thirty (30) days after due date, as an inducement to pay on time and to offset administrative costs and expenses incurred in the collection process;
 - 4.7.6.3.** A dishonored-check processing fee, set by the Board of Directors, which shall be assessed for any payment check dishonored by the bank, to offset the additional processing cost incurred;
 - 4.7.6.4.** A partial payment processing fee, set by the Board of Directors, which shall be assessed of any payment for less than the full amount due at the time payment is made, to offset the additional processing costs incurred;
 - 4.7.6.5.** A transfer fee, set or approved by the Board of Directors, which shall be assessed for the transfer of ownership of any property, including by foreclosure, to offset the administrative costs and expenses associated with (1) quoting, verbally or in writing, the status of the assessments and other charges due on the property, (2) tracking, researching, and determining or attempting to determine ownership, (3) updating the books and records of the Association to reflect the transfer, and (4) preparing and mailing introductory information regarding the subdivision, the Association, and/or the covenants, conditions, restrictions, rules, and regulations applicable to the new Owner, which the fee may be paid directly to the Association's managing agent; and

- 4.7.6.6. A refinance fee, set or approved by the Board of Directors, which shall be assessed for the refinance of any property, to offset the administrative costs and expenses associated with quoting the status of the assessments and other charges due on the property and updating the books and records of the Association, which fee may be paid directly to the Association's managing agent.
- 4.7.7. Any such Assessment or charge that is not paid when due shall be delinquent.
- 4.7.8. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Restrictions, these Bylaws, or the Rules and Regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations and perform exterior maintenance) as set forth in the Restrictions or as allowed by law, or by suit at law or in equity to enjoin any violation or to recovery monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Member and/or occupant responsible for the violation of which abatement is sought shall pay all costs to repair, fines and costs, including reasonable attorneys' fees actually incurred.

ARTICLE V OFFICERS

5. The officers of the Association shall be a President, a Vice-President and a Secretary-Treasurer. Such other officers and assistant officers and agents as may be deemed necessary may also be elected or appointed by the Board of Directors or chosen in such other manner and with such duties as the Board of Directors may by resolution prescribe. All officers of this Association shall be elected members of the Board of Directors.
- 5.1. Terms of Office. Officers shall be elected at the first meeting of Directors after each Annual Meeting of the Members. Each officer of the Association will be elected to serve until his successor shall have been elected and qualified, or until his service as such officer shall have been terminated by resignation, retirement, removal or death. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. Vacancies occurring for any reason between the Annual Meeting of newly elected directors may be filled by the Board of Directors at any meeting.
- 5.2. The President. The President shall be the chief executive officer of the Association and shall have such other powers and duties as usually pertain to such office or as may be delegated by the Board of Directors, and shall preside at all meetings of the Members and the Board of Directors. The President shall have such powers and duties as usually pertain to such office, except as the same may

be modified by the Board of Directors. Unless the Board shall otherwise delegate such duties, the chief executive officer shall have general and active management of the business of the Association, and see that all orders and resolutions of the Board are carried into effect. The President or any Vice President shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association, except where required or permitted by law to be otherwise signed and executed, and except where the signing and execution thereof shall be expressly delegated by the Board or some other officer or agent of the Association.

- 5.3. The Vice President. The Vice President, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. He/she shall perform such other duties and have such other powers as the Board of Directors shall prescribe.
- 5.4. The Secretary-Treasurer. The Secretary-Treasurer shall attend all meetings of the Board of Directors and all meetings of the Members, and record all the proceedings of the meetings of the Association and of the Board of Directors in a book or other form of record to be kept for that purpose. He shall give, or cause to be given, notice of all meetings of the shareholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or chief executive officer, under whose supervision he shall be. He shall have the custody of the corporate funds and securities, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. He shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors.
- 5.4.1. The Secretary-Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the chief executive officer and the Board of Directors at its regular meetings, or when the Board of Directors so requires, an account of all his transactions as treasurer, and of the financial condition of the Association.
- 5.4.2. If required by the Board of Directors, the Secretary-Treasurer shall give the Association a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Association, in case of his death, resignation, retirement or removal from office, of all books, records, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association.
- 5.4.3. The Secretary-Treasurer shall keep in safe custody and seal of the Association, and, when authorized by the Board of Directors, affix the same to any instrument requiring it, and, when so affixed, it shall be attested by his signature.

- 5.5 **Delegation of Authority.** The Board of Directors from time to time may delegate to the President, other officer of the Association or the Association's managing agent authority to hire, discharge and fix and modify the duties, salary or other compensation of employees of the Association under their jurisdiction and other duties of the Board, and the Board may also delegate to such officer, executive employee or the Association's managing agent similar authority with respect to obtaining and retaining for the Association the services of attorneys, accountants and other experts.
- 5.6 **Qualification for Office.** An officer shall be deemed qualified when he enters upon the duties of the office to which he has been elected or appointed and furnishes any bond required by the Board of Directors; but the Board may also require of such person his written acceptance and promise faithfully to discharge the duties of such office.

ARTICLE VI WAIVERS OF NOTICE

- 6.0. Whenever any notice is required by statute or these Bylaws to be given to any Member or Director, the waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VII BOOKS AND RECORDS

- 7.1. Correct and complete books and records of accounts, as well as minutes of the proceedings of the Association's Members and Board of Directors, shall be kept at its registered office or principal place of business, along with a record of its Members, giving the names and addresses of all Members and the number of properties held by each. Any books, records, and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.
- 7.2. For the purpose of determining Members entitled to notice or to vote at any meeting of Members or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of Members for any other proper purpose, the Board of Directors of the Association may provide that the books shall be closed for a stated period but not to exceed, in any case, fifty (50) days. If the books shall be closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, such books shall be closed for at least ten (10) days immediately preceding such meeting. In lieu of closing the books, the Board of Directors may, however, fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than fifty (50) days and, in case of a meeting of Members, no less than ten (10) days prior to the date on which the particular action requiring such

determination of Members is to be taken. If the books are not closed and no record date is fixed by the Board for the determination of Members entitled to notice of or to vote at a meeting, the date on which the resolution of the Board is passed shall be the record date for such determination of Members.

ARTICLE VIII INDEMNIFICATION

When Indemnification is Required, Permitted, and Prohibited.

- 8.1. The Association will indemnify a Board member, committee member, employee, or agent of the Association who was, is, or may be named defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Association. For the purposes of this article, an agent includes one who is or was serving at the Association's request as a trustee, officer, partner, proprietor, joint venture, sole proprietorship, trust, employee-benefit plan, or other enterprise.
- 8.2. The Association will indemnify a person only if he or she acted in good faith and reasonably believed that his or her conduct was in the Association's best interests. In case of a criminal proceeding, the person may be indemnified only if he or she had no reasonable cause to believe that the conduct was unlawful. The Association will not indemnify a person who is found liable to the Association or is found liable to another on the basis of improperly receiving a personal benefit from the Association. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted. Termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo-contendere or its equivalent does not necessarily preclude indemnification by the Association.
- 8.3. The Association will pay or reimburse expenses incurred by an officer or committee member or agent of the Association in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the Association when the person is not a named defendant or respondent in the proceeding.
- 8.4. In addition to the situations otherwise described in this paragraph, the Association may indemnify an officer, member, committee member or agent of the Association to the extent permitted by law. However, the Association will not indemnify any person in any situation which indemnification is prohibited by Section 8.1 above.
- 8.5. The Association may advance expenses incurred or to be incurred in the defense of a proceeding to a person who might be entitled to indemnification, even though there has been no final disposition of the proceeding. Advancement of expenses

may occur only when the procedural conditions specified in Section 8.7 below, have been satisfied. Furthermore, the Association will never advance expenses to a person before final disposition of a proceeding if the person is a named defendant or respondent in a proceeding brought by the Association or if the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

8.6. Extent and Nature of Indemnity. The indemnity permitted under these Bylaws includes indemnity against judgments, penalties, (including excise and similar taxes), fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. If the proceeding was brought by or on behalf of the Association, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

8.7. Procedures Relating to Indemnification Payments

8.7.1. Before the Association may pay any indemnification expenses (including attorney's fees), the Association must specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in Subsection 8.7.2. below. The Association may make these determinations and decisions by any one (1) of the following procedures:

8.7.1.1. Majority vote of a quorum consisting of Board of Directors, Members who, at the time of the vote, are not named defendants or respondents in the proceeding.

8.7.1.2. If such a quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the matter by a majority vote of all the Directors, consisting solely of two (2) or more Directors who at the time of the vote are not named defendants or respondents in the proceeding.

8.7.1.3. Determination by special legal counsel selected by the Board by the same vote as provided in Subsections 8.7.1.1. or 8.7.1.2. above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all the Board.

8.7.2. The Association will authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If special legal counsel determines that indemnification is permissible, authorization of indemnification and determination of reasonableness of expenses will be made as specified by Subsection 8.7.1.3. above, governing selection of special legal counsel. A provision contained in the Articles of Incorporation, or a resolution of Members of the Board that requires the indemnification permitted by Section 8.1 above,

constitutes sufficient authorization of indemnification even though the provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

- 8.7.3. The Association will advance expenses before final disposition of a proceeding only after it determines that the facts then known would not preclude indemnification. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment will be made in the same manner as a determination that indemnification is permissible under Subsection 8.1. above.
- 8.7.4. In addition to this determination, the Association may advance expenses only after it receives a written affirmation and undertaking from the person to receive the advance. The person's written affirmation will state that he or she has met the standard of conduct necessary for indemnification under these Bylaws. The written undertaking will provide for repayment of the amounts advanced by the Association if it is ultimately determined that person has not met the requirements for indemnification. The undertaking will be an unlimited general obligation of the person, but it need not be secured and may be accepted without reference to financial ability to repay.
- 8.7.5. If the Association has any insurance coverage which will pay any expense of litigation against a Board Member, the Association's consent or other consent contained herein shall not be required to the extent of payments by any and all insurance carriers.

ARTICLE X GENERAL

- 10.1. All checks, drafts or orders for the payment of money and all promissory notes issued by the Association shall be signed by such officer or officers, or such other person or persons, as the Board of Directors may from time to time designate, and in addition, the Board may likewise authorize an Officer of the Association, in turn, to designate and authorize other officers or employees to write checks, drafts or orders for the payment of money, in the name and on behalf of the Association. Signing may be accomplished manually or, if so provided by the Board of Directors, by facsimile signature.
- 10.2. The Board of Directors may by resolution, create a reserve or reserves out of earned surplus for any purpose or purposes, and may abolish any such reserve in the same manner.
- 10.3. The Board of Directors must, when requested by one-third (1/3rd) of the total votes of Members of the Association, present written reports of the situation and amount of business of the Association.

- 10.4. Nothing in these Bylaws shall limit or restrict the authority of any persons to hold a meeting by any means permitted by law (including by way of illustration a meeting by telephone conference call) or to act by unanimous consent in lieu of a meeting.
- 10.5. Fiscal Year. The fiscal year of the Association shall be January 1st to December 31st of each year.
- 10.6. Parliamentary Rules. Except as may be modified by Board resolution, *Roberts Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Restrictions or these Bylaws.
- 10.7. Conflicts. If there are conflicts between the provisions of Texas law, the Articles of Incorporation, the Restrictions and/or the Bylaws, then the provisions of Texas law, the Restrictions, the Articles of Incorporation and the Bylaws (in that order) shall prevail.
- 10.8. Inspection by Members and Mortgagees. The Restrictions, Bylaws, and Articles of Incorporation, any amendments to the foregoing, the Rules and Regulations of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a property or Lot, Member of the Association or by the duly appointed representative of any of the foregoing at any reasonable time and for a proper purpose during normal business hours at such place as the Board shall prescribe, by appointment.
- 10.8.1. Rules of Inspection. The Board shall establish reasonable rules with respect to:
- 10.8.1.1. notice to be given to the custodian of records;
- 10.8.1.2. hours and days of the week when such an inspection may be made by appointment for a proper purpose; and
- 10.8.1.3. payment of the cost of reproducing copies of documents requested and administrative costs of locating documents, if applicable. By resolution of the Board, a set fee may be set for this purpose.
- 10.9. Inspection by Board Member. Every Board Member shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical Property owned or controlled by the Association. The right of inspection by a Board Member includes the right to make a copy of relevant documents at the expense of the Association.

10.10. **Notices.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first-class postage pre-paid:

10.10.1. If to a Member, at the address that the Member has designated in writing and filed with the Secretary Treasurer, or, if no such address has been designated, at the address of the Lot of such Member; or

10.10.2. If the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

**ARTICLE XI
AMENDMENTS**

11.1. The power to alter, amend or repeal the Bylaws of the Association or to adopt new Bylaws shall be vested in the Board of Directors.

RESOLUTION
of
BOARD OF DIRECTORS
for
THE CLIFFS AT SOUTH SHORE PROPERTY OWNERS' ASSOCIATION
regarding
FINING POLICY FOR THE CLIFFS AT SOUTH SHORE

At a regular meeting of the *Board of Directors* (Board) for the *The Cliffs at South Shore Property Owners' Association* (Association), said meeting being properly called and a quorum being present, came to be heard the matter of imposing reasonable fines against owners of property under the jurisdiction of the Association for violations of the Association's Dedicatory Instruments as that term is defined in Chapter 202.001(1) of the *Texas Property Code* or its successor statute.

WHEREAS, Article IV, Section 4.7.5 of the *Amended and Restated Bylaws* (hereinafter the "Bylaws") for *The Cliffs at South Shore Property Owners' Association* provides that:

The Board shall have the power to impose reasonable fines ... for violation of any duty imposed under the Restrictions, these Bylaws, or any Rules and Regulations adopted by the Association ...

WHEREAS, the Board has, pursuant to Chapter 204.010(a)(19) of the *Texas Property Code*, the authority to exercise the powers conferred by the Bylaws;

WHEREAS, the Board wishes to adopt a reasonable fine schedule and to standardize the policies and procedures related to the authority of the Board to impose fines.

NOW, THEREFORE, BE IT RESOLVED, that the Board of the Association hereby adopts the "Finning Policy" set forth below.

FINING POLICY

1. Each Owner [as that term is defined in the *Declaration of Covenants, Conditions and Restrictions of The Cliffs at South Shore* (hereinafter the "Declaration")] is responsible for assuring that the Owner and the Owner's tenant(s), occupant(s), guest(s) and invitees comply with the provisions of the Association's Dedicatory Instruments (as that term is defined by Chapter 202.001(1) of the *Texas Property Code* or its successor statute). In the event an Owner, tenant, occupant, guest or invitee of an Owner violates any of the provisions of the Dedicatory Instruments, the Association, acting through the Board, shall have the authority to impose a fine as described in Article IV, Section 4.7.5 of the Bylaws.
2. The Association shall, before a fine is imposed, give the Owner the notice required by Chapter 209.006 of the *Texas Property Code*, its successor statute, if any, or any other applicable state law.

3. If the violation continues from day to day without intervening activity by the Owner responsible therefore (as determined at the sole discretion of the Board), the Fine Schedule shall be as follows:

First Violation: \$ 50.00 per day until corrected
 Second Violation: \$ 100.00 per day until corrected
 Each Additional Violation: \$ 150.00 per day until corrected

4. If the violation consists of single occurrence or separate occurrences (as determined at the sole discretion of the Board), the Fine Schedule shall be as follows:

First Violation: \$ 100.00 per violation
 Each Additional Violation: \$ 200.00 per violation

5. The Fine Schedule for a violation of any term or provision of Article IV (Architectural Control Committee) of the Declaration shall be as follows:

First Violation: \$ 100.00 per day until corrected
 Each Additional Violation: \$ 200.00 per day until corrected

6. The Association, acting through the Board, is hereby authorized at its sole discretion to impose a lesser fine or no fine at all for a violation of the Dedicatory Instruments. Any adjustment to the Fine Schedule by the Board shall not be construed as a waiver of this Fine Schedule or the Dedicatory Instruments.

7. This Fining Policy is in addition to any other remedy the Association may have to pursue a violation of the Dedicatory Instruments and in no way limits or estops the Association from pursuing any other remedy to enforce the terms and provisions of the Dedicatory Instruments.

FILED FOR RECORD

07 MAY 16 AM 10:57

Mark Turnbull
 COUNTY CLERK
 MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
 COUNTY OF MONTGOMERY

I hereby certify 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 Real Property at Montgomery County, Texas.

MAY 16 2007



Mark Turnbull
 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 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.